

1 appreciate that.

2 But that is our concern in the community.

3 Thank you.

4 CHAIRMAN AVILA: Thank you, sir.

5 Anyone else to speak against?

6 (No response.)

7 CHAIRMAN AVILA: Do I have a motion to close the
8 floor?

9 VICE CHAIRMAN VAN DELINDER: So moved.

10 (Member of the audience approaches podium.)

11 CHAIRMAN AVILA: Oh, I'm sorry. I'm sorry, sir.

12 I didn't see you. Come on up. Come up. I didn't

13 see you get up.

14 Withdraw your motion.

15 VICE CHAIRMAN VAN DELINDER: Withdrawn.

16 MR. NORRIS: Brent Norris. 96851 Chester Road.

17 THE CLERK: Raise your right hand.

18 (Mr. Norris complies.)

19 THE CLERK: Do you swear or affirm the testimony

20 you are about to give tonight is the truth, the whole

21 truth, so help you God?

22 MR. NORRIS: Yes.

23 THE CLERK: Thank you.

24 MR. NORRIS: Yes, I would say the biggest issue

25 is the safety down in there.

1 And the law is the law. And I don't think we
2 change our rules that we have already made to -- for
3 someone, that this could happen again.

4 I say our major thing is our safety down there.
5 It is not big enough. We have problems down there
6 now. We don't need no more.

7 Thank you.

8 CHAIRMAN AVILA: Thank you, sir.

9 Come on up, sir.

10 MR. ADAMS: Mr. Chairman, my name is David
11 Adams. My address is 97030 Pirates Point Road,
12 Yulee, Florida.

13 THE CLERK: Raise your right hand.

14 (Mr. Adams complies.)

15 THE CLERK: Do you swear or affirm the testimony
16 your are about to give tonight is whole truth so help
17 you God?

18 MR. ADAMS: Yes, ma'am, I do.

19 THE CLERK: Thank you.

20 Good evening, gentlemen.

21 You have heard others talk about the safety
22 concerns, you know, the small road and everything
23 else. I have a couple of other concerns.

24 One, if this individual wants to build a
25 personal home, why is it under a corporation name?

1 You know, is this a developer coming in to
2 develop this for more than just personal use?

3 Is he coming in to actually, you know, try to
4 build a house and sell for his own personal gain and
5 basically convince the Board here to do that based on
6 his desire to, you know... what he is saying, to
7 build for his own personal use.

8 So that is one concern.

9 The other concern is you had testimony from the
10 builders or -- I'm sorry, sir, I can't remember
11 the --

12 MR. DESILET: Gillette. Gillette and
13 Associates.

14 MR. ADAMS: Gillette and Associates.

15 You know, he sat there and testified and one of
16 the questions from the Board was concerning the well
17 and septic being seventy-five feet on the variance.

18 To our knowledge, unless he has been
19 trespassing, they had no ability to measure the
20 distance from the existing wells on any of the
21 properties on either sides of him, because Mr. father
22 has two wells on the property servicing two separate
23 houses, and our neighbor, Mr. Stellmach, also has a
24 well on his property, and septic.

25 These houses are -- My father's house was built

1 in 1900. It pretty much looks the same now as it
2 did, you know, a hundred and fifteen years ago. To
3 disturb that area and to crowd it even further would
4 be a travesty.

5 And, you know, I have been in the Navy for
6 twenty-three years, everybody says, you know, "Look
7 at these laws." We have laws. We have regulations
8 to preserve some of the natural beauty, others to
9 protect our properties, to protect our land values.

10 Building a house there may increase his property
11 value, but it is not going to increase anybody elses
12 in the area. It is going to decrease it.

13 It is going to take away from not only the
14 natural beauty of the location, but it is also going
15 to take away -- because I'll tell you, you go down
16 into that neighborhood, you are not going to find a
17 house that has been built in recent years. All these
18 houses are old. They have got character.

19 I don't care what you look at now-a-days, you
20 are not going to have something that is going to fit
21 into that area and match it.

22 In fact, Fernandina has some very specific rules
23 on their building codes and everything else for the
24 older houses that are in the location. The same
25 thing down in St. Augustine and other districts. And

1 we are just looking to preserve that... that beauty.

2 Thank you, Gentlemen.

3 CHAIRMAN AVILA: Thank you. Thank you, Mr.
4 Adams.

5 Anyone else wishing to speak against?

6 MR. WILDER: My name is Charles F. Wilder, Jr.
7 I am at 97013 Chester River Road.

8 THE CLERK: Raise your right hand.

9 (Mr. Wilder complies.)

10 THE CLERK: Do you swear or affirm the testimony
11 you about to give tonight is the truth, the whole
12 truth, so help you God?

13 MR. ADAMS: Yes.

14 THE CLERK: Thank you.

15 I would agree with what they're saying about the
16 road. You got to go around the road by truck to see
17 how bad it is on that curve. It's really, really
18 bad. But the law states of the size of the lot.

19 I've got first cousins that's been in Nassau
20 County on the Nassau River and he's got an
21 eighty-seven foot lot he can't sell. They are trying
22 to put them together right now to sell.

23 So the law is the law. You know, you got to
24 stick to the law. You can't be changing the variance
25 around... unless y'all want to do that, which I hope

1 you don't.

2 And I just don't support no part of this.

3 And I live in Nassau -- I have lived in

4 Nassauville like twenty-some years. I moved to

5 Chester twenty years ago, and it is beautiful down

6 there like he was saying. It is beautiful. And we

7 all kind of stick together and stay together, and we

8 don't want to put a house there. It just -- It's

9 just going to mess up the whole thing.

10 And the law is the law.

11 CHAIRMAN AVILA: Thank you, sir.

12 MR. WILDER: Thank you

13 CHAIRMAN AVILA: Any others to speak against?

14 (No response.)

15 VICE CHAIRMAN VAN DELINDER: Now, I move that

16 we --

17 CHAIRMAN AVILA: Actually, I need to let Mr.

18 Jacobs rebut, the applicant rebuttal.

19 So, Mr. Jacobs, do you have any rebuttals to the

20 concerns?

21 MR. JACOBS: Yes, sir.

22 If I might hand out to y'all another piece of

23 paper.

24 May I approach the commission, sir?

25 CHAIRMAN AVILA: By all means.

1 (Mr. Jacobs tenders documents.)

2 MR. JACOBS: All right. Mr. Dukes just wanted
3 to address the comments --

4 MR. DUKES: Over there?

5 MR. JACOBS: Okay.

6 -- that were made about the safety issues.

7 MR. DUKES: Gentleman, the -- the couple points
8 I would like to make is that this original access
9 point was the same access point that Mike Adams,
10 Mike's parents, and all the people who come and buy
11 shrimp from him, everybody, used for years.

12 The hair-pin turn existed up until two oh one, I
13 think, or two oh four... I got it right -- when Mike
14 Adams bought the additional property for eight
15 thousand dollars, which gave him Chester Road
16 frontage.

17 Prior to that, the access for all those years
18 was through parcel C in that the -- This is the
19 current access. But until he bought that land, he
20 had -- he didn't have access.

21 Now the easement itself, it no longer serves a
22 purpose. It served a purpose until Mike Adams had
23 access to his own driveway. And prior to that -- And
24 that's the purpose of the easement. It says on the
25 survey ingress and egress. It is no longer needed

1 for ingress and egress.

2 That is not the issue here tonight, but it -- it
3 is a moot point as far as talking about the
4 functionality of that easement.

5 One thing -- let me say if I may -- They're
6 talking about the safety of the hair-pin turn. That
7 is the most courteous people you would ever run
8 across. If you're meeting in traffic they're going
9 to pull over.

10 I passed a garbage truck the other day pulling a
11 trailer. We had no problem. It would been nice if
12 it had been wider, but it -- it functions.

13 Being on that hair-pin turn you have better --
14 better visibility left and right coming out of there
15 than you do the other adjacent driveways because in
16 the adjacent driveways you can't see around the bend
17 in opposite -- in the opposite direction.

18 I have never seen a wreck there. I am not
19 saying there haven't been some.

20 I've just -- I think the safety issue, they are
21 over-killing because -- this whole issue is simply
22 about the fact that Captain Mike doesn't want anybody
23 next to him. It's been his family's property
24 forever.

25 MR. JACOBS: We would like to move this

1 demonstration that we have presented to you, this map
2 that was --

3 This was prepared by you; is that correct?

4 MR. DUKES: That's correct.

5 MR. JACOBS: And it's based on the map that you
6 took off the website illustrating this part of Nassau
7 County?

8 MR. DUKES: That is correct.

9 MR. JACOBS: Mr. Chairman, I would like to move
10 this into evidence, if I might, please

11 CHAIRMAN AVILA: So moved.

12 MR. JACOBS: All right. Let me add one more
13 piece and then we'll be through.

14 CHAIRMAN AVILA: Okay.

15 MR. JACOBS: Unless you have questions. Go
16 ahead.

17 CHAIRMAN AVILA: Well, I do, but bringing it
18 that way we can formulate our questions in their
19 entirety rather than piecemeal.

20 MR. JACOBS: All right, sir.

21 (Mr. Jacobs tenders document.)

22 MR. JACOBS: Now the last thing we submitted
23 into evidence, Madam Clerk, was that like 7?

24 THE CLERK: 7.

25 MR. JACOBS: I thought it was. Thank you.

1 Mr. Chairman, I have presented to you another
2 document -- And let me just ask my client a few
3 questions about it.

4 Do you see before you in this document, and
5 then, sir, would you please describe what you have
6 there.

7 MR. DUKES: Gentlemen, this shows the easement
8 on parcel C, which is my property, which is shaded in
9 yellow. It shows the distance and the amount of
10 ground between the end of the easement, the north end
11 of the easement, and the river.

12 They basically testified that I wouldn't have
13 room to put a house in here, I believe, or something
14 to that effect.

15 I have plenty of room to put a home in here. I
16 am not looking for a big house. I am probably
17 looking at fifteen or sixteen hundred square feet.
18 It will definitely fit into the area and stay off the
19 easement whether we close the easement at some point
20 down the road or not. There is still ample room.

21 And when I -- When we got to looking -- And by
22 the way, two doors down there is a beautiful estate.
23 They mentioned the historical value. This is not a
24 historical neighborhood like downtown. But there are
25 some very nice homes down the road on this road. And

1 we aren't going to do anything detrimental or build
2 anything detrimental to the nature of it... of the
3 neighborhood.

4 MR. JACOBS: All right. On this document, which
5 would be exhibit number 8, I see a delineation of
6 fifty-five feet and ninety feet.

7 What -- Did you draw that in there, sir?

8 MR. DUKES: I did.

9 And in reality that may be fifty-four feet, but
10 it is certainly in excess of fifty feet, and it is --
11 it supposedly represents the ten foot side line
12 setback for each adjacent property owner.

13 MR. JACOBS: So you could build a house that
14 size?

15 MR. DUKES: Absolutely. Yes, sir.

16 MR. JACOBS: I would like to offer this into
17 evidence as our exhibit number 8, please, Mr.
18 Chairman.

19 CHAIRMAN AVILA: So noted.

20 MR. JACOBS: All right, sir.

21 Now we certainly would like to address any
22 questions you may have.

23 CHAIRMAN AVILA: I guess one of the questions I
24 have personally, because obviously it was brought up
25 during the public input, but the -- I'll go ahead and

1 put in, as far as dropping a well and putting in a
2 septic tank, you know, it seems like it -- a drain
3 field in there would really crowd this lot.

4 And so where -- Taking into account this drawing
5 that you presented as number 8, where would the well
6 go -- obviously the wells, you know, take up a little
7 bit of space, but the septic tank and the drain field
8 would take up a significant amount of room.

9 MR. DUKES: Yes, sir. But we're three hundred
10 and twenty feet deep right though here.

11 CHAIRMAN AVILA: Right. But you have the dirt
12 drive, you have the easement --

13 MR. DUKES: But the dirt drive is pretty much
14 irrelevant, I guess, it's sort of in a -- proximity
15 that's moveable, I would guess.

16 CHAIRMAN AVILA: Sir, I understand, but I mean
17 there is -- there's factors plus all of the, what I
18 guess you would consider heritage oaks, that you're
19 trying to preserve.

20 There is a lot of open-ended and unanswered
21 questions that I think need to be addressed for us to
22 fully consider.

23 MR. DUKES: I would mention, Mr. Chairman, the
24 adjacent lot owner has an eighty foot frontage lot.
25 He has wells and septic on his lot, on his property.

1 CHAIRMAN AVILA: I understand that. That is
2 not -- That is not my question.

3 And in this drawing, number 8, where you
4 high-lighted the easement in yellow, you highlighted
5 the setbacks at ten foot on either side, and then a
6 fifty-five by ninety foot area basically for building
7 which, you know, rough math, that's a good chunk of
8 change in square footage.

9 Would your -- Where in relation to that -- in
10 that box --

11 MR. DUKES: I understand.

12 CHAIRMAN AVILA: -- fifty-five by ninety, you
13 know, where is your house going to be, where is the
14 well going to be, where is the septic tank going to
15 be, where is the drain field going to be... all those
16 questions that, you know, need to be, in my opinion,
17 answered.

18 MR. DUKES: Yes, sir. Well, I would like to
19 ask -- Okay.

20 MR. JACOBS: Mr. Chairman, Mr. Desilet is coming
21 forward. He will try to address your question.

22 CHAIRMAN AVILA: Okay.

23 MR. JACOBS: And again, this could be one of the
24 things that we to have do as part of this variance is
25 we have to get the septic tank and the drain field

1 down or else we can't build on it anyway.

2 CHAIRMAN AVILA: Right.

3 MR. DUKES: Mr. Chairman, if I might mention, in
4 regard to the easement, that is an ingress and egress
5 easement for driving and that -- what that means to
6 me is that you cannot at the present time put a
7 structure on it. It doesn't mean I couldn't use for
8 underground purposes.

9 CHAIRMAN AVILA: Well, I -- I understand your --
10 I understand that. But if you were to put in a drain
11 field you can't drive on a drain field without having
12 issues.

13 So that is why I am pointing that out, sir.

14 MR. JACOBS: Mr. Chairman, we would like at this
15 time to call Mr. Desilet again.

16 CHAIRMAN AVILA: Okay. Come on up.

17 MR. JACOBS: Mr. Desilet, you have been handed
18 what we have in evidence as exhibit number 8, and you
19 have noted the easement and other issues that have
20 been illustrated in that exhibit number 8.

21 Is there anything in there that would change
22 your mind from your earlier testimony about that we
23 could have a well and septic tank on this property,
24 this parcel?

25 MR. DESILET: No, sir.

1 I do think -- We do have to take into account
2 the adjacent properties. We do not have all of those
3 locations identified at this time, but I still
4 believe that there is room on this property to fit
5 the well and septic.

6 We have not identified specific locations, but
7 that would be required prior to any building permit.

8 CHAIRMAN AVILA: Thank you.

9 MR. JACOBS: Mr. Chairman, do you have any other
10 questions?

11 CHAIRMAN AVILA: Not at this point in time.
12 They may come up.

13 MR. JACOBS: All right. Mr. Dukes wanted to
14 make a comment.

15 MR. DUKES: Mr. Chairman, just a comment in
16 rebuttal to some previous remarks.

17 We did not trespass on anybody's property. But
18 Mr. Mike Adams' brother had privy to this
19 situation -- to this property over the years, and he
20 advised us where the existing wells and septic tanks
21 are.

22 And Mr. Mike Adams' tank is over by... to the
23 east side of his house, and totally opposite away
24 from my property.

25 And so that goes -- they do have to be

1 pinpointed, but we were advised by someone who has a
2 good idea of where they are located that would give
3 us plenty of room to meet the criteria.

4 MR. JACOBS: But you would agree if the permit
5 were granted that would be -- that could be a
6 requirement that you would have to --

7 MR. DUKES: Yes, sir. It --

8 MR. JACOBS: -- permit on this --

9 MR. DUKES: If y'all would give us a favorable
10 consideration, we still would have to work with the
11 Environmental Health Department to get a septic
12 permit or we wouldn't be allowed to build. And we
13 are certainly willing to live with that stipulation.

14 CHAIRMAN AVILA: Okay. Thank you, sir.

15 MR. JACOBS: Mr. Chairman, any further
16 questions?

17 CHAIRMAN AVILA: Any from the Board?

18 BOARD MEMBER MARTIN: Yeah.

19 What is the most narrow lot along the river now
20 with a house on it?

21 MR. DUKES: With a house on it, to my knowledge
22 it is eighty feet and it has two houses on it.

23 BOARD MEMBER MARTIN: Is that the one right next
24 door?

25 MR. DUKES: Yes, sir.

1 BOARD MEMBER MARTIN: The one to the -- what is
2 that, west, northwest?

3 MR. JACOBS: It would be west.

4 MR. DUKES: And because this whole area is
5 developed this will not be a recurring situation of
6 people coming up here for the same -- for the same
7 request. The -- the whole area is pretty well
8 developed.

9 BOARD MEMBER MARTIN: Okay.

10 So they have two houses on the one, the lot
11 immediately adjacent to C to the -- to my left?

12 MR. DUKES: If I --

13 CHAIRMAN AVILA: That would be --

14 MR. DUKES: -- may, I --

15 CHAIRMAN AVILA: -- point?

16 MR. DUKES: I don't see one on the left.

17 CHAIRMAN AVILA: I am asking because I don't see
18 it, that doesn't mean it isn't -- there aren't trees
19 over it.

20 MR. POPE: It's -- Shoot it on this screen here.

21 MR. DUKES: Gentlemen, there is a house right
22 here that was moved in a few years ago. And there is
23 one right here. They're facing each other.

24 That was the original -- At least I think it
25 was. And this is a modular home. I believe it was

1 moved in.

2 So they are facing each other. They are both
3 down on this portion of the property toward the
4 water.

5 CHAIRMAN AVILA: And that's approximately an
6 eighty foot lot?

7 MR. DUKES: Yes, sir. I had it -- I had to have
8 it --

9 CHAIRMAN AVILA: That's fine. I just -- Mr.
10 Martin, did that answer your question?

11 MR. DUKES: Yes, sir.

12 BOARD MEMBER MARTIN: Yeah.

13 MR. JACOBS: Any other questions, Mr. Chairman?

14 CHAIRMAN AVILA: Not from me.

15 Mr. Brock?

16 (No response.)

17 CHAIRMAN AVILA: Mr. Van Delinder?

18 (No response.)

19 CHAIRMAN AVILA: If not --

20 MR. JACOBS: We appreciate very much your
21 consideration.

22 And I notice you put me under old business.

23 That's because it is me, and I'm qualified.

24 But thank you all very much for your -- for your
25 listening to us, and we hope for a favorable

1 consideration.

2 Thank You, sir.

3 MR. DUKES: Thank you, gentlemen.

4 CHAIRMAN AVILA: Thank you.

5 And this is a little bit abnormal but, Mr.

6 Adams, you probably have some history on that other

7 lot that Mr. Martin was asking about. Maybe you

8 could come up, and you might be able to give us some

9 history footnotes that would answer, or complete the

10 answer, to Mr. Martin's question.

11 MR. JACOBS: And, Mr. Chairman, may I reserve

12 time for rebuttal if it is necessary?

13 CHAIRMAN AVILA: We'll -- We will make that call

14 when we need to.

15 MR. ADAMS: Yes, sir.

16 The property he is referring to is Mr. Richard

17 Stellmach's. He is the gentleman that fell two weeks

18 ago and broke his hip. He couldn't be here tonight.

19 He has a double-wide trailer in there, and he's

20 got a little carport, and he's got a little shed

21 across from the carport. It is not a residence. It

22 is not a house. It is just a shed.

23 CHAIRMAN AVILA: Okay.

24 MR. ADAMS: He's been a resident of this county

25 for many, many years, worked at Terminal Paper Bag.

1 We worked together. We shrimp together.

2 He is just an old gentleman that's just got a
3 shed there with a carport between his house and his
4 shed.

5 CHAIRMAN AVILA: I thought so. And that is why
6 I called you back up, because I thought that was who
7 the -- the gentleman you said who had a health issue
8 I remember from the last time around. So...

9 MR. ADAMS: Yes, sir.

10 CHAIRMAN AVILA: Mr. Martin?

11 BOARD MEMBER MARTIN: So there is one house
12 there today?

13 MR. ADAMS: There is. Yes, sir. There is a
14 double-wide trailer that was put back in, not just a
15 few years ago. Back in 1975, a double-wide trailer
16 was put in the lot.

17 The lot originally wasn't but seventy foot wide.
18 He had to buy ten more feet of property from the
19 gentleman that owns the property that I bought my
20 property from so he could put the double-wide in
21 there.

22 I know the laws have changed since that time,
23 because there's not but -- there's only enough room
24 between his house and the fence to walk through.

25 And what -- what it would do in this

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1 neighborhood and everything would really crowd Mr.
2 Stellmach's property real bad if they had another
3 house built in there within ten foot of his property
4 line.

5 And he is an elderly gentleman and everything,
6 but he's in great health. He broke his hip Saturday
7 a week ago, and he's up walking around already. So
8 he's to be commended and everything.

9 CHAIRMAN AVILA: Thank you, sir.

10 I think that answers the question.

11 CHAIRMAN AVILA: Thank you, Mr. Adams.

12 Okay. So is there a motion to close the floor
13 for public discussion?

14 VICE CHAIRMAN VAN DELINDER: So moved.

15 BOARD MEMBER MARTIN: Second.

16 CHAIRMAN AVILA: All in favor?

17 THE BOARD: Aye.

18 CHAIRMAN AVILA: Okay.

19 And you seconded it, yeah.

20 Any questions for staff?

21 (No response.)

22 CHAIRMAN AVILA: Anybody?

23 (No response.)

24 BOARD MEMBER MARTIN: Taco, has anything on the
25 ground changed since last year, since April of 2014,

1 that you have seen or that you're aware of?

2 MR. POPE: I'm not aware of any physical change
3 to the property, no, sir.

4 CHAIRMAN AVILA: Anything, Mr. Martin?

5 BOARD MEMBER MARTIN: No. I'm good.

6 VICE CHAIRMAN VAN DELINDER: Anyone want to make
7 a motion? Are we at that point?

8 CHAIRMAN AVILA: It's in -- It's in your
9 district.

10 BOARD MEMBER MARTIN: Of course, it is.

11 CHAIRMAN AVILA: I can't make the motion.

12 BOARD MEMBER MARTIN: I know.

13 Oh, I do have one more question.

14 What was staff's recommendation in 2014?

15 I think I know the answer.

16 MR. POPE: Our recommendation in the 2014
17 hearing is that in fact it failed to demonstrate
18 consistency to meet the criteria.

19 And so that is why, you know, tonight and all,
20 why these meetings are so great is the introduction
21 of evidence throughout the process. So there was
22 additional information added and being weighed. That
23 is why you have it.

24 BOARD MEMBER MARTIN: I understand. But the
25 recommendation didn't change prior to tonight?

1 MR. POPE: We did not not issue a new
2 recommendation, no, sir.

3 BOARD MEMBER MARTIN: Okay.

4 CHAIRMAN AVILA: Thank you.

5 BOARD MEMBER MARTIN: I just want a second to
6 look at the --

7 CHAIRMAN AVILA: Take your time.

8 BOARD MEMBER MARTIN: -- standards and to review
9 B before reciting the motion.

10 Taco, am I correct that the standard of review B
11 is to show that the special conditions and
12 circumstances do not result from actions of the
13 applicant -- Am I looking in the right place?

14 MR. POPE: Correct. Yes, sir.

15 BOARD MEMBER MARTIN: Okay. I am going to offer
16 an explanation and then make the motion, if I can.

17 I am going to omit the subparagraph B from the
18 staff's -- the staff-prepared motion for approval or
19 denial just so we have something to read, I guess.

20 I am going to omit subparagraph B because I
21 am -- it refers to actions of the applicant. The
22 applicant didn't own the property a year ago. So I
23 am not sure that one is applicable.

24 Subparagraph B that I am taking out is, "Should
25 the special conditions and circumstances do not

1 result in actions of the applicant."

2 So I will move that the Board finds competent
3 and substantial evidence in the record and testimony
4 received to deny application B15-001, citing V-15-001
5 specifically a failure to demonstrate consistency
6 with the standards of review A and C for the issuance
7 of a variance as defined in section 33 point 305 B2
8 of the land development code of Nassau County.

9 CHAIRMAN AVILA: Please call the roll.

10 THE CLERK: A second?

11 CHAIRMAN AVILA: Oh, I'm sorry.

12 VICE CHAIRMAN VAN DELINDER: Second.

13 BOARD MEMBER BROCK: Second.

14 CHAIRMAN AVILA: Take your pick of either one.

15 THE CLERK: Board member Martin?

16 BOARD MEMBER MARTIN: Yes

17 THE CLERK: Board member Brock?

18 BOARD MEMBER BROCK: Yes.

19 THE CLERK: Board member Van Delinder?

20 VICE CHAIRMAN VAN DELINDER: Yes.

21 THE CLERK: And Chair Avila?

22 CHAIRMAN AVILA: Yes.

23 THE CLERK: Thank you.

24 CHAIRMAN AVILA: I am sorry, Mr. Dukes, we
25 have -- we deny your motion.

1 There is an appeal process. And Mr. Jacobs will
2 explain that to you.

3 Folks, due to the length of the last
4 presentation, which I am not saying that it was
5 excessive, it was lengthy and provided a lot of
6 information, I would like to take a quick five minute
7 recess for folks, if they're sticking around for
8 tab -- tab D for the Monopole, if you're sticking
9 around for that, to give you a chance to get a drink
10 of water, go to the restroom, and give us a chance to
11 take a break for a moment, and we will reconvene at
12 8:25.

13 That gives you seven minutes.

14 (Thereupon, the proceedings in the
15 above-entitled cause was concluded.)

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CERTIFICATE

STATE OF FLORIDA)
COUNTY OF NASSAU)

I HEREBY CERTIFY that the foregoing pages,
numbered 1 through 74, inclusive, constitute a true and
correct transcript of my stenotype notes of the
above-mentioned date.

William A. Hazes
Court Reporter

Applicant Exhibit 9 – Copy of Municode
Section 5.05 Variance – From Municode
Online Library (1 page)

Exhibit "9"

Exhibit 9

Section 5.05. Variance.

A variance from the provisions of this ordinance is granted when practical difficulties or unnecessary hardships that are not caused through actions of the applicant, will result from carrying out the strict letter of this zoning ordinance. The following must be completed when requesting a variance:

- (A) File an application with the growth management department. The necessary forms and instructions can be obtained from the growth management office.
- (B) The application for a variance shall include, but not be limited to, the following information which shall be provided by the applicant:
 - 1. If the applicant is other than the owner(s) of the property, the signed written consent of the property owner(s) must be attached.
 - 2. A complete legal description of the property for which the variance is requested, along with a scaled diagram showing the setbacks and the location of the proposed construction.
 - 3. The location and current zoning classification of the property being considered for the variance.
 - 4. Describe the variance requested. A variance may be authorized only for the reduction of minimum street frontage, lot area and required yards (front, side, rear) or for the increase of height of structures and site coverage only when such increases are not in conflict with the adopted comprehensive plan and Florida Building Code. A modification to lot requirements shall not be granted a variance when such modification will result in an increase of density/intensity of use beyond that permitted by the Future Land Use Map 2010 for the underlying land use of the area. A variance shall not change the functional classification permitted or permissible by the comprehensive plan and future land use map, as currently adopted.
 - 5. A complete list of all property owners, mailing addresses and legal description of all property within three hundred (300) feet of the parcel for which the variance is requested. This information must be taken from the latest Nassau County tax rolls.
- (C) Upon receipt of the completed application and the required zoning fee, the growth management department will review the application and prepare a written report regarding the consistency of the "request for variance" with the adopted comprehensive plan and current land use regulations. The growth management department will submit its report and the application to the conditional use and variance board for action.
- (D) The growth management department shall establish a date and time to hear the variance request and shall advertise the public hearing in a manner prescribed by law.
- (E) Before making a final decision on a variance request, the conditional use and variance board shall consider the criteria established in section 3.05(B)3. of this ordinance. The conditional use and variance board has sixty (60) days for the date the application is received to make a final decision. Variances along with all conditions and safeguards attached thereto shall be granted to the property and is nontransferable.
- (F)

Applicant Exhibit 10 – Copy of Law
Enforcement Shor form (2 pages)

Exhibit 10

Exhibit 11
COPY

☒ LAW ENFORCEMENT SHORT FORM REPORT
☐ DRIVER REPORT OF TRAFFIC CRASH
☐ DRIVER EXCHANGE OF INFORMATION

DO NOT WRITE IN THIS SPACE

DATE OF CRASH 09 15 07	TIME OF CRASH 3:41 AM	TIME OFFICER NOTIFIED 3:46 AM	TIME OFFICER ARRIVED 3:59 AM	INVEST AGENCY REPORT NUMBER 200705398	INVEST CRASH REPORT NUMBER 0906117
COUNTY 41-00	FEET 7	MILES N S E W X	CITY OR TOWN FERNANDINA BEACH	CHECK IF IN CITY OR TOWN NASSAU	COUNTY NASSAU
FROM NO. 1	TO NO. 2	NO. OF LANE 2	ON STREET ROAD OR HIGHWAY 97001 BOBBY MOORE DRIVEWAY	PRIVATE	
FROM INTERSECTION OF	FEET	MILES	FROM INTERSECTION OF		
VEH. MAKE OR MODEL 07 DODG	TYPE OR BODY CAR	VEH. LICENSE NUMBER / STATE 087 HAB FL	VEHICLE IDENTIFICATION NUMBER 2B3LA43G87H666833		
VEH. YEAR X	VEH. COLOR X	EST. VEHICLE DAMAGE 300.00	VEHICLE REMOVED BY TIFFANY LINTON	VEH. OWNER'S REQUESTED OTHER 3	
VEHICLE INSURANCE COMPANY (LIABILITY OR PIP) ALLSTATE INS.			POLICY NUMBER 088721269		
NAME OF VEHICLE OWNER (Check Box if Same As Driver) MICHAEL L. LINTON		CURRENT ADDRESS (Number and Street) 43102 WOODLAND LANE		CITY AND STATE CALLAHAN, FL	ZIP CODE 32011
NAME OF DRIVER (Take From Driver License) / PEDESTRIAN TIFFANY L. LINTON		CURRENT ADDRESS (Number and Street) 43102 WOODLAND LANE		CITY AND STATE CALLAHAN, FL	ZIP CODE 32011
DRIVER LICENSE NUMBER L535812917220	STATE FL	DRIVER / PEDESTRIAN HOME PHONE 904 819 1574	DRIVER / PEDESTRIAN BUSINESS PHONE 904 708-5517	RACE W	SEX F
DATE OF BIRTH 06-22-1991					

Mary L. Mercer
 Records Management
 Director /
 Public Records



NASSAU COUNTY
 SHERIFF'S OFFICE

BILL LEEPER
 Sheriff

76001 Bobby Moore Circle
 Yulee, Florida 32097

Office: 904-548-4059
 Fax: 904-548-4169
 bleeper@nassauso.com

VEH. YEAR	VEH. COLOR	VEH. LICENSE NUMBER	STATE	VEHICLE IDENTIFICATION NUMBER
EST. VEHICLE DAMAGE		VEHICLE REMOVED BY		
VEH. MAKE OR MODEL				
VEH. TYPE OR BODY				
VEH. INSURANCE COMPANY (LIABILITY OR PIP)				
POLICY NUMBER				
NAME OF VEHICLE OWNER (Check Box if Same As Driver)		CURRENT ADDRESS (Number and Street)		CITY AND STATE
NAME OF DRIVER (Take From Driver License) / PEDESTRIAN		CURRENT ADDRESS (Number and Street)		CITY AND STATE
DRIVER LICENSE NUMBER	STATE	DRIVER / PEDESTRIAN HOME PHONE	DRIVER / PEDESTRIAN BUSINESS PHONE	RACE
DATE OF BIRTH	SEX			
NUMBER OF PASSENGERS	NAME OF PASSENGER	CURRENT ADDRESS (Number and Street)	CITY AND STATE	ZIP CODE
SECTION #	NAME OF VIOLATOR	FL STATUTE NUMBER	CHARGE	CITATION NUMBER
SECTION #	NAME OF VIOLATOR	FL STATUTE NUMBER	CHARGE	CITATION NUMBER
SECTION #	NAME OF VIOLATOR	FL STATUTE NUMBER	CHARGE	CITATION NUMBER
PROPERTY DAMAGED - OTHER THAN VEHICLES		EST. AMOUNT	OWNER'S NAME	ADDRESS
WITNESS NAME (1)		CURRENT ADDRESS	CITY & STATE	ZIP CODE
WITNESS NAME (2)		CURRENT ADDRESS	CITY & STATE	ZIP CODE
INVESTIGATOR - NAME & SIGNATURE Dep. [Signature]		ICR NUMBER 615	DEPARTMENT NASSAU COUNTY	FNP SO PD OTHER <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

HSMV-90005 Rev. 04/04

☐ YOU MUST READ AND COMPLY WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM.
☒ NO FURTHER ACTION REQUIRED BY YOU, REPORT COMPLETED BY LAW ENFORCEMENT AGENCY.

* NO DIAGRAM NEEDED *

V-1 WAS MAKING A LEFT TURN IN THE DRIVEWAY, LOCATED AT 97001 BELLEVILLE LANE IN ATTEMPT TO TURN V-1 AROUND TO EXIT THE DRIVEWAY. DRIVER OF V-1 STATED SHE PUSHED THE GAS PEDAL IN THE VEHICLE HARD, DUE TO THE VEHICLE NOT MOVING, V-1 CONTINUED FORWARD STRIKING A TREE IN THE YARD HEAD ON. V-1 HAS MINOR DAMAGE TO FRONT BUMPER AREA. NO INJURIES REPORTED AT THE SCENE. NO CITATIONS ISSUED TO DRIVER. REPORT WRITTEN PER REQUEST OF OWNER (V-1).

CONTRIBUTING CAUSES - DRIVER / PEDESTRIAN						VEHICLE DEFECT						VEHICLE MOVEMENT						VEHICLE SPECIAL FUNCTIONS																	
01 No Improper Driving / Action 02 Careless Driving (Explain In Narrative) 03 Failed to Yield Right-of-Way 04 Improper Backing 05 Improper Lane Change 06 Improper Turn 07 Alcohol - Under Influence 08 Drugs - Under Influence 09 Alcohol & Drugs - Under Influence 10 Followed Too Closely 11 Disregarded Traffic Signal 12 Exceeded Safe Speed Limit 13 Disregarded Stop Sign 14 Failed to Maintain Equip. / Vehicle 15 Improper Passing 16 Drove Left or Center 17 Exceeded Stated Speed Limit 18 Obstructing Traffic						01 No Defects 02 Def Brakes 03 Worn / Smooth Tires 04 Defective / Improper Lights 05 Puncture / Blowout 06 Steering Mech 07 Windshield Wipers 08 Equipment / Vehicle Defect 77 All Other (Explain In Narrative)						01 Straight Ahead 02 Slowing / Stopped / Stated 03 Making Left Turn 04 Backing 05 Making Right Turn 06 Changing Lanes 07 Entering / Leaving / Parking Space 08 Properly Parked 09 Improperly Parked 10 Making U-Turn						1 None 2 Farm 3 Police Pursuit 4 Recreational 5 Emergency Operation 6 Construction / Maintenance SOURCE OF CARRIER INFORMATION 1 Not Applicable 2 Shipping Papers 3 Vehicle Side 4 Driver 5 Other																	
19 Improper Load 20 Disregarded Other Traffic Control 21 Driving Wrong Side / Way 22 Ejecting Police 23 Vehicle Modified 24 Driver Distraction 25 All Other (Explain In Narrative)						POINT OF COLLISION 01 On Road 02 Not On Road 03 Shoulder 04 Median 05 Turn Lane WORK AREA 01 None 02 Nearby 03 Entered						PEDESTRIAN ACTION 01 Crossing not at Intersection 02 Crossing at Mid-Block Crosswalk 03 Crossing at Intersection 04 Walking Along Road With Traffic 05 Walking Along Road Against Traffic 06 Working on Vehicle In-Road 07 Working In Road 08 Standing / Playing In Road 09 Standing In Pedestrian Island 77 All Other (Explain In Narrative) 88 Unknown						LOCATION TYPE 1 Primary Business 2 Primary Residential 3 Open Country																	
FIRST / SUBSEQUENT HARMFUL EVENT(S)						ROAD SYSTEM IDENTIFIER						LIGHTING CONDITION																							
01 Collision With MV in Transport (Rear End) 02 Collision With MV in Transport (Head Or) 03 Collision With MV in Transport (Angle) 04 Collision With MV in Transport (Left Turn) 05 Collision With MV in Transport (Right Turn) 06 Collision With MV in Transport (Sideswipe) 07 Collision With MV in Transport (Backed Into) 08 Collision With Parked Car 09 Collision With MV or Roadway 10 Collision With Pedestrian 11 Collision With Bicycle 12 Collision With Bicycle (Bike Lane) 13 Collision With Moped 14 Collision With Train						15 Collision With Animal 16 MV Hit Sign / Sign Post 17 MV Hit Utility Pole / Light Pole 18 MV Hit Guardrail 19 MV Hit Fence 20 MV Hit Concrete Barrier Wall 21 MV Hit Bridge / Pier / Abutment / Rail 22 MV Hit Tree / Shrubbery 23 Collision With Construction Barricade Sign 24 Collision With Traffic Gate 25 Collision With Crash Attenuators 26 Collision With Fixed Object Above Road 27 MV Hit Other Fixed Object 28 Collision With Moveable Object On Road						29 MV Ran Into Ditch / Culvert 30 Ran Off Road Into Water 31 Overturne 32 Occupant Fell From Vehicle 33 Tractor / Trailer Jackknifed 34 Fire 35 Explosion 36 Downhill Runaway 37 Cargo Loss or Shift 38 Separation of Units 39 Median Crossover 77 All Other (Explain In Narrative)						01 Interstate 02 U.S. 03 State 04 County 05 Local 06 Turnpike / Toll 07 Forest Road 08 Private Roadway 77 All Other (Explain In Narrative)						01 Daylight 02 Dusk 03 Dawn 04 Dark (Street Light) 05 Dark (No Street Light) 88 Unknown											
ROAD CONDITIONS AT TIME OF CRASH						VISION OBSTRUCTED						TRAFFIC CONTROL						SITE LOCATION						TRAFFICWAY CHARACTER											
01 No Defects 02 Obstruction With Warning 03 Obstruction Without Warning 04 Road Under Repair / Construction 05 Loose Surface Materials 06 Shoulders - Soft / Low / High 07 Holes / Ruts / Uneven Pavement Edge 08 Standing Water 09 Wet / Polished Road Surface 77 All Other (Explain In Narrative)						01 Vision Not Obscured 02 Indirect Weather 03 Parked / Stopped Vehicle 04 Trees / Crops / Bushes 05 Load on Vehicle 06 Building / Fixed Object 07 Signs / Billboards 08 Fog 09 Smoke 77 All Other (Explain In Narrative)						01 No Control 02 Special Speed Zone 03 Speed Control Sign 04 School Zone 05 Traffic Signal 06 Stop Sign 07 Yield Sign 08 Flashing Light 09 Railroad Signal 10 Officer / Guard / Flagperson						01 Not At Intersection / RR X-ing / Bridge 02 At Intersection 03 Influenced By Intersection 04 Driveway Access 05 Railroad 06 Bridge 07 Entrance Ramp 08 Exit Ramp 09 Packing Lot - Public 10 Packing Lot - Private						11 Private Property 12 Toll Booth 13 Public Bus Stop Zone 77 All Other (Explain In Narrative)						01 Straight - Level 02 Straight - Upgrade / Downgrade 03 Curve - Level 04 Curve - Upgrade / Downgrade TYPE SHOULDER 01 Faced 02 Ungraded 03 Curb					

Staff Report for V16-002 dated February
23, 2017 (10 pages)

Nassau County
Dept. of Planning and Economic
Opportunity
96161 Nassau Place
Yulee, FL 32097

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BOARD MEMBERS

Nick Gillette
John C. VanDelinder
Kathleen Zetterower
Shep Brock
Clay Hartley
Orlando J. Avila

**Nassau County
CONDITIONAL USE AND VARIANCE BOARD**

Date of Hearing: February 23, 2017

Public Hearing Number: V16-002

A. General Information

Owner/Agent: Blue Potato Properties, LLC/John Dukes

Request: Seeking a relief from Sections 28.03 and 9.04(A) of the Land Development Code to reduce the minimum lot width from 90' to 73.44'. The property is located in the Residential Single Family 1 (RS-1) zoning district.

Applicable Regulations: Article 3, Section 3.05.B.3, Section 9.05, and Article 32 of the Land Development Code.

B. Site Information

Lot Size: 0.54ac

Tax Parcel Number(2013): 42-3n-28-0000-0001-0000

Location: Bellville Lane (at the end of Chester Road).

Directions: From the Intersection of SR 200/A1A and Chester Road travel north on Chester Road to its terminus at Bellville Lane(a 90 degree turn west). The entry to the property is within the curve radius on the north side(river side) of Bellville Lane.

C. Existing Land Uses

Subject Site: Vacant

Surrounding: North: Bells River
East: Single Family Dwelling
South: Single Family Dwelling
West: Single Family Dwelling

D. Existing Zoning

Subject Site: Residential Single Family – One (RS-1)

Surrounding: North: No local zoning classification (water)
South: Residential Single Family – One (RS-1)
East: Residential Single Family – One (RS-1)
West: Residential Single Family – One (RS-1)

E. FLUM Designation

Subject Site: Medium Density Residential (MDR)

Surrounding: North: No local designation (water)
South: Medium Density Residential (MDR)
East: Medium Density Residential (MDR)
West: Medium Density Residential (MDR)

F. Background

The Nassau County Conditional Use and Variance Board has previously heard two separate requests for the issuance of a variance to provide relief from the minimum Lot width requirement of the Land Development Code to facilitate the construction of a home on the subject property. The first application, V14-001, was filed by Malcom Adams (previous owner) in April of 2014. The application was ultimately denied by the Conditional Use and Variance Board.

The second application, V15-001, was filed by Blue Potato Properties LLC/John Dukes in June of 2015. This request was also denied. The Applicant subsequently appealed the denial of application V15-001 to the Board of County Commissioners of Nassau County in August of 2015. The BOCC upheld the Conditional Use and Variance Board's decision. On September 23, 2015, a Petition for Writ of Certiorari was filed in the Fourth Judicial Circuit Court by Blue Potato Properties LLC. On June 7, 2016, the Honorable Adrian G. Soud ultimately denied Blue Potato LLC's Petition.

In accordance with Section 5.05 (F) LDC;

If the conditional use and variance board denies a variance application, the denied application cannot be resubmitted, nor can any action be taken on a new application for basically the same variance on the same property, until twelve (12) months after the date the last petition was denied.

Twelve months have passed since application V15-001 was denied by the Conditional Use and Variance Board. The Applicant/Owner is exercising his right to submit a new variance application, including the submittal of new evidence, for the Conditional Use and Variance Board to review. Application V16-002 is reviewed as a new application and the Board is asked to weigh the new evidence submitted into the record.

The document packet submitted in support of application V16-002 contains a significant amount of information. Some of the information is new and has not previously been considered by the Board. The packet includes an expanded history of the property, evidence of an existing septic tank, testimony that a mobile home was once situated on the subject property, an assessment of the adjacent development patterns, rebuttal to some of the testimony provided by other citizens, and other items pertaining to the application.

History to 1993

In January of 1993, Willis and Dorothy Adams purchased a parcel of land measuring 1.7 acres with approximately 210' of frontage on the Bells River[ref. OR 675/91]. In March of 1993, a Warranty Deed was executed granting Michael Adams '1/3 interest as tenants in common in and to' the 1.7 acre property[ref. OR 677/856].

In December of 2000, a survey was commissioned by the Adams family dividing the subject 1.7 acre property into three separate building sites identified as Parcel A, Parcel B, and Parcel C.

In July of 2001, three quit-claim deeds were recorded in succession with the Clerk of the Court of Nassau County thereby dividing the 1.7 acre property into three individual parcels consistent with the previously described survey of Parcels A, B, and C. The recording of the deeds resulted in Michael Adams taking possession of Parcels A & B and Malcolm Adams(Applicant) taking possession of Parcel C. [ref. OR 1000/355; 1000/358; 1000/361]

The division of the 1.7 acre parent parcel of land into three individual building sites was done without the review of Nassau County and in manner which is in direct conflict with the established regulations of Nassau County relating to the division of land for the purpose of creating building sites. [ref. Section 29.07 LDC, Article 9 LDC, Chapter 29 of the Nassau County Code of Ordinances]

Parcel Creation:

The survey created in 2000 at the bequest of the Adams family dividing the 1.7 acre parent parcel into three individual parcels of land contained a note on the face of the survey describing for whom the survey was prepared.

The note states,

"Parcel 'A' & 'B' prepared for: Dorothy Adams and Willis Adams and Michael R. Adams.

Parcel 'C' is prepared for: Malcolm David Adams"

Each quit-claim deed recorded in relation to the division of the subject 1.7 acre parent parcel in 2001 identifies three parties (6 individuals) as the collective grantor(seller);

- Willis and Dorothy Adams
- Michael and Phyllis Adams
- Malcolm and Sharon Adams

Each quit-claim deed was signed by each of the grantors. All six individuals listed above provided signature to each quit-claim deed which created the three individual building sites. [ref. OR 1000/355; 1000/358; 1000/361]



Land Development Code; Article 9:

The genesis of variance request V16-002 is found in the division of the 1.7 acre parent parcel in 2001. The 1.7 acre parcel was divided into three individual building sites in a manner that caused Parcel C to fail to meet the minimum lot width requirement of the Residential Single Family – One(RS-1) zoning district as defined in the Nassau County Land Development Code. As such, Parcel C is deemed nonconforming.

The Nassau County Zoning Code was created via Ordinance 74-33 in 1974. The minimum yard and lot requirements for the RS-1 district have remained unchanged since 1974 and are as follows:

Minimum Yard(setbacks):	Minimum Lot Area:	Minimum Lot Width:
30' Front	10,800sf	90ft
10' Side		
15' Rear		

Parcel C was created with a width of approximately 75 feet[74.44'] in 2000[deed recorded in 2001]. Because Parcel C fails to meet the minimum lot width requirement of the RS-1 zoning district Staff does not possess the administrative authority to issue development permits to Parcel C until the nonconforming status is rectified.

Lot Width is defined in article 32 LDC as, *"The mean horizontal distance between the side lot lines, measured at right angles to its depth."*

Yard, front is defined in Article 32 LDC as, *"A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the principal building..."*

Land Development Code; Section 29.07 LDC

The language found in Section 29.07 LDC was included verbatim in the Nassau County Zoning Code in 1974 and has survived every amendment and substantial rewrite since.

Section 29.07 LDC states,

"...After the effective date of adoption of the ordinance, no lot or parcel in any district shall be so divided as to create a lot with area or width below the requirements of the ordinance; and no lot or parcel or portion of a lot or parcel shall be used or sold in a manner which diminishes compliance with lot area and width requirements established by the ordinance."

The 1.7 acre parent parcel was divided without review of Nassau County in a manner that was in direct conflict with the established regulatory standard. The result of the division of the 1.7 acre property rendered Parcel C nonconforming. Staff does not have the administrative authority to issue development permits to Parcel C.

It is important to note that the total width of the 1.7 acre parent parcel was approximately 217 feet[north boundary 209.65/south boundary 225.7]. Based upon the survey provided, the parent parcel possessed dimensions capable of creating Parcel C with enough width to meet the dimensional criteria of the respective zoning district. Unfortunately, the established regulations of Nassau County were not consulted prior to the division of the 1.7 acre parent parcel.

The conditional use and variance Board is being asked to issue an after-the-fact variance to allow development of a nonconforming tract of land created in violation of the minimum standards of Nassau County. Albeit the parcel was not created by the Applicant, the Applicant was aware of the circumstance surrounding the parcel prior to purchase.

Lot-of-Record Status:

A Lot of Record is defined by Nassau County as,

"A lot which is part of a subdivision, the map of which has been recorded in the office of the Clerk of the Circuit Court of Nassau County, or a parcel of land the deed of which was recorded in the office of the Clerk of the Circuit Court prior to the adoption of this ordinance [January 23, 2017] which met the minimum Lot, Yard and Frontage requirements of Nassau County at the time the lot was created."

As is evidenced above, the building site did not meet the minimum lot width requirement per Section 9.04 LDC at the time it was created and thus does not meet the definition of a Lot-of-Record.

Bellville Lane

The property is accessed via Bellville Lane, a county maintained prescriptive right-of-way. The majority of Bellville Lane is a single-lane dirt road. In many places the graded portion of the road is of a width insufficient for two vehicles to pass while traveling in opposite directions. The driveway to the subject property, Parcel C, is directly from Bellville Lane at the point where Chester Road becomes Bellville Lane at a 90 degree curve to the west. The exact amount of frontage Parcel C has on Bellville Lane is inconclusive based on the documentation provided and the informal boundary of Bellville Lane.

The linear frontage and access point of the parent parcel (by extension Parcel C) has remained unchanged since at least 1976[most likely longer ref. OR1820/996 and OR 436/421]. What has changed is the access to Parcels A and B. Michael Adams, the benefactor of Parcels A and B, purchased additional properties expanding his land holdings creating additional frontage on Chester Road and established a separate access point further south on Chester Road.

It is important to note that based upon the relationship between the subject property(Parcel C) and Bellville Lane; even if Parcel C had been created at a width of 90 feet the access point and frontage on Bellville Lane would not have been affected. Parcels A and B have a separate access point only because Michael

Adams(owner of Parcels A & B) acquired additional lands allowing the creation of a separate access point on Chester Road. If additional lands had not been acquired, access to Parcels A and B would have been through the original access point on Bellville Lane which is now intended to serve only Parcel C.

Functionality and a Pragmatic Approach

In looking solely at the functional size of Parcel C as a building site and removing all other issues, Parcel C appears to contain adequate land area and be of a composition to construct a single family home. Parcel C does not have access to public water and waste water and thus will require service from private well and an onsite sewage disposal system. As part of application V15-001, the applicant provided a letter from a professional engineer stating that the parcel appears to be of ample size to allow for the construction of a single family home served by private well and septic system. As part of the latest application packet, V16-002, the applicant presented new evidence that during an inspection of the property a septic tank was found. In other words, the property already contains a septic tank.

Given the evidence provided, there appears to be enough suitable land area associated with Parcel C to construct one single family home provided the owner can meet the customary requirements for permitting a new home. The parcel measures approximately 75'x 300' with roughly 75' of frontage on Bells River.

G. Analysis

- A. *Show that special conditions and circumstances exists which are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district.*

The parent parcel measured 1.7 acres when purchased in 1993. The parent parcel was divided into three individual building sites (Parcels A, B, and C) in 2001 with no review by Nassau County and without consultation of the established governing standard. When the individual building sites were created Parcel C did not meet the minimum lot width requirements of the zoning district and thus the division of the 1.7 acre parcel was in direct conflict with Section 29.07 LDC. As a result, Parcel C is a nonconforming parcel of land pursuant to the Nassau County Land Development Code.

The failure to abide by the rules established by Nassau County in relation to the creation of a building sites is not a special condition or circumstance that is peculiar to the subject property. Unfortunately, the requirements of Nassau County were not consulted.

The Conditional Use and Variance Board is being asked to issue an after-the-fact variance. The after-the-fact variance is a request to allow the development of a building site that was created in violation of the minimum standards of Nassau County. Staff finds no special condition or circumstance that is unique to this property as it relates to the creation of Parcel C.

With that said, and in the spirit of equity, the Applicant has provided a full page narrative related to this particular standard of review. The narrative outlines the Applicant's viewpoint and provides evidence the Applicant believes to bolster his position. The Applicant puts forth evidence that a home was previously located on the land-area which currently comprises Parcel

C and the discovery of an existing septic tank on the tract of land. The Applicant couples this information with the fact that the proximate river front is predominately built-out and the applicability to other lands in the immediate area is limited. The Applicant's full narrative is found in the submitted application which is part of the Conditional Use and Variance Board's agenda packet. It is at the discretion of the Conditional Use and Variance Board to determine if sufficient evidence has been provided by the Applicant to support a finding that special circumstance exist which are unique to this property and not applicable to other lands.

B. Show that special conditions and circumstances do not result from actions of the applicant.

The applicant was not responsible for creating the subject parcel. However, the applicant was present at the 2014 public hearing when the Conditional Use and Variance Board denied application V14-001. The applicant has acknowledged being aware of the nonconforming status of the parcel prior to purchasing the land.

C. Show that granting the variance 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 minimum lot width in the RS-1 zoning district is 90'. Planning Staff is charged with administering the Land Development Code. Staff does not have the authority to issue development permits to nonconforming parcels of land unless there exist a specific provision provided for in the Land Development Code. Other parcels of land in Nassau County which fail to meet the definition of a Lot-of-Record and which also do not meet the minimum lot width requirement of the respective zoning district cannot be issued development permits until the deficiencies are remedied. Staff finds the issuance of this variance, based upon the information provided, will confer a special privilege to the Applicant that is denied others in the same zoning district.

The Conditional Use and Variance Board is being asked to issue an after-the-fact variance for the purpose of providing a remedy to a nonconformity that was created by the division of the estate of Willis and Dorothy Adams. The estate was divided in a manner that was inconsistent with the rules as they existed at the time of property division and those rules are still applicable today.

In the spirit of equity, the Applicant has provided a narrative related to this standard of review as part of the application packet. The narrative outlines the Applicant's viewpoint and provides evidence the Applicant believes bolsters his position. It is at the discretion of the Conditional Use and Variance Board to determine if competent substantial evidence has been provided by the Applicant to support a finding that the issuance of this variance will not grant the Applicant special privileges denied others in the same district.

D. Show that literal interpretation of the provisions of this ordinance would deprive the applicants of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would place unnecessary and undue hardship on the applicant.

The literal interpretation of the governing regulation will not allow Staff to issue development permits for Parcel C or any other parcel which is not a Lot-of-Record and fails to meet the

minimum lot width requirements of the respective zoning district. As stated above, the estate of Willis and Dorothy Adams was divided in a manner that is inconsistent with the adopted standards of Nassau County and thus Parcel C is rendered nonconforming.

The applicant states,

The Lot has no meaningful use without the granting of a variance. Thus the applicant is unable to build a home on the subject lot. This in itself is an undue hardship on the applicant.

- E. *Show that the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

It is reasonable to conclude that the requested variance is the minimum necessary to allow for the construction of a home. The potential home builder will still be required to meet the building setbacks(minimum yard requirements) for the zoning district and the width of the parcel is not going to be further diminished.

- F. *Show that granting of the variance will be in harmony with the general intent and purpose of this ordinance and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

Article 32 LDC

The definition of a variance as found in Article 32 LDC is as follows,

Variance: A device which grants a property owner relief from certain provisions of this ordinance, when because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money. ...nor shall a variance be granted because of the presence of nancanformities in the zoning district or in adjoining district.

The need for this variance is not related to the physical surroundings, the shape of the parcel, or any topographical conditions. The genesis of this variance request is related to the fact that the parent parcel was divided into three individual building sites (Parcels A, B, and C) in such a manner that Parcel C did not meet the minimum lot width requirements of the zoning district and thus was in direct conflict with Section 29.07 LDC and Article 9 LDC. As a result, Parcel C is a nonconforming lot pursuant to the Nassau County Land Development Code. With that said, there has been no evidence submitted which definitively demonstrates that the issuance of the variance would be injurious to the area involved or otherwise detrimental to the public welfare.

- G. *The granting of the variance will not exceed the density or intensity of lond use as designated on the Future Land Use Map 2010 or the underlying land use.*

The subject property is designated as Medium Density Residential (MDR) on the Future Land Use Map as adopted with the 2030 Comprehensive Plan of Nassau County. The Medium Density Residential land use category allows for a residential density not to exceed three(3) dwelling units per acre of land. The submitted application is contemplating the construction of one single family home on 0.54 acre. The requested variance will not cause the structure or Lot to exceed

the density or intensity of the land use as designated on the Future Land Use Map 2030 or the underlying land use.

H. Staff Findings

While it is at the discretion of the Conditional Use and Variance Board, after hearing all the evidence and testimony entered into the record, to render a decision to find or not find there is competent substantial evidence, staff finds that application V16-002 fails to demonstrate consistency with the standards of review for the issuance of a variance as defined in Section 3.05(B)(2) of the Nassau County Land Development Code. More specifically, Staff finds the following:

1. The requested variance does not meet the standard of approval set forth in Section 3.05(B)2.a of the Land Development Code for the issuance of a variance. Staff finds there are no special conditions and circumstances which are peculiar to the land, structure, or building involved and further the conditions that exist could be applicable to other lands in the same zoning district. For additional detail related to this finding see the body of this report.
2. The requested variance does not meet the standard of approval set forth in Section 3.05(B)2.c of the Land Development Code for the issuance of a variance. Staff finds that the granting of the requested variance will confer on the applicant special privileges that are denied by the Nassau County Land Development Code to other lands in the same zoning district. For additional detail related to this finding see the body of this report.