



LAND USE HEARING OFFICER VARIANCE REPORT

APPLICATION NUMBER: VAR 21-0935	
LUHO HEARING DATE: September 20, 2021	CASE REVIEWER: Kevie Defranc

REQUEST: The applicant is requesting a setback variance for a proposed accessory structure on a single-family lot zoned RSC-6.

VARIANCE(S):

Per LDC Sec. 6.11.04.C.2, accessory structures that are 15 feet or less in height may occupy required side yards provided they are no closer to the street than any part of the principal building on the same lot and any lot abutting said required side yard, and the structure is set back a minimum of 3 feet from the side lot line, including architectural features such as eaves and gutters. In the subject case, the proposed accessory structure is closer to the street, Saltwater Boulevard, than a portion of the single-family home on the lot and therefore must meet the required side yard setback. Per LDC Section 6.01.01, a minimum side yard setback of 7.5 feet is required in the RSC-6 district. The applicant requests a 4.5-foot reduction to the required side yard setback to allow a setback of 3 feet from the west lot line.

FINDINGS:

- According to the applicant, the proposed accessory structure will have a maximum height of 12 feet. Additionally, the applicant has advised staff the structure will have a kitchen but not a bathroom.
- The subject property abuts the Sweetwater Creek canal, which is designated a wetland conservation area. However, the applicant has submitted a permit for the existing seawall on the rear of the property (EPC Permit Number 68706) which has been placed in the case record for the subject variance. In accordance with LDC Section 4.01.07.B.2, no conservation area setback is required landward of a seawall which is constructed pursuant to the approval of appropriate regulatory agencies. Natural Resources staff has confirmed that the submitted seawall permit negates the requirement for a 30-foot conservation area setback.

DISCLAIMER:

The variance listed above is based on the information provided in the application by the applicant. Additional variances may be needed after the site has applied for development permits. The granting of these variances does not obviate the applicant or property owner from attaining all additional required approvals including but not limited to: subdivision or site development approvals and building permit approvals.

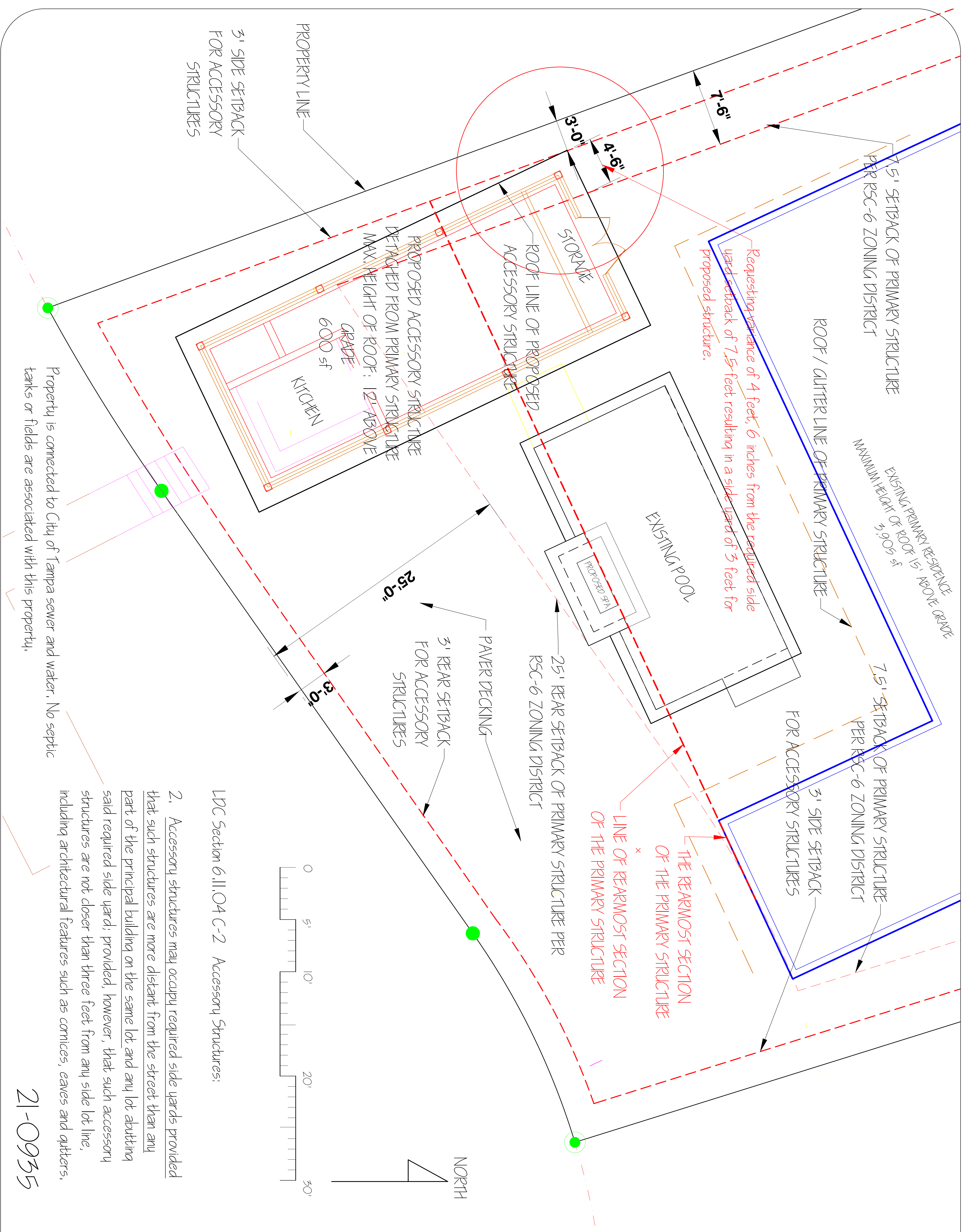
ADMINISTRATOR'S SIGN-OFF



Inte...op

th
Thu Sep 9 2021 16:17:56

Attachments: Application
Site Plan
Petitioner's Written Statement
Current Deed



Property is connected to City of Tampa sewer and water. No septic tanks or fields are associated with this property.

LDC Section 6.11.04 C-2 Accessory Structures:

- Accessory structures may occupy required side yards provided that such structures are more distant from the street than any part of the principal building on the same lot and any lot abutting said required side yard; provided, however, that such accessory structures are not closer than three feet from any side lot line, including architectural features such as cornices, eaves and gutters.

21-0935

HARDEMAN
QUALITY | INTEGRITY | COMMITMENT

2207 W. North A Street Tampa, FL 33606
813-689-5160 Office
www.Hardemanlandscape.com

DIAZ RESIDENCE
4137 Saltwater Blvd.
Tampa, FL 33615-5638

Folio: 0122193-0992
Use Code: 06D5 Canal Front, Class 35
Zoned: RSC6 Lot size: 97' x 136'

- PLAN INDEX**
- 00 COVER SHEET/ MAP (N/A)
 - 10 DEMO PLAN
 - 20 LAYOUT PLAN (N/A)
 - 30 LANDSCAPE MASTER/ SCHEDULE
 - 31 LANDSCAPE FRONT
 - 32 LANDSCAPE REAR
 - 40 HARDSCAPE MASONRY/COLUMNS/FENCING
 - 50 IRRIGATION MASTER
 - 51 IRRIGATION FRONT
 - 52 IRRIGATION REAR
 - 60 LIGHTING
 - 70 ARTIFICIAL TURF/ SPORT COURT (N/A)
 - 71 PERGOLA LAYOUT
 - 72 PERGOLA STRUCTURAL ELEVATION
 - 73 PERGOLA STRUCTURAL DETAILS
 - 80 SLEEVING
 - 90 DRAINAGE/ DRAINING (N/A)

Project: DIAZ Residence		
Scope: LANDSCAPE/ HARDSCAPE DEMO/BI.		
Designer: John R. Tase, Principal Designer		
No.	Revision/Issue	Date
1	Revised Variance Request Language	8/15/21

Project: GATE/ COLUMN PLAN	Sheet: HRDSC
Date: 06.06.20	4.1
Scale: GATE/ COLUMNS	

I have reviewed this plan and approve its design and construction per plan. Customer Acknowledgement Date:



Additional / Revised Information Sheet

Date Stamp Here

Application Number: 21-0935 Applicant's Name: John R. Tate

Reviewing Planner's Name: _____ Date: _____

Application Type:

- Planned Development (PD) Minor Modification/Personal Appearance (PRS) Standard Rezoning (RZ)
- Variance (VAR) Development of Regional Impact (DRI) Major Modification (MM)
- Special Use (SU) Conditional Use (CU) Other _____

Current Hearing Date (if applicable): 09/20/2021

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Cover Letter with summary of the changes and/or additional information provided. If a revised Site Plan is being submitted, all changes on the site plan must be listed in detail in the Cover Letter.

An updated Project Narrative consistent with the changes or additional information provided, if applicable.

Submittal Via:

Email (Preferred). Note that no follow up paper file is necessary. Pdf format only. Maximum attachment(s) size is 15 MB.

Email this sheet along all the additional/revised submittal items in pdf to: ZoningIntake-DSD@hcflgov.net

Mail or delivery. Number of Plans Submitted: Large _____ Small _____

For PD, MM, PRS and SU: 7 large copies 24"X36", one small 8.5X11".
For RZ-Standard: if plot plan is larger than 8.5"X11", 7 large copies should be submitted.
For Minor Change: 6 large copies.
For Variances or Conditional Use permits: one 8.5"X11" or larger)

Mail to:
Development Services Department
Community Development Division
P.O. Box 1110
Tampa, FL 33601-1110

Hand Deliver to:
County Center
Development Services Department
19th Floor
601 E. Kennedy Blvd., Tampa

I certify that changes described above are the only changes that have been made to the submission. Any further changes will require an additional submission and certification.

Signature

Date

FOR OFFICE USE ONLY

- Notification E-Mail Sent Scanned into OPTIX
- Transmittal Completed

In-Take Completed by: _____

August 26, 2021

Development Services Department
Community Development Division
19th Floor
601 E. Kennedy Blvd.
Tampa, FL

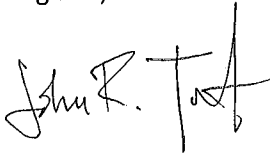
RE: 21-0935 Cover letter outlining amendments to original submission

Per your request, follows are the changes to the original site plan submitted:

1. Revised Site Plan that shows:
 - a. the 7.5' setback back at the side yard (red circle shows area in question)
 - b. the accessory structure, including roof overhang, sited 4.6' inside that setback but 3.0' from property line
 - f. Statement describing what the variance is for is shown in red lettering
2. On the Variance Application, attached:
 - a. The narrative section on page three was amended to the corrected language provided by your office.

All these attachments are included in this email.

Regards,



John R. Tate

Designer/agent for owner
Hardeman Landscape Nursery, Inc.
2205 W. North A Street, Tampa, FL 33606
813-689-5160

Att: This cover letter
Variance Application, amended
Site plan, amended

Application Number: 21-0935

VARIANCE REQUEST

1. Project Narrative: In the space below describe the variance including any history and/or related facts that may be helpful in understanding the request. This explanation shall also specifically identify what is being requested (e.g. *Variance of 10 feet from the required rear yard setback of 25 feet resulting in a rear yard of 15 feet*). If additional space is needed, please attach extra pages to this application.

Variance Request

1. Applicable Code: LDC 6.11.04.02
2. Variance of 4 feet, 6 inches from the required side yard setback of 7.5 feet resulting in a side yard of 3 feet for proposed accessory structure.

ADDITIONAL INFORMATION

1. Have you been cited by Hillsborough County Code Enforcement? No Yes _____
If yes, you must submit a copy of the Citation with this Application.
2. Do you have any other applications filed with Hillsborough County that are related to the subject property?
No Yes _____ If yes, please indicate the nature of the application and the case numbers assigned to the application(s): _____
3. Is this a request for a wetland setback variance? No Yes _____
If yes, you must complete the *Wetland Setback Memorandum* and all required information must be included with this Application Packet (Attachment A).
4. Please indicate the existing or proposed utilities for the subject property:
Public Water _____ Public Wastewater _____ Private Well _____ Septic Tank _____
5. Is the variance to allow a third lot on well and/or septic or non-residential development with an intensity of three ERC's? No Yes _____
If yes, you must submit a final determination of the "*Water, Wastewater, and/or Reclaimed Water – Service Application Conditional Approval – Reservation of Capacity*" prior to your public hearing (form may be obtained from 19th floor County Center).



Additional / Revised Information Sheet

Date Stamp Here

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Reviewing Planner's Name: _____ Date: _____

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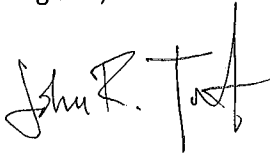
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John R. Tate

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2205 W. North A Street, Tampa, FL 33606
813-689-5160

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VARIANCE CRITERIA RESPONSE

1. Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other properties similarly located.
 - a. *By allowing a structure similarly sited five doors down from subject property, the homeowners of the subject property are not afforded the same enjoyment of their property as the neighbors of the approved structure. The hardship is unique and pertinent to the subject homeowners because their development disallowed. This constitutes an undue hardship for the homeowners of the subject property.*
2. Describe how the literal requirements of the Land Development Code (LDC) would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC
 - a. *If a structure is permissible by one party in a common neighborhood, all property owners should be permitted to enjoy the same right(s). The neighboring approved structure deprives all in the neighborhood, not just the subject property's homeowners, of the same enjoyment.*
3. Explain how the variance, if allowed, will not substantially interfere with or the injure the rights of others whose property would be affected by allowance of the variance.
 - a. *The proposed accessory structure was designed NOT to interfere with adjoining neighbor's view to the shared waterway behind the properties (by tucking it close to the primary structure) and sited in such a way to minimize the apparent scale and footprint of the proposed structure for those homeowners' views from directly across the canal (the narrowest side of the structure faces the waterway.) The structure will not be seen from the street, hidden by a permissible six-foot fence and heavy landscaping.*
 - b. *The proposed structure with its associated amenities and its siting enhances the property values in the neighborhood. The proposed structure does not injure anyone's rights or interests.*
4. Explain how the variance is in harmony with and serves the general interest and purpose of the LDC and the Comprehensive Plan (refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose.)
 - a. **"Sec. 1.02.02. – Purpose:** It is the purpose of the Board of County Commissioners of Hillsborough County to establish the standards, regulations and procedures for review and approval of all proposed development of property in unincorporated Hillsborough County, and to provide a development review process that will be comprehensive, consistent, and efficient in the implementation of the goals, objectives, and policies of the Future of Hillsborough Comprehensive Plan."
 - i. *The subject property's homeowners are residents of Hillsborough County, FL, and pay substantial taxes to support the building review systems and procedures of the County. They have approached the County's Building Department before starting any construction with plans prepared by professionals as required by the LDC. They seek a variance to substantially improve their property, enhancing the nature of its use, increasing the property values of those residents of their community (and thus increasing the tax base for the County) while respecting the environment and general nature of the homes/structures in the neighborhood. The carefully designed structure harmonies with the existing primary structure in scale, materials, and finishes, intending to blend in with the existing structure and immediate neighborhood.*
 - b. **"Sec. 1.02.03. – Intent:** In order to foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of the unincorporated areas of Hillsborough County, it is the intent of this Code that the development process in Hillsborough County be efficient, in terms of time and expense; effective, in terms of addressing the natural resource and public facility implications of proposed development; and equitable, in terms of consistency with

Application Number: 21-0935

established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of Hillsborough County.”

- i. The homeowners of the subject property have consulted with design professionals and sought out approval by the County's building department to ensure their development is harmonious, orderly and integrated into the existing environment with no ill effects on the welfare of others. In fact, allowing this development enhances the welfare of others through increased property values and the increase of the tax base for the County. No liberties of any kind, legal or illegal, were taken to achieve the goals. The homeowners' expectations, per the intent of the LDC, is to reach an equitable arrangement similar to allowed development on the same street and to maintain that the Code applies consistently to all neighbors and citizens of Hillsborough County.*
- c. The Board of County Commissioners deems it to be in the best public interest for all development to be conceived, designed, and built in accordance with good planning and design practices and the minimum standards set forth in this Code.*
 - i. The homeowners of the subject property have employed local licensed and properly credentialed professionals to design and execute their proposed project. Such approach is in the best public interest.*

5. Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.

- a. The homeowners of the subject property hired licensed and insured professionals to design and develop their property as required by code.*
- b. The homeowners of the subject property applied for a building permit with the County to execute the project.*
- c. When the County Building Department responded to the application with comments, these same professionals addressed the comments thoroughly and appropriately. The design team either amended the plans or provided clarification of the plans and related documents and resubmitted them to the same parties with the County.*
- d. At no time did the homeowners of the subject property do anything illegal or try to circumvent the required approval process.*

6. Explain how allowing a variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance.

- a. By allowing this variance, the subject homeowners are afforded 'equal justice under the law'. By allowing a similar structure on a similar property in the same neighborhood and not allowing the same to the subject homeowner, this constitutes an injustice, one that can be rectified by granting the variance.*

Prepared by and Return to:
Old Republic National Title Insurance Company
1410 N. Westshore Blvd. Ste. 800
Tampa, FL 33607

File Number: 17018790

(Space Above This Line For Recording Data)

Warranty Deed

This Warranty Deed made this 13 day of March, 2017, between **JUSTIN LEE ALTSHULER, INDIVIDUALLY, AND AS TRUSTEE OF THE JUSTIN LEE ALTSHULER FAMILY TRUST UNDER A DECLARATION OF TRUST DATED DECEMBER 18, 1979, AS AMENDED**, whose post office address is **4137 Saltwater Blvd, Tampa, FL 33615**, grantor, and **ANTHONY DIAZ and BRITT DIAZ, husband and wife** whose post office address is **4137 Saltwater Blvd, Tampa, FL 33615**, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in the **Hillsborough County, Florida**, to-wit:

Lot 36, Block 1, SWEETWATER SUBDIVISION FOURTH ADDITION, a subdivision according to the plat thereof recorded at Plat Book 54, Page 34, in the Public Records of Hillsborough County, Florida.

Parcel Identification Number: 012193-0952

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2016.

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:

Seller:

[Handwritten signature of Justin Lee Altshuler]

JUSTIN LEE ALTSHULER, INDIVIDUALLY

[Handwritten signature of Nancy C. Brewer]
Witness Name: NANCY C. BREWER

[Handwritten signature of Wendy Ross]
Witness Name: Wendy Ross

JUSTIN LEE ALTSHULER, AS TRUSTEE OF THE JUSTIN LEE ALTSHULER FAMILY TRUST UNDER A DECLARATION OF TRUST DATED DECEMBER 18, 1979, AS AMENDED

[Handwritten signature of Justin Lee Altshuler as Trustee]
By JUSTIN LEE ALTSHULER, AS TRUSTEE

State of FLORIDA

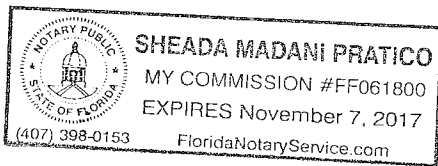
County of Hillsborough

The foregoing instrument was acknowledged before me this 13 day of March, 2017, by JUSTIN LEE ALTSHULER, INDIVIDUALLY AND AS TRUSTEE OF THE JUSTIN LEE ALTSHULER FAMILY TRUST UNDER A DECLARATION OF TRUST DATED DECEMBER 18, 1979, AS AMENDED, who () are personally known to me or (X) have produced Florida ID card as identification.

[Handwritten signature of Sheada Madani Pratico]
Notary Public

Printed Name: Sheada Madani Pratico

My Commission Expires: 11-07-2017





Additional / Revised Information Sheet

Date Stamp Here

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Reviewing Planner's Name: _____ Date: _____

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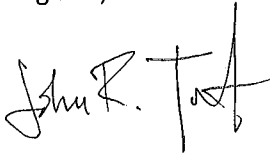
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Variance Application, amended
Site plan, amended

21-0935



VARIANCE APPLICATION

IMPORTANT INSTRUCTIONS TO ALL APPLICANTS:
You must schedule an appointment to submit this application by calling 813-272-5600.
All requirements listed on the submittal checklist must be met. Incomplete applications will not be accepted.

Property Information

Address: 4137 SALT WATER BLVD City/State/Zip: TAMPA, FL 33615 TWN-RN-SEC: 29-17-12
Folio(s): 012193-0952 Zoning: RSC-6 Future Land Use: N/A Property Size: 13,000 SF
R-6

Property Owner Information

Name: ANTHONY & BRITT DIAZ Daytime Phone: 813-477-6638
Address: 4137 SALT WATER BLVD City/State/Zip: TAMPA, FL 33615
Email: millenniumrs@gmail.com FAX Number: N/A

Applicant Information

Name: ANTHONY & BRITT DIAZ Daytime Phone: 813-477-6638
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Email: millenniumrs@gmail.com FAX Number: N/A

Applicant's Representative (if different than above)

Name: JOHN R. TATE Daytime Phone: 813-689-5160
Address: 2205 W. NORTH X STREET City / State/Zip: TAMPA, FL 33606
Email: jtate@HARDENONLANDSCAPE.COM FAX Number: N/A

I HEREBY SWEAR OR AFFIRM THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION PACKET IS TRUE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE, AND AUTHORIZE THE REPRESENTATIVE LISTED ABOVE TO ACT ON MY BEHALF FOR THIS APPLICATION.

[Signature]
Signature of Applicant
Anthony Diaz
Type or Print Name

I HEREBY AUTHORIZE THE PROCESSING OF THIS APPLICATION AND RECOGNIZE THAT THE FINAL ACTION ON THIS PETITION SHALL BE BINDING TO THE PROPERTY AS WELL AS TO CURRENT AND ANY FUTURE OWNERS.

[Signature]
Signature of Property Owner
Britt Diaz
Type or Print Name

Office Use Only
Intake Staff Signature: _____ Intake Date: _____
Case Number: _____ Public Hearing Date: _____
Receipt Number: _____

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