



City of Gainesville  
Department of Doing  
Planning Division

PO Box 490, Station 11  
Gainesville, FL 32627-0490  
306 NE 6<sup>th</sup> Avenue  
P: (352) 334-5022  
F: (352) 334-2648

## DEVELOPMENT REVIEW BOARD STAFF REPORT

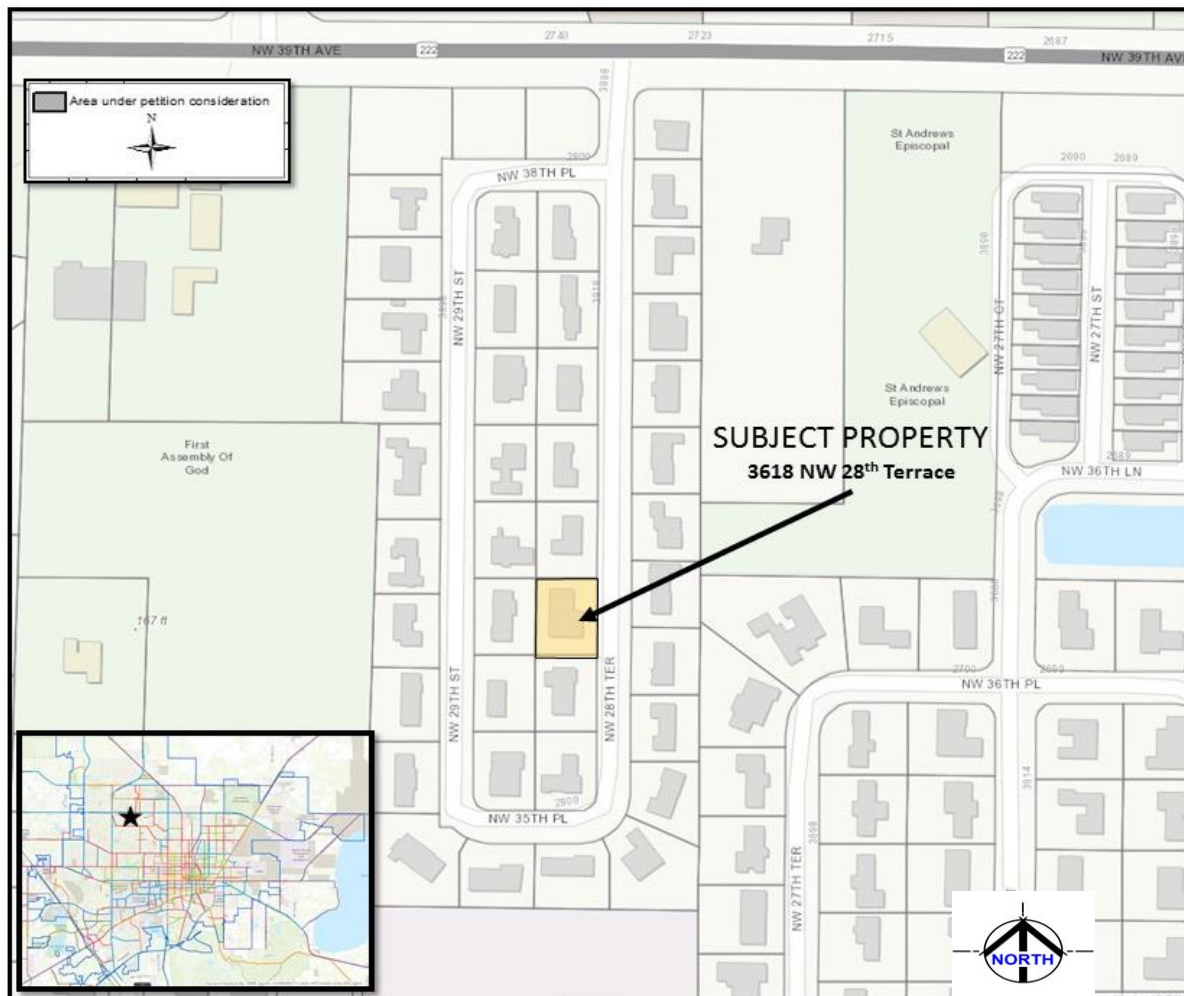
**PUBLIC HEARING DATE:** September 25, 2018

**ITEM NO:** 1.

**PROJECT NAME AND NUMBER:** John and Wanda Jennings Variance, Petition DB-18-04 VAR

**APPLICATION TYPE:** Variance with no Development Review

**CITY PROJECT CONTACT:** Lawrence Calderon, Planner III



**Map 1: General Location Map of Lot 38, Hidden Oaks**

**APPLICATION INFORMATION:**

**Agent/Applicant:** John and Wanda Jennings  
**Property Owner(s):** John and Wanda Jennings  
**Related Petition(s):** N/A  
**Legislative History:** None  
**Neighborhood Workshop:** Not Required

**SITE INFORMATION:**

**Address:** 3618 NW 28<sup>th</sup> Terrace  
**Parcel Number(s):** 06092-014-038  
**Acreage:** Approximately 10,454 square feet  
**Existing Use(s):** Single-family residence  
**Land Use Designation(s):** SF: Single Family  
**Zoning Designation(s):** RSF-1 Single-family Residential  
**Overlay District(s):** None  
**Transportation Mobility Program Area (TMPA):** Area B  
**Census Tract:**  
**Water Management District:** Saint John's River Water Management District  
**Special Feature(s):** Property is much wider than its depth, with limited space for expansion in the rear.  
**Annexed:** 1960  
**Code Violations:** No record of Code Violations

**ADJACENT PROPERTY CHARACTERISTICS:**

	EXISTING USE(S)	LAND USE DESIGNATION(S)	ZONING DESIGNATION(S)
North	Single family dwelling	Single-Family	RSF-1: Single-Family Residential
South	Single family dwelling	Single-Family	RSF-1: Single-Family Residential
East	Single family dwelling	Single-Family	RSF-1: Single-Family Residential
West	Single family dwelling	Single-Family	RSF-1: Single-Family Residential

**BACKGROUND AND EXPLANATION:**

**Background:**

The subject property is located in a small subdivision called Hidden Oaks, in the 2800 Block, just south of NW 39<sup>th</sup> Avenue. The subdivision contains 42 lots ranging in size from 10,700 to 18,900 square feet; the average

lot size is approximately 10,500 square feet. The subdivision is served by one main access road off NW 39<sup>th</sup> Avenue that links to an elliptical road serving all lots within the subdivision. The property has a land use designation of Single Family Residential and a zoning of RSF-1: Single-family Residential. All lots within the subdivision exceed the minimum dimensions of 90 feet deep by 115 feet wide, established by the RSF-1 zoning district. The subject property is 10,454 square feet with dimensions of 90 feet deep by 117 feet wide. Dimensional standards for the RSF-1 are listed in Table 1 below.

**Explanation:**

According to records from the Alachua County Property Appraiser's office, John and Wanda Jennings purchased the subject property in September 1998. In 2009, the owners constructed an expansion of the principal building which extended into the rear 15-foot setback. No permits were obtained for the expansion and therefore no guidance related to setbacks. The owners stated that the expansion was placed in the same footprint as a previously existing screened room. A review of the records from the Building Division was not conclusive in determining whether separate permits were obtained for the screened room. Records from the Alachua County Property Appraiser's office indicates that the screen room may have been constructed with the original single-family dwelling. In 2018, the owners attempted to sell the property and discovered the setback encroachments resulting from the unpermitted construction. The owners applied for an "After the Fact" permit which was approved. This petition is the owner's attempt to resolve the setback encroachment by applying for a variance to reduce the rear yard setback from 15 feet to 9 feet.

TABLE 1.

DIMENSIONAL REQUIREMENTS FOR RSF-1 ZONING DISTRICT

Principal Structures		
STANDARDS	RSF-1	SUBJECT PROPERTY: LOT 38
Maximum density	3.5 du/acre	3.5 du/acre
Minimum Lot area	8,500 sq. ft.	10,464 sq. ft.
Minimum lot width at front setback	85 ft.	117 ft.
Minimum lot depth	90 ft.	90 ft.
Minimum yard setbacks:		
Front	20 ft.	25 ft.
Side (interior)	7.5 ft.	10 ft.
Side (street)	10 ft.	N/A.
Rear <sup>1,2</sup>	20 ft.	9.3 ft.
Maximum Building Height	35 ft.	35 ft.

1. *Accessory screened enclosure structures* whether or not attached to the principal structure may be erected in the rear yard as long as the enclosure has a minimum yard setback of three feet from the rear property line. The maximum height of the enclosure at the setback line shall not exceed eight feet. The

roof and all sides of the enclosure not attached to the principal structure must be made of screening material.

**STAFF ANALYSIS:**

Staff reviewed this petition in the context of **Sec. 30-4.17 and Sec. 30-3.55** of the Land Development Code. These sections of the code set development standards, define a variance and authorize the Board to grant variances from certain provisions of the code. It also places restrictions on granting variances and outlines the general requirement for granting a variance. The Land Development Code is clear in outlining findings needed for granting a variance.

**Staff identifies the following key issues as directly related to the requested variance:**

1. The applicant constructed the structure without obtain permits.
2. The applicant subsequently applied for an "After the Fact" permit which was issued.
3. A certificate of completion has not been issued.
4. Most of the lots within the subdivision are of a similar size and shape.

In considering a request for a variance, the code requires that the board establish findings that the request demonstrates the following:

- 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 district.**

Staff did not find special conditions that are significantly different from those of surrounding areas. The lots within the subdivision are generally similar in size and shape. Most lots have dimension within the range of 90 to 100 feet deep and between 100 to 145 feet wide. The subject parcel is located in the middle of the block and surrounded by lots which appear to be similarly developed containing a pool, attached garage and associated single-family structures.

- 2. That the special conditions and circumstances do not result from the action of the applicant.**

The decision to construct the sun room without permits is a direct action of the applicant. The applicant states that he relied on the City to direct his action and was not aware that he needed a variance until after the permit was issued.

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

The Board's review of the variance must be based on the listed findings of fact which will not be construed as conferring special privileges on the applicant that are denied to other land, structures, or buildings in the same district. In reaching a decision on the requested variance, the Board must consider the material facts and competent substantial evidence presented at the meeting. The applicant has provided documentation illustrating reasons for the requested variance and the circumstances resulting in the need for such a variance. A variance based on the listed criteria establishes a sound basis for deviating from the zoning standards and is not considered a special privilege.

4. ***That literal enforcement of the provisions of the Land Development Code or building chapters would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Land Development Code or Building code.***

According to records from the Alachua County Property Appraiser's office, the owners purchased the property in September 1998 being aware of its size, design and amenities which did not include the expanded foot print. The absence of such an expansion therefore does not deprive the applicant of rights commonly enjoyed by other properties. The applicant claims that there was a screened room which was removed and the expansion placed in the exact foot print. However, the photos indicate that the addition is a full expansion of the primary residence into the prescribed setback.

5. ***The variance requested is the minimum variance required to make possible the reasonable use of the land, building or structure.***

Use of the property since 1998, before the new construction, documents reasonable use of the property. A variance is intended to provide relief due to specifically stated, unique hardships; the applicant has not provided evidence of features unique to the site, building or design in support of the variance. There is also no evidence illustrating how compliance with the development standards will result in deprivation of reasonable use of the property. The applicant states that the new building expansion replaces a pre-existing screened porch. A design that may reasonably be considered a minimum variance is one that replaces a pre-existing screened porch in the same location, with the same dimensions that previously encroached into the setbacks. No evidence is provided about the dimensions and placement of the former screened porch relative to the setback standards. A review of the Building Permit records revealed a roofing permit in 2001 and a pool permit in 2007 but no permits for a screened porch. The property was annexed into the City in 1979 so it is reasonable to assume that the screened porch was permitted with the primary structure. However, the Property Appraiser's record reveals a screened porch, 350 square feet, located to the rear of the property in the general location of the building expansion. The record also indicates that the screened porch was about 5 feet from the exterior wall of the primary structure but the building expansion is 10 feet from the exterior wall of the primary structure, about 5.7 feet into the rear setback. Based on the dimensions of the space between the rear building wall and the property line, the original screened porch was constructed within the required setbacks. The data and historical record seems to indicate that the requested variance is not the minimum necessary to make reasonable use of the land, building or structures.

6. ***The variance is in harmony with the general intent and purpose of the regulation at issue and the Land Development Code, and such variance will not be injurious to the abutting lands or to the area involved or otherwise detrimental to the public welfare.***

The intent of the variance procedure is to provide relief to property owners who have demonstrated hardships in pursuing development in strict compliance with the Land Development regulations, but in harmony with the characteristics of the neighborhood and without being injurious to the neighborhood. In this case, there are no demonstrated hardships resulting in the need for the variance.

The intent of the code is to establish reasonable separation between buildings and to allow for a certain degree of private outdoor space consistent with the specific neighborhood. Those factors relate to the overall character of the neighborhood, the pattern of developments in the area, neighborhood types, lifestyle, cultural and socioeconomic factors. The applicant claims that the neighborhood has many such encroachments and the structure is consistent with the character of the neighborhood. However, emphasis must be placed on demonstrated unique hardships and whether the reduced setback will be injurious to the neighborhood? The most impacted property is the lot immediately to the rear of the subject property. Consistent with LDC

provisions, the neighborhood was noticed regarding this public hearing. The City has received no comments from the neighbor.

The petitioner must demonstrate compliance with the findings necessary to issue a variance and show restricting hardships.

**POST-APPROVAL REQUIREMENTS:**

If approved the applicant has six months to implement the variance; failing implementation of the variance, the approval becomes null and void and will require a new application.

**LIST OF ATTACHMENTS:**

**Attachment A: Application and Supporting Documents.**

**Attachment B: Some Relevant Land Development Code References**

## **ATTACHMENT “A”**

### **Application and Supporting Documents**

**PETITION TO THE BOARD OF ADJUSTMENT**  
**Planning & Development Services Department**

OFFICE USE ONLY	
Petition No. <u>BA-18-00004</u>	Fee: \$ <u>317.60</u>
Hearing Date: <u>Sept. 27</u>	EZ Fee: \$ <u>N/A</u>
Account No. <u>001-660-6680-3401</u> <input checked="" type="checkbox"/>	
Account No. <u>001-660-6680-1124</u> (Enterprise Zone) <input type="checkbox"/>	
Account No. <u>001-660-6680-1125</u> (Enterprise Zone Credit) <input type="checkbox"/>	

**CHECK ONE:**

☒ Variance      ☐ Appeal of Administrative Decision      ☐ Special Exception      ☐ Special Permit

*Please note that a pre-application conference is required before submitting this application*

Owner(s) of Record (please print)		Agent Authorized to Act on Owner Behalf	
Name: <u>John &amp; Wanda Jennings</u>		Name:	
Address: <u>3618 NW 28th Terrace</u>		Address:	
<u>Gainesville, Fl. 32605</u>			
E-mail Address: <u>JLJennings Jr. @</u>		E-mail Address:	
Phone: <u>(352) 494-6957 gmail.com</u>		Phone:	
Fax:		Fax:	
<b>PROPERTY INFORMATION:</b>			
Street address: <u>3618 NW 28th Terrace Gainesville, Fl. 32605</u>			
Tax parcel no(s): <u>06092-014-038</u>			
Legal description (may be attached): <u>see attached document</u>			
Existing Zoning: <u>SFL</u>		Lot size: <u>.24 acres</u>	
Present use:		Proposed use:	
Historic District or Landmark?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Present structures (type) and improvements upon the land:			
<b>SURROUNDING PROPERTY INFORMATION:</b> (List all uses surrounding the subject property under "Existing use." Staff is available to supply zoning and land use information.)			
	<b>Zoning</b>	<b>Land Use</b>	<b>Existing Use</b>
North	<u>BSF1</u>	<u>SF</u>	<u>Single Family House</u>
South	<u>BSF1</u>	<u>SF</u>	<u>"</u>
East	<u>BSF1</u>	<u>SF</u>	<u>"</u>
West	<u>BSF1</u>	<u>SF</u>	<u>"</u>

**Certified Cashier's Receipt:**

Planning Division  
Planning Counter—158  
Rev. 04/09 jmw

Fax: 352-334-3259  
Phone: 352-334-5023  
[www.planning.cityofgainesville.org](http://www.planning.cityofgainesville.org)

Thomas Center B  
306 NE 6th Avenue

BP-18-03369  
5/16/2018  
Issued: 5/31/2018  
Florence  
5/25/2018



### SIGNATURE PAGE

1. (a) I hereby attest to the fact that the above supplied parcel number(s) and legal description(s) is (are) the true and proper identification of the area of this petition.  
(b) I authorize staff from the Planning and Development Services Department to enter onto the property in question during regular city business hours in order to take photos which will be placed in the permanent file.
2. I/We understand that this petition becomes a part of the permanent records of the Board of Adjustment. I/We hereby certify that the above statements and the statements or showings made in any document or plans submitted herewith are true and correct to the best of my/our knowledge.

Property Owner Signature: \_\_\_\_\_

Date: 8-16-18

STATE OF FLORIDA

COUNTY OF Alachua

Sworn to and subscribed before me this 16 day of August, 2018,  
by (Name) John Jennings

April Bietila  
Signature – Notary Public

Personally Known ☒ OR Produced Identification \_\_\_\_ (Type) \_\_\_\_\_



## VARIANCE

*The process for requesting a variance is documented in the Land Development Code Chapter 30-354(d)(3).*

Indicate the specific code a variance is requested from and summarize the context:

Code source:	<input checked="" type="checkbox"/> Land Development Code	<input type="checkbox"/> Fire Code	<input type="checkbox"/> Building Code
Section:	30-4.17		

The following questions must be answered to demonstrate the foundation for the variance request as specifically required by the Land Development Regulations. As the applicant, you bear the burden of proving the variance criteria.

(1) What special conditions and circumstances peculiar or unique to this land, structure or building exist that necessitate the variance?

Structure was done approximately 9 years ago.
Existing room built in same footprint as
previous screen enclosure

(2) Are these special conditions or circumstances applicable to other lands, structures, or buildings in the same district? ☒ YES ☐ NO

Other structures are close to or about as
close to right set back

(3) Does a literal enforcement of the provisions of the zoning or building code limit the use of the property or building in a manner unlike that of other properties in the same district? If so, please describe the limitation or hardship.

Yes, other properties are using structures
that are similar in proximity to the right
set back

(4) Were these special conditions or circumstances described in (1), above, the result of your actions?

Yes, owner was not a contractor and
and has room done not realizing was in
rear set back

(5) Explain how the requested variance will not confer a special privilege on you that is not enjoyed by other properties in the same district.

As can be seen in photo looking down
rear property other owners have structure
in same set back

(6) Has an application for a variance been filed within the last 2 years in connection with these premises? Please note that the board will not entertain an application for a variance within two years of the board issuing a denial of the same variance request. ☐ Yes ☒ No

*Please continue on additional pages as needed*

*(Variance, continued)*

In addition to the above criteria, the Board of Adjustment will be required to make the following findings to authorize the variance request: *(please acknowledge by initialing each item)*

- (a) That the applicant has met the requirements set forth in section 30-354(d)(3) of the Land Development Code
- ✓   (b) That the reasons set forth in the application justify granting the variance
- ✓   (c) That the variance is the minimum variance that will make possible the reasonable use of the land, structure, or building
- /   (d) That granting the variance will be in harmony with the general intent and purpose of the land development code or building chapters
- ✓   (e) That granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare

Check below that you have included these items with your application:

- ☐ Scaled drawing, site plan, or survey depicting property boundaries, easements, existing and proposed structures shown with their distance to the property line and existing building setback lines. The requested variance should be clearly illustrated with respect to each of these features.
- ☐ Reduced images or digital submission for oversized paper documents (greater than 11x17)
- ☐ Legal description, if not entered on front page
- ☐ Any other supporting materials you wish to provide

Variances are only authorized for height of structures, size of yard setbacks, driveway widths, street line corner clearances, and property line edge clearances as provided in section 30-336(15); and landscape and tree management and flood control provisions as provided in section 30-310.

A variance may not be granted for the following reasons:

- For establishment or expansion of a use otherwise prohibited
- Because of the presence of nonconformities in the zoning district or adjoining districts
- Because of financial loss or business competition
- Because the property was purchased with the intent to develop or improve the property, and the intended development or improvement would violate the restrictions of the land development code or building chapter, whether or not it was known at the time of purchase that such development would be a violation

2018	Prod	ALACHUA COUNTY	Print Date	8/14/2018	By	hbarrio	A	Bldg # 1	38796 - 38796	06092-014-038	
HIDDEN OAKS PB I-27 LOT 38 OR 1574/2648			Current Owner		Property Location		Card # 1 of 1			Value Summary	
JENNINGS JOHN & WANDA			Sec-Twn-Rng		25 09 19		Land Value				
3618 NW 28TH TER			Situs		3618 NW 28TH TER		Building Value				
GAINESVILLE			City Code		3600		Miscellaneous Value				
FL			NBHD		134325.36		Market Value				
32605-2227			SEUV		093100		Value By				
FSP (350 sf)			10		21		Market Adjusted				
BAS (1,556 sf)			13		23		Previous Value				
FOP (49 sf)			7		21		County Assessed Valu				
4.4			15		16		School Assessed Valu				
30			10		21		County Exempt Amount				
21			13		21		School Exempt Amount				
7			16		21		County Taxable Value				
21			13		21		School Taxable Value				
30			10		21		Appraiser				
7			16		21		Appraiser Date				
21			13		21		Property Use				
7			16		21		This card is for Public Use				
21			13		21		Building Valuation				
30			10		21		Effective Area				
7			16		21		Base Rate				
21			13		21		Net Other Adj				
7			16		21		Building RCN				
21			13		21		% Good				
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21			13		21		% Observed Condition				
7			16		21		Building RCNLD				
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30			10		21		U				
7			16		21		U				
21			13		21		U				
30			10		21		U				
7			16		21		U				
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7			16		21		U				
21			13		21		U				
30			10		21		U				
7											

AUG 17 2018

Operator: Michael Hoge

Receipt no: 77939

Item	Description	Account No	Payment	Payment Reference	Paid
BA-18-00004 03618 NW 28TH TER Jennings Setback Variance	Variance Special Except Non-conform Use Permit	001-660-6680-3401	CHECK	60208	\$317.00
<b>Total:</b>					<b>\$317.00</b>

Transaction Date: 08/17/2018

Time: 08:20:42 EDT



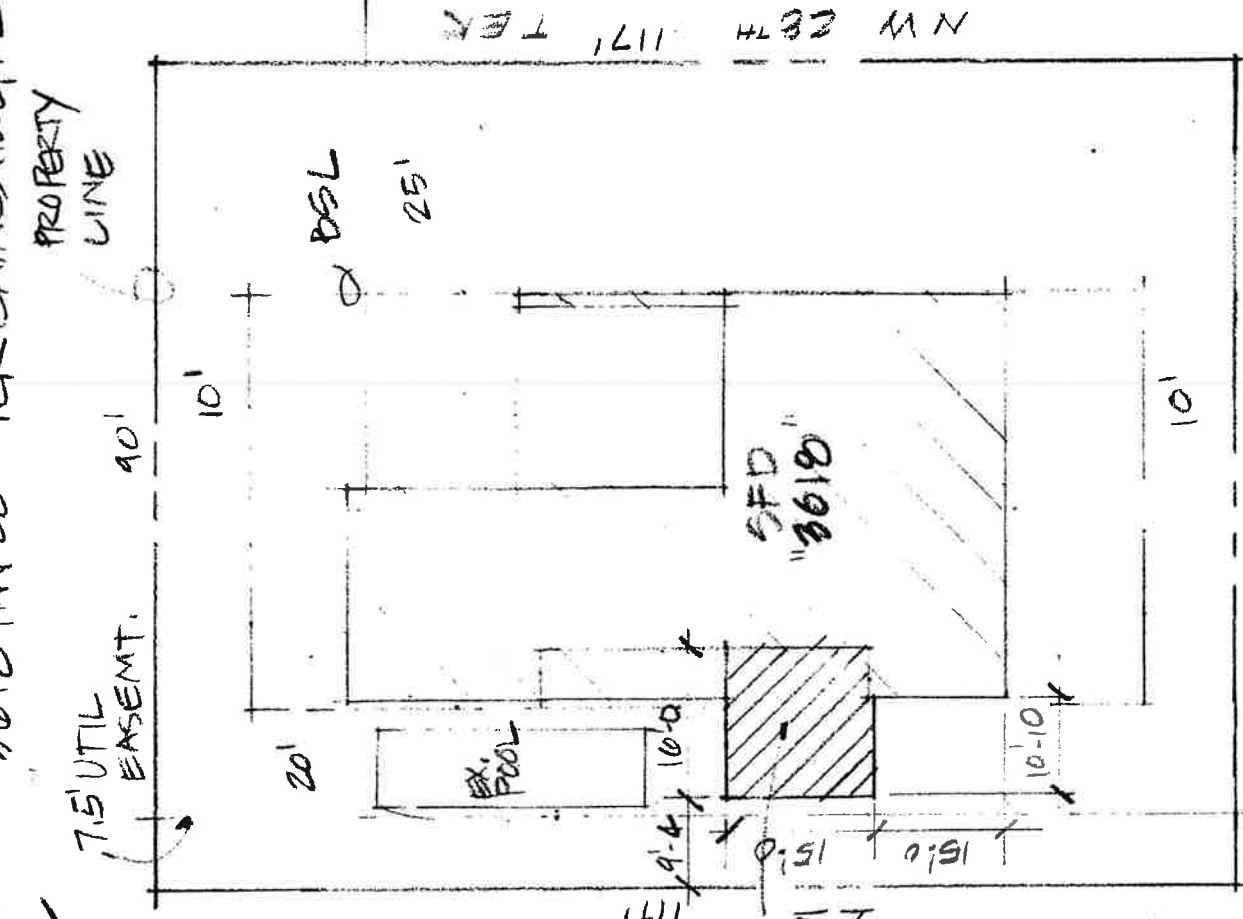


15910 NW 28<sup>th</sup> Ave. Newberry, Florida 32669  
Email: [garypaulter@aol.com](mailto:garypaulter@aol.com)

$$\frac{3-2}{0-0}$$
$$\frac{1}{2} - \frac{1}{2} = 0$$

HEATED AREA = 240 SF  
ADDED

STEEL 90' 1"=20'



1171 4432 MN

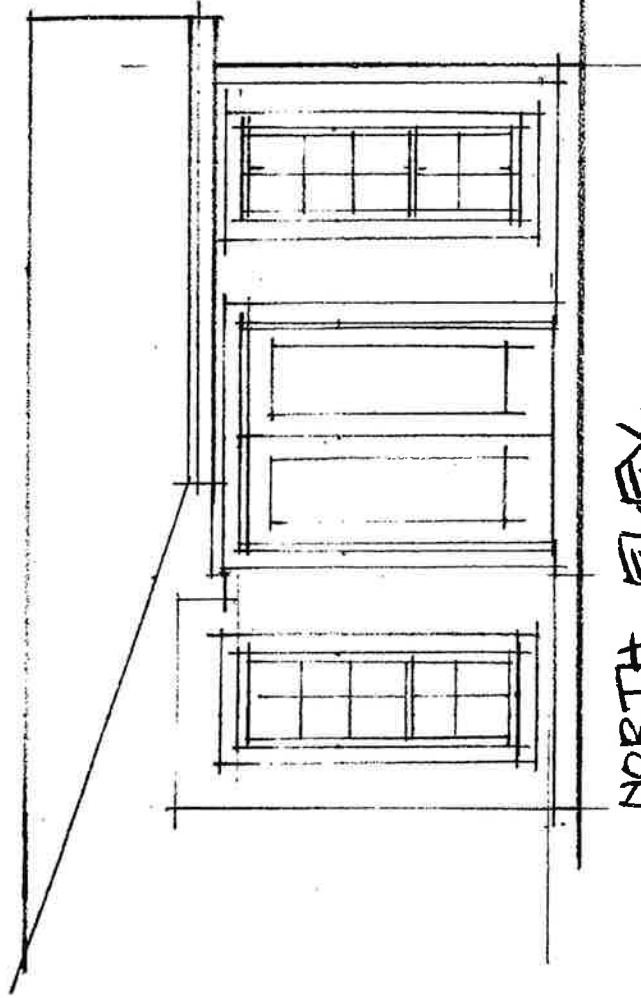
AS-BUILT DRAWINGS  
 & UPHOLDINGS RESIDENCE  
 SUN ROOM ADDN  
 3810 NW 28<sup>TH</sup> TER  
 GAINESVILLE, FL

**GARY PAULTER**

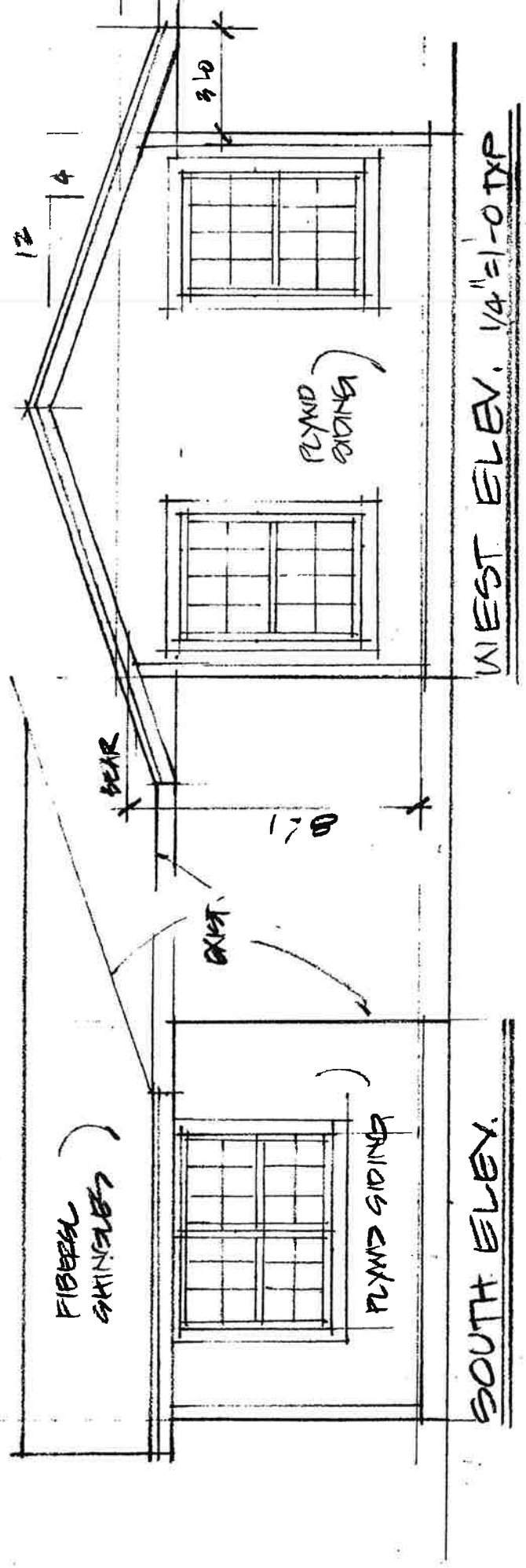
DESIGN & CONSTRUCTION, LLC  
 15910 NW 28<sup>TH</sup> Ave. Newberry, Florida 32859  
 Phone: 352-472-4683, Cell: 352-514-0277  
 Email: garypaalter@aol.com  
 License No.: DBCC018769

3-13-18

2052



NORTH ELEV.



SOUTH ELEV.

WEST ELEV. 1/4"=1'-0" TP



## Date: 4/13/2018

Invoice # : 18-142

Billing Information	
To	John Jennings
Address	3618 NW 28th Terr
	Gainesville, FL
Attn.	

Job Information	
Name	John Jennings
Location	3618 NW 28th Terr Gainesville, FL
Contact	<a href="mailto:jcjenningsjr@gmail.com">jcjenningsjr@gmail.com</a>
Phone #	

[illegible][illegible]

Labor				
Date	Tech.	Hrs.	Rate	Amount
9-Apr	JM/ST	1	\$ 95.00	\$ 95.00

CUSTOMER APPROVAL	
Print	
Signature	

Payment for services rendered are due within thirty days of invoice. Late charges of 1.5% will be assessed monthly and any legal/attorney fees will be charged for all late payments.

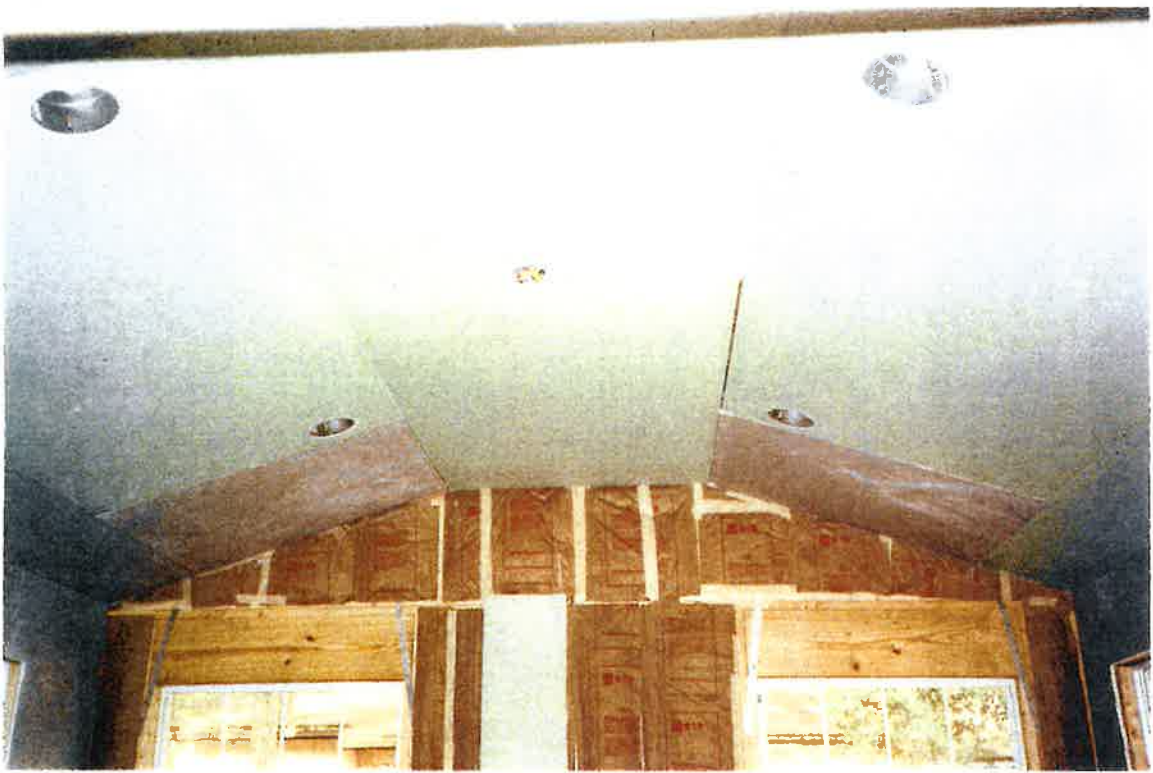
Please make checks payable to : **Jonesville Electric, Inc.**  
We also accept : Visa, MC, & Discover

<b>Total Labor :</b>	\$ 95.00
<b>Total Materials :</b>	\$ -
<b>Permit/Other :</b>	\$ -
<b>Service Call :</b>	\$ 35.00
<b>Total Amount Due :</b>	\$ 130.00

## Thank You for Your Business























John Jennings  
~~388~~ 3618 NW 28<sup>th</sup> Terrace  
 Gainesville FL 32608  
 9-10-18  
 352 494 6857

## **ATTACHMENT “B”**

### **Relevant Land Development Code References**



## DIVISION 3. - RESIDENTIAL

### Sec. 30-4.16. - Permitted uses.

The following table contains the list of uses allowed, and specifies whether the uses are allowed by right (P), accessory to a principal use (A), or by special use permit approval (S). Blank cells indicate that the use is not allowed. No variances from the requirements of this section shall be allowed.

**Table V-4: Permitted Uses in Residential Districts.**

USES	Use Standards	RSF-1 to 4	RC	MH	RMF-5	RMF-6 to 8
Accessory dwelling units	30-5.33	-	A	A	A	A
Adult day care homes	30-5.2	P	P	P	P	P
Assisted living facilities		-	-	-	P	P
Attached dwellings (up to 6 attached units)		-	-	-	P	P
Bed and breakfast establishments	30-5.4	S	P	P	P	P
Community residential homes (up to 6 residents)	30-5.6	P	P	P	P	P
Community residential homes (7 to 14 residents)	30-5.6	-	-	-	-	P
Community residential homes (over 14 residents)	30-5.6	-	-	-	-	P
Day care centers	30-5.7	-	P	P	P	P
Dormitory, small	30-5.8	-	-	-	-	P
Dormitory, large	30-5.8	-	-	-	-	S
Emergency shelters		-	-	-	-	P

Family child care homes	30-5.10	P	P	P	P	P
Fowl or livestock (as an accessory use)	30-5.36	-	-	-	-	-
Mobile homes		-	-	P	-	-
Multi-family dwellings		-	-	-	P	P
Multi-family, small-scale (2-4 units per building)		-	P <sup>1</sup>	-	P	P
Places of religious assembly	30-5.21	S	P	P	P	P
Libraries		-	S	S	S	S
Public parks		P	P	P	P	P
Schools (elementary, middle and high)		S	P	P	P	P
Single-family dwellings		P	P	P	P	P
Skilled nursing facility		-	-	-	-	S
Social service homes/halfway houses	30-5.26	-	-	-	-	S

**LEGEND:**

P = Permitted by right; S = Special use permit; A = Accessory; Blank = Use not allowed.

1 = No more than two dwellings units per building are permitted in the RC district.

### Sec. 30-4.17. - Dimensional standards.

The following tables contain the dimensional standards for the various uses allowed in each district:

**Table V-5: Residential Districts Dimensional Standards.**

	RSF-1	RSF-2	RSF-3	RSF-4	RC	MH	RMF-5	RMF-6	RMF-7	RMF-8
Density/Intensity										
Residential density (units/acre)										
Min.	None	None	None	None	None	None	None	8 <sup>1</sup>	8 <sup>1</sup>	8 <sup>1</sup>
Max. by right	3.5	4.6	5.8	8	12	12	12	10	14	20
With density bonus points	-	-	-	-	-	-	-	See Table V-6	See Table V-6	See Table V-6
Nonresidential building coverage	35%	35%	40%	40%	50%	50%	50%	50%	50%	50%
Lot Standards										
Min. lot area (sq. ft.)	8,500	7,500	6,000	4,300	3,000	3,000	3,500	None	None	None
Min. lot width (ft.)										
Single-family	85	75	60	50	35	35	40	40	40	40
Two-family <sup>2</sup>	NA	NA	NA	NA	70	NA	75	75	75	75
Other uses	85	75	60	50	35	35	85	85	85	85
Min. lot depth (ft.)	90 <sup>3</sup>	90 <sup>3</sup>	90 <sup>3</sup>	80 <sup>3</sup>	None	None	90	90	90	90
Min. Setbacks (ft.)										

Front	20 <sup>3</sup>	20 <sup>3</sup>	20 <sup>3</sup>	20 <sup>3</sup>	10 <sup>4</sup>	15	10 min. 100 max.	10 min. 100 max.	10 min. 100 max.	10 min. 100 max
Side (street)	10	10	7.5	7.5	NA	NA	15	15	15	15
Side (interior) <sup>5, 6</sup>	7.5	7.5	7.5	7.5	5	5	10	10	10	10
Rear <sup>6, 7</sup>	20	20	15	10	20	15	10	10	10	10
Rear, accessory	7.5	7.5	5	5	5	5	5	5	5	5
<b>MAXIMUM BUILDING HEIGHT (stories)</b>										
By right	3	3	3	3	3	3	3	3	3	3
With building height bonus	NA	NA	NA	NA	NA	NA	NA	5	5	5

**LEGEND:**

1 = Parcels 0.5 acres or smaller existing on November 13, 1991, are exempt from minimum density requirements.

2 = Assumes both units on one lot. Lot may not be split, unless each individual lot meets minimum lot width requirement for single-family.

3 = Lots abutting a collector or arterial street shall have a minimum depth of 150 feet and a minimum building setback of 50 feet along that street.

4 = Attached stoops or porches meeting the standards in sections 30-4.13 and 30-4.14 are permitted to encroach up to five feet into the minimum front yard setback.

5 = Except where the units are separated by a common wall on the property line of two adjoining lots. In such instances, only the side yard setback for the end unit is required.

6 = Accessory pre-engineered or pre-manufactured structures of 100 square feet or less and one story in height may be erected in the rear or side yard as long as the structure has a minimum yard setback of three feet from the rear or side property line, is properly anchored to the ground, and is separated from neighboring properties by a fence or wall that is at least 75 percent opaque.

7 = Accessory screened enclosure structures, whether or not attached to the principal structure, may be erected in the rear yard as long as the enclosure has a minimum yard setback of three feet from the rear property line. The maximum height of the enclosure at the setback line shall not exceed eight feet. The roof and all sides of the enclosure not attached to the principal structure shall be made of screening material.

Sec. 30-4.18. - Density bonus points.

Development criteria described in the density bonus points manual, when met, shall allow increases in development intensity based upon the limits in this section. These increases in intensity shall be allowed should a developer propose to undertake a project that will result in a development sensitive to the unique environmental and developmental needs of the area. For each criterion met by the developer, certain points shall be credited to the project. Those points, calculated in accordance with the Density Bonus Points Manual, shall determine the maximum allowable density.

**Table V-6: Permitted Density Using Density Bonus Points**

RMF-6		RMF-7		RMF-8	
Points	Max. residential density (du/ac)	Points	Max. residential density (du/ac)	Points	Max. residential density (du/ac)
0	10	0	14	0	20
26	11	20	15	16	21
52	12	39	16	30	22
79	13	59	17	46	23
108	14	79	18	59	24
138+	15	98	19	75	25

### Sec. 30-3.55. - Variances.

- A. *Generally.* Variance from strict compliance with the requirements of the Land Development Code is provided for in this section.
- B. *Authorized variances.* Variances may be approved only for height of structures; size of yard setbacks; driveway widths; building form standards in transect zones; building design standards for transect zones (dimensional standards only); landscaping requirements for vehicular use areas; landscape buffer requirements for buffer strip areas; landscape zones; street setbacks; glazing percentages; and minimum first floor height. Under no circumstances may a variance be granted to allow a use not permitted generally or by special use permit in the district involved, or any use expressly or by necessary implication prohibited in the district by the terms of this chapter.
- C. *Review criteria.* A variance from the terms of this chapter or building chapters shall not be granted unless the appropriate reviewing board affirmatively finds that each of the following criteria have been met:
  - 1. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and that are not applicable to other lands, structures, or buildings in the same district.
  - 2. The special conditions and circumstances do not result from the action of the applicant.
  - 3. Granting the variance requested will not confer on the applicant any special privilege that is denied by this section to other lands, structures, or buildings in the same district.
  - 4. Literal enforcement of the provisions of the Land Development Code or building chapters would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Land Development Code or building chapters.
  - 5. The variance requested is the minimum variance required to make possible the reasonable use of the land, building, or structure.
  - 6. The variance is in harmony with the general intent and purpose of the regulation at issue and the Land Development Code, and such variance will not be injurious to the abutting lands or to the area involved or otherwise detrimental to the public welfare.
- D. *Prohibited considerations.* The following factors shall not be considered in any variance request:
  - 1. The presence of nonconformities in the zoning district or adjoining districts.
  - 2. Financial loss or business competition.
  - 3. Whether the property was purchased with the intent to develop or improve the property, whether or not it was known at the time of purchase that such development would be a violation.
- E. *Review procedures.*
  - 1. *Pre-application meeting.* A pre-application meeting is not required; however, the applicant is encouraged to attend a meeting with staff to review procedural and regulatory requirements.
  - 2. *Application submittal.* The applicant shall submit a complete application on a form prescribed by the city and accompanied by the applicable fee and plans.
  - 3. *Staff review.* The city manager or designee shall review the application and prepare a staff report for submittal to the appropriate review board.
  - 4. *Board hearing.* The appropriate reviewing board shall hold a public hearing to consider the request according to the review criteria provided in this section.
- F. *Conditions and limitations.* In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with the Land Development Code or building chapters. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable according to applicable law. If a variance

request is denied, the same variance may not be considered for the property for a period of two years from the date of denial.

- G. *Expiration.* Any variance granted shall expire one year after the date of variance approval, unless a building permit based upon and incorporating the variance is issued within the aforesaid one-year period and construction has begun thereunder.

Sec. 30-3.58. - Board decisions.

- A. *Authority of hearing officer.* The hearing officer has authority to hear and decide appeals of the decisions of the boards established by or administering the Land Development Code, including the city commission and the reviewing boards provided in this article, when all of the following criteria are met:
1. The board decision was quasi-judicial, meaning the board applied established policy or law to a specific, individualized situation. Quasi-judicial board decisions include but are not limited to rezonings, special use permits, subdivisions, and development plan review. Quasi-judicial board decisions do not include legislative decisions such as land use changes or text amendments to the Comprehensive Plan and Land Development Code.
  2. The board decision was final, and not advisory.
  3. The appeal is not a challenge to a development order controlled by F.S. § 163.3215.
- B. *Standing to appeal.* The following persons shall have standing to appeal a board decision pursuant to this section:
1. An applicant who is adversely affected by the decision.
  2. A property owner whose property is the subject of the decision.
  3. All owners of real property that lies within 400 feet of the property that is the subject of the decision.
  4. Any resident, landowner, or person having a contractual interest in land in the city who demonstrates a direct adverse impact from the decision that exceeds in degree the general interest in community good shared by all persons.
- C. *Appeal procedures.*
1. A notice of appeal of a board decision, together with the applicable fee as set forth in Appendix A and any submittal requirements established by the city, shall be filed with the city within 30 calendar days of the effective date of the board decision at issue. The notice of appeal shall set forth a detailed basis for the appeal.
  2. *Stay during appeal.* The filing of a timely notice of appeal shall stay all proceedings in furtherance of the decision being appealed, including the issuance of any building permit or development order, until the appeal has been concluded in accordance with this division. The applicant may file applications, plans, or other information with the city pending the outcome of the review, but the filing of such shall create no rights to any related approval by the city.
  3. Reserved.
  4. Within 20 calendar days of the filing of a notice of appeal pursuant to this section, any person with standing may intervene and become a party to the appeal by filing a notice of appeal in accordance with this section.
  5. The matter shall be set for a public hearing within 50 calendar days of the date of the notice of appeal. This period may be extended by agreement of the city and all parties appealing the decision.
  6. The hearing shall be limited to the record on appeal and shall consist of oral argument by city staff and parties with standing, each of whom may be represented by legal counsel. The hearing shall be conducted in accordance with established Florida law for quasi-judicial hearings.
  7. *Record on appeal.* The record on appeal shall consist of an exact replication of the information that was before the board for the decision being appealed, which may include the following:
    - a. The application and accompanying information.



- b. Staff reports and recommendations, and any accompanying information.
  - c. All exhibits and documentary evidence.
  - d. The summary, findings, conclusions, and decision of the board that is the subject of the appeal.
  - e. Any audio or video recording of the board hearing that is the subject of the appeal.
  - f. Any verbatim transcript available of the board hearing that is the subject of the appeal.
- 8. The hearing officer shall make a decision based on the appeal criteria provided in this section, and may either affirm the board decision or remand the decision back to the reviewing board with specific issues for the reviewing board to address.
  - 9. The decision of the hearing officer shall be rendered in writing not later than seven calendar days after the date of the hearing's conclusion, and shall include findings of fact, if any, and conclusions of law.
  - 10. If the hearing officer affirms the board decision at issue, the hearing officer's decision shall be final and may be subject to judicial review as provided in law.
  - 11. If the hearing officer remands the board decision at issue, the reviewing board shall reconsider its decision and shall consider the issues specified by the hearing officer and may accept, reject, or modify the hearing officer's findings and conclusions in making the final decision. After considering the hearing officer's findings and conclusions, the reviewing board's decision shall be final and may be subject to judicial review as provided in law.
- D. *Appeal criteria.* The hearing officer shall affirm the board decision unless an appealing party with standing demonstrates that any one of the following three requirements was not met. The hearing officer shall use established Florida law as it relates to this standard of review.
- 1. The appealing parties were afforded procedural due process, which includes:
    - a. Notice of the board hearing that is the subject of the appeal;
    - b. A fair hearing before an impartial decision-maker;
    - c. An opportunity to be heard and present evidence at the hearing; and
    - d. The opportunity to cross-examine any witnesses.
  - 2. The reviewing board observed the essential requirements of law.
    - a. A departure from the essential requirements of law is something more than mere legal error. A decision made according to the form of the applicable law and the rules prescribed for rendering it, although it may be erroneous in its conclusion as applied to the facts, is not an act that amounts to a departure from the essential requirements of law.
    - b. The hearing officer shall examine the seriousness of any error and exercise discretion only when there has been a violation of a clearly established principle of law that results in a miscarriage of justice.
  - 3. The reviewing board's decision was supported by competent substantial evidence.
    - a. Competent substantial evidence means such evidence that may establish a substantial basis from which the fact at issue can be reasonably inferred, or material and relevant evidence that a reasonable mind could accept as adequate to support a conclusion. The opinions and recommendations of experts, including city staff, are deemed expert testimony and constitute competent substantial evidence. Citizen testimony during any public comment portion of a hearing may constitute competent substantial evidence if it is fact-based and not a mere generalized statement of support or opposition.

- b. The hearing officer may not reweigh the evidence or substitute his or her judgment for that of the reviewing board, but rather shall rule upon only whether the reviewing board's decision was supported by any competent substantial evidence.

## ARTICLE II. - DEFINITIONS

### Sec. 30-2.1. - Definitions.

Throughout this chapter, the following words and phrases shall have the meanings indicated unless the text of the article or section in which used clearly indicates otherwise. Any word or phrase used in this chapter that is not defined in this chapter shall have the common dictionary meaning most appropriate to the context in which such word or phrase is used.

***Abut*** means to physically touch or border upon, or to share a common property line.

***Accessory dwelling unit*** means a subordinate living unit added to, created within, or detached from a single-family dwelling (but within the same lot) that provides basic requirements for independent living, sleeping, eating, cooking and sanitation.

***Accessory structure*** means a subordinate structure (not exceeding 50 percent of the building square footage of the principal structure), the use of which is incidental to that of the principal structure on the same lot.

***Accessory use*** means an activity, or function that is incidental to, and on the same lots as, a principal use.

***Adjacent*** means when two properties, uses or objects are not abutting but are separated only by a right-of-way, street, pathway or similar minimum separation.

***Adversely affected person*** means any person who is suffering or will suffer an adverse effect to an interest protected or furthered by the Comprehensive Plan, including but not limited to: interests related to health and safety; densities or intensities of development; transportation facilities; recreational facilities; educational facilities; health care facilities, or services; and environmental or natural resources. The alleged adverse effect may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons.

***Attached dwelling*** means two or more dwelling units that are attached horizontally, where each unit has its own front yard and direct entrance from the ground level. This term includes townhouses and rowhouses, and dwelling units that may be on one combined lot or individual lots.

***Building*** means any structure, either temporary or permanent, except a fence or as otherwise provided in this definition, used or built for the enclosure or shelter of persons, vehicles, goods, merchandise, equipment, materials or property generally. This definition shall include tents, dining cars, trailers, mobile homes, sheds, garages, carports, animal kennels, storerooms, jails, barns or vehicles serving in any way the function of a building as described herein. This definition shall not include individual doll houses, play houses, and animal or bird houses.

***Building envelope*** means the outermost surfaces forming the complete enclosure of a building.

***Building frontage*** means the total length in linear feet of a building façade(s) within a development that fronts directly on a required street or urban walkway. Building frontage is regulated as a required percentage of the total length of the development frontage along the street or urban walkway. For corner lots, the building frontage calculation shall exclude the widths of the required landscape zone, sidewalk zone and building frontage areas.

***Building frontage zone*** means the area between the edge of the sidewalk opposite to the travel lane and the building façade.

***Building height*** means the vertical distance measured from the average elevation of the proposed finished grade to the top plate of the highest story.

**Building official** means the person designated as building official by the city manager.

**Building permit** means an official document or certificate issued by the building official, as provided for in the Standard Building Code as adopted in [chapter 6](#) of the City of Gainesville Code of Ordinances, authorizing performance of construction or alteration of a building or structure.

**Building setback line** means a line, established at the minimum setback line as set forth by the applicable zoning district, within a lot or other parcel of land so designated on the plat.

**Certificate of occupancy** means certification by the city manager or designee that any development or change of use of any building, lands, water or portion thereof has been found to meet the requirements of this Code and the applicable final development order pertaining to development of the lot, parcel or tract of land.

**Cul-de-sac** means a street that terminates at one end with vehicle turnaround facilities at the end.

**Curb or curbline** means the inside vertical face of a masonry curb, the centerline of a valley gutter, or the edge of the pavement where no curb or gutter exists.

**Density** means the extent of development of residential uses, expressed in dwelling units per acre of land.

**Developed area** means the area within an imaginary line formed by the outer perimeter of all structures, parking lots, and other paving and manmade alterations to the natural condition of any lot or parcel of land, except for sidewalks in public rights-of-way and driveways, the perimeters to be adjusted to the closest geometric shape for which an area may be reasonably easily calculated.

**Developer** means any person who engages in or proposes to engage in a development activity either as the owner or as the agent of an owner of property.

**Development or development activity** means any of the following activities:

- A. Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil or vegetation of a site.
- B. Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface or water management system, and including the long term storage of materials.
- C. The erection, placement, alteration, remodeling or reconstruction of any building on any land or the authorization of any improvements on any land to facilitate the use of such land.
- D. Subdividing land into two or more parcels.
- E. A tree removal for which authorization is required under this Code of Ordinances.
- F. Erection of a permanent sign unless expressly exempted by this Code of Ordinances.
- G. Alteration of a historic property for which authorization is required under this Code of Ordinances.
- H. Changing the use of a site so that the need for parking is increased.
- I. Construction, elimination or alteration of a driveway onto a public street.
- J. For the purpose of vested rights, development has the meaning given to it in F.S. § 380.04 as amended.

**Development agreement** means an agreement entered into between the city and a developer for the purpose of assuring the city that the developer shall provide required public facility capacity. Development agreements include, but are not limited to, agreements authorized pursuant to F.S. § 163.3220 and F.S. § 380.01, et seq., both as amended from time to time.

**Development order** means any order granting, denying or granting with conditions an application for approval of a development project or activity.

**Development permit** means any official city document that authorizes the commencement of construction or land alteration without need for further application and approval. Development permits include: all types of construction permits (plumbing, electrical, foundation, mechanical and so forth, in addition to the building permit itself), grading and clearing permits, tree removal permits, sign permits, etc.

**Development plan** means a plan indicating the permitted design and extent of development of a parcel of land, approved under and pursuant to this chapter.

**Driveway, width (W)** means the narrowest width of the driveway measured parallel with the edge of the street or roadway at the street right-of-way line.

**Dwelling** means any building used primarily for human habitation. The term "dwelling" shall not include a hotel, motel, tourist court or other building for transients, but shall include group housing.

**Dwelling unit** means a room or rooms in a dwelling, other than a dormitory, comprising the essential elements of a single housekeeping unit. Each area with one address for billing, one electric meter, and/or one full kitchen shall be considered a separate dwelling unit.

**Easement** means an interest in land granted for a specific purpose or purposes but not conveying fee simple title to real property.

**Encroach** means to break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a setback, into the public or private frontage zone, or above a height limit.

**Encroachment** means any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, into the public or private frontage zone, or above a height limit.

**Enforcing officer** means the city employee authorized by the city manager to enforce particular sections of this chapter or the Code of Ordinances.

**Erect** means to build, construct, attach, hang, place, suspend or affix a sign, structure or building.

**Family** means one or more natural persons who are living together and interrelated as spouse, domestic partner, child, stepchild, foster child, parent, stepparent, foster parent, brother, sister, grandparent, niece, nephew, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, or legal guardian, as evidenced by written documentation of such relationship, plus no more than two additional unrelated natural persons occupying either the whole or part of a dwelling unit as a separate housekeeping unit. A family also includes a community residential home, as defined in this chapter, with six or fewer residents. The persons constituting a family may also include domestic servants and temporary gratuitous guests. "Temporary gratuitous guests" as used herein shall refer to natural persons occasionally visiting such housekeeping unit for a short period of time not to exceed 30 calendar days within a 90-day period.

**Front open space** means the area enclosed by the side lot lines, the street right-of-way line in the front of the property and the established line of setback. The established line of setback shall be the line, drawn parallel to the street in front of the property, extending from the point at which the principal building is closest to the street outward to the lot lines. All area directly in front of any part of the principal building shall also be considered to be in front of the established line of setback.

**Frontage** means the length of the property line of a lot or tract of land abutting a public or private street, road, highway or other right-of-way.

**Improvements** means physical changes made to raw land and structures placed on or under the land surface, in order to make the land more usable. Typical improvements would be clearing and grubbing, grading, street pavements, sidewalks, bicycle facilities, curb and gutter, drainage ditches, required trees, storm and sanitary sewers, streetlights, fire hydrants, street name signs, permanent control points (PCP's), etc.

**Intensity of development or intensity of use** means the extent of development of any land, expressed as building coverage and/or building height.

**Local street** means any street that is not designated as a collector or arterial on the roadway map on file in the public works department, is not functionally classified by the state department of transportation, and, by nature of its physical design, the local nature of trip purposes and the existing and anticipated traffic characteristics, is not suited to carry more than 1,200 average daily trips.

**Lot** means a parcel of land contained within property lines of a specific area, including land within easements and building setback lines of the area, but excluding any land within street right-of-way. The word "lot" includes the words "plot," "unit," "parcel" and "tract."

A. Corner lot means a lot located at the intersection of two streets and abutting such streets on two adjacent sides of the lot, or a lot with two adjacent sides abutting adjoining and deflected right-of-way lines of the same street that form an interior angle of less than 135 degrees.

B. Double-frontage lot means a lot other than a corner lot having frontage on two or more streets or two portions of the same street.

C. Interior lot means a lot other than a corner lot having frontage only on one street.

D. Reverse-frontage lot means a lot extending between and having frontage on a collector or arterial street and a local street and shall include double-frontage lots.

**Lot area** means the total horizontal area included within lot lines.

**Lot coverage** means the maximum combined area occupied by all principal and accessory buildings or structures expressed as a percentage, measured from the exterior walls that are roofed or otherwise covered.

**Lot depth** means the mean horizontal distance between the front and rear lot lines.

**Lot line or property line** means the boundary line of a lot.

A.

Front lot line means that property line that abuts a public street. If a lot abuts on two or more streets, the front lot line shall be that property line abutting a street that has been so designated by the owner at the time of an application for a building permit, provided such lot is not thereby made nonconforming.

B.

Side lot line means any property line not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

C.

Rear lot line means that property line that is most distant from and is, or is most nearly, parallel to the front lot line.

**Lot of record** means, for the purposes of determining vested rights, a designated parcel, tract or area of land established by plat, lot split, metes and bounds description, or otherwise permitted by law, to be used, developed or built upon as a unit and which existed in the records of the county property appraiser on November 16, 1992.

**Lot split** means the division of a single tract of land into two lots or parcels, where there are no roadway, drainage or other required improvements, and where the resultant lots comply with the standards of this chapter.

**Lot width** means the shortest horizontal distance between side lot lines, measured along any line that intersects the minimum required front yard setback line.

**Luminaire** means a complete lighting unit (i.e., fixture), consisting of a lamp, or lamps and ballast(s) when applicable, together with the parts designed to distribute the light (e.g., reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

**Nonconforming lot** means any lot that does not meet the requirements for minimum lot area, lot depth or lot width, for any use, for the zoning district in which such lot is located.

**Nonconforming structure** means any building or structure that does not meet the applicable zoning district's regulations for dimensions and location, site improvements or development standards.

**Nonconforming use** means the use of any building or land for anything other than a use specifically permitted in the zoning district in which such building or land is located.

**Occupant (occupancy)** means a legal occupant of a building or premises licensed to engage in a business, occupation or profession, or exempt from license due to governmental, educational, religious or other privileged status.

**Owner** means a person who, or entity which, alone, jointly or severally with others, or in a representative capacity (including, without limitation, an authorized agent, attorney, executor, personal representative or trustee) has legal or equitable title to any property in question, or a tenant, if the tenancy is chargeable under his/her lease for the maintenance of the property.

**Primary frontage** means the site frontage facing the primary street.

**Primary street** means the street that a property for development fronts. At street intersections, the larger, more important street shall be recognized as the primary street.

**Principal structure** means a structure in which is conducted the principal use of the lot on which it is situated, including any attached carport, shed, garage or any other structure that is a part of the principal building and structurally dependent, totally or in part, on the principal building. In a residential district any dwelling shall be deemed to be the principal structure on the lot on which the same is situated.

**Principal use** means the use that constitutes the primary activity, function or purpose of a parcel of land or building.

**Private school** means a school that is not operated by any governmental agency but that meets all criteria imposed by law or ordinance to satisfy the requirements for mandatory school attendance of elementary, middle or high school.

**Private street, approved** means any privately-owned accessway that has been determined by the city manager or designee to meet the access and construction standards set forth in this code. For purposes of lot split or minor subdivision, "existing" approved private street means an approved private street that exists on the date of filing the application for the minor subdivision or lot split. "New" approved private street means a new street is being approved as part of the minor subdivision or lot split process.

**Project** means a single development as designated by the applicant, but two or more purportedly separate developments shall be considered one project if the city manager or designee determines that three or more of the following criteria exist:

- A. The purportedly separate developments are located within 250 feet of each other;
- B. The same person has an ownership interest or an option to obtain an ownership interest of more than 50% of the legal title to each purportedly separate development;
- C. There is a unified development plan for the purportedly separate developments;
- D. The purportedly separate developments voluntarily do or shall share private infrastructure; or



E. There is or will be a common management or advertising scheme for the purportedly separate developments.

**Secondary frontage** means that frontage facing the secondary street.

**Secondary street** means any street fronting a development that is not identified as the primary street.

**Setback or setback line** means a line determined by measurement, parallel to a lot line, creating an area between the lot line and the setback line in which all structures (unless otherwise limited) may not be erected.

**Setback, street** means a line determined by measurement, parallel to the street curb (on all sides of the lot facing a street), creating an area between the street curb and building façade.

**Single-family dwelling** means a single residential building consisting of one dwelling unit that is arranged, intended or designed for one family. A residential building with more than one kitchen, one meter for any utility (unless multiple meters are needed and billing is combined to one address); more than one address to the property; or more than two of the same major appliance (refrigerator, range, oven, kitchen sink, dishwasher, washer or dryer), even if consolidated in one kitchen or area, shall be considered a multifamily dwelling.

**Street** means any publicly dedicated accessway such as a street, road, highway, boulevard, parkway, circle, court or cul-de-sac, and shall include all of the land lying between any right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved, except those accessways such as easements and rights-of-way intended solely for utilities and similar facilities and easements of ingress and egress.

**Street centerline** means the surveyed and prescribed centerline of a street established by the state department of transportation or city public works department or, if no centerline has been so established, the line midway between the existing or proposed street right-of-way lines.

**Street right-of-way** means a strip or area of land dedicated or deeded for use of and by the public as a public street.

**Street right-of-way line** means that line denoting the edge of the right-of-way of the street and being identical with the property lines of persons owning property fronting on the streets. For the purposes of establishing the vision triangle as described in the Engineering Design and Construction Manual, the street right-of-way line for a private driveway or private roadway shall be set as a parallel line 10 feet from the face of the curb, edge of pavement or edge of the driving surface.

**Structure** means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, and having a height of four inches or more, except for patios, ground-level parking and loading facilities, fences and individual doll houses, play houses, and animal or bird houses that are neither to be used for human habitation, i.e., a place of permanent or temporary residence, nor storage as a principal use.

**Yard** means the space on any lot between the lot lines and the minimum required setback line for principal structures.

- A. **Front yard** means the area between the front lot line and the minimum required front yard setback.
- A. **Front yard** means the area between the front lot line and the minimum required front yard setback.
- B. **Rear yard** means the area between the rear lot line and the minimum required rear yard setback.
- C. **Side yard** means the area between the side lot line and the minimum required side yard setback, not including any part of the front or rear yard.