



**CITY OF ST. PETERSBURG
DEVELOPMENT SERVICES DEPARTMENT
DEVELOPMENT REVIEW SERVICES DIVISION**

**DEVELOPMENT REVIEW COMMISSION
STAFF REPORT**

**APPEAL
LOT LINE ADJUSTMENT WITH VARIANCE REQUEST
PUBLIC HEARING**

According to Development Services Department records, **no Commission member** resides or has a place of business within 2,000 feet of the subject property. All other possible conflicts should be declared upon the announcement of the item.

REPORT TO THE DEVELOPMENT REVIEW COMMISSION FROM DEVELOPMENT REVIEW SERVICES DIVISION, PLANNING & DEVELOPMENT SERVICES DEPARTMENT, for Public Hearing and Executive Action **scheduled on Tuesday, September 22, 2020 at 2:00 P.M.**, by means of communications media technology pursuant to Executive Order 20-193 issued by the Governor on August 7, 2020, and Executive Order 2020-30 issued by the Mayor on July 8, 2020. Authorization for a virtual meeting has been extended through October 1st by Governor's executive order. The City's Planning and Development Services Department requests that you visit the City website at www.stpete.org/meetings and/or contact the case planner for up-to-date information pertaining to this case.

CASE NO.: 20-54000030 PLAT SHEET: F-21

APPEAL: Appeal of a Streamline Approval of a Lot Line Adjustment with a variance to the required lot width from 75-feet to 50-feet for two non-conforming platted lots in common ownership in the NS-1 zoning district.

APPELLANT: Mary Fran Arseneau
442 39th Avenue South
Saint Petersburg, Florida 33705

OWNER: M R L V LLC
6500 1st Avenue North
Saint Petersburg, Florida 33710

AGENT: Peter Chicouris
6500 1st Avenue North
Saint Petersburg, Florida 33710

ADDRESS: 526 39th Avenue South

PARCEL ID NO.: 06-32-17-57384-000-0040

LEGAL DESCRIPTION: On File

ZONING: Neighborhood Suburban Single-Family (NS-1)

Structure	Required	Requested	Variance	Magnitude
Lot Width (Lots 4 & 5)	75-feet	50-feet	25-feet	33%

BACKGROUND: The subject property, located at 526 39th Avenue South, consists of two fully platted lots of record (Lots 4 and 5, W.S. Merrell's Revised Subdivision) unified under common ownership. The lots were previously developed with one single-family residence that was constructed in 1917 and demolished in 2020. Both lots are currently vacant.

The property has a zoning designation of Neighborhood Suburban, Single-Family (NS-1). The minimum lot width in NS-1 districts is 75-feet and the minimum lot area is 5,800 square feet. Subject Lots 4 and 5 each have a platted lot width of 50-feet and contain approximately 6,950 square feet of site area. Therefore, they are considered to be substandard in lot width only. The subject subdivision, W.S. Merrell's Revised Subdivision, was recorded in 1916.

Restrictions in the City Code were in place from 1973 through 2003 limiting development on nonconforming lots in common ownership. The land development code was changed in 2003 allowing development on any platted lot of record. On September 17, 2015, City Council amended the non-conforming lot regulations, eliminating the right to build on these substandard lots without first obtaining a variance. During the review of these regulations in 2015 the City Council made the decision to change the land development regulations back to restrict development on substandard lots, while also making clear the intent of the variance review is to determine whether such development would be consistent with the surrounding neighborhood pattern. Council found that in some neighborhoods, development of substandard lots would not be consistent with the surrounding development pattern and allowing one home on one platted lot in an area that has historically developed one single-family unit on more than one platted lot could be detrimental to the neighbors and overall character of the neighborhood. The subject block and the majority of the surrounding neighborhood are not an example of this situation, see Exhibit 2, Development Pattern Analysis. Staff has determined that this request is consistent with the neighborhood development pattern and the Variance criteria.

APPEAL: On August 14, 2020, the City Clerk received an appeal from Mary Fran Arseneau, who owns the property at 442 39th Avenue South which is located two properties to the east of the subject property. The appellant listed three items for grounds for the appeal, see attached Appeals Form and Narrative. The following staff report addresses the reasons for appeal cited by the appellant.

CONSISTENCY REVIEW COMMENTS: The Planning & Development Services Department staff reviewed this application in the context of the following criteria excerpted from the City Code and found that the requested variance is **consistent** with these standards. Per City Code Section 16.70.040.1.6 Variances, Generally, the DRC's decision shall be guided by the following factors:

1. *Special conditions exist which are peculiar to the land, building, or other structures for which the variance is sought and which do not apply generally to lands, buildings, or other structures in the same district. Special conditions to be considered shall include, but not be limited to, the following circumstances:*

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- a. *Redevelopment. If the site involves the redevelopment or utilization of an existing developed or partially developed site.*

Approval of the variance would allow for the redevelopment of a currently vacant site that previously contained one single-family residence to be developed with two new single-family residences with each home to be constructed on separate fully platted lots.

- b. *Substandard Lot(s). If the site involves the utilization of an existing legal nonconforming lot(s) which is smaller in width, length or area from the minimum lot requirements of the district.*

The two individual platted lots are considered to be substandard for properties zoned NS-1 as they are both deficient in terms of the minimum lot width required, which is 75-feet, compared to their platted width of 50-feet. For lot width they are both nonconforming by a magnitude of 33%. If separated, each lot would have approximately 6,950 square feet of lot area which meets the minimum required 5,800 square feet of lot area for properties zoned NS-1.

- c. *Preservation district. If the site contains a designated preservation district.*

The site is not located within a designated preservation district.

- d. *Historic Resources. If the site contains historical significance.*

The site does not contain any historical significance.

- e. *Significant vegetation or natural features. If the site contains significant vegetation or other natural features.*

The site previously contained protected trees that were removed without a permit. Google Streetview from June 2018 shows a slash pine and palmetto tree on the property that are no longer present on the site, see attached Photographs. As a result, a condition of approval is included at the end of this report requiring an approved Tree Removal Permit prior to a new Parcel ID being obtained to separate the two platted lots through the Pinellas County Property Appraiser's Office.

- f. *Neighborhood Character. If the proposed project promotes the established historic or traditional development pattern of a block face, including setbacks, building height, and other dimensional requirements.*

Staff analyzed the development pattern of the subject block and the adjacent block to the south located within the W.S. Merrell's Revised Subdivision and the Bayou View Subdivision, see attached Development Pattern Analysis and study area tables below. These blocks were studied due to their proximity to the subject property and similar established traditional development patterns consisting of lots with a platted width of 50-feet with alleys.

Staff's development pattern analysis included review of lot width for conformance with the minimum requirements for NS-1 properties, and whether the properties typically contain one house per platted lot. The results of the analysis, provided in the tables

below, show that 86% of the properties are substandard in terms of lot width. Staff found that 79% of the properties in the study area consist of one house per platted lot. Based on the analysis, staff finds that the proposal is consistent with the prevailing development pattern in the area.

Lot Width Analysis

Block	Location	Conforming Width	Substandard Width	% Substandard
Subject Block		4	15	78.95%
Block 2	South	2	22	91.67%
Total		6	37	86.04%

1 House per Platted Lot Analysis

Block	Location	Vacant Lot	1 House per Platted Lot	More than 1 Lot per house	% 1 House per Platted Lot
Subject Block		2	13	4	68.42%
Block 2	South	0	21	3	43.75%
Total		2	34	7	79.07%

A reason cited for the appeal by the appellant is that the proposed lot width does not conform to the other homes on 39th Avenue South. Staff reviews the development pattern of the neighborhood when reviewing variance requests for lot width. The analysis provided above found that 86% of the properties in the neighborhood are substandard in lot width with 79% being developed with one house per platted lot. Staff's analysis found the request to be in conformance with development pattern of the neighborhood.

- g. Public Facilities. If the proposed project involves the development of public parks, public facilities, schools, public utilities or hospitals.*

The project does not involve public facilities.

- 2. The special conditions existing are not the result of the actions of the applicant;*

The lots within the W.S. Merrell's Revised Subdivision and the Bayou View Subdivision were platted in 1916 and 1913, respectively. As shown in the analysis provided above within criterion 1.f, 86% of the properties analyzed are substandard in lot width with 79% being developed with one house per platted lot. This development pattern is not the result of any action of the applicant.

- 3. Owing to the special conditions, a literal enforcement of this Chapter would result in unnecessary hardship;*

Without approval of the requested variance the property can be redeveloped with one single-family residence. However, the applicant is proposing to develop a new single-family residence on each platted lot. Denial of the variance would be an unnecessary hardship as it would not allow development of new single-family residences on platted lots of record when 86% of the surrounding properties are substandard in terms of lot width.

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4. *Strict application of the provisions of this chapter would provide the applicant with no means for reasonable use of the land, buildings, or other structures;*

A majority of the properties within the subject block and the adjacent block to the south have been developed with one house on one platted lot of record and therefore the requested variance would allow a more consistent use of the land.

5. *The variance requested is the minimum variance that will make possible the reasonable use of the land, building, or other structure;*

The requested variance is the minimum necessary to allow the development of two single-family homes on lots with a similar size to the surrounding lots with single-family homes. The lot width variance from 75-feet to 50-feet constitutes a 33% reduction of the minimum required lot width.

6. *The granting of the variance will be in harmony with the general purpose and intent of this chapter;*

The request is consistent with the goals of the Comprehensive Plan and the Land Development Regulations to promote revitalization and redevelopment. The Land Development Regulations for the Neighborhood Suburban (NS) districts state: "The regulations of the NS districts protect the single-family character of these neighborhoods, while permitting rehabilitation, improvement and redevelopment in keeping with the scale of the neighborhood."

The Future Land Use designation in this neighborhood is Residential Urban (RU). The following objective and policies promote redevelopment and infill development in our City:

OBJECTIVE LU2:

The Future Land Use Element shall facilitate a compact urban development pattern that provides opportunities to more efficiently use and develop infrastructure, land and other resources and services by concentrating more intensive growth in activity centers and other appropriate areas.

POLICY LU2.5 The Land Use Plan shall make the maximum use of available public facilities and minimize the need for new facilities by directing new development to infill and redevelopment locations where excess capacity is available.

POLICY LU3.6 Land use planning decisions shall weigh heavily the established character of predominately developed areas where changes of use or intensity of development are contemplated.

7. The granting of the variance will not be injurious to neighboring properties or otherwise detrimental to the public welfare; and,

The granting of the variance will not be injurious to neighboring properties as they are developed in a similar pattern as the proposed lots. The proposal for two single-family homes with one home on each platted lot is consistent with the neighborhood pattern of the surrounding blocks which are zoned NS-1.

The appellant cited increased density in a flood zone as a reason for the appeal. The maximum density permitted within the NS-1 zoning district is 7.5 units per acre. Currently, the property is approximately 13,900 square feet in size, which equates to a density of 3.1 units per acre. If the variance is granted and the properties are separated then each lot would contain approximately 6,950 square feet of area, which equates to a density of 6.3 units an acre. Therefore, the proposed separated lots would remain within maximum density requirements for properties zoned NS-1, should approval of the variance be granted.

8. The reasons set forth in the application justify the granting of a variance;

Staff finds that the reasons set forth in the variance application do justify the granting of the variance based on the analysis provided and the recommended special conditions of approval.

9. No nonconforming use of neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted use of lands, buildings, or other structures in adjacent districts shall be considered as grounds for issuance of a variance permitting similar uses.

None were considered.

PUBLIC COMMENTS: The subject property is not located within the boundaries of any neighborhood association. Staff did not receive any correspondence in support of, or in opposition to, the requested variance from the public resulting from mailed notices for the public hearing. This application was designated, and public notices were mailed, for streamline approval which was appealed, see attached Appeals Form and Narrative. The appeal of the streamline approval cited the lack of a public hearing being held as a reason for appeal. The appeal of staff's streamline approval now requires the applicant's request to proceed to public hearing before the Development Review Commission.

STAFF RECOMMENDATION: Based on a review of the application according to the stringent evaluation criteria contained within the City Code, the Planning and Development Services Department Staff recommends **APPROVAL** of the requested variance and **DENIAL** of the appeal.

CONDITIONS OF APPROVAL: If the variance is approved the Planning and Development Services Department Staff recommends that the approval shall be subject to the following:

1. Approval of this variance does not grant or imply other variances from the City Code or other applicable regulations.
2. Prior to Parcel ID separation the applicant shall obtain an approved Tree Removal Permit for all code protected trees removed from the property without a permit.
3. Approval of this variance and Lot Line Adjustment does not grant or imply a lot separation for the platted water lots associated with the platted lots within the subject property.

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4. This variance approval shall be valid through September 22, 2023. Substantial construction shall commence prior to this expiration date. A request for extension must be filed in writing prior to the expiration date.

ATTACHMENTS: Project Location Map, Photographs, Survey, Variance Narrative, Development Pattern Analysis, Appeals Form and Narrative

Report Prepared By:

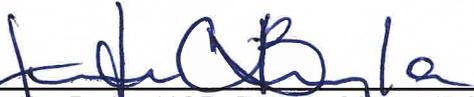


9/15/20

Scot Bolyard, AICP, Deputy Zoning Official
Development Review Services Division
Planning & Development Services Department

Date

Report Approved By:



9-15-2020

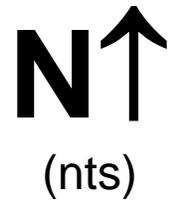
Jennifer Bryla, AICP, Zoning Official (POD)
Development Review Services Division
Planning & Development Services Department

Date

JCB/SKB



Project Location Map
City of St. Petersburg, Florida
Planning and Development Services
Department
Case No.: 20-54000030
Address: 526 39th Avenue South



Google Streetview

Dated June 2018



Existing Conditions

Photo taken September 2020



GRASS MEDIAN STRIP

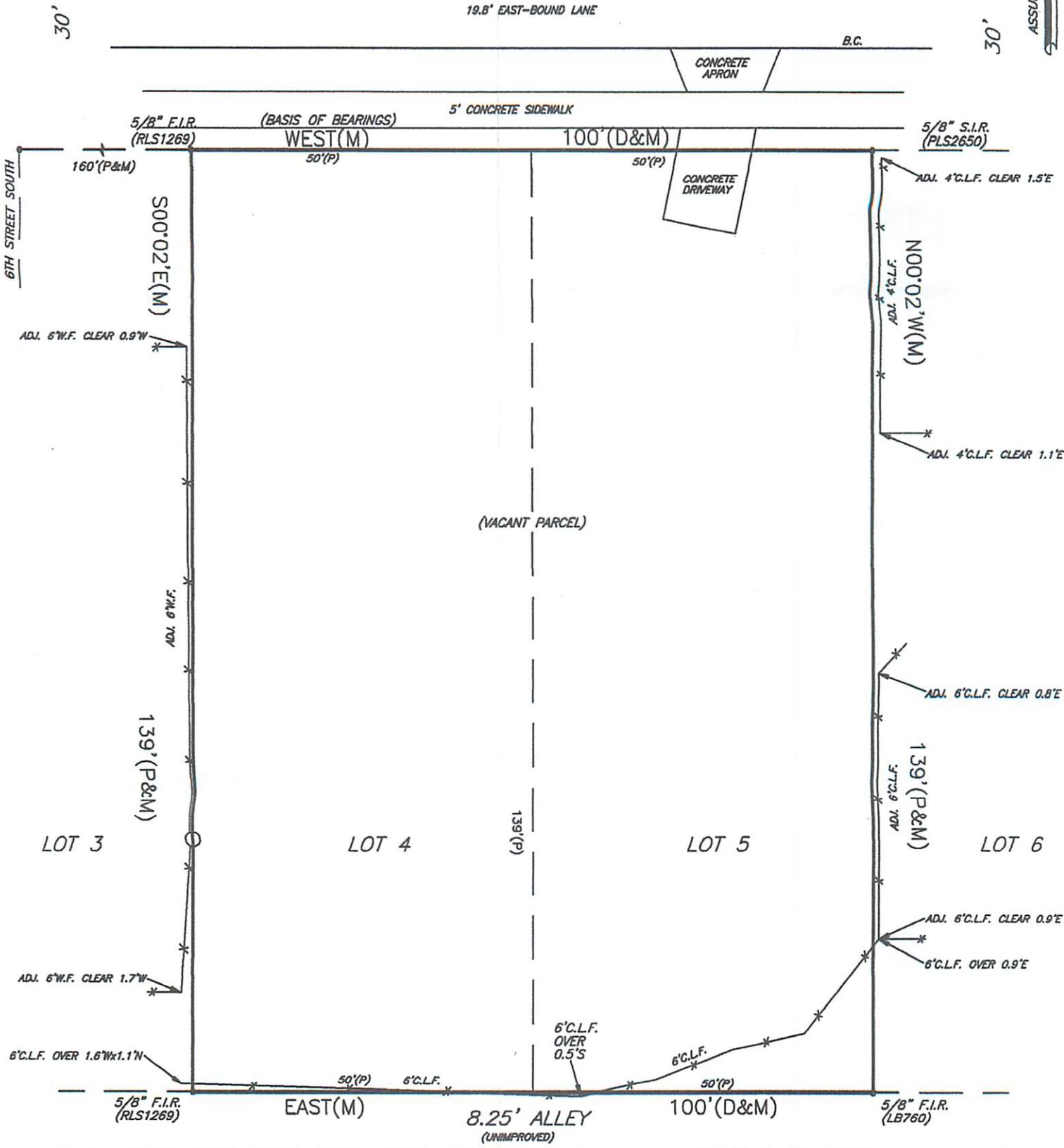
(PARK COURT-PER PLAT)

B.C.

39TH AVENUE SOUTH (60' R/W)

19.8' EAST-BOUND LANE

ASSUMED NORTH



A BOUNDARY SURVEY OF LOTS 4 AND 5, W.S. MERRELL'S REVISED SUBDIVISION, AS RECORDED IN PLAT BOOK 4, PAGE 48, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

JOB NUMBER: MMXX147-45 TELEPHONE: (727) 360-0636 DATE OF FIELD SURVEY: 5/01/20 SCALE: 1 INCH = 20 FEET DRAWN BY: DCH	DAVID C. HARNER PROFESSIONAL SURVEYOR & MAPPER 9925 GULF BOULEVARD TREASURE ISLAND, FL. 33706 SECTION 6 TOWNSHIP 32 SOUTH RANGE 17 EAST	FLOOD ZONE: "AE" (B.F.E.=8') FLOOD MAP DATE: 8/18/09 COMMUNITY NUMBER: 125148 MAP NUMBER: 12103C0282 G CHECKED BY: DCH
CERTIFIED TO: M R L V, LLC		
I HEREBY CERTIFY TO THE HEREON NAMED PARTY OR PARTIES, AND ONLY TO THOSE NAMED HEREON, THAT THE BOUNDARY SURVEY REPRESENTED HEREON MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO FLORIDA STATUTE 472.027.		
NOTES: UNDERGROUND FOUNDATIONS AND/OR IMPROVEMENTS, IF ANY, ARE NOT SHOWN. OTHER EASEMENTS AFFECTING THIS PROPERTY MAY EXIST IN THE PUBLIC RECORDS OF THIS COUNTY. ONLY THOSE EASEMENTS KNOWN TO ME OR SUPPLIED TO ME BY THE HEREON NAMED PARTY OR PARTIES ARE DEPICTED HEREON.		
5/04/20 <i>D.C.H.</i> DAVID C. HARNER P.S.&M. REGISTRATION NUMBER 2650		
LEGEND: N.A.V.D.=NORTH AMERICAN VERTICAL DATUM OF 1988 B.F.E.=BASE FLOOD ELEVATION A=ARC LENGTH ADJ=ADJACENT B.C.=BACK OF CURB C.=CHORD LENGTH C.L.F.=CHAINLINK FENCE R/W=RIGHT OF WAY CONC=CONCRETE M.H.=MANHOLE C/C=COVERED CONC CL=CENTERLINE C.B.=CHORD BEARING V.F.=VINYL FENCE EL=ELEVATION FF=FINISHED FLOOR F.I.P.=FOUND IRON PIPE S.I.R.=SET IRON ROD WITH CAP #2650 O.P.=OPEN PORCH F.I.R.=FOUND IRON ROD F.C.M.=FOUND CONCRETE MONUMENT M=MEASURED M.S.=METAL SHED P.O.L.=POINT ON LINE D=DEED R=RADIUS W/W=WING WALL W.F.=WOOD FENCE DR.=DRAINAGE UT.=UTILITY EASE.=EASEMENT P/S=PAVERSTONE B.M.=BENCHMARK P.I.=POINT OF INTERSECTION P.R.M.=PERMANENT REFERENCE MONUMENT P=PLAT E.P.=EDGE OF PAVEMENT		
"NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER"		



VARIANCE

NARRATIVE (PAGE 1)

All applications for a variance must provide justification for the requested variance(s) based on the criteria set forth by the City Code. It is recommended that the following responses be typed. Illegible handwritten responses will not be accepted. Responses may be provided as a separate letter, addressing each of the six criteria.

ALL OF THE FOLLOWING CRITERIA MUST BE ANSWERED.

APPLICANT NARRATIVE	
Street Address: <i>526 39th Ave S</i>	Case No.: <i>20-1100011</i>
Detailed Description of Project and Request:	
<i>Variance to Lots 4 & 5 sizes for buildable lots for single family home</i>	
1. What is unique about the size, shape, topography, or location of the subject property? How do these unique characteristics justify the requested variance?	
<i>The lots are the same size or larger in dimensions as over 1/2 the lots on the same block.</i>	
2. Are there other properties in the immediate neighborhood that have already been developed or utilized in a similar way? If so, please provide addresses and a description of the specific signs or structures being referenced.	
<i>39th Ave S (Bayou Bonita, Blk 1, Lot 1) 50' x 139' - vacant residential</i>	
<i>442 39th Ave S - 50' x 139' - single family home</i>	
<i>39th Ave S (Bayou Bonita Blk, Lot 5) - 50' x 139' - vacant residential</i>	
<i>39th Ave S (Bayou Bonita, Blk, Lot 6) - 25' x 139' - vacant residential</i>	
<i>533 40th Ave S, 527 40th Ave S, 521 40th Ave S, 501 40th Ave S, 451 40th Ave S, 443 40th Ave S, 435 40th Ave S - all measure 50' x 127 and are single family homes</i>	
<i>419 & 415 40th Ave S both measure 50' x 127 and are Duplex-Triple-Four Plex & 427 40th Ave S measures 50' x 127 is single family - more than</i>	
3. How is the requested variance not the result of actions of the applicant? <i>one house per parcel</i>	
<i>MRLV has applied for a lot split in conjunction with the variance as these lots are similar in size and dimensions as other lots on the block</i>	



VARIANCE

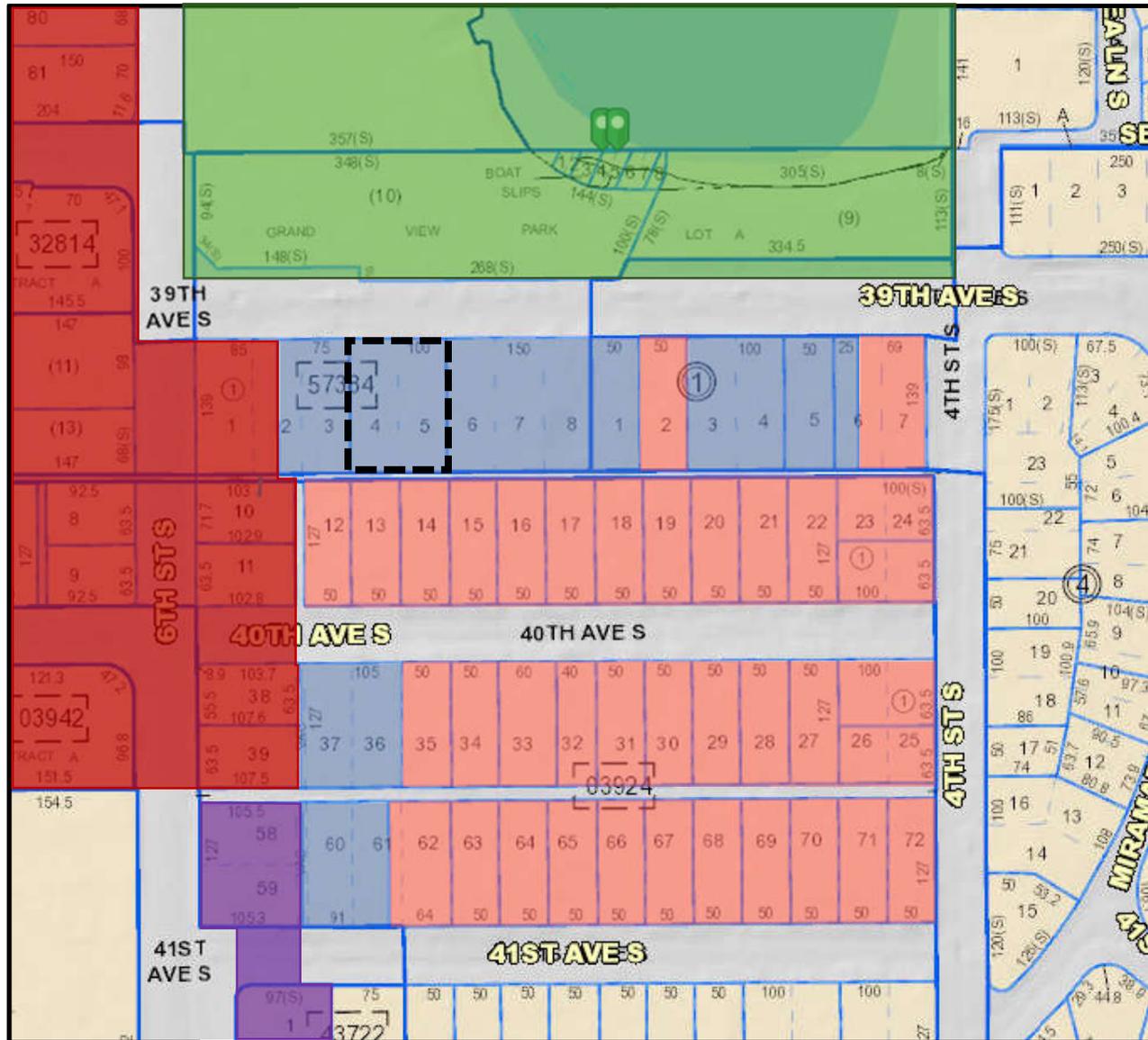
NARRATIVE (PAGE 2)

All applications for a variance must provide justification for the requested variance(s) based on the criteria set forth by the City Code. It is recommended that the following responses be typed. Illegible handwritten responses will not be accepted. Responses may be provided as a separate letter, addressing each of the six criteria.

ALL OF THE FOLLOWING CRITERIA MUST BE ANSWERED.

APPLICANT NARRATIVE
4. How is the requested variance the minimum necessary to make reasonable use of the property? In what ways will granting the requested variance enhance the character of the neighborhood?
<i>Size of the lots are uniform to the majority of the lots on the same block.</i>
5. What other alternatives have been considered that do not require a variance? Why are these alternatives unacceptable?
<i>It has always been owner's intention to build a single family home on each lot.</i>
6. In what ways will granting the requested variance enhance the character of the neighborhood?
<i>will provide two new single family homes in the neighborhood, one on each lot.</i>

Development Pattern Analysis – Lot Width



Subject Property



Grand View Park



Conforming to Lot Width



Corridor Commercial Suburban (CCS-1)



Non-conforming to Lot Width



Corridor Residential Traditional (CRT-1)

86% of Properties are Non-conforming to Lot Width



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**PLANNING & DEVELOPMENT SERVICES DEPARTMENT
APPEALS FORM**



Appeal From: Person Officially Designated (POD) Development Review Commission Community Planning and Preservation Commission

Appeal to: Development Review Commission Community Planning and Preservation Commission City Council

Contact Information:

Name Mary Fran Arseneau
Street Address 442 39th Av. So.
City ST ZIP Code St. Petersburg FL 33705
Telephone 907-351-7301
E-Mail Address _____
Signature Aminie Mahup, Attorney for Applicant Date 8/17/2020

Date of Hearing

Date of Decision 8/17/2020

Case No.

Case No. 20-54000030

Case Address

Case Address 526 39th Av. South

Submittal Requirements

1. Narrative describing grounds for appeal. - See attached.

Information on Procedures for Hearing

- 1) Staff, appellant, applicant, and registered opponent (registered opponent ONLY allowable if timely registered and appellant is the applicant/owner) will have a total of ten (10) minutes each to present their case.
- 2) The cross-examination phase allows each participant five (5) minutes to ask questions of any individual or party that presented testimony in the presentation phase or public hearing. All questions shall be directed to the Chair who will direct the question to the appropriate person.
- 3) The rebuttal/closing statements phase allows each participant five (5) minutes to rebut prior arguments and make closing statements.
- 4) The Commission Chair will then close the proceedings and go into Executive Session and make a decision. The Commission members may ask questions at any time during the Quasi-Judicial process.

**Return form to the Office of City Clerk, at
175 5th Street North, St. Petersburg, FL 33701
cathy.davis@stpete.org, (727) 893-7447**

***Fee to Appeal Person Officially Designated: \$250.00**

***Fee for all other Appeals: \$300.00**

***Note: Appellant is also responsible for required public notice and any associated post office mailing fees.**

August 14, 2020

St. Petersburg City Clerk
175 5th Street North
St. Petersburg, Florida 33701

Re: Case No. 20-54000030 - Appeal of intent to approve variance for 526 39th Avenue South

Dear Court Clerk,

I am writing to file an appeal of the *Notice of Intent to Approve* by the Planning & Development Services Department for a Lot Line Adjustment with variance to the required lot width from 75-feet to 50-feet for two non-conforming platted lots in common ownership in the NS-1 zoning district.

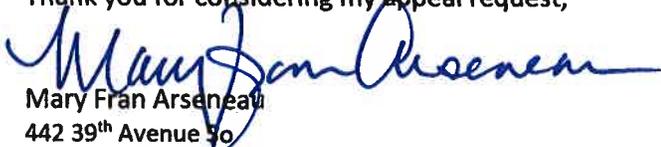
The variance applicant is M R L V LLC and their agent is Peter Chicouris

The reasons for appeal are:

1. **No public hearing was held.** According to Mr. Shervon Chambliss in the Planning & Development Services Department, approval of this variance is being "streamlined" so that no public hearing was afforded to the neighbors, community or public in general. As one neighbor put it, "These sorts of deals need to be made in the *sunshine*".
2. **The 50-foot Lot Size does not conform to the other homes on 39th Avenue South.** According to Mr. Chambliss, the basis for the streamlined approval was that there are similar lot sizes in the community. I respectfully disagree, the only home on 39th Avenue South with a 50-foot lot is my home. All other homes on this Avenue are 1 ½ - 3 lots or 75 – 150-foot wide. I would invite the Commissioners to take a drive a see this Avenue themselves. It is a historical neighborhood experiencing a come-back. The neighborhood's older homes on larger lots with mature foliage help this neighborhood retain its *old Florida* vibe. A vibe that attracted many to this neighborhood including myself. Reducing the lot sizes on this Avenue would destroy this neighborhood.
3. **Splitting this lot will increase density in a flood zone.** The science behind climate change and its impact on St. Petersburg tells us that increasing housing density in a flood zone will hold consequences of undeniable harm and pose undue safety risks to both citizens and infrastructure. Moreover, we have been approached by these owners and others to sell our property and join them to rezone the entire block to build condominiums or townhouses, thus increasing the density even more. Consequently, I fear that approval of this request to split this lot may trigger other requests to split the remaining large lots on the Avenue.

I am fully aware there are differing visions for how St. Petersburg should develop its Coastal High Hazard Area and current rules block increases in density in these areas. I also understand the current administration wants to relax this order so that developers, like the current owners of 526 39th Avenue So, can move into older less affluent neighborhoods bringing massive development and gentrification. I sincerely hope the Commissioners see this variance for what it really is and approve my appeal.

Thank you for considering my appeal request,


Mary Fran Arsenault
442 39th Avenue So
St. Petersburg Florida 33705
907-351-7301

Enclosed:

Notice of Intent to Approve – 536 39th Avenue So. St. Petersburg Florida 33705
Appeal Filing Fee in the Amount of \$250.00 as specified in the Notice