

Board of Zoning Adjustment Staff Report

May 19, 2014



Case No:	14Variance1034
Project Name:	None
Location:	2540 Wood Creek Rd.
Owner(s):	Linda Winlock
Applicant:	Trent Winlock
Representative(s):	Same
Jurisdiction:	Seneca Gardens
Council District:	8 – Tom Owen
Case Manager:	Latondra Yates, Planner II

REQUEST

- Variance of Table 5.3.1. of the Land Development Code (LDC) to allow the proposed pergola to encroach into the required 5-ft. side yard. The requested setback is .74 feet, a variance of 4.26 feet.

Variance

Location	Requirement	Request	Variance
Side yard (east property line)	5 ft.	.74 ft.	4.26 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The variance is to replace a carport with the pergola.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned R-4 in the Neighborhood Form District (NFD). It is surrounded by residential property zoned R-4 in the NFD.

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Vacant	R-4	NFD
Proposed	Single-family residential	R-4	NFD
<i>Surrounding Properties</i>			
North	Single-family residential	R-4	NFD
South	Single-family residential	R-4	NFD
East	Single-family residential	R-4	NFD
West	Single-family residential	R-4	NFD

PREVIOUS CASES ON SITE

The site is Lot 30 of Seneca Gardens Subdivision, recorded in Plat Book 7, Page 98.

INTERESTED PARTY COMMENTS

None

APPLICABLE PLANS AND POLICIES

Cornerstone 2020 – See checklist attached
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because the proposed pergola will occupy the same footprint as the existing carport.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The variance will not alter the essential character of the general vicinity because the proposed pergola will occupy the same footprint as the existing carport.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The variance will not cause a hazard or nuisance to the public because the pergola will replace a carport that the applicant states is rotten and possibly unstable.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the pergola will occupy a similar footprint as the carport.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The variance arises from the request to construct the pergola.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict provision of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because of the need to replace the carport, which they state is in disrepair.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of the request for construction of the pergola.

TECHNICAL REVIEW

No outstanding technical review items.

STAFF CONCLUSIONS

The variance to allow the proposed house to encroach into the required street side yard meets 5 of the applicable guidelines of the Comprehensive Plan.

Three of the guidelines can be addressed during construction review.

Staff's analysis of the standards of review supports the granting of the variance.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance as established in the Land Development Code.

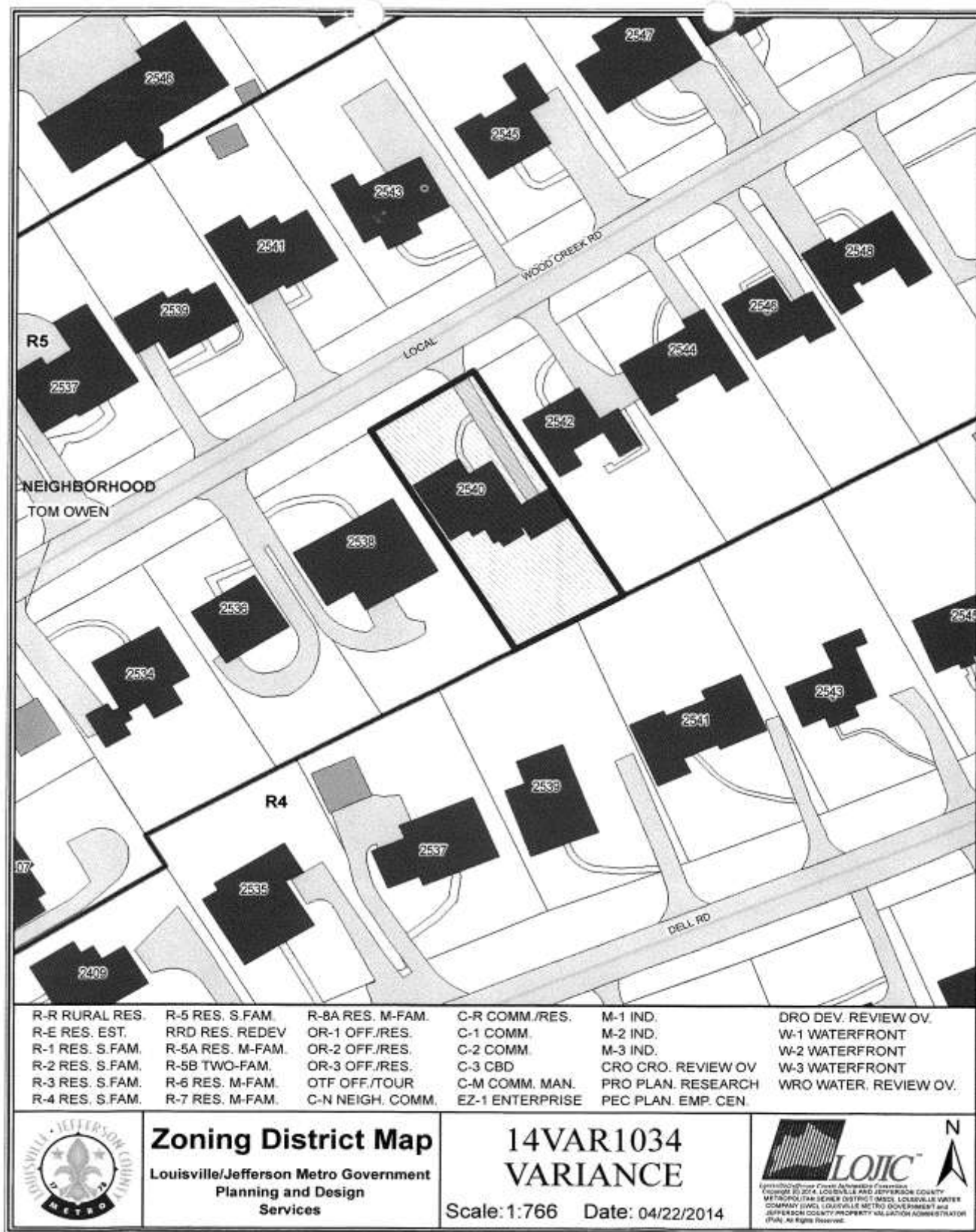
NOTIFICATION

Date	Purpose of Notice	Recipients
5/1/2014	BOZA Hearing	1 st and 2 nd tier adjoining property owners
5/1/2014	Sign Posting	On property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevation
5. Cornerstone 2020 Staff Checklist
6. Applicant's Justification Statement

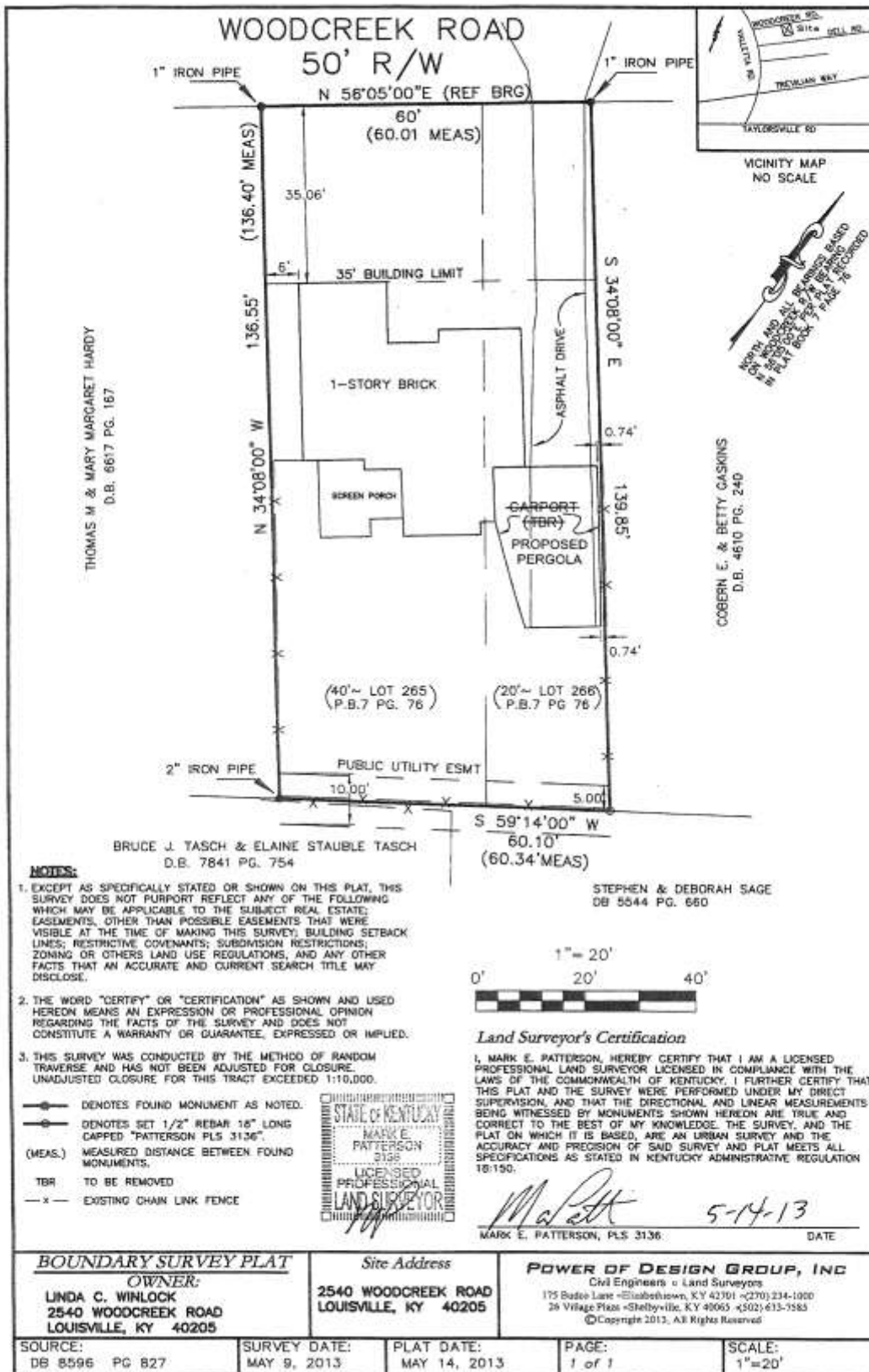
1. **Zoning Map**



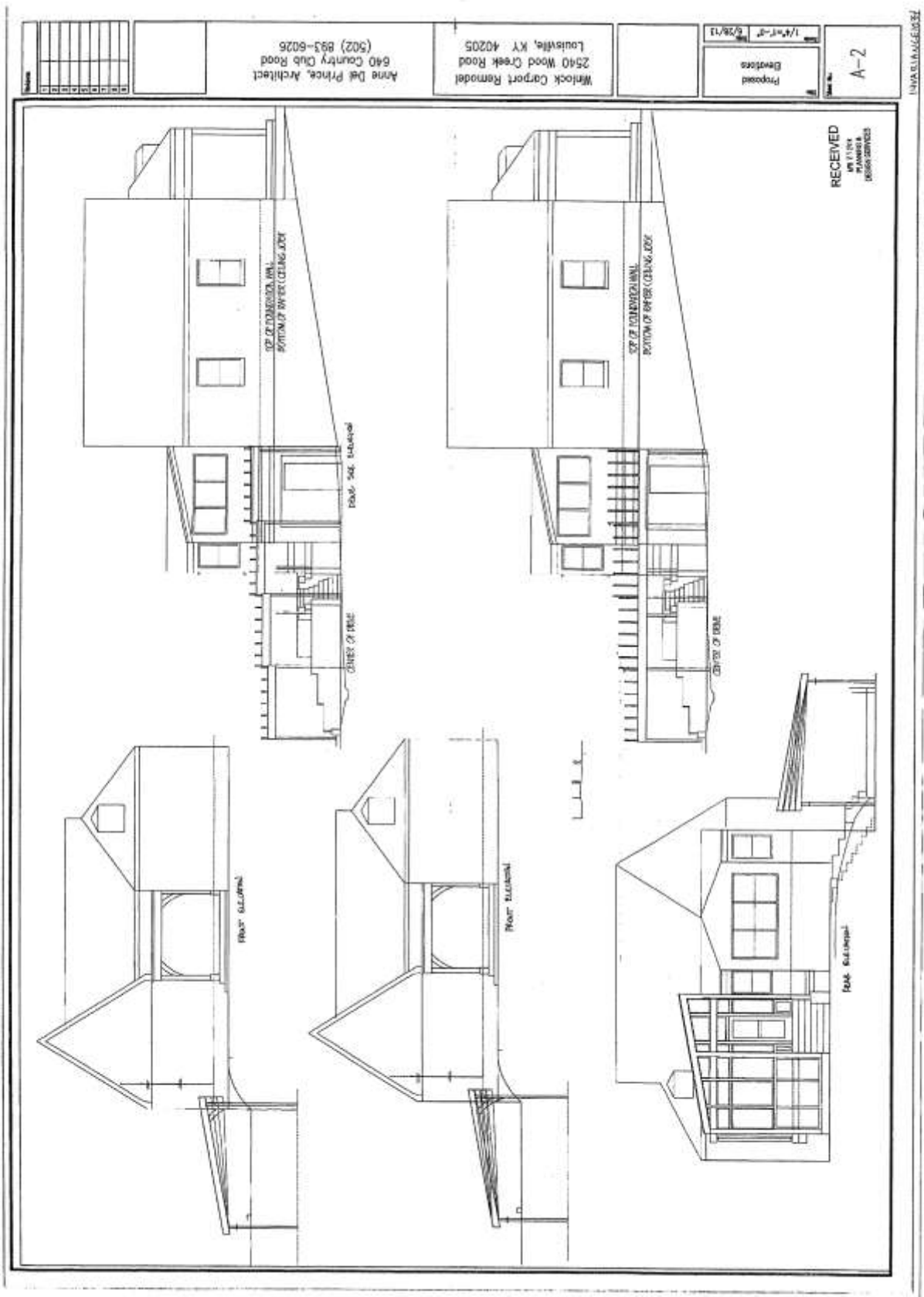
2. Aerial Photo



3. Site Plan



4.



5. Cornerstone 2020 Comprehensive Plan Checklist

18	Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1, 3.4-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	√	The proposed setback appears to be compatible with that of others in the subdivision.
19	Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1, 3.4-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility. (Only for a new development in a residential infill context, or if consideration of building materials used in the proposal is specifically required by the Land Development Code.)	√	The proposed building materials appear to be compatible with other structures in the subdivision.
20	Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1, 3.4-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.3: The proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. Examples of appropriate mitigation include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	√	The proposed structure appears to be compatible within the surrounding residential area with respect to its design, scale, height and setbacks.
29	Form Districts Goals C1-C4, Objectives C1.1- 1.2, C2.1-2.7, C3.1, 3.4-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	√	The proposed setbacks appear to be compatible with others the subdivision.
43	Livability, Goals B1, B2, B3, B4, Objectives B1.1- 1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	+/-	Subject to construction review.
45	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	Site served by existing utilities.

46	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	+/-	Subject to construction review.
47	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	+/-	Subject to construction review.

6. Applicant's Justification Statement

Additional Information

In order to justify approval of any Variance, the Board considers two criteria. Please answer all of the following items. (Use additional sheets if needed)*
All questions must be answered. A response of yes, no & N/A is not acceptable.

1. Reasons that the granting of the variance:

a) Will not adversely affect the public health, safety or welfare.

The proposal calls for the replacement of an existing structure. This existing structure is old, rotted, & an eyesore. The replacing structure will occupy the same footprint and will provide an aesthetic improvement.

b) Will not alter the essential character of the general vicinity.

The ~~current~~ existing structure is an eyesore and does not keep with the aesthetics of this well-kept neighborhood. The proposed structure will improve the appearance of the property.

c) Will not cause a hazard or a nuisance to the public.

The existing structure is rotten and possibly unstable. The new structure will occupy no new space, and will be a structural and aesthetic improvement.

d) Will not allow an unreasonable circumvention of the requirements of the zoning regulations.

This variance will allow replacement of an existing structure. If the variance is granted, an architect will draw plans. These plans will be submitted when applying for a building permit. Final inspection will insure plan was followed.

2. Additional consideration.

a) Whether the variance arises from special circumstances, which do not generally apply to land in the general vicinity; (Please specify/identify)

The variance will not allow for a structure that does not fit in with the character of the neighborhood.

b) Whether the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship.

Strict adherence to the code would prevent the property owner from replacing an old, deteriorating structure. This structure will provide shelter under which the property owner can park a vehicle.

c) Whether the circumstances are the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought.

The existing structure the property owner wishes to replace was built long before she acquired the property in 2005. No changes have been made to this structure since she purchased the property.

