

# CITY OF HOLLY HILL BOARD OF PLANNING AND APPEALS

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**May 3, 2010 Meeting**  
**6:30 pm at City hall**  
**City Commission Chambers**

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**AGENDA**  
**CITY OF HOLLY HILL**  
**BOARD OF PLANNING & APPEALS MEETING**  
**May 3, 2010**  
**6:30 P.M.**

CITY HALL COMMISSION CHAMBERS

1065 RIDGEWOOD AVENUE

- I. CALL TO ORDER/ROLL CALL 6:30 P.M.
- II. INVOCATION & PLEDGE OF ALLEGIANCE
- III. APPROVAL OF MINUTES – 4/5/10
- IV. NEW BUSINESS
  - A. V-10-05-01: Variance for 435 Silver Beach Drive (Gordon Richards)
  - B. V-10-05-02: Variance for 207 8<sup>th</sup> Street (Harry Abrahamson)
  - C. V-10-05-03: Variance for 121 Flomich Avenue (Edward Heaphy)
  - D. LDR-10-05-01: Amendment to the Code of Ordinances, creating new Section 82-322 Evaluation of Request for Accommodation Pursuant to the Fair Housing Act.
  - E. LDR-10-05-02: Amendment to the Code of Ordinances – Chapter 78 General provisions, Section 78-14 Definitions.
- V. OLD BUSINESS – None
- VI. OTHER - Staff Comments
- VII. ADJOURNMENT

NOTE: If any person decides to appeal any decision made by said body with respect to any matter considered at such meeting, he will need a record made of the proceedings, including all testimony and evidence upon which the appeal is to be based. To that end, such person will want to ensure that a verbatim record of the proceedings is made.

NOTE: Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the City of Holly Hill, 1065 Ridgewood Avenue, Holly Hill, Florida 32117 (386) 248-9460 at least 5 working days prior to the meeting date.

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**Board of Planning and Appeals  
Meeting Minutes From  
April 5, 2010**

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MINUTES

**MINUTES  
BOARD OF PLANNING AND APPEALS MEETING  
CITY OF HOLLY HILL, FLORIDA**

**APRIL 5, 2010**

**1. CALL TO ORDER**

**A. Roll Call**

Michael Myer called the meeting to order in the Commission Chambers at City Hall, 1065 Ridgewood Avenue at approximately 6:30 p.m. Attending with Michael Myer were Board members Chris Kiley, J.D. Mellette, Phillip Wiggins, and John Sterling.

Also attending were the following staff members: Attorney Abe McKinnon, City Planner Doug Gutierrez, and City Clerk Valerie Manning.

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

Michael Myer delivered the invocation and the pledge of allegiance.

**3. APPROVAL OF MINUTES**

✓ Minutes from the Planning and Appeals meeting – March 1, 2010

*Mr. Mellette moved APPROVAL for the MINUTES, seconded by Mr. Wiggins.*

The motion **CARRIED** 5-0 by roll call vote: Mellette – Yes, Wiggins – Yes, Kiley – Yes, Sterling – Yes, Myer – Yes

**4. NEW BUSINESS**

**A. Future Land Use Map Amendment (FLUMA) 10-04-01**

Mr. Gutierrez briefly explained to the Board what the FLUMA was pertaining to and the reason for the request. Attorney McKinnon helped answer questions and concerns from the Board as well as from the citizens.

Sara Lee Morrissey was present from the Volusia County School Board to answer questions.

**Mr. Myer opened public participation.**

The following individuals came forward to speak to the Planning and Appeals Board: Clancy Johnson, Steve Berdeguéz, Lisa Davis, and Irene Tadora.

**Mr. Myer closed public participation.**

MINUTES

Mr. Mellette moved **APPROVAL** for the Future Land Use Map Amendment (FLUMA) 10-04-01, seconded by Mr. Kiley.

The motion **CARRIED** 4-1 by roll call vote: Mellette – Yes, Kiley – Yes, Wiggins – No, Sterling – Yes, Myer – Yes

**B. Large Scale Comprehensive Plan Amendment (LSCPA) 10-04-02 – EAR Based Amendments**

Mr. Gutierrez explained to the Board that under Florida Statutes, the City can amend its Comp Plan twice per year. This is an administrative request to recommend to the City Commission to transmit the LSCPA to the Department of Community Affairs.

**Myer opened public participation. No one spoke.**

Mr. Wiggins moved **APPROVAL** for the Large Scale Comprehensive Plan Amendment (LSCPA) 10-04-02, seconded by Mr. Mellette.

The motion **CARRIED** 5-0 by roll call vote: Wiggins – Yes, Mellette – Yes, Kiley – Yes, Sterling – Yes, Myer – Yes

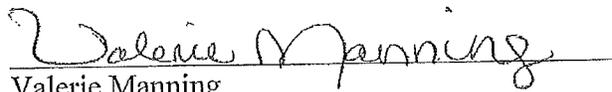
**5. OLD BUSINESS – NONE**

**6. OTHER – STAFF COMMENTS**

None.

**7. ADJOURNMENT**

The meeting officially adjourned at approximately 7:45 p.m.

  
Valerie Manning  
City Clerk



**V-10-05-01**

**Variance**

**435 Silver Beach Drive**

- ✦ **4' 8" relief from required 10' side yard setback**
- ✦ **12' relief from required 30' rear yard setback**

***Applicant – Gordon Richards, (Property Owner)***

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# STAFF REPORT

## City of Holly Hill Community Development Department

**DATE:** May 5, 2010  
**SUBJECT:** V-10-05-01: (435 Silver Beach Drive)  
**APPLICANT:** Gordon Richards  
**PLANNER:** Douglas M. Gutierrez, AICP

### INTRODUCTION:

The applicant is requesting two variances. The first variance is to permit a four foot eight inch (4' 8") relief from the required ten foot (10') side yard setback. The second variance is to permit a twelve foot relief from the required thirty foot (30') rear yard setback.

### BACKGROUND:

The lot is a legally non-conforming lot of record. The R-1 Zoning District requires a minimum lot size of 100' x 115', the subject property is approximately 100' x 100' lot. The subject property is designated as LDSFR – "Low Density Single Family Residential" on the City of Holly Hill's Future Land Use Map (FLUM) and is zoned R-1 (Low Density Single Family Residential) on the City of Holly Hill's Official Zoning Map. The site's zoning designation is consistent with the Future Land Use designation. The adjacent land uses and zoning are as follows:

	Current Land Uses	Future Land Use Designation	Zoning
North	Halifax River	N/A"	N/A
South	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-1 (Low Density Single family Residential)
East	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-1 (Low Density Single family Residential))
West	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-1 (Low Density Single family Residential)

## Site Information

1. Tax Parcel No: 5237-10-00-0620
2. Property Address: 435 Silver Beach Drive
3. Acreage: *Approximately 0.24 Acres (9,629 sf)*
4. Letters/Phone Calls in Favor or Opposition: *The City has not received letters or phone calls from individual property owners opposed to the variance at the time of this report.*

## **DISCUSSION:**

*Variance 1* - The applicant is requesting relief of four feet eight inches (4' 8") from the required ten foot (10') side yard setback to allow for the expansion of the garage. The structure is built asymmetrically to the lot, meaning that the house is not parallel to the side lot lines. The lot lines are angled approximately 94 degrees to the front and rear lot lines. Theoretically the lots were designed to afford an angled view of the Halifax River; however, the actual structure was built 90 degrees to the front lot line; thereby being asymmetrical. To comply with the 10' side yard setback, the proposed garage expansion could not be built parallel to the existing structure. The rear of the structure would be approximately 11' in width and the front of the structure would be approximately 13' in width; thereby, reducing the functionality of the structure (please see attached graphic).

*Variance 2*- The applicant is also requesting a twelve foot (12") relief from the rear yard setback requirement of 30' to allow two additions to the rear of the house. The lot is 15' less than the applicable 115' lot depth in the R-1 zoning district.

## **CONCLUSION:**

The purpose of a Variance is to relieve an owner from strict adherence to certain provisions of the code under such circumstances that strict compliance with such provisions would deprive an owner of the reasonable use of property allowed by the zoning district regulations in which the property is located, where the circumstances arise from an undue hardship - a special condition or circumstance peculiar to the property which rises to a level that warrants the amount of variance relief requested - that is not economic in nature and that is not created by the owner of the property.

There are certain criteria that must be evaluated before a variance can be approved. According to the Land Development Regulations (82-317 LDR), the Planning and Appeals Board and ultimately the City Commission, in making its determination for a variance, shall consider all of the following criteria:

- 1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, as distinguished from the applicant himself, and which are not applicable to other lands, structures or buildings in the same zoning district;**

The structure is built asymmetrically to the lot lines and the lot depth is less than the required 115' for the R-1 zoning district.

- 2. That the special conditions and circumstances do not result from the applicant's own actions**

The dwelling was built in 1956 according to the property appraiser's records. Based

on this, it appears that the property has not been modified since then and the applicant did not create the special condition and circumstance.

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

The variance does not confer special privileges to the applicant that is denied by the Land Development Regulations.

4. **That a literal interpretation of the provisions of this subpart would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this subpart, and would work an unnecessary and undue hardship on the applicant**

Approval of the requested variance would allow the applicant the same rights enjoyed other properties in the same zoning district with a conforming lot in the R-1 zoning district.. The strict adherence to the applicable side yard and rear yard setbacks would impose an undue hardship due to the substandard lot depth, shape of the property and the location of the structure.

5. **That the variance granted is the minimum variance necessary to make possible the reasonable use of the land, building or structure**

The requested variance would be the minimum necessary and still allow the reasonable use of the property and structure.

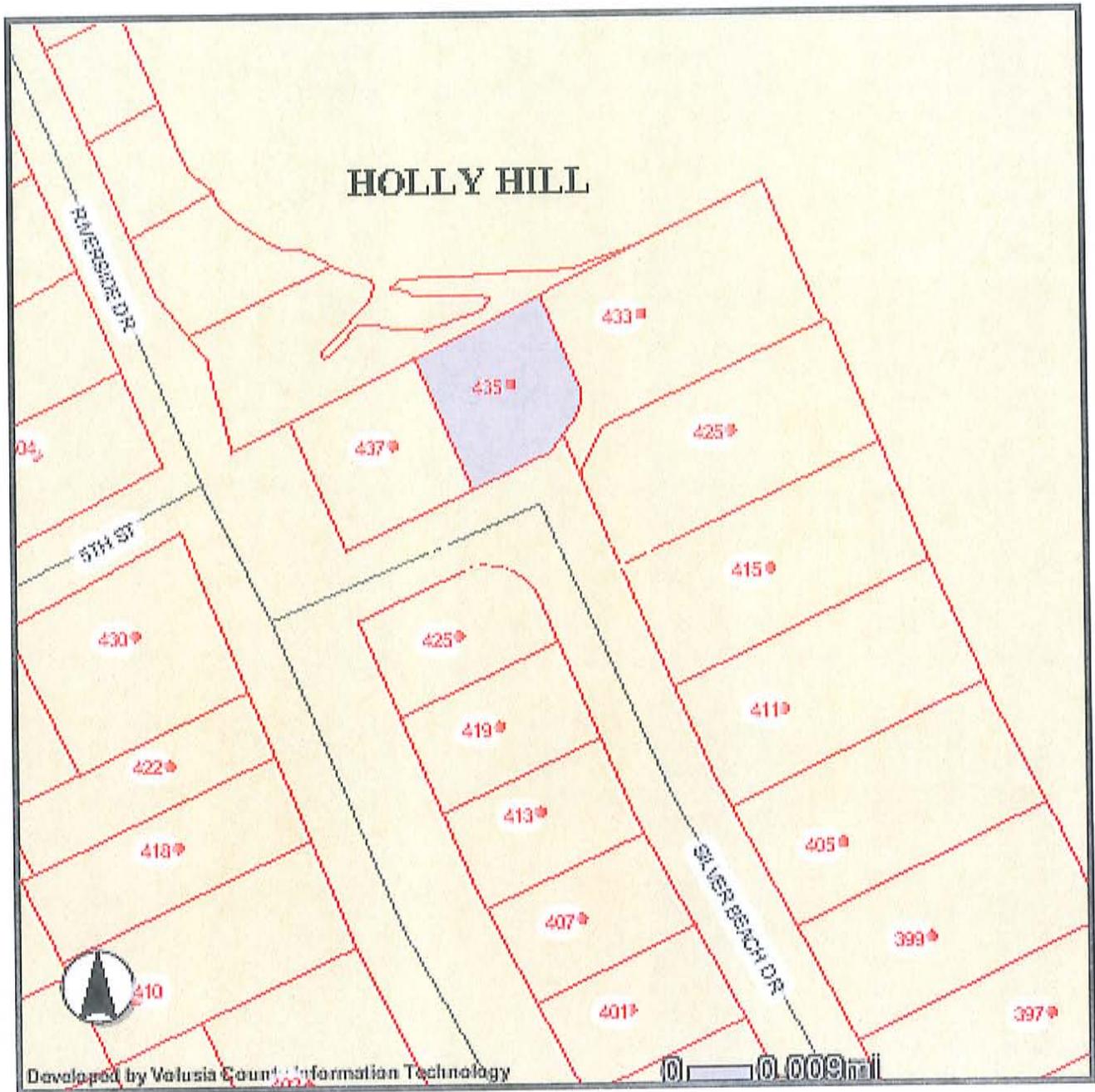
6. **That the grant of the variance will be in harmony with the general intent and purpose of this subpart and the city's comprehensive plan, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare**

The proposed variance request will not diminish property values. The application will not alter the residential nature of the surrounding community and is consistent with existing development patterns.

#### **RECOMMENDATION:**

In accordance with Section 82-321 *Limitation of power to grant* "...A variance may be granted only if the applicant meets **all** of the criteria listed in section 82-317". Therefore, it is staff's recommendation that the Board recommend to the City Commission **APPROVAL** the variance application, because it does satisfy the all criteria for granting a variance:

### Location Map



Developed by Volusia County Information Technology

0 0.009 mi



CITY OF HOLLY HILL  
BUILDING & ZONING DEPARTMENT  
Phone (386) 248-9442 – Fax (386) 248-9498  
BOARD OF PLANNING AND APPEALS  
SUBMITTAL AND MEETING DATES

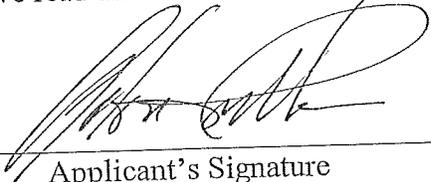
All determinations made by the Board of Planning and Appeals are advisory to the City Commission. The City Commission within 30 days will hear recommendations and actions approved by the Board of Planning and Appeals.

APPLICATION DUE DATE: Apr. 12, 2010  
BOARD OF PLANNING AND APPEALS MEETING DATE: MAY 5, 2010 <sup>3rd</sup>  
CITY COMMISSION MEETING DATE: May 25, 2010  
FILING FEE: \$ 200<sup>00</sup>

The Board of Planning and Appeals may reject your request if your plans are inaccurate or illegible or if false information is given. You may include additional documents, which may aid in your request. (I.e. drawings, surveys, photographs, etc.) **15 sets are required for submittals.**

APPLICANT NAME GORDON RICHARDS  
ADDRESS 2 DUNES CIR. ORMOND BCH FL 32176  
PHONE # 646-369-7835 BUSINESS PHONE # N/A

I have read and understand the terms and provision of this application:

  
Applicant's Signature

04/12/2010  
Date

TYPE OF REQUEST: VARIANCE - SINGLE FAMILY (R1-R-9)

APPLICANTS NAME: GORDON RICHARDS

HOME ADDRESS: 2 DUNES CIR, ORMOND BEACH, FL 32176

CONTACT NUMBER(S): 646-369-7835 gordonrpost@yahoo.com

ADDRESS WHERE ACTION IS BEING REQUESTED:

435 SILVER BEACH DRIVE

HOLLY HILL, FL

TAX PARCEL NUMBER: 37-15-33-35-00-0020

LEGAL DESCRIPTION: \_\_\_\_\_

LOT 2, WESTWARD SHORES, MB 19, PG 151 SHORE ACRES  
HOLLY HILL // PER OR 4171 PG 2853

DESCRIBE BELOW THE NATURE OF YOUR REQUEST:

(see continuation sheet next page)

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#### Nature of Request (cont.)

The first action is to request a variance of five (5) feet necessary to add a third car garage on the west side of the structure. It will allow overnight indoor storage of our personnel vehicles.

A second request is for a variance of twelve (12) feet on the rear of the property to accommodate two 12x12 all season sunrooms; one off the master bedroom; and the other off the kitchen creating a badly needed office for our home-based computer consulting business.

The current lot is a non-conforming undersized lot; 100 feet deep with an additional cut out on the SE corner for a neighbor's driveway access. It encompasses 9629 sqft, and is 1871 sqft short of the standard 115x100 Holly Hill residential lot.

This property will be my primary residence and I intend to move in upon completion of the project. I am requesting the Board approve the above variances which will allow an additional 484 sqft of floor space and permit this home improvement project to move forward.



**V-10-05-02**

**Variance**

**207 8<sup>th</sup> Street**

✦ **7' relief from required 25' corner lot setback**

***Applicant – Harry Abrahamson, (Property Owner)***

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# STAFF REPORT

## City of Holly Hill Community Development Department

**DATE:** May 5, 2010  
**SUBJECT:** V-10-05-02: (207 8<sup>th</sup> Street)  
**APPLICANT:** Harry Abrahamson  
**PLANNER:** Douglas M. Gutierrez, AICP

### INTRODUCTION:

The applicant is requesting a variance to permit a seven foot (7') relief from the required twenty-five foot (25') corner lot setback. The variance request is to allow an addition to the side of the dwelling unit.

### BACKGROUND:

The lot is a legally non-conforming lot of record. The R-3 Zoning District requires a minimum lot size of 60' x 100', the subject property is approximately 72' x 80'. The subject property is designated as LDSFR – "Low Density Single Family Residential" on the City of Holly Hill's Future Land Use Map (FLUM) and is zoned R-3 (Medium Density Single Family Residential) on the City of Holly Hill's Official Zoning Map. The site's zoning designation is consistent with the Future Land Use designation. The adjacent land uses and zoning are as follows:

	Current Land Uses	Future Land Use Designation	Zoning
<b>North</b>	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-3 (Medium Density Single family Residential)
<b>South</b>	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-3 (Medium Density Single family Residential)
<b>East</b>	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-3 (Medium Density Single family Residential))
<b>West</b>	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-3 (Medium Density Single family Residential)

## Site Information

1. Tax Parcel No: 4242-60-04-0040
2. Property Address: 207 8<sup>th</sup> Street
3. Acreage: *Approximately 0.13 Acres (5,760 sf)*
4. Letters/Phone Calls in Favor or Opposition: *The City has not received letters or phone calls from individual property owners opposed to the variance at the time of this report.*

## DISCUSSION:

The applicant is requesting relief of 7' from the applicable 25' corner lot setback for a lot in the R-3 zoning district. Corner lots have two front yard setbacks on the sides that abut the roadways and two side yard setbacks. The setbacks for the R-3 zoning district are 25" front yard setback and seven and a half (7.5) feet side yard setback. The purpose of this variance is to permit an addition to the side of the primary residence. The proposed addition will not collectively exceed the maximum lot coverage of 35%.

## CONCLUSION:

The purpose of a Variance is to relieve an owner from strict adherence to certain provisions of the code under such circumstances that strict compliance with such provisions would deprive an owner of the reasonable use of property allowed by the zoning district regulations in which the property is located, where the circumstances arise from an undue hardship - a special condition or circumstance peculiar to the property which rises to a level that warrants the amount of variance relief requested - that is not economic in nature and that is not created by the owner of the property.

There are certain criteria that must be evaluated before a variance can be approved. According to the Land Development Regulations (82-317 LDR), the Board of Planning and Appeals and ultimately the City Commission, in making its determination for a variance, shall consider all of the following criteria:

- 1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, as distinguished from the applicant himself, and which are not applicable to other lands, structures or buildings in the same zoning district;**

The property is substandard in depth, making it difficult to comply with setback requirements for the R-3 zoning district. The minimum lot depth for R-3 is 100 feet, the depth of the property is 80 feet.

- 2. That the special conditions and circumstances do not result from the applicant's own actions**

The dwelling was built in 1985 according to the property appraiser's records. Based on this, it appears that the property has not been modified since then and the applicant did not create the special condition and circumstance. The size of the property and the setback requirement created a hardship that was not from the result of the owners actions.

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

The variance does not confer special privileges to the applicant that is denied by the Land Development Regulations. If the property was a conforming sized lot, the applicant would not require a variance.

- 4. That a literal interpretation of the provisions of this subpart would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this subpart, and would work an unnecessary and undue hardship on the applicant**

Approval of the requested variance would allow the applicant the same rights enjoyed by other properties in the same zoning district with a typically configured corner lot. The strict adherence to the applicable corner lot setback would impose an undue hardship due to the lot dimension of the property.

- 5. That the variance granted is the minimum variance necessary to make possible the reasonable use of the land, building or structure**

The requested variance would be the minimum necessary and still allow the reasonable use of the property and structure.

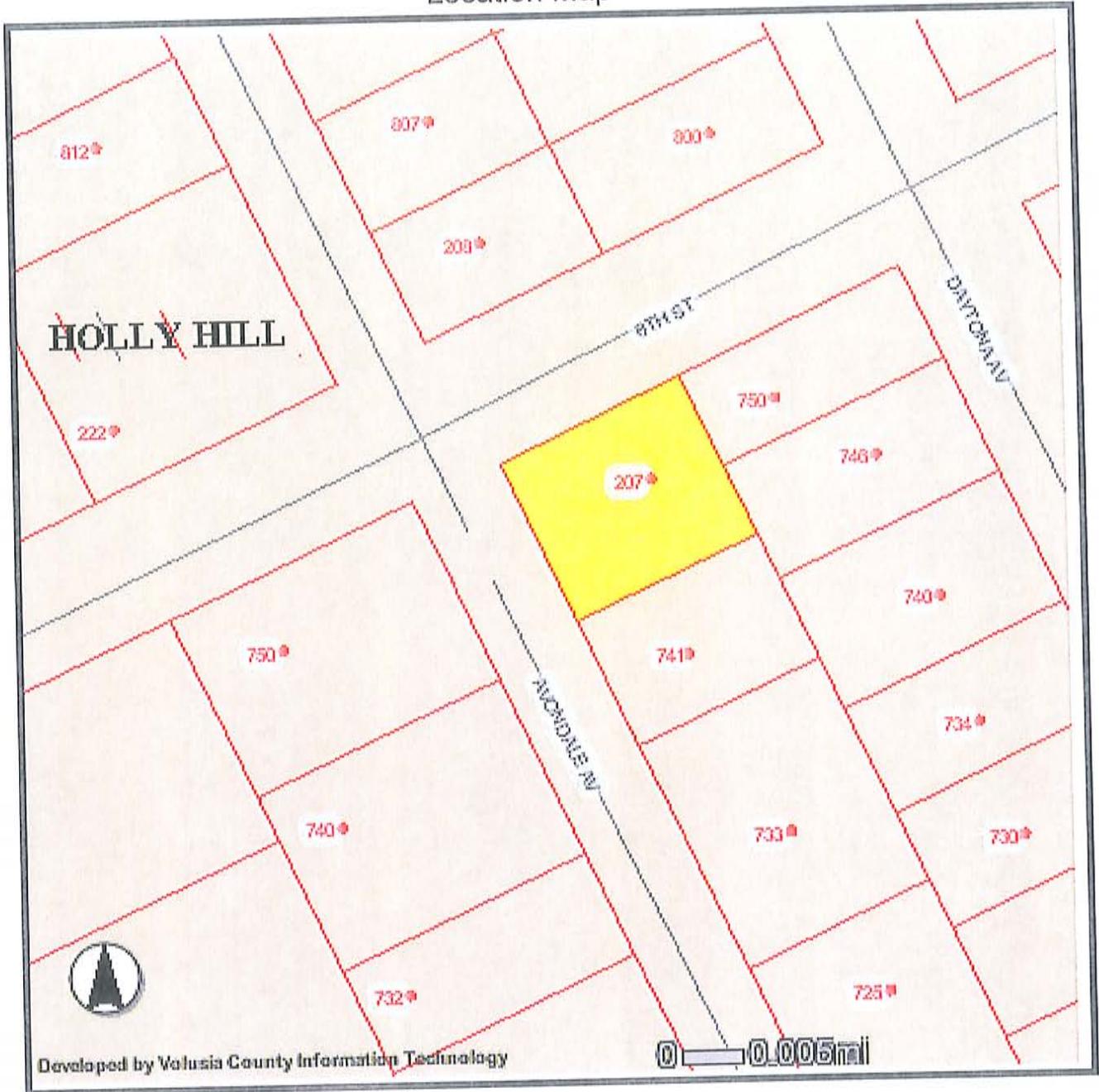
- 6. That the grant of the variance will be in harmony with the general intent and purpose of this subpart and the city's comprehensive plan, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare**

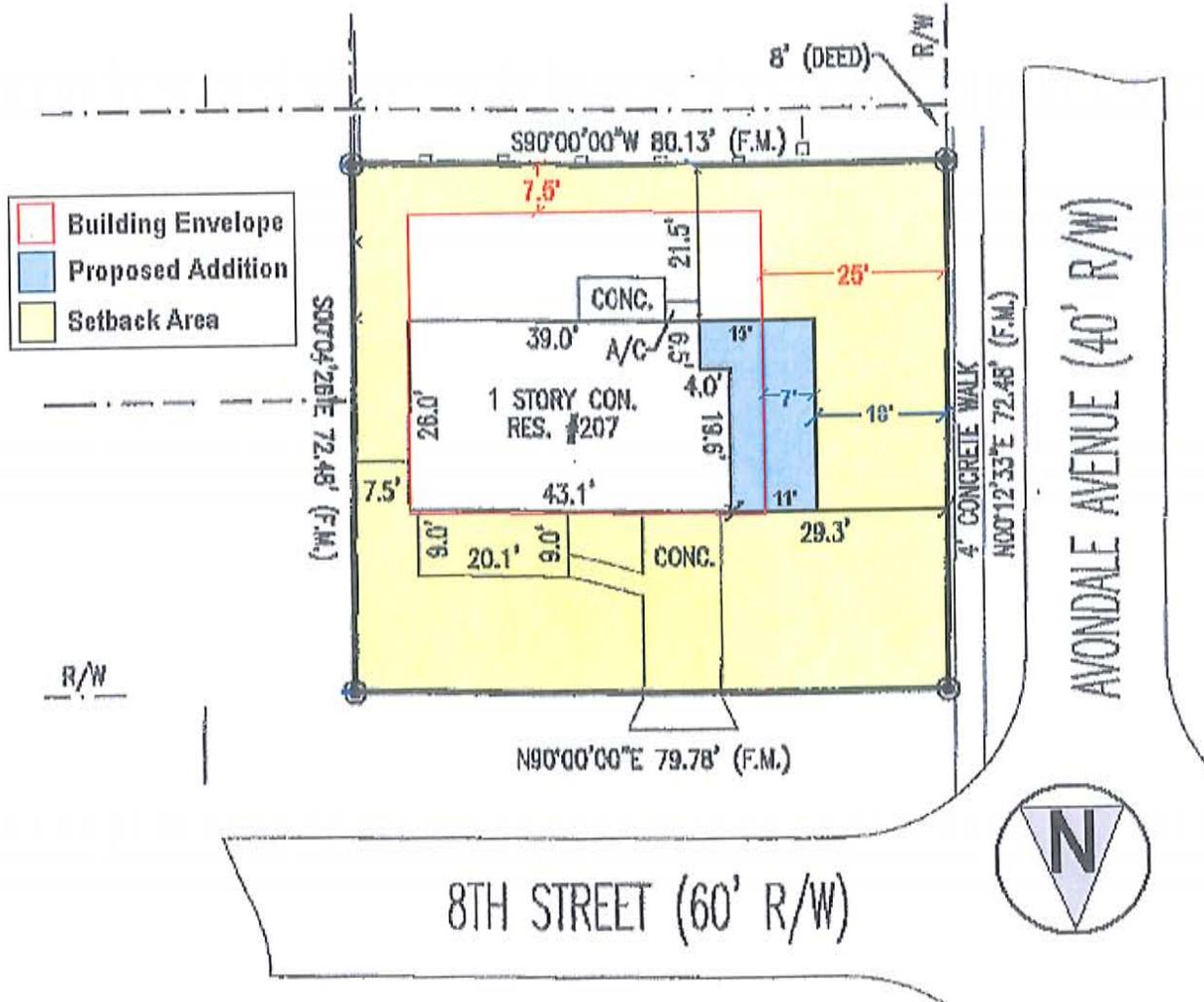
The proposed variance request will not diminish property values. The application will not alter the residential nature of the surrounding community and is consistent with existing development patterns.

**RECOMMENDATION:**

In accordance with Section 82-321 *Limitation of power to grant* "...A variance may be granted only if the applicant meets **all** of the criteria listed in section 82-317". Therefore, it is staff's recommendation that the Board recommend to the City Commission **APPROVAL** the variance application, because it does satisfy the all criteria for granting a variance:

### Location Map





CITY OF HOLLY HILL  
BUILDING & ZONING DEPARTMENT  
Phone (386) 248-9442 – Fax (386) 248-9498  
BOARD OF PLANNING AND APPEALS  
SUBMITTAL AND MEETING DATES

All determinations made by the Board of Planning and Appeals are advisory to the City Commission. The City Commission within 30 days will hear recommendations and actions approved by the Board of Planning and Appeals.

APPLICATION DUE DATE: April 12, 2010

BOARD OF PLANNING AND APPEALS MEETING DATE: May 3<sup>rd</sup> 2010

CITY COMMISSION MEETING DATE: May 25, 2010

FILING FEE: \$ 200<sup>-</sup>

The Board of Planning and Appeals may reject your request if your plans are inaccurate or illegible or if false information is given. You may include additional documents, which may aid in your request. (I.e. drawings, surveys, photographs, etc.) **15 sets are required for submittals.**

APPLICANT NAME HARRY ABRAHAMSEN

ADDRESS 207 8<sup>TH</sup> STREET, HOLLY HILL, FL, 32117

PHONE # 386-492-7339 BUSINESS PHONE # \_\_\_\_\_

I have read and understand the terms and provision of this application:

Harry Abrahamson  
Applicant's Signature

APRIL 9, 2010  
Date

TYPE OF REQUEST: VARIANCE

APPLICANTS NAME: HARRY ABRAHAMSEN

HOME ADDRESS: 207 8<sup>TH</sup> STREET, HOLLY HILL, FL. 32112

CONTACT NUMBER(S): 386-492-7339

ADDRESS WHERE ACTION IS BEING REQUESTED:

207 8<sup>TH</sup> STREET

HOLLY HILL, FLORIDA 32117

TAX PARCEL NUMBER: 4242.60-04.0040

LEGAL DESCRIPTION: SINGLE FAMILY RESIDENT

CORNER LOT

DESCRIBE BELOW THE NATURE OF YOUR REQUEST:

ADD EXERCISE ROOM ON WEST  
SIDE OF HOUSE NEXT TO GARAGE



**V-10-05-03**

**Variance**

121 Flomich Avenue

- ✦ 10' relief from required 30' rear yard setback

*Applicant – Edward Heaphy, (Property Owner)*

---



# STAFF REPORT

## City of Holly Hill Community Development Department

**DATE:** May 5, 2010  
**SUBJECT:** V-10-05-03: (121 Flomich Avenue)  
**APPLICANT:** Edward Heaphy  
**PLANNER:** Douglas M. Gutierrez, AICP

### INTRODUCTION:

The applicant is requesting a variance to permit a ten foot (10') relief from the required thirty foot (30') rear setback. The variance request is to allow an addition to the rear of the dwelling unit.

### BACKGROUND:

The lot is a legally non-conforming lot of record. The R-1 Zoning District requires a minimum lot size of 90' x 115'; the subject property is approximately 75' x 100' lot. The subject property is designated as LDSFR – "Low Density Single Family Residential" on the City of Holly Hill's Future Land Use Map (FLUM) and is zoned R- (Low Density Single Family Residential) on the City of Holly Hill's Official Zoning Map. The site's zoning designation is consistent with the Future Land Use designation. The adjacent land uses and zoning are as follows:

	Current Land Uses	Future Land Use Designation	Zoning
North	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-1 (Low Density Single family Residential)
South	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-1 (Low Density Single family Residential)
East	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-1 (Low Density Single family Residential)
West	Single Family Dwelling	LDSFR – "Low Density Single Family Residential"	R-1 (Low Density Single family Residential)

Site Information

1. Tax Parcel No: 4243-04-00-0120
2. Property Address: 121 Flomich avenue
3. Acreage: *Approximately 0.17 Acres (7,500 sf)*
4. Letters/Phone Calls in Favor or Opposition: *The City has received no letters or phone calls from individual property owners opposed to the variance at the time of this report.*

### **DISCUSSION:**

The applicant is requesting relief of 10' from the applicable 30' rear setback for a lot in the R-1 zoning district. The purpose of this variance is to permit the addition to the rear of the primary residence. The applicant proposes to use this addition for a bedroom with bath room for his family. The lot is 15' less than the applicable 115' lot depth in the R-1 zoning district.

### **CONCLUSION:**

The purpose of a Variance is to relieve an owner from strict adherence to certain provisions of the code under such circumstances that strict compliance with such provisions would deprive an owner of the reasonable use of property allowed by the zoning district regulations in which the property is located, where the circumstances arise from an undue hardship - a special condition or circumstance peculiar to the property which rises to a level that warrants the amount of variance relief requested - that is not economic in nature and that is not created by the owner of the property.

There are certain criteria that must be evaluated before a variance can be approved. According to the Land Development Regulations (82-317 LDR), the Board of Planning and Appeals and ultimately the City Commission, in making its determination for a variance, shall consider all of the following criteria:

- 1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, as distinguished from the applicant himself, and which are not applicable to other lands, structures or buildings in the same zoning district;**

The property is substandard in depth and width, making it difficult to comply with setback requirements. The minimum lot depth for R-1 is 115 feet; the depth of the property is 100 feet.

- 2. That the special conditions and circumstances do not result from the applicant's own actions**

The dwelling was built in 1953 according to the property appraiser's records. Based on this, it appears that the property has not been modified since then and the applicant did not create the special condition and circumstance. The size of the property and the setback requirement created a hardship that was not from the result of the owners actions.

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

The variance does not confer special privileges to the applicant that is denied by the Land Development Regulations. If the property was a conforming sized lot, the applicant would not require a variance.

- 4. That a literal interpretation of the provisions of this subpart would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this subpart, and would work an unnecessary and undue hardship on the applicant**

Approval of the requested variance would allow the applicant the same rights enjoyed by other properties in the same zoning district with a typically configured lot. The strict adherence to the applicable rear setback would impose an undue hardship due to the substandard depth of the property.

- 5. That the variance granted is the minimum variance necessary to make possible the reasonable use of the land, building or structure**

The requested variance would be the minimum necessary and still allow the reasonable use of the property and structure.

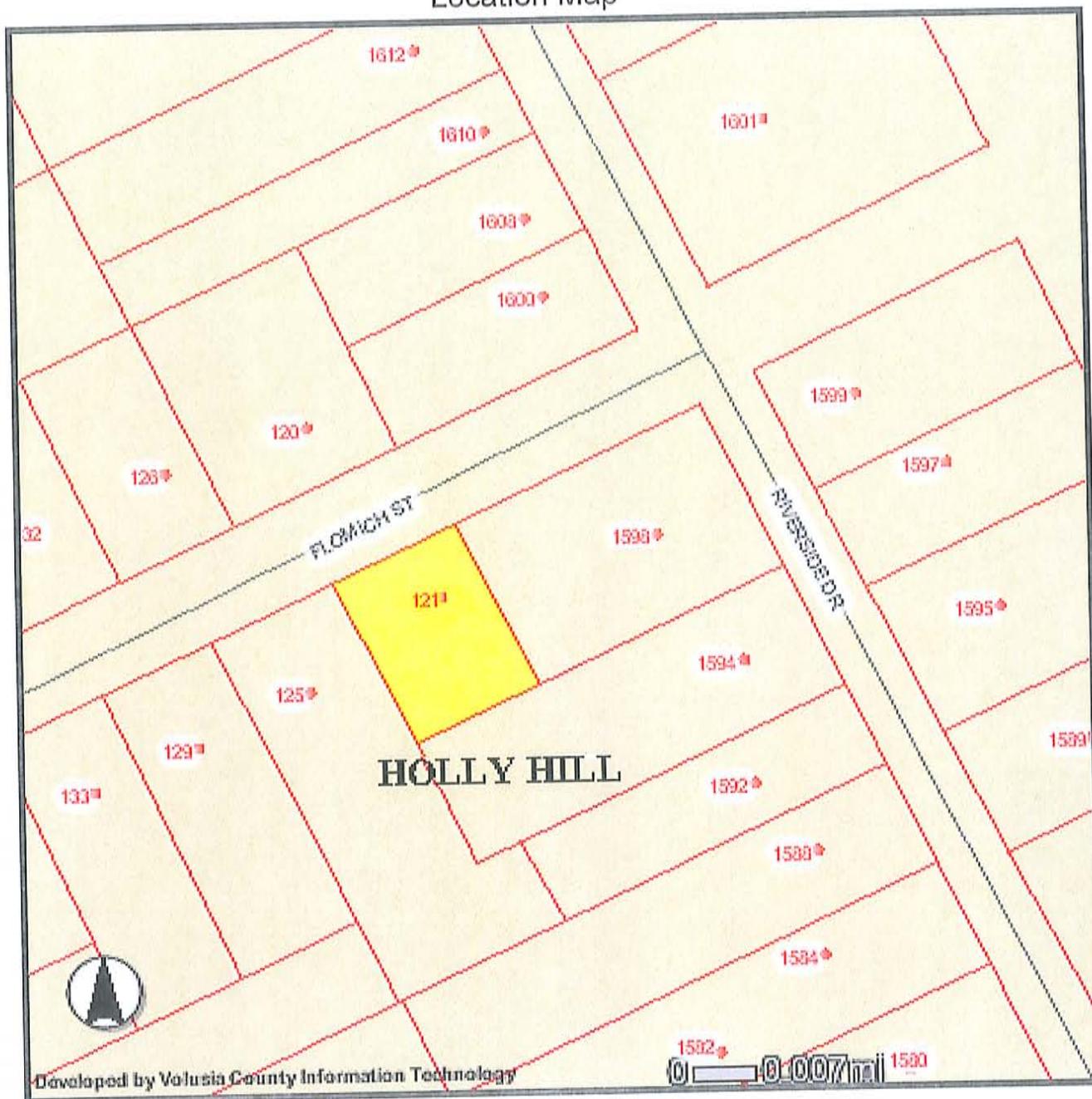
- 6. That the grant of the variance will be in harmony with the general intent and purpose of this subpart and the city's comprehensive plan, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare**

The proposed variance request will not diminish property values. The application will not alter the residential nature of the surrounding community and is consistent with existing development patterns.

#### **RECOMMENDATION:**

In accordance with Section 82-321 *Limitation of power to grant* "...A variance may be granted only if the applicant meets **all** of the criteria listed in section 82-317". Therefore, it is staff's recommendation that the Board recommend to the City Commission **APPROVAL** of the variance application, because it does satisfy the all criteria for granting a variance:

### Location Map





CITY OF HOLLY HILL  
BUILDING & ZONING DEPARTMENT  
Phone (386) 248-9442 – Fax (386) 248-9498  
BOARD OF PLANNING AND APPEALS  
SUBMITTAL AND MEETING DATES

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The Board of Planning and Appeals may reject your request if your plans are inaccurate or illegible or if false information is given. You may include additional documents, which may aid in your request. (I.e. drawings, surveys, photographs, etc.) **15 sets are required for submittals.**

APPLICANT NAME EDWARD P. HEAPHY  
ADDRESS 121 FLOMICH ST  
PHONE # 386-295-6835 BUSINESS PHONE # \_\_\_\_\_

I have read and understand the terms and provision of this application:

  
Applicant's Signature

4/8/10  
Date

TYPE OF REQUEST: VARIANCE

APPLICANTS NAME: \_\_\_\_\_

HOME ADDRESS: 121 FLOMICHA ST.

CONTACT NUMBER(S): 386-295-6835

ADDRESS WHERE ACTION IS BEING REQUESTED:

SAME

TAX PARCEL NUMBER: 4243-04-00-0120

LEGAL DESCRIPTION: Lot 12 PRICE SUB MB9 Pg 281

PER OR 1734 Pg 1923 PER OR 5533 Pg 1543

DESCRIBE BELOW THE NATURE OF YOUR REQUEST:

WE NEED TO AD A BEDROOM AND A BATH TO  
THE BACK OF OUR HOME. THE CURRENT SETBACK  
OF 30' WOULD MAKE THIS IMPOSSIBLE. WE ARE  
REQUESTING A VARIANCE OF 10' FROM <sup>REAR</sup> THE SETBACK WHICH WOULD  
ALLOW US TO BUILD UP TO WITHIN 20' OF OUR  
BACK PROPERTY LINE.



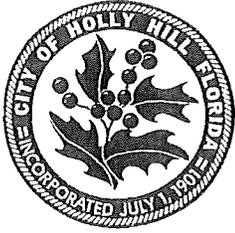
**LDR-10-05-01**

**Amendment to Land Development  
Regulations**

**Chapter 82 – Administration  
Article V – Appeals, Variances, Special Exceptions  
& Amendments  
Division 3 – Variances**

**Creating New Section 82-322  
Evaluation of Request for Accommodations**

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# STAFF REPORT

## City of Holly Hill Community Development Department

### *Board of Planning and Appeals Agenda Item*

**DATE:** May 3, 2009

**SUBJECT:** Amendment to the Code of Ordinances – Chapter 82 Administration, Article V. Appeals, Variances, Special Exceptions and Amendments Division 3 – Variances, creating new Section 82-322 Evaluation of Request for Accommodation Pursuant to the Fair Housing Act.

**APPLICANT:** Administrative

**NUMBER:** LDR-10-05-01

**PLANNER:** Doug Gutierrez, AICP, Community Development Director

#### **INTRODUCTION:**

This is an administrative request to amend the Code of Ordinances, Chapter 82 Administration, Article V. Appeals, Variances, Special Exceptions and Amendments, Division 3 – Variances, creating new Section 82-322 Evaluation of Request for Accommodation Pursuant to the Fair Housing Act to create a variance process for disabled or handicapped individuals to request for reasonable accommodations from the City regulations to allow equal opportunity to use and enjoyment of a dwelling.

#### **BACKGROUND:**

Staff proposes to establish a variance process for addiction recovery facilities. The Federal Fair Housing Act requires that a local governmental has to make reasonable accommodations in their rules, policies, practices or services when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.

When regulating these types of facilities, the City must be cognizant of both the Fair Housing Act and the American with Disabilities Act. Recovering alcoholics and drug users do fall under the definition of handicap under the Fair Housing Act and as disabled under the ADA. To pursue a claim under the Fair Housing Act the property owner must request the local government to provide a reasonable accommodation to the rules, policy, practice, etc., that would prohibit the addiction recovery facility. The proposed amendment establishes a variance process for the City to review and consideration such a request.

Court cases have held that before a local government can be sued for violating the above provision of the Fair Housing Act, a request must be made to the local governmental entity for a reasonable accommodation through the local governments established procedures used to adjust the rules, policy, practices or service in question. The City's current variance process requires a variance request to be reviewed based on certain criteria, which may not be applicable to a request for a reasonable accommodation under the Fair Housing Act.

The proposed amendment creates Section 82-322 Evaluation of Request for Accommodations Pursuant to the Fair Housing Act to read as follows:

## **Section 82-322. (Evaluation of Request for Accommodation Pursuant to the Fair Housing Act.)**

- (1) A request may be made by the property owner or authorized representative for a request for an accommodation from the City's rules, policy, practices or service to allow a handicapped person or persons to have equal opportunity to use and enjoy a dwelling. The request shall be on an approved form issued by the City and must contain the following:
- a) Proof of ownership of the property which the request is being made or authorization from the property owner.
  - b) Specifically identify the rules, policies, practices or services from which relief is being requested.
  - c) Identify the nature of the disability of the occupants of the dwelling.
  - d) Outline the minimum relief that is necessary to allow a handicapped person to use and enjoy the dwelling.
  - e) Described in detail how the requested relief is necessary to allow a person with the above identified disability to be able to reasonably use and enjoy the dwelling.
  - f) Access must be granted to the necessary City employees to inspect the dwelling.
- 2) The City shall evaluate all necessary criteria, facts, rules, laws, etc., to make a determination as to whether the requested accommodation is reasonable, including but not limited to:
- a) The policies and objectives of the City's Comprehensive Plan including the Future Land Use designation of the property in question.
  - b) The permitted uses, conditional uses and special exceptions allowed for the zoning designation of the property in question.
  - c) The surrounding neighborhood, including zoning and future land use designations of the surrounding area.
  - d) The capacity of existing City utilities and infrastructures to accommodate the requested use.
  - e) Existing traffic patterns and traffic problems in the area that currently exists or may become a problem if the requested relief were granted.
  - f) Potential for noise, dust or other impacts to the neighborhood.
  - g) Ability of the existing dwelling to accommodate the requested variation, including bedrooms, bathrooms, outside parking and existing compliance with current building codes to determine the existence of any life and safety issues.
  - h) The existence of any current code violations.
- 3) The Board of Planning and Appeals shall review the application and all relevant facts and laws and make a recommendation to the City Commission to approve, deny or approve with conditions. The City Commission shall make the final determination.

### **RECOMMENDATION:**

Staff recommends that the Board of Planning and Appeals recommend to the Commission to **Approve** the proposed amendment to Chapter 82 Administration, Division 3 Variances, creating Section 82-322 Evaluation of Request for Accommodation Pursuant to the Fair Housing Act.



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## City of Holly Hill Community Development Department

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**NUMBER:** LDR-10-05-01

**PLANNER:** Doug Gutierrez, AICP

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  - c) The surrounding neighborhood, including zoning and future land use designations of the surrounding area.
  - d) The capacity of existing City utilities and infrastructures to accommodate the requested use.
  - e) Existing traffic patterns and traffic problems in the area that currently exists or may become a problem if the requested relief were granted.
  - f) Potential for noise, dust or other impacts to the neighborhood.
  - g) Ability of the existing dwelling to accommodate the requested variation, including bedrooms, bathrooms, outside parking and existing compliance with current building codes to determine the existence of any life and safety issues.
  - h) The existence of any current code violations.
- 3) The Board of Planning and Appeals shall review the application and all relevant facts and laws and make a recommendation to the City Commission to approve, deny or approve with conditions. The City Commission shall make the final determination.

**RECOMMENDATION:**

Staff recommends that the Board of Planning and Appeals recommend to the Commission to **Approve** the proposed amendment to Chapter 82 Administration, Division 3 Variances, creating Section 82-322 Evaluation of Request for Accommodation Pursuant to the Fair Housing Act.



**LDR-10-05-02**

**Amendment to Land Development  
Regulations**

**Chapter 78 – General Provisions**

**Section 78-14 Definitions  
“Vehicles”**

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# STAFF REPORT

## City of Holly Hill Community Development Department

### *Board of Planning and Appeals Agenda Item*

**DATE:** May 3, 2009  
**SUBJECT:** Amendment to the Code of Ordinances – Chapter 78  
General Provisions, Section 78-14 Definitions.  
**APPLICANT:** Administrative  
**NUMBER:** LDR-10-05-02  
**PLANNER:** Doug Gutierrez, AICP

#### **INTRODUCTION:**

This is an administrative request to amend the Code of Ordinances, Chapter 78 General Provisions, Section 78-14 Definitions regarding vehicles.

#### **BACKGROUND:**

At the April 13, 2010 Commission meeting, the proprietor of Hawke Scooters Mr. Jerry Furman, questioned the validity of scooters to be included in the definition of vehicles under Section 78-14 "Definitions". Mr. Furman had been cited by code enforcement for violating the prohibition of motor vehicle sales in the CRA Overlay District. Currently the CRA Overlay District prohibits certain uses on properties adjacent to (US 1), section 114-635. prohibits motor vehicle, marine, boat, trailer sales and rentals except when entirely enclosed and motor vehicle and marine/boat services and repair, among other uses. Section 78-14 "Definitions" includes scooters under the definition for vehicles. Mr. Furman stated that scooters and off road vehicles such as ATV and dirt bikes should not be considered as motor vehicles because they do not require a license to operate nor do they require Department of Motor Vehicles (DMV) license to sell them. The Commission had consensus to give the City Manager direction to amend the definition of vehicles to exclude scooters, ATV's and dirt bikes.

#### **CHAPTER 78 GENERAL PROVISIONS Sec. 78-14. Definitions.**

**Vehicle** means any self-propelled conveyance designed and used for the purpose of transporting or moving persons, animals, freight, merchandise or any substance on land, and shall include passenger cars, trucks, buses, and motorcycles ~~and scooters~~, but shall not include motorized bicycles, scooters under 50 cc motor displacement, mopeds, off-highway vehicles, tractors, construction equipment or machinery, or any device used in performing a job as stated in this definition.

#### **RECOMMENDATION:**

Staff recommends that the Board of Planning and Appeals recommend to the Commission to **Approve** the proposed amendment to Chapter 78 General Provisions, Section 78-14 Definitions.