

AGENDA

BOARD OF ADJUSTMENT & APPEALS REGULAR MEETING



Wednesday, January 31, 2024 AT 9:30 AM

TOWN OF HIGHLAND BEACH, FLORIDA
3614 S. OCEAN BOULEVARD
HIGHLAND BEACH, FL 33487
Telephone: (561) 278-4548

Website: www.highlandbeach.us

Library Community Room

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE OF ALLEGIANCE**
4. **APPROVAL OF THE AGENDA**
5. **SWEARING IN OF THE PUBLIC**
6. **APPROVAL OF MINUTES**

A. October 07, 2021

7. **UNFINISHED BUSINESS**

None.

8. **NEW BUSINESS**

A. Welcome New Members

Joel Leinson

Todd Weiss

Michael R. Thorson

Harris Rosen

- B. Nomination of Chairperson
- C. Nomination of Vice Chairperson
- D. Nomination of Secretary
- E. Application No. 23-2790 / Frank and Laura Troiano

Consideration of Application No. 23-2790 by Frank and Laura Troiano for a variance from Section 30-103(D) and Section 30-64 of the Town Code of Ordinances to create a lot with a minimum lot width of 68.06 feet in lieu of the required 80 foot minimum lot width for a single-family dwelling in the Residential Multiple Family Low Density (RML) Zoning District for the property located at 4611 South Ocean Boulevard (west side of State Road A1A).

- F. Government in the Sunshine Law Orientation

9. ANNOUNCEMENTS

- | | | |
|-------------------|-----------|--|
| February 01, 2024 | 6:00 P.M. | Palm Beach County Community Meeting
hosted by County Commissioner Marci
Woodward, District 4 |
| February 06, 2024 | 1:30 P.M. | Town Commission Meeting |
| February 07, 2024 | 9:30 P.M. | Natural Resources Preservation Advisory
Board Regular Meeting |
| February 13, 2024 | 1:00 P.M. | Code Enforcement Board Regular Meeting |
| February 20, 2024 | 1:30 P.M. | Town Commission Meeting |

10. ADJOURNMENT

Any person that decides to appeal any decision made by the Board of Adjustment & Appeals with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record including testimony and evidence upon which the appeal is based. (State Law requires the above Notice. Any person desiring a verbatim transcript shall have the responsibility, at his/her own cost, to arrange for the transcript.) The Town neither provides nor prepares such a record. There may be one or more Town Commissioners attending the meeting.

In accordance with the Americans with Disabilities Act (ADA), persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at (561) 278-4548 within a reasonable time prior to this meeting in order to request such assistance.

File Attachments for Item:

A. October 07, 2021

DRAFT



TOWN OF HIGHLAND BEACH TOWN BOARD OF ADJUSTMENT & APPEALS REGULAR MEETING MINUTES

Town Hall / Commission Chambers
3614 South Ocean Boulevard
Highland Beach, Florida 33487

Date: October 07, 2021
Time: 9:30 AM

1. CALL TO ORDER

Chairperson Pikkell called the meeting to order at 9:30 A.M.

2. PRESENT UPON ROLL CALL

Member William Spruce
Secretary Eve Rosen
Vice Chairperson Fred Rosen
Chairperson Bonnie Pikkell
Member Barbara Penn
Member Joel Leinson (virtually)
Member Richard Bailyn
Town Attorney Leonard Rubin
Town Clerk Lanelda Gaskins

ADDITIONAL STAFF PRESENT

Town Planner Ingrid Allen

3. PLEDGE OF ALLEGIANCE

The Board led the Pledge of Allegiance to the United States of America.

4. APPROVAL OF THE AGENDA

MOTION: F. Rosen/E. Rosen - Moved to approve the agenda as presented, which passed unanimously 7 to 0.

5. SWEARING IN OF THE PUBLIC

Town Clerk Gaskins swore in witnesses giving testimonies on Variance Application No. 21-0007.

6. PUBLIC COMMENT *(limited to three (3) minutes per speaker)*

There were no public comments.

7. APPROVAL OF MINUTES

A. June 09, 2020

MOTION: E. Rosen - Moved to approve the June 09, 2020, Minutes, which passed unanimously 7 to 0.

8. UNFINISHED BUSINESS

A. None.

9. NEW BUSINESS

A. Welcome New Members Joel Leinson and William Spruce

Chairperson Pikkell welcomed Members Joel Leinson and William Spruce to the Board of Adjustment and Appeals.

B. Nomination of Chairperson

Chairperson Pikkell called for a motion to nominate a Chairperson.

MOTION: F. Rosen/Spruce - Moved to nominate Bonnie Pikkell as the Chairperson for a one-year term, ending October 7, 2022. The motion passed unanimously 7 to 0.

C. Nomination of Vice Chairperson

Chairperson Pikkell called for a motion to nominate a Vice Chairperson.

MOTION: Bailyn - Moved to nominate Fred Rosen as the Vice Chairperson for a one-year term, ending October 07, 2022, which passed unanimously 7 to 0.

D. Nomination of Secretary

Chairperson Pikkell called for a motion to Nominate a Secretary.

MOTION: F. Rosen/Spruce - Moved to nominate Eve Rosen as the Secretary for a one-year term, ending October 07, 2022, which passed unanimously 7 to 0.

E. Variance Application 21-0007 (Brian and Jennifer Kessler)

An application by Smith Architectural Group and Kochman & Ziska PLC for a variance approval to allow a reduction in the width of vehicular access to a public right-of-way from 25 feet to 16 feet for a property located at 2475 South Ocean Boulevard.

Chairperson Pikkell read the title of Variance Application No. 21-007. She asked the Members to disclose any ex parte communications, and there were none. Chairperson Pikkell opened the item for public hearing.

Town Planner Allen presented this item along with a PowerPoint presentation. She indicated if the Board decides to approve the Applicants variance request, the Applicants will be required to obtain a building permit prior to initiation of construction, from the Town of Highland Beach's Building Department.

Following the presentation, discussion ensued by the Board Members and Town Staff regarding the Variance application.

Attorney Amy D. Bahl with Kochman & Ziska PLC, the representative for the applicants spoke about the Variance Application No. 21-007 including the Town's code of ordinance and granting of the variance as it relates to the 16-foot driveway. Also present, was Sophia Bacon with Smith Architectural Group, another representative for the applicants.

There being no further comments or questions, Chairperson Pikkell closed the public hearing. She called for a motion to approve; a motion to approve with conditions; or a motion to deny the request.

MOTION: F. Rosen/ E. Rosen - Moved to approve Variance Application No. 21-0007. Upon roll call: Vice Chairperson F. Rosen (Yes); Members E. Rosen (Yes), Spruce (Yes), Leinson (Yes), Penn (Yes), Chairperson Pikkell (Yes), and Member Bailyn (Yes). The motion passed on a 7 to 0 vote.

10. ANNOUNCEMENTS

Chairperson Pikkell read the announcements as follows:

October 11, 2021 - Town Hall Closed in Observance of Columbus Day

October 12, 2021 - 2:00 P.M. Code Enforcement Board Meeting

October 14, 2021 - 9:30 A.M. Planning Board Regular Meeting

October 19, 2021 - 1:30 P.M. Town Commission Meeting

11. ADJOURNMENT

The meeting adjourned at 10:09 A.M.

APPROVED: January 31, 2024, Board of Adjustment & Appeals Regular Meeting

ATTEST:

Bonnie Pikkell, Chairperson

Transcribed by: Lanelda Gaskins

Lanelda Gaskins, MMC
Town Clerk

Date

Disclaimer: Effective May 19, 2020, per Resolution No. 20-008, all meeting minutes are transcribed as a brief summary reflecting the event of the meeting. Verbatim audio/video of this meeting can be found on the town's Media Archives & Minutes webpage: <https://highlandbeach-fl.municodemeetings.com/>.

File Attachments for Item:

B. Nomination of Chairperson, Vice Chairperson and Secretary



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Board of Adjustment of Appeals Board Regular Meeting
MEETING DATE 01/31/2023
SUBMITTED BY: Lanelda Gaskins, MMC, Town Clerk
SUBJECT: **Nomination of Chairperson, Vice Chairperson and Secretary**

SUMMARY:

On June 09, 2020, Ms. Bonnie Pikkell, Mr. Fred Rosen and Ms. Eve Rosen were nominated as the Chairperson, Vice Chairperson, and Secretary of the Board of Adjustment and Appeals Board; all have served in the positions for the allotted one-year terms. Therefore, this matter is being brought before the Board for discussion and nomination to fill both vacant positions for one-year terms, ending March 01, 2025. Please note, Chairperson Pikkell term will end on June 15, 2024. She will have served two consecutive three year terms and is not eligible for reappointment nor eligible to be nominated as the Chairperson.

According to Resolution No. 19-029 R, - Advisory Board and Committees Appointment Process Policy, Section 9, it should be common practice that no member shall serve as chair until he or she has served for one full year on the advisory board unless no existing member is willing to serve as chairperson, vice chairperson or secretary.

FISCAL IMPACT:

None.

ATTACHMENTS:

Resolution No. 19-029 R

RECOMMENDATION:

Staff recommends nomination of a Chairperson, a Vice Chairperson and a Secretary to serve for one year, ending March 01, 2025.



**TOWN OF HIGHLAND BEACH
RESOLUTION NO. 19-029 R**

**A RESOLUTION OF THE TOWN COMMISSION OF THE
TOWN OF HIGHLAND BEACH, FLORIDA, ADOPTING AN
ADVISORY BOARDS AND COMMITTEES APPOINTMENT
PROCESS POLICY; AND PROVIDING AN EFFECTIVE
DATE.**

WHEREAS, the Town of Highland Beach, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town has several boards and committees who fulfill a vital role in assisting the Town Commission with executing Town business; and

WHEREAS, although the Town's code of ordinances generally discusses the appointment of board and committee members, the Town Commission finds that it is beneficial to set forth the Town's process regarding the appointment of members in more detail; and

WHEREAS, the Policy shall supplement the appointment processes in the Town's code of ordinances.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE
TOWN OF HIGHLAND BEACH, FLORIDA, THAT:**

SECTION 1. The above recitations are true and incorporated herein.

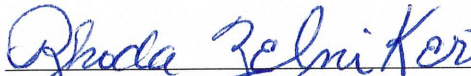
SECTION 2. The Advisory Boards and Committees Appointment Process Policy is approved, said Policy is attached hereto as **Exhibit A**.

SECTION 3. This resolution shall become effective immediately upon its passage.

**PASSED AND ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF
HIGHLAND BEACH, FLORIDA, ON THIS 3RD DAY OF OCTOBER, 2019.**

AYE NAY

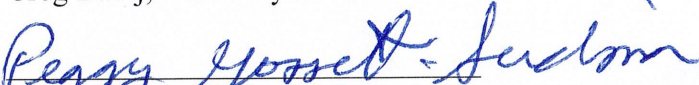
Mayor Zelniker


Rhoda Zelniker, Mayor

Vice Mayor Babij


Greg Babij, Vice Mayor

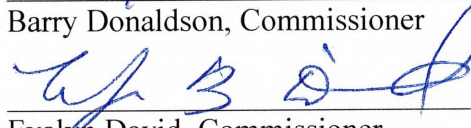
Commissioner Gossett-Seidman


Peggy Gossett-Seidman, Commissioner
Absent

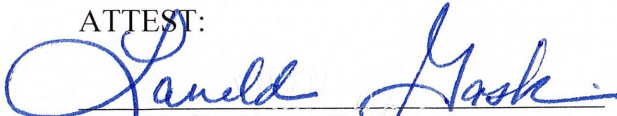
Commissioner Donaldson

Barry Donaldson, Commissioner

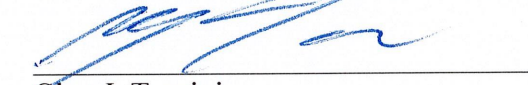
Commissioner David


Evalyn David, Commissioner

ATTEST:


Lanelda Gaskins, MMC
Town Clerk

REVIEWED FOR LEGAL SUFFICIENCY


Glen J. Torcivia,
Town Attorney



TOWN OF HIGHLAND BEACH ADVISORY BOARD & COMMITTEES APPOINTMENT PROCESS POLICY

Approved by Resolution No. 19-029 R on October 3, 2019

- 1) Purpose: This policy establishes consistent procedures and standards for the appointment of individuals to all town advisory boards and committees, and applies to individuals serving on advisory boards appointed by the Highland Beach Town Commission. This policy does not apply to temporary or ad hoc committees or to appointments made by the commission to external boards, commissions or committees. This policy shall serve as a complement to the City's code of ordinances regulating boards and committees.
- 2) Duties of Advisory Boards and Committees: Unless otherwise provided for in the City's code of ordinances, all advisory boards and committees (sometimes referred to collectively as "advisory board" or "advisory boards") shall act in an advisory capacity to the Town Commission with the exception of the Code Enforcement Board, the Planning Board and the Board of Appeals and Adjustments, which may have the final decision making authority on quasi-judicial matters. When not acting in a quasi-judicial role, all other matters of the Code Enforcement Board, the Planning Board and the Board of Adjustment and Appeals, are to be advisory.
- 3) Qualifications and Restrictions:
 - a) Applicants shall be a resident of the Town of Highland Beach and shall maintain residency while serving on an advisory board or committee. Residency for appointment to an advisory board or committee means the individual must be domiciled within the corporate limits and a registered voter of Highland Beach for at least one year prior to appointment.
 - b) No person shall serve as a regular voting member on more than one advisory board unless specific action is taken by the Town Commission and so long as said appointment does not violate Sec. 2-99 of the code. In no case shall an individual serve on two advisory boards that function as a quasi-judicial board, i.e., (1) Code Enforcement Board, (2) Planning Board or (3) Boards of Adjustment and Appeals.
 - c) Any conflict of interest between an applicant and their proposed role as a member of an advisory board shall be divulged in the application process. A failure to do so may result in removal.
 - d) Persons currently holding any elective municipal, county, state or federal office shall not be eligible to serve in a regular voting position on any advisory board. If a sitting advisory board member is elected to a Commission office, that sitting member shall resign their board position pursuant to Sec. 7-4 of the Town 's code of ordinances.
 - e) Town employees (part-time or full-time) are not eligible to serve on an advisory board, unless serving in an ex officio (non-voting) capacity.

- f) Applicants shall indicate which advisory board they are interested in on their application. If interested in more than one board, applicants shall indicate an order of preference numerically on the Town approved application with 1 being the highest preference and 5 being the lowest preference if all advisory boards are indicated.

4) Selection Process:

- a) Twice annually, during the first week of January and July, a notice inviting applications for the Town of Highland Beach shall be placed in the official newspaper of record, online (website), and emailed to Town email subscribers. Potential members will have approximately three weeks to apply, said applications to be due no later than 4:30 pm on the last Friday in January and July. The Town Commission may call for applications at additional times based on need.
- b) Persons interested in appointment or reappointment to an advisory board shall complete a Town approved application as provided by the Town on its website or at the Town Clerk's Office. Existing members seeking reappointment shall complete a new application to ensure that the Town has the most current information related to the advisory board member.
- c) Persons interested in appointment shall also submit a completed and signed background investigation waiver form. The simple background investigation would verify employment history, affiliations and memberships, financial/credit report and any criminal convictions.
- d) Applications shall be received by the Town Clerk on or before the advertised deadline. Late or incomplete applications will not be considered unless an extension is granted by action of the Town Commission. All applications will be held on file by the Town Clerk for a period of two years.
- e) Town staff will screen all applications for residency and other qualification requirements. The Police Department will conduct the simple background investigation.
- f) In February and August, Town staff will direct advisory board applications to the appropriate Advisory Board Chairs for screening and recommendation pursuant to Sec. 2-99 of the Town's code of ordinances. Advisory Board Chairs may ask applicants to attend an Advisory Board meeting for an interview conducted by the full board. Advisory Board Chairs may choose to not formally interview board members seeking reappointment and instead base their review upon the board member's performance and attendance. An Advisory Board Chair's written screening of a candidate may remain in effect for up one year.
- g) The qualifications for service on an advisory board shall be those that in the judgment of the advisory board chair are representative of the community and are qualified by training, experience, and interest for the fulfillment of the advisory board's responsibility. If the Chair feels that a particular candidate(s) not recommended for selection would be viable alternates to serve in case of vacancy, they may note those applicants to the Town Clerk as part of their report.
- h) All candidates for advisory boards along with the recommendations of the Advisory Board Chair shall be placed in a candidate pool and when a vacancy becomes available all applications shall be forwarded to Town Commission for selection and approval. The recommending Advisory Board Chair may rank candidates if more than one person applies for appointment. Any Town

Commissioner may then nominate an individual, or a slate of candidates for a public interview at the upcoming commission meeting. Votes via a signed ballot process will be taken by Town Commission until all vacancies are filled.

- i) The Town Commission has the ability to nominate and appoint any of the candidates within the applicant pool. The Town Commission will make every effort to ensure an advisory board does not have a majority of members from a single neighborhood, condominium association or group of condominium associations collectively referred to as a single condominium association and that advisory board members' background, proficiencies and experiences align as closely as possible to the mission of the assigned advisory board.
 - j) Appointment of a qualified candidate shall be made by an affirmative vote of not less than three members of the Town Commission.
 - k) On the day following Commission action, the Town Clerk shall notify each applicant of the Commission's appointment decision. Letters will subsequently be mailed to each individual appointed to an advisory board stating the name of the board to which they have been appointed, the name of the staff liaison for their advisory board, and any other pertinent information relevant to the position and information on ethics, conflicts of interest and open meetings requirements. All first-term appointees need to plan on completing the Palm Beach Commission on Ethics Training and Orientation session within 30 days of appointment.
 - l) The Town Clerk shall also prepare and mail letters to those not selected for service to express the Commission's appreciation for their willingness to serve the Town of Highland Beach and that application will remain on file for future appointment opportunities for a period of two years, or the remaining period of time since the date of initiation application.
 - m) Should an applicant no longer wish to be considered for appointment, notice of withdrawal of the application shall be made in writing to the Town Clerk with a copy of said written withdrawal forwarded to the Town Commission.
- 5) Terms of Office:
- a) Residents are appointed at the pleasure of the Town of Highland Beach, and can be removed or replaced at any given time by the same.
 - b) As set forth in Sec. 2-99, in the Town's code, Terms for all boards shall be three (3) years and no board member may serve more than two (2) consecutive terms on the same board without first taking a one-year hiatus from the board. Appointments for partial terms shall not count toward the two-term limit.
 - c) Expectations: Advisory board members are expected to be prepared for meetings to ensure recommendations, approvals and advisory opinions are well formed to assist the Town Commission in making optimal decisions. Additionally, advisory board members shall act with respectful and professional demeanor at all times.

Being prepared includes, but is not limited to:

- i) Reviewing background materials (staff reports);
- ii) Conducting independent research on topics as needed;
- iii) Understanding ordinances;
- iv) Staying informed on Town affairs and Town Commission actions;
- v) Appreciating due process and public comments;
- vi) Engaging all stakeholders with respect;
- vii) Being familiar with basic provisions of Robert Rules of Order; and
- viii) For quasi-judicial boards, strict adherence to criteria established for reviewing petitions and applications.

6) Attendance:

- a) Advisory board members are required to maintain regular attendance pursuant to *Article V – Boards and Committees* of the Town of Highland Beach Code of Ordinances. Members who cannot attend a meeting should inform the Town Clerk 24 hours in advance of the scheduled meeting.
- b) Pursuant to Article V – Board and Committees inadequate attendance is grounds for removal. Inadequate attendance shall mean a member’s absence at three (3) or more consecutive regular meetings of a board.

7) Compensation: Members of advisory board and committees are paid \$25 per meeting with the compensation amount adjusted periodically by action of the Town Commission.

8) Orientation: Newly appointed members will make every effort to become familiar with all aspects of their particular advisory board. The Town will provide basic information to all advisory board members about the Town, the purpose and responsibility of the advisory board, and additional information to assist members in the performance of their duties.

9) Organizational: It should be common practice that no member shall serve as chair until he or she shall have served for one full year on the advisory board unless no existing member is willing to serve as chair. Roberts Rules of Order (Newly Revised) shall govern all meetings as to procedural matters not set forth in the state statutes or town code. A record via summary minutes shall be kept of all meetings. A verbatim transcript is not required.

10) Advisory Boards and Committees Enabling Sections: Authorization of advisory boards and committees are duly constituted pursuant of the Town of Highland Beach Code of Ordinances.

- a) Chapter 2: Administration, Article V
 - i) Division 2 – Code Enforcement Board (Sec. 2-110 – 2-134)
 - ii) Division 3 – Natural Resources Preservation Advisory Board (Sec. 2-135 – 2-154)
 - iii) Division 4 – Financial Advisory Board (Sec. 2-155 – 2-160)
- b) Chapter 20: Planning and Development, Article II – Planning Board (Sec. 20-26 – 20-45) & Chapter 30: Zoning (Sec. 30-22)
- c) Chapter 20: Planning and Development, Article III – Board of Appeals and Adjustments (Sec. 20-46 – 20-100) & Chapter 30: Zoning (Sec. 30-23)

BOARD OF ADJUSTMENT & APPEALS
Regular Meeting – 3rd Tuesday – 9:30 AM (as needed)

Names	Date of Appointment	Date Term End
Bonnie Pikkell, Chairperson (Nominated as Chairperson 06/09/2020)	6/15/2021 Reappointed	6/15/2024
Fred Rosen, Vice Chairperson (Nominated as Vice Chairperson 06/09/2020)	6/4/2019 Reappointed 10/18/2022	10/18/2025
Joel Leinson	9/21/2021	9/21/2024
Todd Weiss	Appointed 9/5/2023	9/4/2026
Michael R. Thorson	Appointed 12/5/2023	12/5/2026
Harris Rosen	Appointed 12/5/2023	12/5/2026
One Unexpired Term Vacancy		9/21/2024

File Attachments for Item:

E. Application No. 23-2790 / Frank and Laura Troiano

Consideration of Application No. 23-2790 by Frank and Laura Troiano for a variance from Section 30-103(D) and Section 30-64 of the Town Code of Ordinances to create a lot with a minimum lot width of 68.06 feet in lieu of the required 80 foot minimum lot width for a single-family dwelling in the Residential Multiple Family Low Density (RML) Zoning District for the property located at 4611 South Ocean Boulevard (west side of State Road A1A).



HIGHLAND BEACH BUILDING DEPARTMENT

3614 S. Ocean Boulevard
Highland Beach, FL 33487
Ph: (561) 278-4540

Board of Adjustment and Appeals STAFF REPORT

MEETING OF: January 31, 2024

TO: BOARD OF ADJUSTMENT AND APPEALS (BOAA)

FROM: INGRID ALLEN, TOWN PLANNER

SUBJECT: APPLICATION BY FRANK AND LAURA TROIANO FOR A VARIANCE FROM SECTION 30-103(D) AND SECTION 30-64 OF THE TOWN CODE OF ORDINANCES TO CREATE A LOT WITH A MINIMUM LOT WIDTH OF 68.06 FEET IN LIEU OF THE REQUIRED 80 FOOT MINIMUM LOT WIDTH FOR A SINGLE-FAMILY DWELLING IN THE RESIDENTIAL MULTIPLE FAMILY LOW DENSITY (RML) ZONING DISTRICT FOR THE PROPERTY LOCATED AT 4611 SOUTH OCEAN BOULEVARD (WEST SIDE OF STATE ROAD A1A) APP23-2790

I. GENERAL INFORMATION:

Applicant (Property Owner): Frank P. and Laura Troiano
4611 South Ocean Boulevard
Highland Beach, Fl. 33487

Applicant's Agent: Not applicable.

Property Characteristics:

Comprehensive Plan Land Use: Multi Family Low Density (west of State Road (SR) A1A).
Single Family (east of SR A1A).

Zoning District: RML Residential Multiple Family Low Density (west of SR A1A).
RS Residential Single Family (east of SR A1A)

Property Location: 4611 South Ocean Boulevard

Parcel PCN#:

24-43-47-09-00-001-0040

Adjacent Properties: Proposed parcel west of SR A1A

PARCEL	ZONING DISTRICT	FUTURE LAND USE DESIGNATION
North	Residential Multiple Family Low Density (RML)	Multi Family Low Density
South	Residential Multiple Family Low Density (RML)	Multi Family Low Density
East	Residential Single Family (RS)	Single Family
West	Residential Multiple Family Low Density (RML)	Multi Family Low Density

Adjacent Properties: Proposed parcel east of SR A1A

PARCEL	ZONING DISTRICT	FUTURE LAND USE DESIGNATION
North	Residential Multiple Family Low Density (RML)	Multi Family Low Density
South	Residential Single Family (RS)	Single Family
East	NA	NA
West	Residential Multiple Family Low Density (RML)	Multi Family Low Density

Background:

According to the Palm Beach County Property Appraiser, the existing single-family home located on the portion east of SR A1A was built in 1959. The portion of the property west of SR A1A is currently vacant.

At the May 16, 2023 Town Commission meeting, the Commission considered a request by Laura Troiano to approve the division of a parcel of property located at 4611 South Ocean Boulevard into two separate lots. Town Commission direction was to have staff attempt to develop language that would address this type of situation.

At the July 18, 2023 Town Commission meeting, a memo prepared by the Town Attorney was provided to the Commission (see attached). The Commission agreed that this matter should go before the Board of Adjustments and Appeals for a recommendation via the submittal of a variance application by the property owner.

Request and Analysis:

The Applicant is requesting a variance from Sections 30-103(d) and 30-64 of the Town Code of Ordinances to create a lot on the west side of SR A1A with a minimum lot width of 68.06 feet (as provided on the Applicant's survey) in lieu of the required 80 feet minimum lot width for a single-family dwelling in the Residential Multiple Family Low Density (RML) zoning district (see Table 1). Section 30-103(d) of the Town Code of Ordinances states that a division of any parcel shall not be made which creates a lot which does not conform to the requirements of Chapter 30 (Zoning Code). As noted above, at the July 18, 2023 Town Commission meeting, consensus from the

Commission was that the matter go before the BOAA (for a recommendation) via a variance application. According to the Applicant’s survey of the proposed lot on the west side of SR A1A, it contains 8,187 square feet. Given the maximum density for the RML zoning district is six (6) dwelling units per acre, the maximum number of dwelling units permitted on this lot would be one (1) dwelling unit ($8,187/43,560 \times 6 = 1.13$ units)

TABLE 1

Minimum lot width	RML Zoning District (feet)
Single-family dwelling	80
Two-family dwelling	80
Multifamily dwelling	100

Source: Section 30-64 of the Town Code of Ordinances

As a basis for consideration of an application for variance approval, the BOAA must determine an application is consistent with the criteria below as provided in Section 30-40(e) of the Town Code. The Applicant provided responses to these variance criteria as part of their variance application (see attached).

- (1) **Special conditions.** 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 zoning district.
- (2) **Hardship.** The special conditions and circumstances truly represent a hardship and are not created by any actions of the applicant.
- (3) **Literal interpretation.** Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (4) **Special privileges.** The grant of a variance will not confer upon the applicant any special privilege denied to any other owner of land, buildings, or structures located in the same zoning district.
- (5) **Minimum variance.** The variance granted is the minimum variance that will make possible the use of the land, building, or structure.
- (6) **Purpose and intent.** The grant of the variance will be in harmony with the general intent and purpose of this chapter.
- (7) **Financial hardship.** Financial hardship is not to be considered as sufficient evidence of a hardship in granting a variance.
- (8) **Public welfare.** The grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

There are currently two (2) other properties within the Town that are bifurcated by SR A1A in the same manner as the Applicant’s property (see Table 2). An additional property located at 3833 South Ocean Blvd is also bifurcated by SR A1A (RML on the west side of SR A1A and RS on the east side); however, the portion west of SR A1A is located approximately 150 feet south of the portion east of SR A1A. All of these bifurcated properties are in compliance with the minimum lot width requirement for the corresponding zoning district.

TABLE 2

Property	Zoning District
3901 South Ocean Blvd.	RML (west side of SR A1A) RS (east side of SR A1A)
2425 South Ocean Blvd.	RS (west side of SR A1A) RE (east side of SR A1A)

Pursuant to Section 30-40(g) of the Town Code, the vote of at least four (4) members of the BOAA or a majority of the Town Commission is necessary to grant a variance from the requirements of Chapter 30 (Zoning Code). According to Section 30-40(h) of the Town Code, a variance when implemented in accordance with the approval granted by the BOAA or the Town Commission shall run with the land in perpetuity unless a lesser time is approved by the BOAA or the Town Commission. A variance that is not implemented shall expire eighteen months following approval.

Should you have any questions, please feel free to contact me at (561) 637-2012 or iallen@highlandbeach.us

Attachments: Variance Application

Aerials

Surveys

July 18, 2023 Town Attorney memorandum.

Applicant's submitted materials



TOWN OF HIGHLAND BEACH VARIANCE APPLICATION

Petition # _____

Fees Paid/Receipt No. # _____

Variance and/or Appeal to Board of Adjustment & Appeals and/or Town Commission are \$2,500.00.

PROPERTY OWNER INFORMATION		
Name:	Frank & Laura Troiano	Phone: 317.590.0865
Mailing Address:	4611 S. Ocean Blvd., Highland Beach, FL 33487	
Email Address:	lauratroiano@mac.com	

AUTHORIZED AGENT		
Name:	Phone:	Fax:
Mailing Address:		
Email Address:		

PROPERTY INFORMATION ASSOCIATED WITH THIS PETITION	
Address:	4611 S. Ocean Blvd.
Subdivision:	N/A
PCN:	24-43-47-09-00-001-0040
Lot Size:	14,569 sqft / 4,826 sqft / 8245 sqft.
Zoning District:	RS and RML
Present Use:	Single family and vacant lot

1. Present Structures (type):

The west side lot is vacant. The east side lot has a single family home on it.

2. The proposed use will be:

Split parcel and eventually build a residence.

3. If this petition is granted, the effect will be to (brief description – i.e. to reduce side yard from 7' to 2'):

Split the parcel to create 2 single parcels.
Currently the lot is divided by A1A. Attachment E

4. As a basis for consideration of an application for variance approval, the Board of Adjustment and Appeals and/or Town Commission must determine an application is consistent with the criteria listed below. After each criteria, state fully your reasons justifying the granting of this variance.

(a) 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 zoning district.

Yes. See Addendum and attachment C.

(b) The special conditions and circumstances truly represent a hardship, and are not created by any actions of the applicant. Note that Section 30-40(e)(7) of the Town Code states that financial hardship is not to be considered as sufficient evidence of a hardship in granting a variance

Yes. See Addendum and attachment C.

(c) Literal interpretation of the provisions of chapter 30 would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of chapter 30 and would work unnecessary and undue hardship on the applicant.

Yes. See Addendum and attachment C.

(d) The grant of a variance will not confer upon the applicant any special privilege denied to any other owner of land, buildings, or structures located in the same zoning district.

This lot is unique. There are no other lots of this type in the Highland Beach Zoning District.

(e) The variance granted is the minimum variance that will make possible the use of the land, building, or structure.

Yes, without splitting the lot the parcel on the west side of A1A will remain vacant.

(f) The grant of the variance will be in harmony with the general intent and purpose of this chapter.

Yes, all of the lots/parcels surrounding this parcel are zoned the same RML and by splitting the lot and allowing this variance the lot will be harmonious with the general intent and purpose of the chapter.

Addendum

4.

(a) The special condition and circumstance that is peculiar to the land is that it does not meet the width requirement of 80 feet and therefore creates a non-conformity. And that both lots are zoned differently from each other, as evidenced by the Palm Beach County - Property Record Card and the Town of Highland Beach Official Zoning Map see attachments, A & B.

(b) The hardship for this lot is that there are two unique conditions associated with the parcel. The lot width is less than the 80° minimum lot width provisions and because the lot width is approximately 68', that creates a non-conformity. Nothing about this hardship was created by any actions of this applicant. Further, the lot size on the west side of A1A, after splitting the parcel, meets the standards present in the code for development based on the zoning codes published in the Town of Highland Beach Official Zoning Map and the Palm Beach County Property Record Card, (included in the attachments). The variance request is consistent with the spirit, purpose and intent of the ordinance. The public safety is secured and the non-conformity is benign. As written in the memorandum dated, 6/12/2023 from the Town Attorney, Leonard G. Rubin, "The unique conditions applicable to the Troiano Parcel appear to justify the grant of a variance." See attachment C.

(c) The literal interpretation of the provisions of chapter 30 deprives this applicant of rights enjoyed by the property adjacent to my property which is in the same zoning district under the terms of chapter 30. The literal interpretation of non-conformity doesn't always mean "not good", in our case, the non-conformity is benign and therefore does not negatively impact the "greater good" of Highland Beach. The property directly adjacent to 4611, 4612 has the same zoning designation and is not deprived of any rights. See article provided by applicant, attachment D.

- (g) The grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The variance will not be injurious to the area or otherwise detrimental to the public welfare. Attachment D.

5. Has any previous application or appeal been filed within the last year in connection with these premises? (YES) ___ (NO) ___ If so, briefly state the nature of the application or appeal.

SS (Initial) The names and addresses of each property owner located within five hundred (500) feet of the affected property, excluding property owned by the applicant has been provided. (Notification distances shall be measured on an arc from the corners of the property.) (YES) (NO) ___

SS (Initial) I, the petitioner, acknowledge that there will be additional expenses incurred for the first class mailing of the public notices and the cost to publish the legal advertisement, which is separate from the Board of Adjustment & Appeals application fee. (YES) (NO) ___

SS (Initial) I, the petitioner, has read the Town of Highland Beach Code of Ordinances, Section 30-40: Variances & Interpretations for code requirements. (YES) (NO) ___

I give permission to the members of the Town Commission and the Board of Adjustment & Appeals and staff to inspect the property for the purpose of this application. I declare that all statements made herein are true, based upon the best available information, and I understand that willful false statements and the like are misdemeanors of the second degree under Section 837.06, Florida Statutes. Such willful false statements may jeopardize the validity of my application or any decision issued thereon. I have fully read the information outlining the Board procedures and application requirements. With this application, I am submitting the necessary supporting materials listed.

Owner must supply authorized agent notarized letter attesting to same

Property Owner's Signature: Laura Troiano Date: 11.27.2023

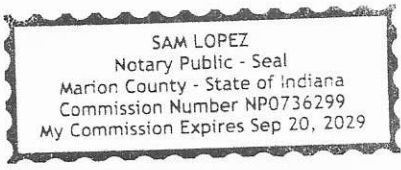
Authorized Agent Signature: _____ Date: _____

Condo Assoc. Rep. Signature: _____ Date: _____

STATE OF Indiana
COUNTY OF Marion

On this 27th day of November 2023 before me personally appeared Laura Troiano to me known to be the person who executed the foregoing instruments, and acknowledged that he executed the same as his free act and deed.

(SEAL)



[Signature]
Notary Public Signature

Received by the Town Clerk's Office:

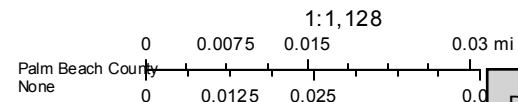
Received By: _____ Date: _____

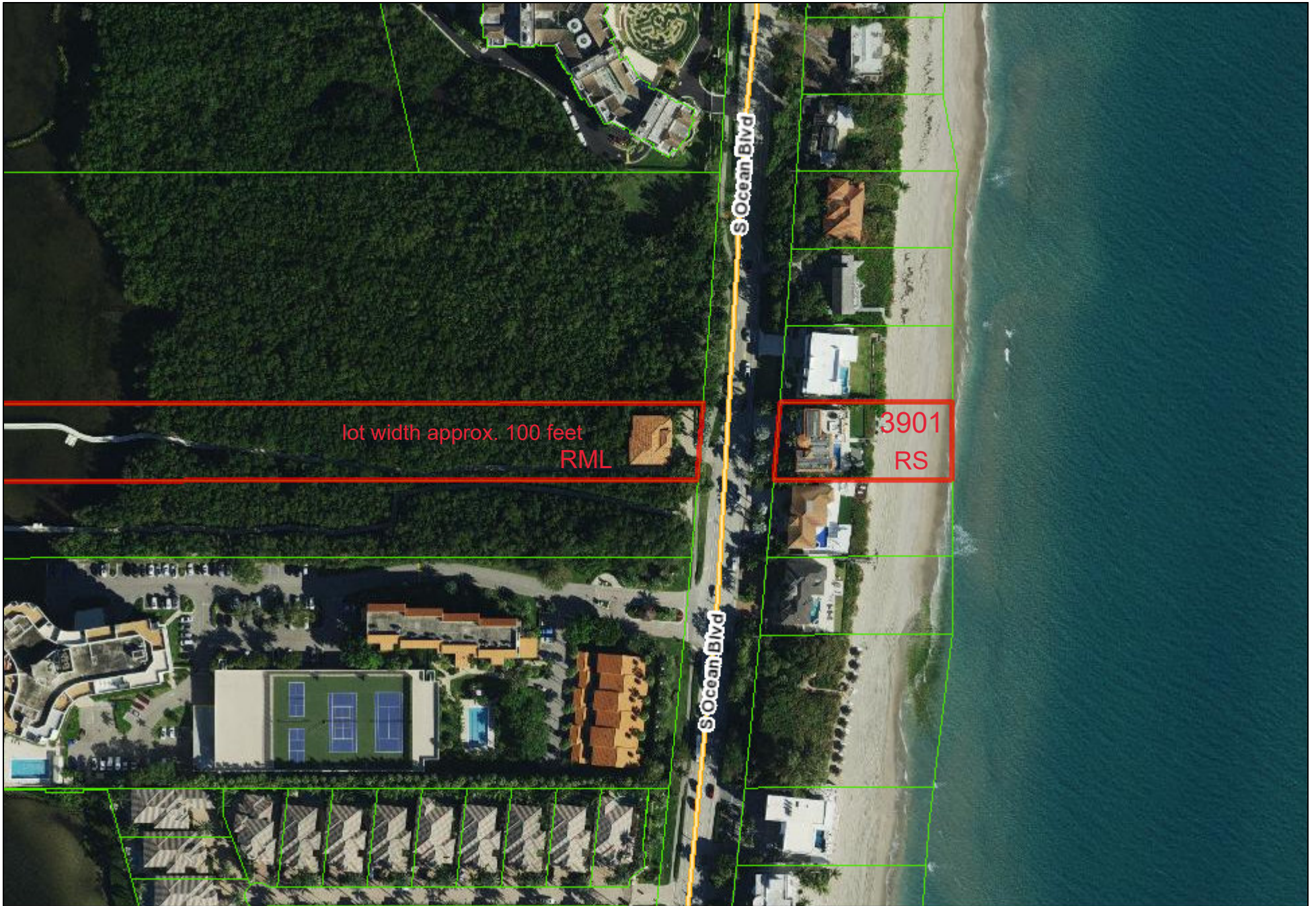
Date Public Notices Mailed: _____

Date Legal Advertisement Published: _____



4611 South Ocean Boulevard



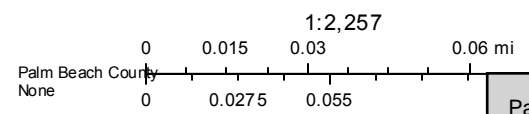


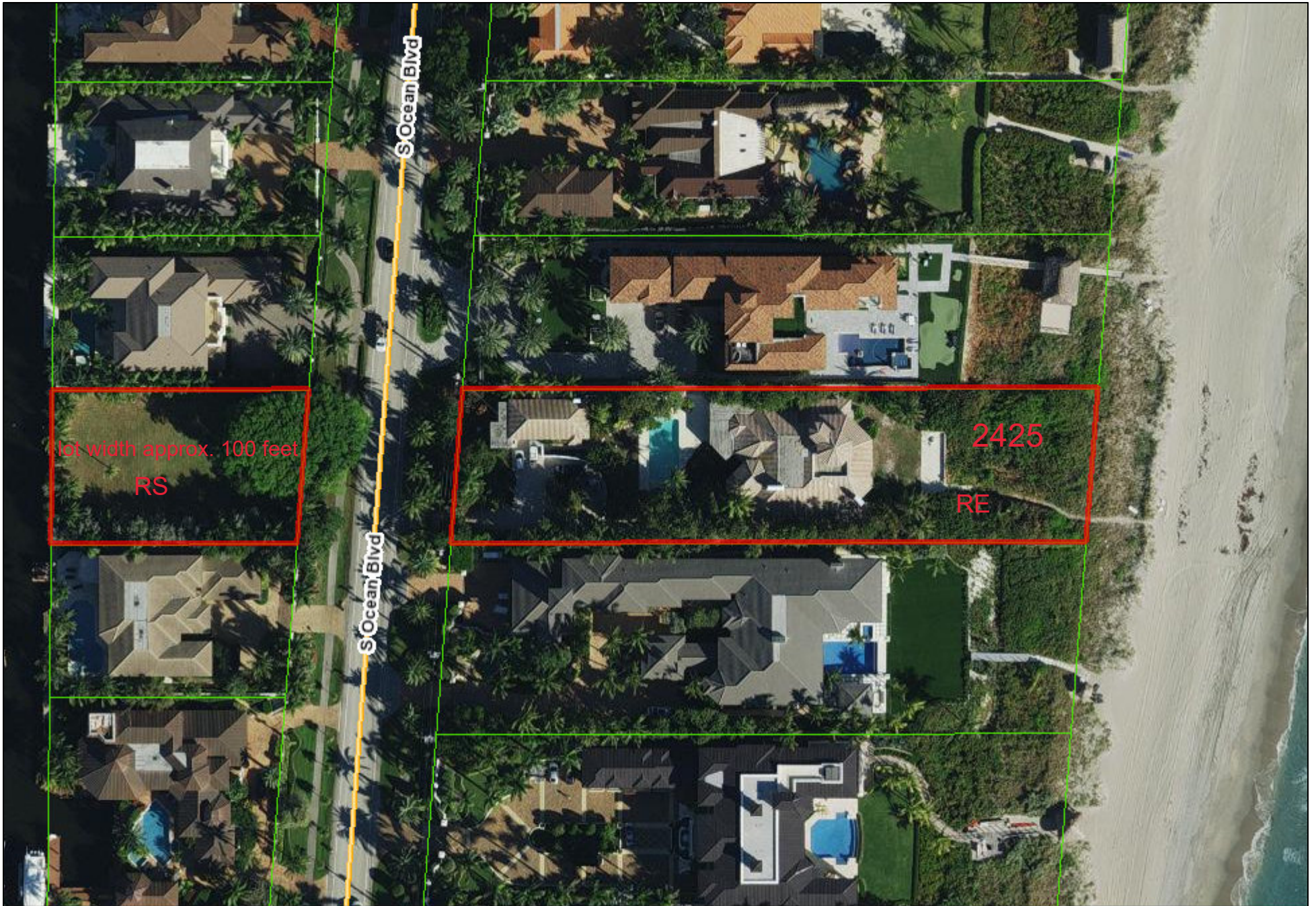
lot width approx. 100 feet
RML

3901
RS

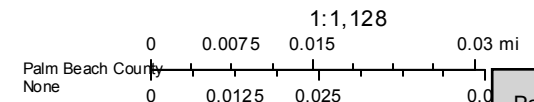


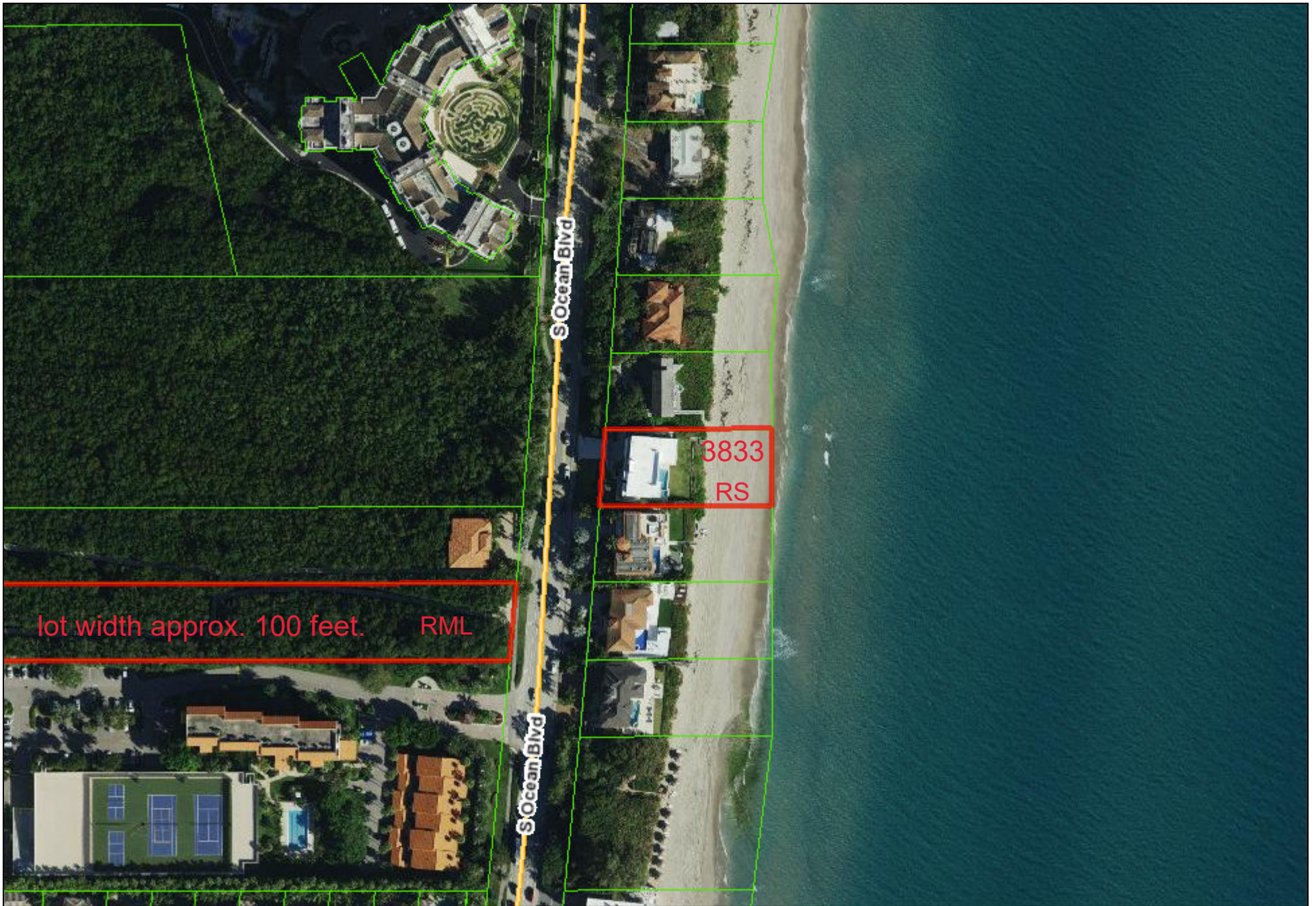
3901 South Ocean Blvd





2425 South Ocean Blvd.

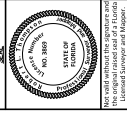
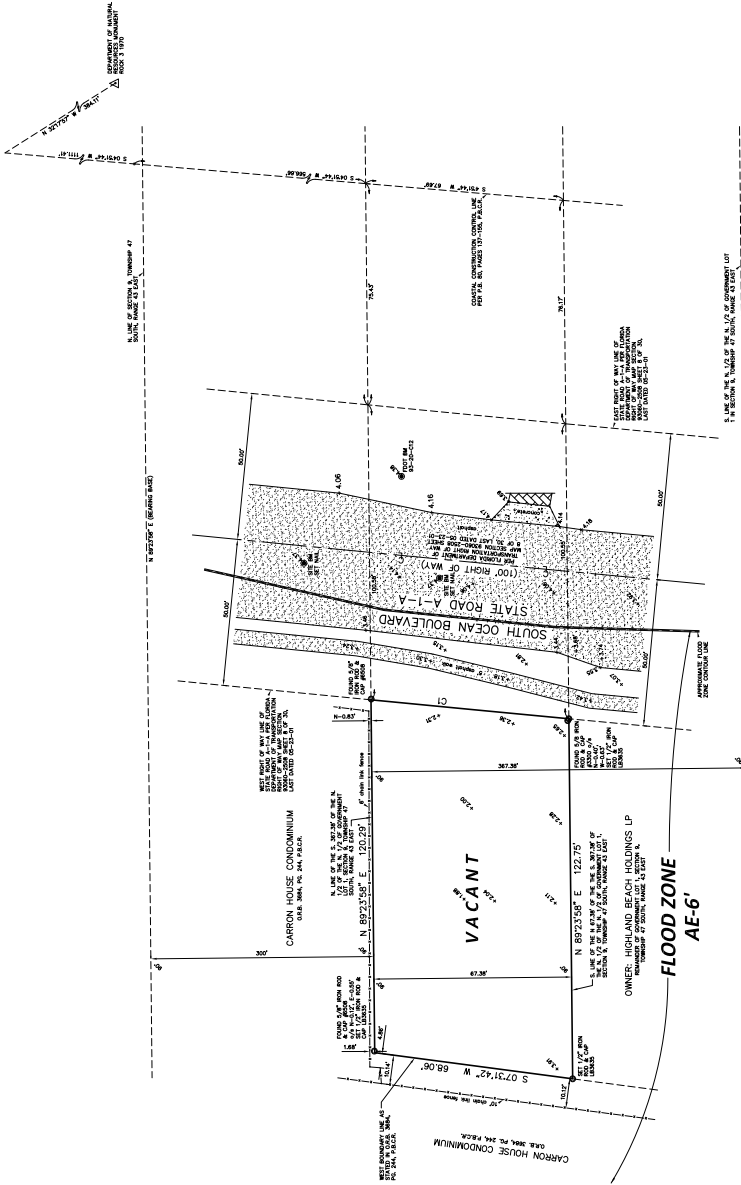
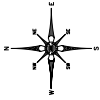




3833 South Ocean Blvd.

ACCURATE LAND SURVEYORS, INC.
 100 E. STATE ST., SUITE 100
 FT. LAUDERDALE, FL 33305
 PHONE 754-241-1442
 FAX 754-241-1442

BOUNDARY & TOPOGRAPHIC SURVEY



CERTIFY TO:
 Frank Trechino

CERTIFICATION:
 This is to certify that the above ground sketch of boundary survey was made under my responsible charge and is accurate and correct to the best of my knowledge and belief, I further certify that I am a duly Licensed Professional Surveyor in the State of Florida, pursuant to current Sections 471.027, Florida Statutes, and Chapter 10, Part II, Florida Administrative Code.

Robert L. Thompson
 Professional Surveyor, No. 42788, State of Florida

DATE OF SURVEY: 08-26-2020
 SCALE: 1" = 20'

ORIGINAL DATE OF FIELD SURVEY	DATE OF SURVEY UPDATES
08-26-2020	08-26-2020

CHECKED BY	DATE
MLW	11-22-2023

LEGAL DESCRIPTION:
 All that portion of the following described parcel of land lying West of the West right of way line of State Road 54-A as now constructed and in use. The North of 38 feet of the South 397.38 feet of the East 100 foot wide easement, being 1/4 Section 9, Township 47 S., Range 48 E., Section 9, Township 47 S., Range 48 E., East, Palm Beach County, Florida, subject to right-of-way for State Road 54-A.

BENCHMARK INFORMATION:
 4033 South Ocean Boulevard
 Highland Beach, Florida 33487
 Palm Beach County Benchmark ROCK 5
 Elevation = 3.42576001888
 Station = 3760NAD01888

FLOOD INFORMATION:
 Community name and number:
 Parcel date: 12-09-2017
 Map and parcel number: 1220942098F
 Flood zone: "See Sketch"
 Base flood elevation: "See Sketch"

STREET ADDRESS:
 4033 South Ocean Boulevard
 Highland Beach, Florida 33487

BENCHMARK INFORMATION:
 Palm Beach County Benchmark ROCK 5
 Elevation = 3.42576001888
 Station = 3760NAD01888

NOTES:

1. Measurements reflect field measurements are in agreement with record measurements.
2. Bearings shown herein are based on grid bearing of North.
3. The location of overhead utility lines are approximate in nature due to their proximity above ground. Size, type and quantity must be accurate for SUBURBAN LINER - 1 FOOT IN 7.500 FEET.
4. Contour area is ground level to 0.50' Above sea level, unless otherwise indicated.
5. Any and all underground features such as foundations, utility lines, etc., are not located on this survey. This is an above ground survey only.
6. The flood zone information shown herein is for the dwelling.
7. The location of overhead utility lines are approximate in nature due to their proximity above ground. Size, type and quantity must be accurate for SUBURBAN LINER - 1 FOOT IN 7.500 FEET.
8. Accuracy statement: This survey meets or exceeds the horizontal accuracy for SUBURBAN LINER - 1 FOOT IN 7.500 FEET.
9. Contour area is ground level to 0.50' Above sea level, unless otherwise indicated.

SYMBOLS & LEGEND OF ABBREVIATIONS:	
☐	NORTH OF WAY
☐	EAST
☐	WEST
☐	SOUTH OF WAY
☐	ADJACENT BENCHMARK
☐	ADJACENT COUNTY RECORDS
☐	MANHOLE COVER RECORDS
☐	PART OF BEGINNING
☐	FLORIDA POWER & LIGHT
☐	SPECIAL RECORD BOOK
☐	DEPARTMENT OF ENVIRONMENTAL PROTECTION
☐	DEPARTMENT OF REVENUE LANDS
☐	PERMANENT REFERENCE POINT
☐	UTILITY BOX
☐	PROPERTY CORNER
☐	WOOD FENCE
☐	CONCRETE
☐	ASPHALT



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission Meeting
MEETING DATE July 18, 2023
SUBMITTED BY: Leonard G. Rubin, Town Attorney
SUBJECT: Request for Lot Split (Troiano Property – 4611 South Ocean Boulevard)

SUMMARY:

Background:

At its May 16, 2023 meeting, the Town Commission considered a request by Laura Troiano to approve the division of a parcel of property located at 4611 South Ocean Boulevard (“Troiano Parcel” or “Parcel”) into two separate lots. As discussed at the meeting, the Troiano Parcel is bifurcated by A1A. The portion east of A1A is improved with a single-family residence and has a zoning designation of Residential Single-Family, and the portion west of A1A is vacant and has a zoning designation of Residential Multiple-Family Low Density. Splitting the Troiano Parcel into two separate lots would violate Section 30-103(d) of the Town Code, which expressly provides that “a division of any parcel shall not be made which creates a lot which does not conform to the requirements of this chapter.” If the portion west of A1A became a separate lot, it would be only sixty-eight (68) feet wide. Section 30-64 of the Town Code (Table 30-2) requires a minimum lot width of eighty (80) feet.

Discussion and Recommendation:

The Town Commission directed Staff to attempt to develop language that would address this type of situation. While there are two other parcels in the Town bisected by A1A, the Troiano Parcel is the only parcel where the division of the parcel into two separate lots would be prohibited due to the creation of a non-conforming lot. Consequently, after consultation with Town Staff, this office does not recommend amending the Town Code to address a single parcel of the property within the Town.

At the Commission meeting, Laura Troiano represented that her family wished to construct a single-family home on the portion of the parcel located west of A1A. Given the nature of the request, this office recommends that the Troiano family be encouraged to apply for a variance from Sections 30-103(d) and Section 30-64 of the Town Code. The unique conditions applicable to the Troiano Parcel appear to justify the grant of a variance. Because the variance application will need to address both the non-conformity and lot width provisions, the variance

request should go before the Board of Adjustment and Appeals for a recommendation and the Town Commission for final consideration. Utilizing the variance process would allow the Commission to impose reasonable conditions on the grant of the variance. Such conditions could include limiting the new parcel to the construction of a single-family residence, approving the actual footprint of the proposed residence, and imposing a time-frame in which the residence must be constructed.

Should you have any questions relative to the foregoing, please do not hesitate to contact me.

FISCAL IMPACT:

N/A

ATTACHMENTS:

Letter from Mrs. Troiano dated May 10, 2023
Aerial Maps

RECOMMENDATION:

Commission discussion.

November 14, 2023

Board of Adjustment and Appeals
Town of Highland Beach
Town Hall

Dear Board Members,

My husband Dr. Frank Troiano and I are requesting that the parcel, addressed 4611 S Ocean Blvd., to the west of A1A be recognized by the Town of Highland Beach as a separate lot, than the lot, addressed 4611 S Ocean Blvd., to the east of A1A. We would like to build a family home on the west side parcel in the future.

Due to the construction of A-1-A and the adoption of the Highland Beach Comprehensive Plan the lots became separate and distinct lots.

Both lots have always been given different land use and zoning classifications in the Highland Beach Comprehensive Plan. RMI - multi family land use on the west side and single family land use on the east side.

Palm Beach County recognizes the lots as being separate on our/their county record card, specifically, lot size designation, tax billing and zoning.

The zoning for the lot is complimentary and in keeping with the zoning of all the other lots around it (north, south and west).

There has been some question regarding non-conformity which calls for conforming lots to be 80' wide. Our lots are 68.06' wide which is considered non-conforming; however, this non-conformity is benign and does not have a negative impact on the health and safety of the public. Our lots are less than 12 feet shy of the 80' conformity. Another reason to further our case, was pointed out by Mr. Labadie and that is our lots are the only lots in Highland Beach that are of this particular type and therefore they are unique and the situation is unique. No case law has been discovered that would negatively apply to our circumstance.

Conclusion: The two separate lots are physically divided by A-1-A. Both lots have separate zoning classifications. The county record card recognizes the lots as being separate as defined by lot size, tax billing and zoning classification.

All of the other lots around our west side lot are zoned the same as ours. There is no negative impact on the health and safety of the public by recognizing the lots as distinct and separate. By recognizing that the lots are separate our family would potentially be able to build a beautiful home on the west side lot.

Thank you for this opportunity to meet with you. Respectfully,

Laura and Frank Troiano

Search by Owner, Address or Parcel



[View Property Record](#)

Owners

TROIANO LAURA
TROIANO FRANK P &

Property Detail

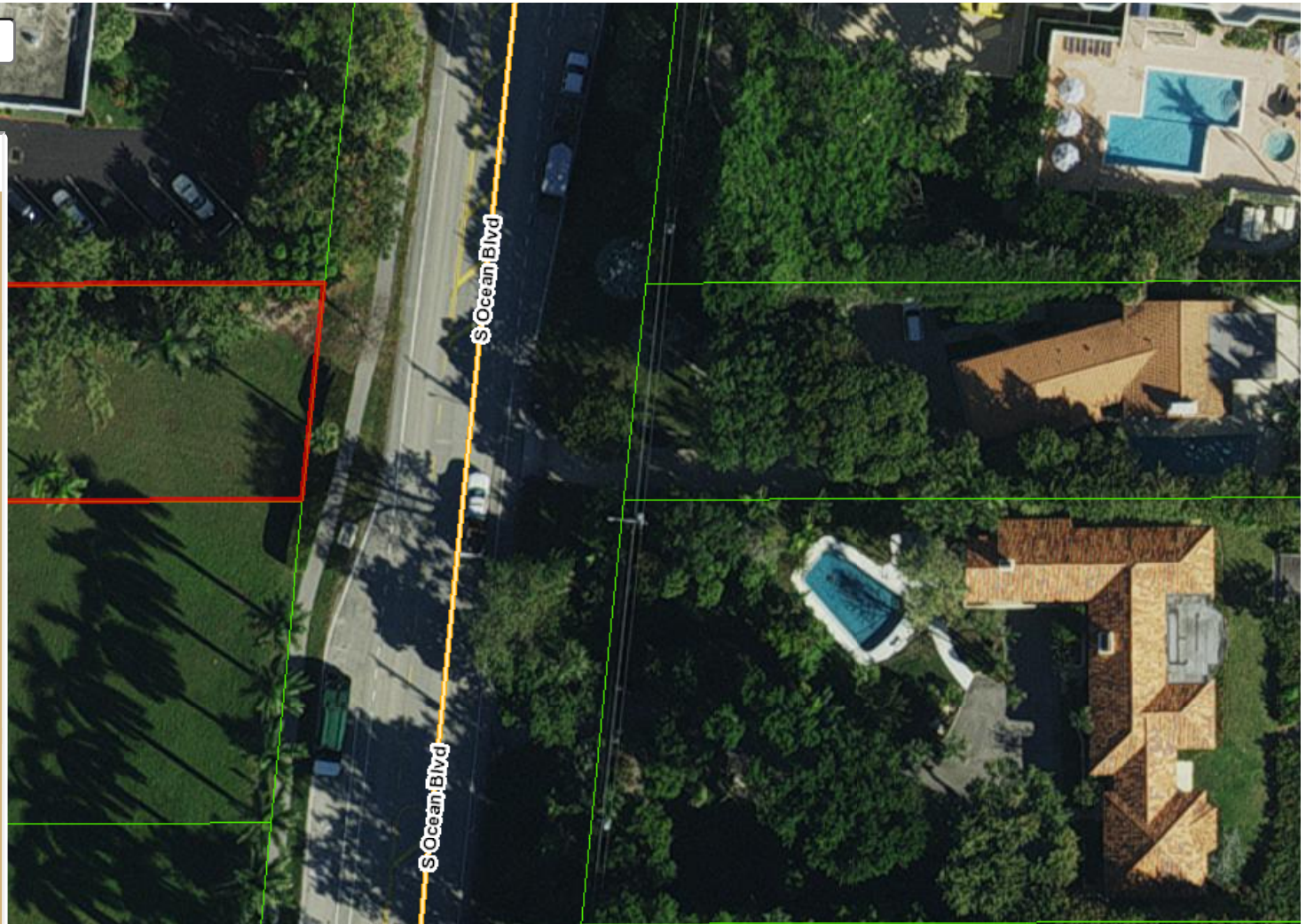
Location 4611 S OCEAN BLVD
Municipality HIGHLAND BEACH
Parcel No. 24434709000010040
Subdivision
Book 24308 [Page 585](#)
Sale Date DEC-2010
Mailing Address 4611 S OCEAN BLVD
 BOCA RATON FL 33487 5300
Use Type 0100 - SINGLE FAMILY
Total Square Feet 3291

Sales Information

Sales Date	Price
DEC-2010	10
DEC-2010	10
SEP-2005	10
JUN-2005	10
JUN-2005	10

1 [2](#)

Appraisals



PAPA-Property Detail x PAPA Maps x +
https://maps.co.palm-beach.fl.us/cwgis/papa.html?qvalue=24434709000010040#

DOROTHY JACKS
CFA, AAS
Palm Beach County Property Appraiser
We Value What You Value

[PAPA Home](#)

Search by Owner, Address or Parcel

[View Property Record](#)

Owners
TROIANO LAURA
TROIANO FRANK P &

Property Detail
Location 4611 S OCEAN BLVD
Municipality HIGHLAND BEACH
Parcel No. 24434709000010040
Subdivision
Book 24308 Page 585
Sale Date DEC-2010
Mailing 4611 S OCEAN BLVD

S Ocean Blvd

Palm Beach County | None

Type here to search

75°F Mostly cloudy 7:19 PM 1/23/2024

PALM BEACH COUNTY PROPERTY RECORD CARD

TAX YEAR 2021

LOCATION & OWNER INFORMATION

PARCEL ID 24-43-47-09-00-001-0040

NBHD 240200RS

PARCEL ADDR 4611 S OCEAN BLVD

LEGAL 9-47-43, S 67.38 FT OF N 367.38 FT OF N 1/2 OF GOV LT 1 (LESS RD RW) AKA CITY LOT NO 12

TAX DISTRICT 24984

OWNER TROIANO FRANK P & TROIANO LAURA

ADDRESS 4611 S OCEAN BLVD
BOCA RATON FL 33487-5300



PALM BEACH COUNTY



ENTER INFORMATION

TYPE	DATE	E	I	AP
IMP	29-OCT-14	31	F	14

INCOME AG

0100 PROPERTY USE / SINGLE FAMILY

LIVING UNITS: 1

TOTAL CARDS: 1

AUTOCAD:

AG INFORMATION

LINE	CA L#	CROP	LUC	ACRES	RATE	CODE	VALUE
------	-------	------	-----	-------	------	------	-------

TOTAL

NOTES

4/87 PP \$100,000 PETN2020-2429 PETN2021-1834

SALES INFORMATION

BOOK	PAGE	DC	QC	S	PRICE	DATE
05264	0843	WD	U	I	400,000	01-APR-87

PERMIT INFORMATION

PERMIT #	PERMIT DT	TYPE	WHY	STAT	TAXYR	AMOUNT
30935-A-PAV	02-FEB-15	F	05	T	2016	16,350
30935	07-MAY-14	F	02	C	2015	211,500

OBY INFORMATION

CRD	L#	CODE	YRBLT	EFFYB	YRRMD	WDTH	LGTH	AREA	UNITS	GD	MODCDE	RATE	PC	FC	DEP	FUNC	RSN	ECN	RSN	SOH	VALUE
1	4	PAT	1959			0	0	125	1	C	3	10.89	A	A	25					100	340.00
1	5	WLL	1959			0	0	409	1	C		10.74	A	A	25					100	1,098.00
1	6	DCK	2014	2014				420	1	C		10.90	A	A	70					100	3,205.00
1	7	PL1	2014	2014		0	0	1	1	B		27,600.00	A	A	78				100	21,528.00	
OBY VALUE																					26,171.00

why 2 parts

LAND INFORMATION

L#	LUSE	ZONE	AG	AGLND	TP	CDE	AFF	EFF	DEPTH	SQ FT	ACRES	UNITS	RATE	SIZE	NBHDF	INF	PCT	SOH	VALUE
1	0120	RS			U	W6			217	14,569	0.33	1	3,400,000.00	T	1.2	MS	-5	100	3,876,000.00
NOTES: SIDES MULTI																			
2	9950	RS			U	S1			71	4,826	0.11	1	300.00	T	1		0	0	300.00
NOTES:																			
3	0100	RML			U	S5			0	8,185	0.19	1	300,000.00	T	1.2	MS	-5	100	342,000.00
NOTES: SIDES MULTI																			
TOTAL ACRES										.6332									
TOTAL LAND VALUE																			4,218,300.00

SUB-AREA INFORMATION					PALM BEACH COUNTY PROPERTY RECORD CARD				TAX YEAR 2021															
LINE	CODE	FCI	SIZE		24-43-47-09-00-0040 RESIDENTIAL 4611 S OCEAN BLVD				BUILDING INFORMATION															
A	0	BAS	100	1964						1	/	1	SYS CRD# / TOT BLDGS											
BASE AREA										0100	ID	1	SFR											
A1	1	USP	31	231						VECTOR:					1			NBHD FACTOR						
UNFINISHED SCRPH PORCH										BAS(AGCL10L21D22R5D52R20U21R4U14L4U17R6U2B)USP(A1L10CU11E21D11R21)FBM(A2R60C4R17U20L27D24R10)GRI(A3R80U4R17U20L27CL25D2R21D4R4U24)					1			LEVEL / UNIT TYPE						
A2	2	FBM	60	590						TOTAL SQ FT					3291			UNIT HEIGHT / BLDG HEIGHT						
FINISHED BASEMENT																		3	0	FULL BA / HALF BA				
A3	3	FOR	45	516														1959	1985	ADD FIX / TOTAL FIX				
FINISHED GARAGE																					YRBLT / EFF YR			
A4																					YR / % REMODELED			
A5																					REMOD KTCH / BATH			
A6																					R2	/	AV	GRADE / CDU
A7																					71	/		% GOOD / DEPR TB
A8																					1			SPIC STACK / OPEN
A9																					17			EW1 MSY: CB STUCCO
A10																					00			EW2 NONE
A11																					03			RS GABLE/HP
A12																					07			RC CONCRETE TILE
A13																03			W1 PLASTER					
A14																00			W2 N/A					
A15																14			F11 CARPETING					
A16																15			F12 CERAMIC/QUARRY					
A17																3			HEAT HTG & AC					
																4			HEAT SYS FORCED AIR DUCT					
																			NSL ADJ					
																			MKT_ADJ					
																			FUNC					
																			ECON					
																			SOH%					
																			2,616	EFF BLDG AREA				
																			1,964	SQ FT LIVING AREA				
																			2,616	TOTAL EBA				
																			252,761	RCN				
																				179,460	RCNLD			
																				179,460	ADJRCNLD			
																				1	TOTAL ID UNIT VALUE			
LN	SE	LEVEL	YR	EFF	AREA	EXTER	USE	WA	EXTERIOR	CN	RHT	INT	INT	RHT	INT	INT	PHY	FNC	FNC	FNC	ENG	ENG		
NO	NO	FR	TO	BLT	SIZE	PERM	TYPE	NAME	HT	WALL	TYPE	FNI	PAR	HT	AC	PLB	LGT	CNR	UT	RSN	%GDR	RSN	%GDI	

Date Run: 27-SEP-21 11:39 AM

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ZONING PRACTICE

NOVEMBER 2009



AMERICAN PLANNING ASSOCIATION

➔ ISSUE NUMBER 11

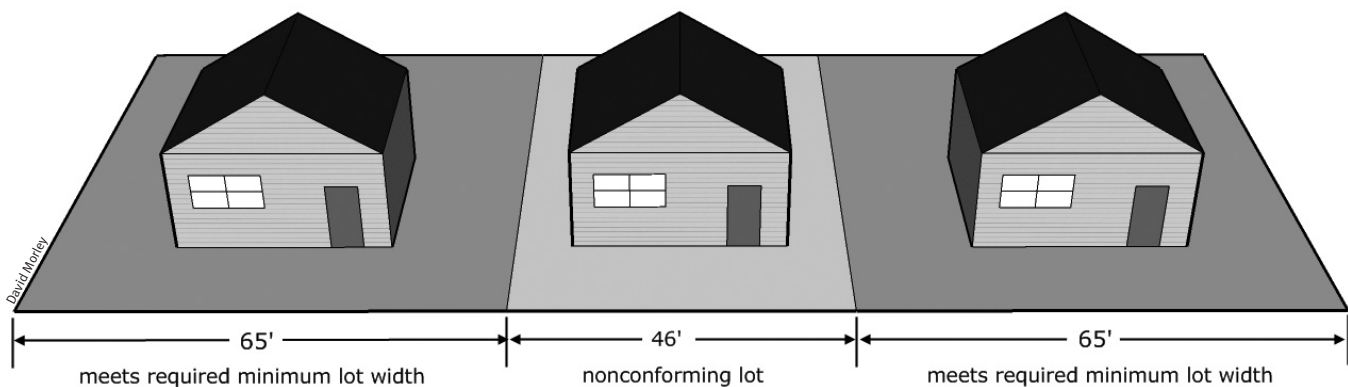
PRACTICE NONCONFORMITIES



Distinguishing Between Detrimental and Benign Nonconformities

By V. Gail Easley, FAICP, and David A. Theriaque

Local governments routinely adopt new or revised zoning regulations to establish minimum standards for the use of land and standards for development on the land.



➔ A nonconforming lot does not comply with current dimensional standards such as minimum area, width, depth, or frontage.

With the adoption of new standards for use and development, many existing uses, structures, site design features, and lots may no longer meet the current standards.

The concept of nonconformities arises from adopting new codes for areas that already have some development, which is the case for almost every jurisdiction in the country. When land is used for activities that are no longer permissible under the zoning regulations, the local government typically allows the preexisting use to continue if it was permissible when it was first established. Likewise, when development is in place and the provisions of the zoning regulations render the lot or one or more site design features out of compliance with current standards, the local government typically “grandfathers” the development if it was in compliance when first established. Grandfathering is another word used to describe nonconformities, which means the local government is granting legal status to the use or development, but with limitations.

An existing use or development that was not in compliance when a local government enacts new regulations is not eligible for grandfathered status. Indeed, each claim of grandfathered status must meet this threshold question: Was the use or development in compliance with the existing regulations? If not, such use or development is not entitled to any protection from the new regulations. Rather, it is subject to code enforcement proceedings to bring it into compliance with the newly adopted regulations.

This issue of *Zoning Practice* addresses legal nonconformities of use and development standards, but does not address signs. There are many issues pertaining to signs, including First Amendment rights, which are too complex to include in this article. Code enforcement of unlawful uses is also a topic for another issue.

WHY DO LOCAL GOVERNMENTS GRANDFATHER USES AND STRUCTURES?

When zoning was in its infancy, planners expected that there would be few nonconformities

and those that existed would naturally go away over time. Because of the nonconformities’ protected status as grandfathered uses, however, they continued to prosper due to the prohibition on other such uses in that zoning district. In essence, such nonconforming uses were provided with monopolies.

Additionally, zoning was perceived as a prospective matter that would not apply to uses which were already in existence. Moreover, in light of the uncertainty regarding whether the courts would uphold zoning regulations, any attempt to apply the new zoning regulations to existing uses and development was perceived as increasing the likelihood that a court would invalidate such regulations. Allowing nonconformities to continue also reduced the amount of public opposition to the concept of zoning regulations.

These concerns hold true today. From a public policy perspective, local governments are rightfully concerned about the public outcry that would occur if grandfathered status was not applied to existing uses and development. Imagine

ASK THE AUTHOR JOIN US ONLINE!

Go online from November 30 to December 11 to participate in our “Ask the Author” forum, an interactive feature of *Zoning Practice*. V. Gail Easley, FAICP, and David Theriaque will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The author will reply, and *Zoning Practice* will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of *Zoning Practice* at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA *Zoning Practice* web pages.

About the Authors

V. Gail Easley, FAICP, is an adjunct lecturer in the urban and regional planning program at the University of Florida. In her work as a local government and consulting planner, she has provided services to local, regional, and state governments for 30 years, including growth management, comprehensive planning, and the creation of award-winning land development regulations in unified codes and individual ordinances. She frequently provides training in seminars, conferences, and publications, and is the author of previous *Zoning Practice* articles.

David Theriaque is an attorney representing private-sector and governmental clients regarding land-use planning and growth management law at the state and federal levels. He has been an adjunct professor at Florida State University Department of Urban and Regional Planning and is a frequent lecturer at various conferences on planning and growth management issues. He is a charter life member of the Florida Wildlife Federation and was selected by 1000 Friends of Florida as a “Special Friend of Florida.”

the uproar that would occur if all existing nonconforming uses were required to cease immediately upon the adoption of new zoning regulations.

Similarly, even though the concept of zoning is well established in the court system, the courts protect existing uses and development from immediate compliance with the adoption of new zoning regulations through various legal doctrines such as takings law, vested rights, and concepts of equity and justice.

Despite these good reasons to allow nonconformities to continue, nonconformities often undermine what a community is seeking to achieve when it establishes specific allowable uses and development standards for a zoning district. Therefore, it is important to determine the best way to eliminate, reduce, or continue nonconforming situations.

UNDERSTANDING THE JARGON

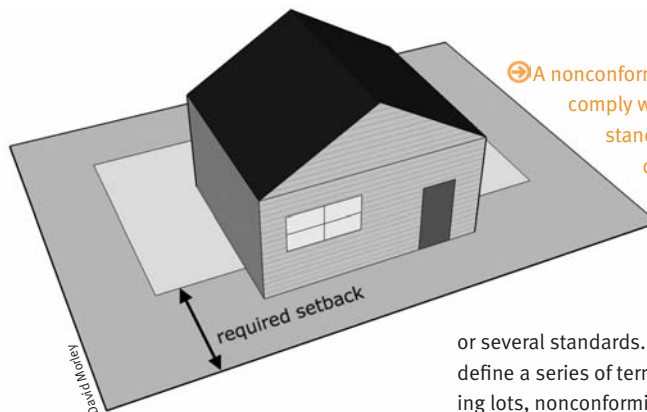
In order to be clear about the concepts, a few terms pertaining to nonconformities are explained here:

Nonconforming use. Use means the activity carried out on the land. When a use is nonconforming, it means that the existing use is not authorized for the zoning district in which it is located. However, even when the use is nonconforming, the structure housing the use is not necessarily nonconforming. In fact, there may be no structures involved at all. For example, a field in an agricultural zone might be used for parking although parking is not an authorized principle use.

A review of the Planning Advisory Service Report 521/522, *A Planners Dictionary*, reveals that many local governments include structures, lots, and site design features within the definition of nonconforming use. However, we make a clear distinction between use and site design or development standards when

- accessory structures, such as dumpsters, pools, pool enclosures, sheds, recreational facilities, or greenhouses.

When new design standards are adopted to govern the location, height, dimensions, number, or other design requirements, existing development may no longer conform to one



ⓘ A nonconforming structure fails to comply with current dimensional standards such as setbacks, lot coverage, or height.

applying the term *nonconformity*. We believe it is important to distinguish between the activity (use) and the design standards that apply to buildings, structures, site features, and lots.

Nonconforming development standards.

Site development standards pertain to:

- lots, meaning the area or dimensions;
- structures, primarily the principal building(s) on a site;
- required design features, such as parking lots, loading areas, or stormwater facilities; and

or several standards. Local governments often define a series of terms, such as nonconforming lots, nonconforming parking, nonconforming dimensional requirements, and so forth. The key factor is that all such nonconformities pertain to development or design standards, as distinguished from use.

Detrimental nonconformities. Many people believe that nonconformities are inherently detrimental or cause harm in some way. However, based on our experiences and discussions with practitioners over the last several years, it seems clear that nonconformities may or may not be detrimental. Consequently, we believe that nonconformities should be separated into two categories—“detrimental” and “benign.”

Detrimental nonconformities are those that have a negative impact on the health and safety of the public. Examples include uses involving hazardous materials, such as gasoline stations in single-family neighborhoods; uses that produce significant noise, such as body shops or paint shops; uses that have been deemed incompatible, such as adult entertainment establishments near schools; or uses that have large trip generation characteristics, such as drive-through restaurants.

Detrimental nonconformities clearly have the potential for harm and should be subject to limitations leading to their eventual removal or

not a single concept to be routinely cited as the basis of regulation. Rather, health and safety are the basis of protection from injury, illness, danger, and other harm. Public welfare is concerned with nuisance, economic interests, convenience, and community character. While benign nonconformities may have some negative impact, the local government has determined that the negative impact is small and does not threaten the public health and safety. For example, the amount of deviation from a dimensional requirement may be so small as to be unnoticeable, such as an encroachment of only a few inches into

compliance with all remaining development standards. Such exceptions are not consistent with the idea that the nonconformity should be eliminated eventually.

- *Prohibiting or limiting a change of use* except when the new use is considered conforming or less nonconforming, often based on development standards to support the use. In this latter situation, a good example is parking. When the use requires the same or fewer parking spaces, the impact from the change of use is not increased.
- *Requiring the combination of adjacent nonconforming lots.* When a lot has less area than



Photos by John Svoboda

➔ Detrimental nonconformities threaten the public welfare. Nearby residents no longer have the quiet enjoyment of their homes due to noise, lights, odor, or increased traffic.

modification into compliance with current standards. This concept forms the basis for most regulation of nonconformities.

Benign nonconformities. When development fails to meet current design standards but the nonconformity is not harmful, there is little or no need to limit the development from expansion, redevelopment, or other activities. Local governments often struggle with this issue because, in most cases, *all* nonconformities are treated alike. The authors recommend that local governments establish a second category of nonconformities—benign nonconformities—with different standards that do not necessarily lead to eventual removal of the nonconforming situation. A nonconformity is considered benign when it does not have a negative impact on the health and safety of the public but may have a negative impact on the public welfare. Examples may include a lack of landscaping, too few parking spaces, or minimal deviations from dimensional standards.

The separation of nonconformities into detrimental and benign is based on the idea that “public health, safety, and welfare” is

a required setback. A benign nonconformity can also arise from inconvenience, such as too few parking spaces. The local government should categorize a nonconformity as benign when there is no need to eliminate it to protect the public from harm.

CURRENT APPROACHES TO REGULATING NONCONFORMITIES

Most regulation of nonconformities is based on the eventual elimination of the situation. This approach leads to regulations such as the following:

- *Prohibiting or limiting the expansion of a building* when the building itself is nonconforming or when the building, even though meeting the development standards, houses a nonconforming use. The idea is that, while routine maintenance is permissible, such a limitation will prevent continued investment into a situation that should not exist. However, many local governments allow a building’s expansion if it does not increase the degree of nonconformity. An example is a building with a nonconforming front setback where an expansion is proposed to the rear of the building in

required for development, and the same owner has two or more contiguous lots, a typical regulation requires the lots to be combined to create one conforming lot. On the other hand, many regulations allow the development of a lot that is nonconforming as to area, provided that all other standards for development are met. This latter situation is a good example of the concept of a benign nonconformity.

- *Providing that a discontinued nonconforming use cannot resume.* Local governments set a time limit on the ability of an owner to resume a nonconforming use. Typical regulations allow six months or one year of cessation; at the end of this time only a conforming use is permissible. During the latest economic downturn, however, many nonconforming uses went out of business. To avoid empty properties and encourage another similar—even if nonconforming—business to move in, some local governments have looked for ways to extend that time limit. One way is to consider the use “continuing” if the property is actively offered for sale or rent.
- *Providing that a nonconforming building that is vacant for a specified period of time is*

not reoccupied until the nonconformity is eliminated and the entire site is brought into compliance with the standards. Again, typical regulations allow six months or one year of vacancy before requiring that the building or other development features are brought up to current standards. Similar to the cessation of use situation, many local governments are extending the time limit if properties are actively offered for sale or rent.

- *Requiring that buildings and other development features that are destroyed are reconstructed only in compliance with current standards.* Most local governments allow reconstruction to the current conditions if there is a determination that the loss of the building is not due to an act of nature and that the loss is less than 50 percent of the value of the building. Therefore, a partially destroyed building can be rebuilt in its same nonconforming situation.
- *Amortizing the nonconformity.* In some instances, a local government establishes a time frame within which the nonconformity must cease. The basis for doing so is to allow the property owner an opportunity to recover his

A local government may wish to avoid the creation of nonconformities through greater attention to creating mixed use districts or the use of flexible design standards and overlay districts.

unsafe by the local government, with the result that elimination or reduction of the nonconformity is not the goal. Further, as planning practice moves away from the rigid separation of uses for the sake of strict uniformity within a district, we recognize that variation is not only acceptable but also is often desirable. Compatible development does not demand sameness. Rather, the public seeks and planners provide mixed use options in modern zoning codes. Increasingly, we see the need to focus on impact, character, compatibility, and urban form—which means that a nonconformity may not be unwelcome in a neighborhood.

A local government may wish to avoid the creation of nonconformities through greater attention to creating mixed use districts or the

standards are intended to reflect urban form rather than prescriptive and uniform dimensions. This contemporary approach avoids nonconforming uses and provides diversity and variation in design rather than the sameness planners and the public seek to avoid.

Another approach that we often use is to create an overlay for a specific neighborhood. A typical example is an older subdivision, established when lots and yards were smaller. The current residential zoning district requires a larger lot area, greater lot width, and larger setbacks; all the older houses and lots become nonconforming. Under typical nonconforming standards, additions to the houses are not allowed because the purpose of the nonconforming provisions is to eliminate, not continue



Photos by Kris Morley

⊕ Some nonconforming uses create detrimental impacts to their neighborhoods due to noise, traffic, electronic interference, lights, and odors. These impacts can be compounded by structural nonconformities such as inadequate parking, setbacks, buffers, and landscaping.

economic investment before being required to cease the nonconformity. This approach has been used for many different types of uses, such as gas stations in residentially zoned areas, adult entertainment facilities, junk yards, concrete plants, commercial uses, and billboards. The length of the amortization period is based frequently upon the economic life of the nonconformity.

REGULATING BENIGN NONCONFORMITIES

The distinguishing characteristic of the benign nonconformity is that the type and degree of nonconformity are not considered harmful or

use of flexible design standards and overlay districts. A neighborhood or other identifiable geographic unit may contain uses that would be nonconforming in a traditional zoning district, which seeks uniform uses. However, when nonconforming uses are desirable, the government should consider a mixed use district. This avoids the creation of nonconforming uses and may also achieve a vibrant, diverse neighborhood that benefits the community.

Planning practices include many examples of flexible design standards, such as context-sensitive standards, performance standards, or compatibility standards. Such stan-

and expand, the nonconforming situation. Flexible standards may not be a good fit in this situation. However, the creation of the “old neighborhood overlay,” with standards that recognize the existing situation, keeps a stable neighborhood in conformance and allows property improvements with no special procedures or requirements other than compliance with the overlay standards.

Some practitioners have argued that flexibility is the necessary ingredient in regulating nonconformities. However, we believe that a local government does not need to examine nonconformity on a case-by-case basis. Instead,



Kris Morley

⊖ This message parlor in a low-density residential neighborhood is a detrimental nonconforming use. The traffic, lights, and noise generated by this use can have a harmful effect on the surrounding neighborhood.

the standards in a manner consistent with the public interest.

DISTINGUISHING BETWEEN DETRIMENTAL AND BENIGN NONCONFORMITIES IN THE REGULATIONS

Many local governments adopt regulations for nonconformities and include exceptions to those regulations, as described earlier. This approach does not establish clear bases for the exceptions, which are often added on a piecemeal basis to address a particular situation. We recommend the creation of two categories of nonconformities at the outset. Such distinctions make it clear when the nonconformity must be eliminated to protect the public health and safety and can provide a basis for amortizing the nonconformity. The second category, benign nonconformities, still requires specific consideration, but is not intended for elimination.

Regulations that are adopted after a deliberative process can clearly describe those situations which are both nonconforming and detrimental. In such cases, it should be the policy and goal of the local government to eliminate such nonconformities. A detrimental nonconformity is presumed to be harmful to the abutting properties, the surrounding neighborhood, or the community as a whole. If this is the case, regulations should clearly lead to elimination of the nonconformity for the protection of the public.

Therefore, appropriate regulations for detrimental nonconformities would do the following:

- Prohibit *any expansion* of the principal building, accessory buildings, or site features. Continued investment in the property is contrary to the intent to eliminate the nonconformity.

it can decide up front which situations are detrimental and which, even if not sought out, are at least benign in their impact on the neighborhood. Again, the distinction is that detrimental nonconformities are harmful to the public health and safety while benign nonconformities have a potential negative impact on the public welfare.

Examples of benign nonconformities include:

- De minimis (i.e., negligible) deviations from a dimensional requirement, such as encroaching a few inches into a required setback, with no resulting negative impact on neighborhood character.
- A lot that fails to meet a dimensional or area requirement, but the deviation is small enough that the shortfall does not affect the neighborhood character.
- A change in the list of permissible or conditional uses, or eliminating an existing use that is not, in fact, objectionable. It may seem that the change in listed uses is an indication that those not listed are now objectionable. However, unless every existing lot with its existing use is examined during revision to the list of permissible uses, it is often the case that uses become nonconforming not as a matter of policy, but as a matter of oversight. Often, a use considered objectionable at adoption is no longer considered objectionable in later years as times, customs, and lifestyles change.
- Nonconformities arising from a government action, such as the loss of a required front yard for road widening. While the district regulations may require the yard, most properties along the road have the same situation, so the encroachment does not negatively impact that portion of the neighborhood.

- De minimis deviations from a standard, such as required parking spaces, which do not create a negative impact on the surrounding area.

A local government must decide for itself the degree of deviation from a standard that is de minimis. It must also decide how to define the character of a neighborhood and how much change to a lot, its use, or development would have a negative impact. All such determinations are based on impact to public welfare and not public safety or health, where a stricter standard applies.

Such a determination is not unusual for a local government, as the consideration of impact on neighborhood character and deviation from required standards is routine in variance requests and consideration of conditional uses. In fact, we believe that benign nonconformities are similar to variances in that the end result authorizes a deviation from



John Svoboda

⊕ Benign nonconformities are often unnoticed because the nonconformity is so similar to surrounding uses. Thus, there is no harm to the public in the continuation of the nonconforming situation.

- Prohibit *any addition* of site features, unless such features actually reduce the nonconformity. An example of this would be adding parking when part of the nonconformity is that there are too few parking spaces. Another example is the addition of landscaping, either to the parking lot or the entire site, when part of the nonconformity is failure to have required landscaping.
- Prohibit *any extension* of the use to other parts of buildings or the site that were not occupied by the nonconforming use at the time the regulations changed.
- Prohibit a change of use to any use that is not permissible in the zoning district.
- Establish the shortest feasible time for vacancy before new occupancy requires compliance with the current standards.
- Establish the strictest feasible limit on reconstruction after a disaster to ensure that the reconstruction conforms to current standards.
- Establish the strictest feasible limit on reconstruction following voluntary demolition to ensure that the reconstruction conforms to current standards.

Increasingly, we see the need to focus on impact, character, compatibility, and urban form—which means that a nonconformity may not be unwelcome in a neighborhood.

In contrast, the local government may determine that a benign nonconformity is not harmful to the abutting properties or surrounding neighborhood, but is contrary to the public welfare in some way. Just as a variance is a process to authorize a deviation from development standards, recognition of a benign nonconformity authorizes a deviation from development standards and does not require elimination of the nonconformity.

We further recommend that changes to benign nonconformities should not be permissible by right, but rather must be authorized by a board of adjustment, similar to the process for authorizing a variance. The justification for granting a variance is different than the justification for changes to benign nonconformities. Therefore, a change to property categorized as a benign nonconformity should not be authorized as a variance. However, we recommend that the *process* for the two situations, variances and modifications to benign nonconformities, could be similar.

This procedure ensures an opportunity for public participation and allows for the addition of conditions to approval. For example, a property that is nonconforming due to a de minimis setback deviation and lack of adequate landscaping is eligible for expansion. However, the board can require that the landscaping be brought to current standards as a condition of approval of the building expansion. The setback nonconformity continues unchanged. The public welfare is improved and the property owner can make economic use of the property.

Thus, appropriate regulations for benign nonconformities would do the following:

- Allow expansions of the principal building, accessory buildings, or site features, provided that the expansions are conforming to current standards.
- Allow the addition of site features that conform to current standards.
- Allow extension of the use to other parts of buildings or the site.

- Allow a change of use to a permissible or conditional use in the zoning district.
- Allow vacancy of the property for any period of time, provided that the property is properly maintained to ensure safety.
- Allow reconstruction to restore existing conditions following a disaster.

The idea of categorizing nonconformities as detrimental and benign is a new way of labeling nonconformities, but it is not an altogether new idea. For example, Cape Canaveral, Florida, allows some nonconformities to be modified through a special permit. In establishing this provision, the city recognizes that some nonconformities do not have a detrimental impact on the community. San Leandro, California, has a list of exceptions to nonconformity provisions along with an overlay district for nonconforming situations. Identifying exceptions to the nonconformity provisions is a typical method of addressing benign, or nondetrimental, nonconforming situations. Lowndes County,

Georgia, also has an overlay district to avoid creation of nonconformities, although it is not labeled a nonconforming overlay, as is the case in San Leandro. Lompoc, California, classifies nonconformities into groups A and B to distinguish detrimental from nondetrimental situations.

CONCLUSIONS

This article makes the case for two categories of nonconformities—detrimental and benign—with separate regulations for each category. While the initial basis for nonconformities continues to exist, many local governments are seeking ways to retain and even encourage the continuance of nonconformities that are not harmful or unsafe. The distinction between nonconformities that are detrimental and destined for elimination and nonconformities that are benign and even desirable renders the regulations more meaningful for property owners and easier to administer by the local government.

Cover photo collage designed by Lisa Barton; photos (clockwise): gas sign, © iStockphoto.com/Paul Hart; house, © iStockphoto.com/jtc215; liquor store, John Svoboda; auto repair shop, Kris Morley.

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DOES YOUR COMMUNITY DISTINGUISH
BETWEEN DETRIMENTAL AND BENIGN
NONCONFORMITIES?

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QUITCLAIM DEED

This Indenture, made this 30th day of December, 2010, at 8:15 a.m. EST, between (i) Frank P. Troiano, as Trustee of the Frank Troiano Revocable Trust dated September 1, 2008 and Laura Troiano, as Trustee of the Laura Troiano Revocable Trust dated September 1, 2008 (the "Grantors"), both of which have as their post office address 290 Breakwater Drive, Fishers, Indiana 46038 and (i) Frank P. Troiano and Laura Troiano, as husband and wife (the "Grantees"), both of whom have as their post office address 290 Breakwater Drive, Fishers, Indiana 46038:

Witnesseth: That said Grantors, for no consideration do hereby remise, release, and quit-claim unto the Grantees forever, all the right, title, interest, claim, and demand which both the said Grantors have in and to the following described lot, piece of parcel of land, situate, lying and being in the County of Palm Beach, State of Florida, to wit:

The North 67.38 feet of the South 367.38 feet of the North Half of the North Half of Government Lot 1, Section 9, Township 47 South, Range 43 East, Palm Beach County, Florida, subject to right-of-way of State Road A-1-A.

Subject to the easements, restrictions, and reservations of record, if any; zoning ordinances, matters of survey; and taxes payable in the year 2011 and thereafter.

More commonly known as: 4611 South Ocean Blvd., Highland Beach, Florida.

To Have and to Hold the same together with all and singular appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity, and claim whatsoever of the Grantors, either in law or equity, to the only proper use, benefit, and behalf of the Grantees.

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1548264 / 13243-64054

2

IN WITNESS WHEREOF, Grantor has executed this Quitclaim Deed as of the day and year set forth above.

Signed, sealed and delivered in the presence of:

"GRANTORS"

Print Name Frank D Troiano
Print Name Derek C Hamilton

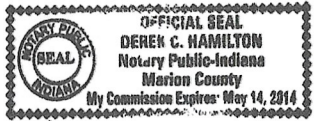
[Signature]
FRANK P. TROIANO, as Trustee of the FRANK TROIANO REVOCABLE TRUST DATED SEPTEMBER 1, 2008

Print Name Frank D Troiano
Print Name Derek C Hamilton

[Signature]
LAURA TROIANO, as Trustee of the LAURA TROIANO REVOCABLE TRUST DATED SEPTEMBER 1, 2008

STATE OF INDIANA)
COUNTY OF MARION) SS.:

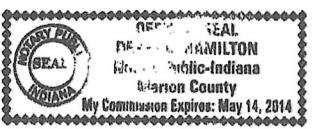
The foregoing instrument was acknowledged before me this 30th day of December, 2010, by FRANK P. TROIANO, in his capacity as Trustee of the FRANK TROIANO REVOCABLE TRUST DATED SEPTEMBER 1, 2008, who is personally known to me or who has produced [Signature] as identification.



[Signature]
Signature of Notary Public
Print Name: _____
State of: _____
My County of Residence: _____
My Commission Expires: _____

STATE OF INDIANA)
COUNTY OF MARION) SS.:

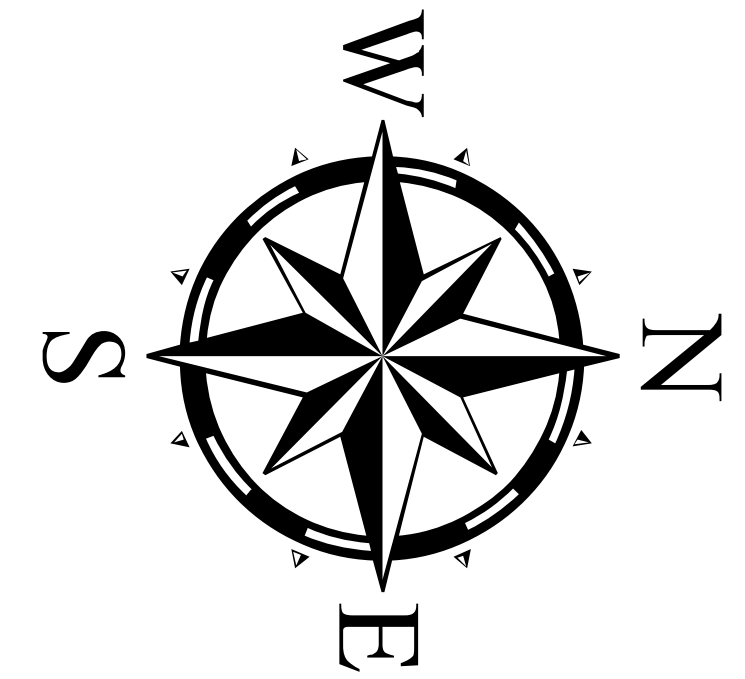
The foregoing instrument was acknowledged before me this 30th day of December, 2010, by LAURA TROIANO, in her capacity as Trustee of the LAURA TROIANO REVOCABLE TRUST DATED SEPTEMBER 1, 2008, who is personally known to me or who has produced [Signature] as identification.



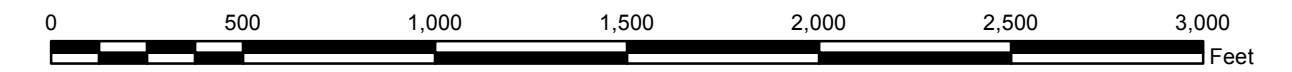
[Signature]
Signature of Notary Public
Print Name: _____
State of: _____
My County of Residence: _____
My Commission Expires: _____



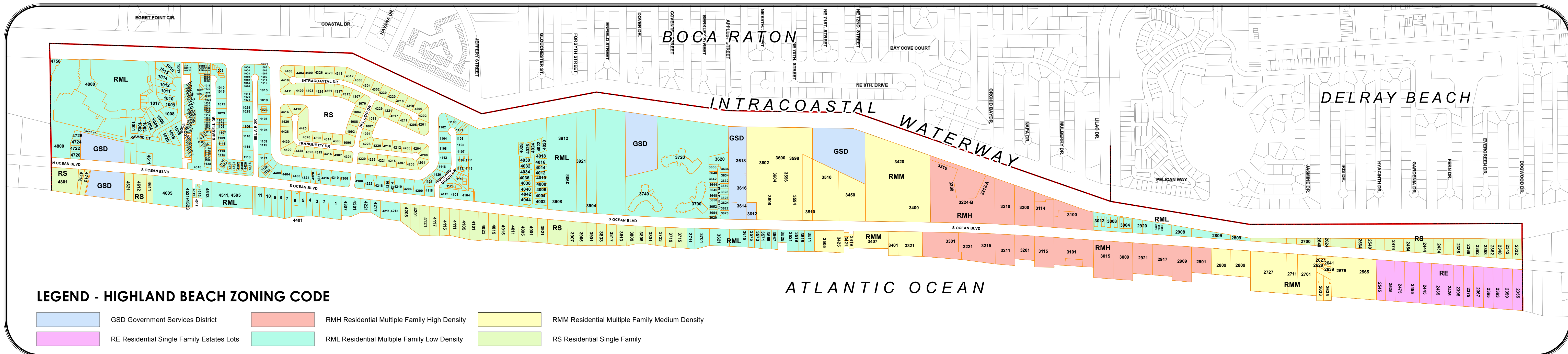
TOWN OF HIGHLAND BEACH OFFICIAL ZONING MAP




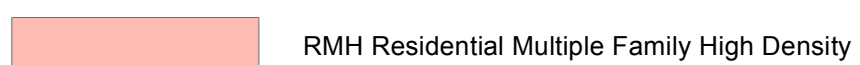
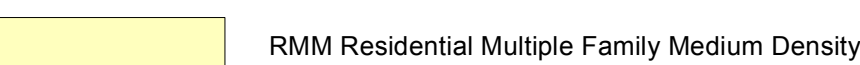

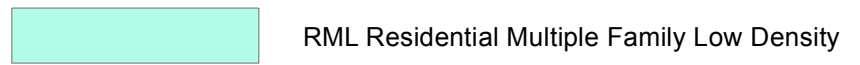
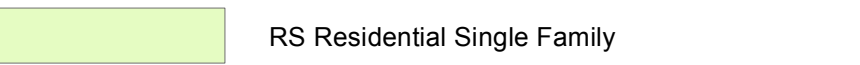
SCALE



1 inch = 500 feet



LEGEND - HIGHLAND BEACH ZONING CODE

	GSD Government Services District		RMH Residential Multiple Family High Density		RMM Residential Multiple Family Medium Density
	RE Residential Single Family Estates Lots		RML Residential Multiple Family Low Density		RS Residential Single Family

THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL ZONING MAP OF THE TOWN OF HIGHLAND BEACH AS ADOPTED BY ORDINANCE NO. 594, AND IS AN AMENDMENT OF THE OFFICIAL ZONING MAP REFERRED IN SECTION ONE OF ORDINANCE NO. 503 OF THE TOWN OF HIGHLAND BEACH, FLORIDA.

TOWN COMMISSION

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WILLIAM WEITZ, PhD, Vice Mayor

LOUIS P. STERN, Comm.

CARL FELDMAN, Comm.

RHODA ZELNIKER, Comm.

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ATTESTATION

VALERIE OAKES, Town Clerk
ADOPTED _____
ORDINANCE NO. _____



DOROTHY JACKS
CFA, AAS
Palm Beach County Property Appraiser

Governmental Center - Fifth Floor
301 North Olive Avenue
West Palm Beach, FL 33401
tel 561.355.3230
fax 561.355.3963
pbcgov.org/papa

Geoprocessing Department
Governmental Center-Fifth Floor
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West Palm Beach, FL 33401
tel 561.355.1558
fax 561.355.3065
mymap@pbcgov.org

PARCEL SPLIT REQUEST

Requests for parcel splits may be submitted by property owners or agents. This request shall be submitted for review to the GIS/Mapping Department at mymap@pbcgov.org. The requirements that follow are minimal and granting the split will remain at the discretion of the Property Appraiser's Office. The split of this parcel may have an impact on taxable value, exemptions, capped value and/or taxes. This office does not determine whether a parcel/s meet legal requirements for development purposes.

- I. To qualify for a split, the parcel/owner must:
 - a) Be current on all property taxes
 - b) Have existed previously as individual parcels either recorded or unrecorded, that were combined at the owner's request, or
 - c) Provide legal descriptions and/or provide a survey if available for each parcel as they would appear after split
 - d) Have approval from the appropriate zoning/planning/community development agency of your jurisdiction
 - e) Have a release of Unity of Title, if applicable

(Note: GIS/Mapping will verify if the property is encumbered.)

II. Property Control Number: _____ Building Exemption
Yes/No Yes/No

Required: (check one and give support documentation)

_____ Prior existing parcel _____ Deed _____ Identified by survey

Additional Notes: _____

III. Current Owner(s) or Agent:

Signature: _____ Date: _____

Print Name/Title: _____ Contact Number: _____

Email address: _____

For questions regarding splits, please contact the GIS/Mapping Department at 561.355.1558 or submit form(s) to mymap@pbcgov.org.

Interoffice Recommendation to Proceed: Initials: _____ Dept: _____ Date: _____

Tax Roll Year: _____ Completed date: _____ Initials: _____

ZONING - RML

N 89 23'58" E 120.29'

12' SETBACK

68.06'

ZONING RML

20' SETBACK

VACANT PARCEL
GROUND FLOOR BLG. AREA 2,456 S.F.

POTENTIAL BUILDING AREA FOR
A 2 STORY BLG 4,912 S.F.

40' SETBACK

68.10'

A1A OCEAN AVE.

TOTAL AREA OF
PARCEL 8,187 S.F.
ZONING - RML

S 07 31'42" W

12' SETBACK

N 89 23'58" E 122.75'

ZONING - RML

VACANT PARCEL
4611 S OCEAN BLV.

Charles Putman & Associates, Inc.

Land Planning Services

PLANNING - ZONING - PERMITTING



Sold To:

Town of Highland Beach - CU00398185
3614 So. Ocean Blvd.
Highland Beach,FL 33487

Bill To:

Town of Highland Beach - CU00398185
3614 So. Ocean Blvd.
Highland Beach,FL 33487

Published Daily

Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida
Miami, Miami-Dade County, Florida

State Of Florida
County Of Orange

Before the undersigned authority personally appeared
Rose Williams, who on oath says that he or she is a duly authorized representative of the SUN- SENTINEL,
a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County, Florida; that the
attached copy of advertisement, being a Legal Notice in:

The matter of 11720-Notice of Public Meeting .
Was published in said newspaper by print in the issues of, and by publication on the
newspaper’s website, if authorized on Jan 21, 2024
SSC_Notice of Public Meeting
Affiant further says that the newspaper complies with all legal requirements for
publication in Chapter 50, Florida Statutes.

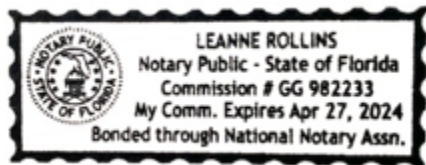


Signature of Affiant

Sworn to and subscribed before me this: January 22, 2024.



Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped
Personally Known (X) or Produced Identification ()

Affidavit Delivery Method: E-Mail
Affidavit Email Address: lgaskins@highlandbeach.us
7564777

**TOWN OF HIGHLAND BEACH
NOTICE OF PUBLIC HEARING**

YOU ARE HEREBY NOTIFIED that the Board of Adjustment and Appeals Board of the Town of Highland Beach will conduct a public hearing on Wednesday, January 31, 2024 at 9:30 AM and the Town Commission will conduct a public hearing on Tuesday, February 20, 2024 at 1:30 PM in the Community Room of the Highland Beach Library located at 3618 South Ocean Boulevard, Highland Beach, Florida to consider the following:

APPLICATION NO. 23-2790 BY FRANK AND LAURA TROIANO FOR A VARIANCE FROM SECTION 30-103(D) AND SECTION 30-64 OF THE TOWN CODE OF ORDINANCES TO CREATE A LOT WITH A MINIMUM LOT WIDTH OF 68.06 FEET IN LIEU OF THE REQUIRED 80 FOOT MINIMUM LOT WIDTH FOR A SINGLE-FAMILY DWELLING IN THE RESIDENTIAL MULTIPLE FAMILY LOW DENSITY (RML) ZONING DISTRICT FOR THE PROPERTY LOCATED AT 4611 SOUTH OCEAN BOULEVARD (WEST SIDE OF STATE ROAD A1A).

The application is available for inspection in the Town Clerk's Office at Town Hall, Monday through Friday during normal business hours of 8:30 A.M. to 4:30 P.M. and will be on the Town's website at <https://highlandbeach-fl.municodemeetings.com/> no later than Friday, January 26, 2024.

Any person that decides to appeal any decision made by the Planning Board with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceeding is made, which includes the testimony and evidence upon which the appeal is based. The Town of Highland Beach does not provide such a record.

In accordance with the Americans with Disabilities Act, persons who need special accommodation to attend or participate in this meeting should contact the Town Clerk's Office at (561) 278-4548 at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8770 or 1-800-955-8771.

For additional information, please contact the Town Planner at (561) 278-4540.
TOWN OF HIGHLAND BEACH, BUILDING DEPARTMENT
1/21/24 7564777

**Town of Highland Beach
Town Commission Variance (BOAA)
Application No. 23-2790**



**Applicant: Frank & Laura Troiano
Property Address: 4611 S. Ocean Blvd
Highland Beach, Florida 33487**

CERTIFICATE OF MAILING AFFIDAVIT

I hereby certify that the Town Clerk's Office mailed a copy of the Notice of Public Hearing (Exhibit A) for Application No. 23-2790 for the property located at 4611 S. Ocean Blvd., Highland Beach, Florida 33487, by U.S. first-class and international mail to:

All property owners and properties owned by a condominium association president and the association's registered agent within 500 feet of the property located at 4611 S. Ocean Blvd, Highland Beach, Florida 33487.

The mailings consisted of 54 notices that were sent first class mail and 02 notices that were sent by International Mail.

This 16th day of January 2024.

Highland Beach Town Clerk's Office

Jaclyn DeHart
Deputy Town Clerk



TOWN OF HIGHLAND BEACH NOTICE OF PUBLIC HEARING APPLICATION NO. APP23-2790

January 15, 2024

Dear Property Owner:

This is to notify you that the **BOARD OF ADJUSTMENT AND APPEALS** of the Town of Highland Beach will conduct a public hearing on **Wednesday, January 31, 2024 at 9:30 AM** and the **Town Commission** will conduct a public hearing on **Tuesday, February 20, 2024 at 1:30 PM** in the Community Room of the Town Library located at 3618 South Ocean Boulevard, Highland Beach, Florida to consider the following application:

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TOWN OF HIGHLAND BEACH, BUILDING DEPARTMENT