

MEMORANDUM

TO: Howey-in-the-Hills Planning Board
CC: D. Burke, Town Clerk
FROM: Thomas Harowski, AICP, Planning Consultant
SUBJECT: Venezia Lot 133 Swimming Pool Variance
DATE: October 28, 2019

The Town has received an application for a variance from the swimming pool regulations to allow construction of a swimming pool on Lot 133 of the Venezia South Subdivision to permit construction of a swimming pool nine feet from the side property line in stead of the required 10-foot setback; and to allow construction of a pool deck and screened pool enclosure 5.5 feet from the side property line in stead of the required 10-foot setback. The applicant has submitted a survey showing the proposed location of the swimming pool, pool enclosure and pool equipment. The applicant has also submitted a response to the questions required for granting a variance.

For a variance to be granted, the Planning Board and Town Council must find that a unique circumstance exists than makes it an undue hardship to apply the code as written. The applicant claims that an existing conservation easement of 25-feet has forced the proposed swimming pool location further south on the lot making it extremely difficult to fit the pool and pool enclosure on the lot while fully meeting the setbacks from the south property line. The attached survey shows the conservation easement area. There are two other points of note which are not raised by the applicant, but which could contribute to the Board's recommendation.

- The lot is not a standard rectangular shape. Lot 133 is a perimeter lot in the subdivision, and the shape of the subdivision at this point creates a notch in the northwest corner of the parcel. This notch has the effect of shifting the conservation easement further south than would be the case with a standard rectangular lot.
- The standard side yard setback for lots in the Venezia South subdivision is 5.5 feet. This means that the principal structure (the house) could be built at 5.5 feet from the side property line while the pool enclosure must be 10-feet from the side property line. When the Venezia South Subdivision was approved, the side yard setbacks were established in the planned unit development agreement. No specific rules were provided for swimming pools, so the standard zoning rules still apply. Standard side yard setbacks in the Town's standard zoning classifications

vary from 12.5 feet to 25 feet, so a house on these lots would be further from the side property line than a pool enclosure.

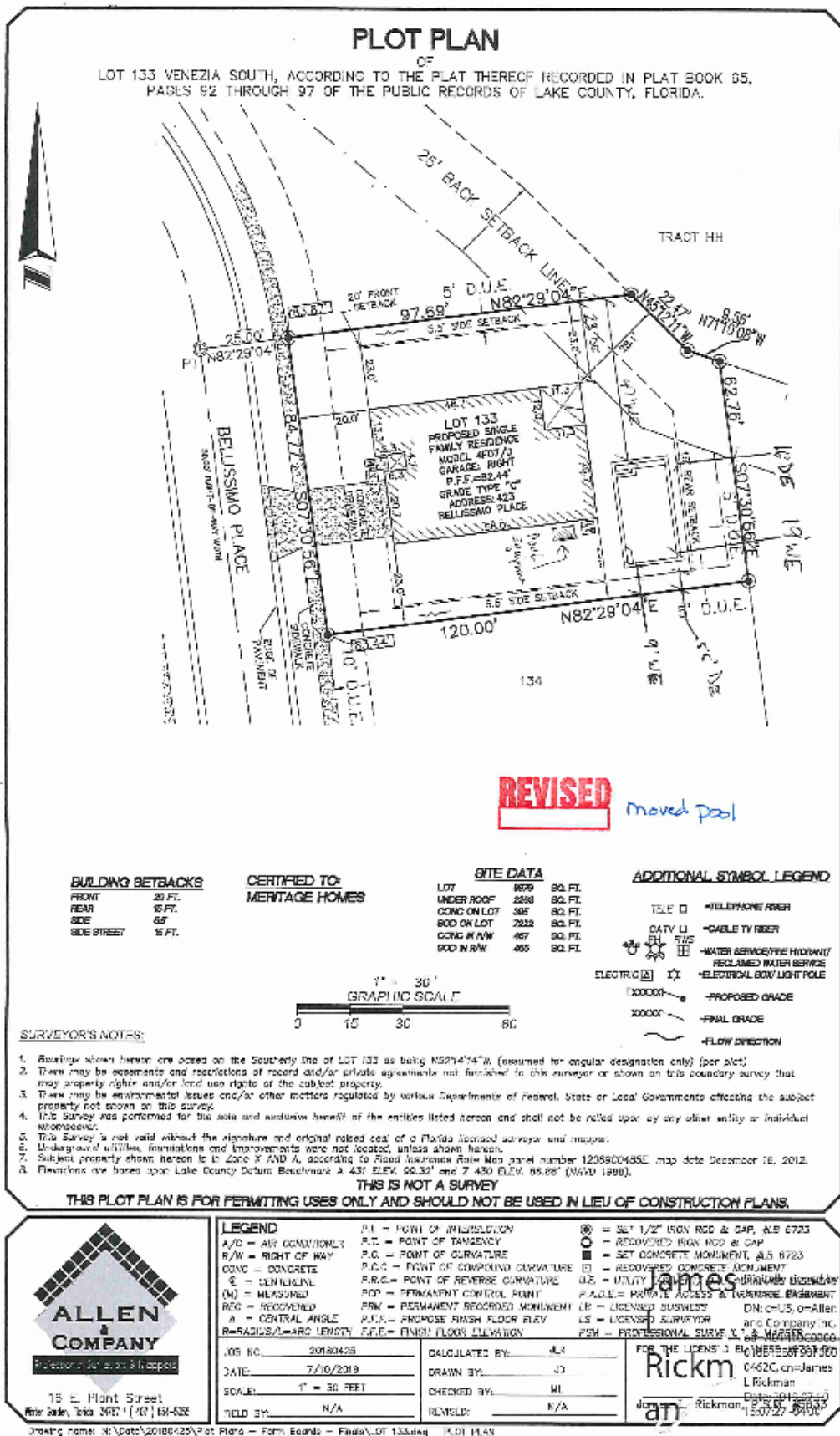
- Setbacks in the Venezia South Subdivision are as follows:

Front Setback	15 feet
Side Setback	5.5 feet
Side Corner Setback	15 feet
Rear Setback	15 feet

While there may be supporting evidence to allow some relief from the side yard setback requirements for the pool deck and pool enclosure, it is apparent from the survey provided that the swimming pool itself could be shifted one foot to the north to comply with the setback requirements of Section 5.01.08 of the land development code. Additionally, any variance is to be the minimum relief needed to allow for utilization of the property. The applicant should provide evidence that the request variance of 4.5 feet is the minimum necessary to allow for the swimming pool to be constructed and to be useable by the residents.

Staff Recommendation:

Staff recommends the Planning Board advise the Town Council of its recommendation for a variance of 4.5 feet from the required 10-foot side yard setback to allow the pool deck and pool enclosure be constructed 5.5 feet from the side property line. This recommendation is contingent upon the applicant demonstrating to the Planning Board that the 4.5-foot variance is the minimum variance necessary to allow for construction of and full use of the proposed pool. Staff does not recommend any variance for the pool setback.



5.01.08 Swimming Pools and Pool Enclosures

- A. All pools shall provide fencing or enclosures in compliance with the requirements of the Florida Building Code.
- B. A screen enclosure may be installed instead of, or in addition to, a fence or wall, provided that the screen enclosure meets all the following requirements:
 - 1. A pool screen enclosure shall be set back from the side lot line a minimum of ten (10) feet;
 - 2. A pool screen enclosure shall not be closer than ten (10) feet to the rear lot line; and
 - 3. A pool screen enclosure shall not exceed twenty-five (25) feet or the height of the principal structure, whichever is lower.
- C. No overhead electric power lines shall pass over any pool, nor shall any power line be nearer than fifteen (15) feet horizontally or vertically from the pool edge.
- D. Pool equipment may be located within the side yard setback, but not closer than five (5) feet to side yard and ten (10) feet to the rear yard lot lines.
- E. Lights used to illuminate any swimming pool shall be shielded and directed to avoid illumination of adjoining properties.
- F. Pools and pool decks shall meet the following setbacks:
 - 1. All pools and pool decks shall not be located in the front yard;
 - 2. The minimum side setback shall be ten (10) feet from the side lot line; and
 - 3. The minimum rear setback shall be not less than ten (10) feet from the rear lot line.