

4. Request by Stefani Tennyson for a variance to allow an existing 11-foot by 16.9-foot concrete slab and a proposed shed to encroach 1.5 feet into the 6-foot side setback and 4.3 feet into the 10-foot rear setback for an accessory structure as established by Section 185.118, Palm Bay Code of Ordinances (0.23 acres) (V24-00001).  
(Quasi-Judicial Proceeding)



## MEMORANDUM

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Suzanne Sherman, City Manager

**THRU:** Lisa Frazier, AICP, Growth Management Director

**DATE:** August 13, 2024

**RE:** Request by Stefani Tennyson for a variance to allow an existing 11-foot by 16.9-foot concrete slab and a proposed shed to encroach 1.5 feet into the 6-foot side setback and 4.3 feet into the 10-foot rear setback for an accessory structure as established by Section 185.118, Palm Bay Code of Ordinances (0.23 acres) (V24-00001). (Quasi-Judicial Proceeding)

### SUMMARY:

The property was originally developed in 2023 and consists of approximately 0.23 acres in the RS-2, Single-Family Residential District.

In October 2023, building permit BL23-12920 was submitted for a back patio and a shed slab at 1275 Scottish Street SW. Green Hammer Concrete submitted a survey for (2) concrete slabs showing them in compliance with all required setbacks. The building department approved a pre-pour inspection and then failed the final inspection due to the shed slab encroaching into the ten (10) foot rear utility easement. A complaint started as to why the pre-pour passed if the slab was encroaching at that time. The contractor and property owners were advised that the easiest solution would be to remove the section that is encroaching and re-do the slab as shown on the survey. Otherwise, a vacate of easement and a variance would be required due to a structure being placed on the slab.

The property owners have opted to pursue a vacating request and variance. The vacation of easement for the encroachment into the public utilities and drainage easement was approved via Ordinance 2024-29 on August 1, 2024. The applicant is now requesting a variance of 1.5 feet from the 6-foot side setback and 4.3 feet from the 10-foot rear setback for an accessory structure, as established by Section 185.118 of the Palm Bay Code of Ordinances. This is a variance of 1.5 feet, a 25% reduction from the code requirement for the side setback, and a variance of 4.3 feet, a 43% reduction from the code requirement for the rear setback

**REQUESTING DEPARTMENTS:**

Growth Management

**STAFF RECOMMENDATION:**

Staff recommends denial.

**Planning & Zoning Board Recommendation:**

Planning and Zoning Board minutes are not fully transcribed at this time; the following is an excerpt:

Motion by Mr. Boerema, Seconded by Mr. Jaffe to submit Case V24-00001 to the City Council for approval.

**Result:** Carried 4 to 1

**Aye:** Good, Boerema, Jaffe, Warner

**Nay:** McLeod

**Abstain:** None

**ATTACHMENTS:**

1. V24-00001 Staff Report
2. V24-00001 Variance Survey
3. V24-00001 Site Sketch for Vacation of Easement
4. V24-00001 Building Permit Survey
5. V24-00001 Applicant Photos
6. V24-00001 Narrative
- 6a. V24-00001 Applicant Response to Section 169.009
7. V24-00001 Application
8. V24-00001 Letter of Authorization
9. V24-00001 Legal Acknowledgement



**REVISED**

# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: 321-733-3042

[landdevelopmentweb@palmbayflorida.org](mailto:landdevelopmentweb@palmbayflorida.org)

**Prepared by**

Tania Ramos, Principal Planner

**CASE NUMBER**

V24-00001

**PLANNING & ZONING BOARD HEARING DATE**

August 7, 2024

**PROPERTY OWNER & APPLICANT**

Stefani J. Tennyson, Owner (Green Hammer Concrete, Reps)

**PROPERTY LOCATION/ADDRESS**

Lots 26, Block 1709, Port Malabar Unit 36 Section 03, Township 29, Range 36, Brevard County, Florida, containing 0.23 acres. Located north of Scottish Street SW, in the vicinity east of Hurley Boulevard SW. Tax Account 2903302

**SUMMARY OF REQUEST**

A **Variance** to allow an existing 11-foot by 16.9-foot concrete slab and a proposed shed to encroach 1.5 feet into the 6-foot side setback and 4.3 feet into the 10-foot rear setback for an accessory structure, as established by Section 185.118 of the Palm Bay Code of Ordinances.

**Existing Zoning**

RS-2, Single-Family Residential

**Existing Land Use**

LDR, Low Density Residential

**Site Improvements**

Single-Family Residence

**Site Acreage**

0.23 acres

**SURROUNDING ZONING & USE OF LAND**

**North**

RS-2, Single-Family Residential; Single-Family Residence

**East**

RS-2, Single-Family Residential; Single-Family Residence

**South**

RS-2, Single-Family Residential; Single-Family Residence

**West**

RS-2, Single-Family Residential; Single-Family Residence

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**BACKGROUND:**

The property was originally developed in 2023 and consists of approximately 0.23 acres in the RS-2, Single-Family Residential District.

In October 2023, building permit BL23-12920 was submitted for a back patio and a shed slab at 1275 Scottish Street SW. Green Hammer Concrete submitted a survey for (2) concrete slabs showing them in compliance with all required setbacks. The building department approved a pre-pour inspection and then failed the final inspection due to the shed slab encroaching into the ten (10) foot rear utility easement. A complaint started as to why the pre-pour passed if the slab was encroaching at that time. The contractor and property owners were advised that the easiest solution would be to remove the section that is encroaching and re-do the slab as shown on the survey. Otherwise, a vacate of easement and a variance would be required due to a structure being placed on the slab.

The property owners have opted to pursue a vacating request and variance. The request to vacate the south six (6) feet of the north ten (10) foot Public Utility & Drainage Easement, less the west 57 feet and the east three (3) feet thereof, containing 120 square feet, is scheduled for approval via Ordinance 2024-29 on August 1, 2024. The applicant is now requesting a variance of 1.5 feet from the 6-foot side setback and 4.3 feet from the 10-foot rear setback for an accessory structure, as established by Section 185.118 of the Palm Bay Code of Ordinances. This is a variance of 1.5 feet, a 25% reduction from the code requirement for the side setback, and a variance of 4.3 feet, a 43% reduction from the code requirement for the rear setback.

**ANALYSIS:**

Variances from the terms of the Land Development Code may be granted when special conditions exist that would result in unnecessary hardship if the provisions of the Land Development Code were enforced. However, a variance may not be granted when the public health and safety would be compromised as a result of the variance. A variance request must demonstrate that all criteria in Section 169.009(B)(1) - (7) of the Code of Ordinances have been met, as follows:

**Item 1** - *"Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings or structures in the same land use category, zoning district, or situation."*

**Applicant Response:** >> "To be honest, I'm not sure. I'm not familiar with the zoning to other lands, structures or buildings in this area, so I am unable to say if my particular property has special conditions or not. I'm still learning about our property as my family and I are new to the home and area. When purchasing our home we were never briefed on property easements or

anything of that nature and honestly where we moved from I didn't even think to ask. What I can say is that three quarters of my back yard is leach field which from what I've learned prohibits any structures from being placed on this particular area."<<

**Staff Review:** There are no special conditions and circumstances peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings or structures in the same land use category, zoning district, or situation. This is a standard sized lot with the ability to meet all code requirements for the desired accessory structures.

The building department approved a pre-pour inspection and then failed the final inspection due to the shed slab encroaching into utility easements. The contractor and property owners were advised that the easiest solution would be to remove encroachment and re-do the slab as shown on the approved survey. Section 169.009(C) states, "Financial disadvantages or inconvenience to the applicant shall not of themselves constitute conclusive evidence of unnecessary and undue hardship and be grounds to justify granting of a variance."

**Item 2 -** *"The special conditions and circumstances identified in Item 1 above are not the result of the actions of the applicant."*

**Applicant Response:** >> "We were not aware we couldn't place concrete structures on the leach field until months after we purchased the home. Anaerobic septic systems are new to us and not something we are educated about. We were told however that we could never put an underground pool in the area, which is completely understandable."<<

**Staff Review:** The applicant is not willing to allow the contractor to move the shed slab. She has opted to request a vacating of easement and variance rather than allow the slab and future shed location be brought into compliance.

**Item 3 -** *"Literal interpretation and enforcement of the Land Development Code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same land use category, zoning district or situation under the terms of the Land Development Code and would work unnecessary and undue hardship on the applicant."*

**Applicant Response:** >> "Again, I cannot speak to other properties because I honestly don't know. What I can tell you is that I have a multigenerational family in my household and we need extra storage desperately. This concrete slab will allow us to place a 10x16ft shed, increasing the storage on our property tremendously. Currently, I have a storage unit down the street but that's not feasible long term. We still have items inside the home that needs stored and many items outside the home sitting in the elements that I would like to have storage for as well. The feeling of having a cluttered/ unorganized home really weighs on me mentally as a mother and a person. I do not function well in this type of environment and it causes me to feel in a constant state of chaos. I feel having an adequate storage structure not only would help with this but would also allow me to give my family a healthier living

environment while saving the items that hold memories as well as the items we have worked so hard to give our family over the years.”<<

**Staff Review:** The literal interpretation and enforcement of the Land Development Code will not deprive the applicant of rights commonly enjoyed by other properties in the same land use category, zoning district or situation under the terms of the Land Development Code. This is a standard sized lot with the ability to meet all code requirements for the desired accessory structures.

**Item 4 -** *"The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building, or structure."*

**Applicant Response:** >> "I feel the variance distance we originally requested is the minimum needed due to the fact that any structure placed on this concrete slab will have an over hanging roof. I do not have the shed as of yet so I cannot speak to exact measurements. I do know that I don't want to have the shed declined in the future because we changed the variance to the exact specs of the concrete slab how it sits now."<<

**Staff Review:** The requested variance is not necessary to make possible the reasonable use of the land, building or structure. The slab and proposed shed could meet the required setbacks on this property.

**Item 5 -** *"Granting of the variance request will not confer on the applicant any special privilege that is denied by the development code to other lands, buildings or structures in the same land use category, zoning district or situation."*

**Applicant Response:** >> "I cannot speak to this except for what I have heard. I have spoken to a nice gal with the city who stated in an email, "These requests are not uncommon nor unfamiliar to the Planning & Zoning Board and City Counsel. While I have no way of knowing how P&Z Board and City Counsel will vote, I will say that historically, they've approved similar requests". We also have a Rockledge Sheriff a few doors down whom used to be a contractor in Palm Bay and is familiar with the process. He offered his opinion from previous jobs he's been on and does not think there should be a problem especially now that the utilities are going underground."<<

**Staff Review:** Granting of the variance will confer special privileges on the applicant as other residents in community are expected to comply with all Land Development Code regulations.

**Item 6 -** *"The granting of the variance will be in harmony with the general intent and purpose of this code and will not be injurious to the surrounding properties or detrimental to the public welfare."*

**Applicant Response:** >> "We have visited many of our surrounding neighbors on our block

and the block behind us and all folks we have spoken to have given us their blessing. Our next door neighbor who is closes to this concrete slab has no issues with it either. This will not affect public welfare negatively at all. If anything in my opinion it will increase my property value and in turn the property values around me. It will also help my family and I contain our items to keep the property looking clean and well maintained thus making the neighborhood look more appealing for future residents.”<<

**Staff Review:** Granting this variance may be injurious to surrounding properties who anticipated accessory structures in their neighborhood would meet the required setbacks.

**Item 7 -** *"The variance represents a reasonable disposition of a claim brought under the Bert J. Harris Private Property Rights Protection Act, chapter 95-181, Laws of Florida, that a development order of the city has reasonably burdened the applicant's property, based on the recommendations of the special master appointed in accordance with the act, or the order of a court as described in the act."*

**Applicant Response:** >> “ I feel with all utilities now being placed underground, this then clears the variance/vacate area in its entirety of utilities. The slab is on the east side of the property and the utilities will now be routed underground on the west side of the property. I understand the responses to the 7 statements in Section 169.009 were not to be made personal. Honestly, there is no way for this to not be personal to me as this has been going on since November of 2023. I'm sure you all are aware of this particular situation but for those that might not be please let me explain.

In November of 2023 I hired Green Hammer Concrete to pour a back patio and shed slab on our property. They pulled the permits, came out and framed both the patio and shed slab and then called for a pre-pour inspection from the city. The inspector came out, gave Green Hammer Concrete the go-ahead to pour the concrete, the concrete was then poured and a final inspection was called in. The city inspector then came back out for the final inspection and approved the back patio and failed the shed slab. Please keep in mind from the pre-pour inspection to the final inspection there was only 4 or 5 days. From what I understand the city inspector missed the fact that the easement was 10ft instead of the initial thought of 5ft. I am not sure if they have change recently and used to be 5ft? My contractor Green Hammer Concrete then called and informed me of the situation in its entirety and offered to move the slab as they too missed the 10ft easement. I then asked what my options are and Green Hammer said I could either move the slab or file the vacate and variance. At this point I was frustrated and called the city. It was my feeling that city inspectors are put in place to catch these discrepancies before contractors move forward with jobs. I also felt that maybe since this was missed by the inspector that there would be an exception to the rule. I then spoke to one of the city managers and was informed that I would still unfortunately need to go through the process of the vacate and variance. I let Green Hammer Concrete know that I did not want to move the concrete slab. My reasoning is due to the fact I only have a very small portion of

my back yard that I can put structures on. I desperately need storage for my family so having the shed slab to put a shed on is a must I feel. I also promised my daughter I would replace her play structure/ swing set because she was heartbroken when we couldn't bring her other one to Florida. As the shed slab sits right now I can fit a play structure right next to the slab. If this variance doesn't get approved and I am forced to make a choice between removing the concrete slab that will allow for adequate storage for my family to create a healthier living environment or breaking a promise to my daughter, I really don't want to make the choice if I don't have to. So, when I was given the option to move the slab or go through all the motions to get the vacate and variance approved, I chose to go through the motions. I can't imagine breaking a promise especially to my daughter nor do I want to continue to feel suffocated with our lack of space to store belongings. We have now been going through the motions since January of 2023 and it has been a very long and frustrating process. I'm sure many of you have seen the emails back and forth and maybe even been apart of them. I understand that my situation may not meet Sections 169.009 but that doesn't mean I don't have good reasoning. I just want to have the things that will allow my family and I to enjoy the home we were so excited to buy. I am asking you all ever so kindly to try to understand my position on this. Thank you, Stefani Tennyson."<<

**Staff Review:** Staff has not received a claim made upon this property, with respect to the "Bert J. Harris Act," or any development order, as indicated above. Therefore, Item 7 is not applicable to this variance request.

**STAFF RECOMMENDATION:**

Staff recommends denial of V24-00001, based on the facts presented, as required under Section 169.009 of the City of Palm Bay Code of Ordinances.

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief, is required to meet the needs of the variance being requested, as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.



Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



**SITE LOCATION MAP**

**CASE: V24-00001**

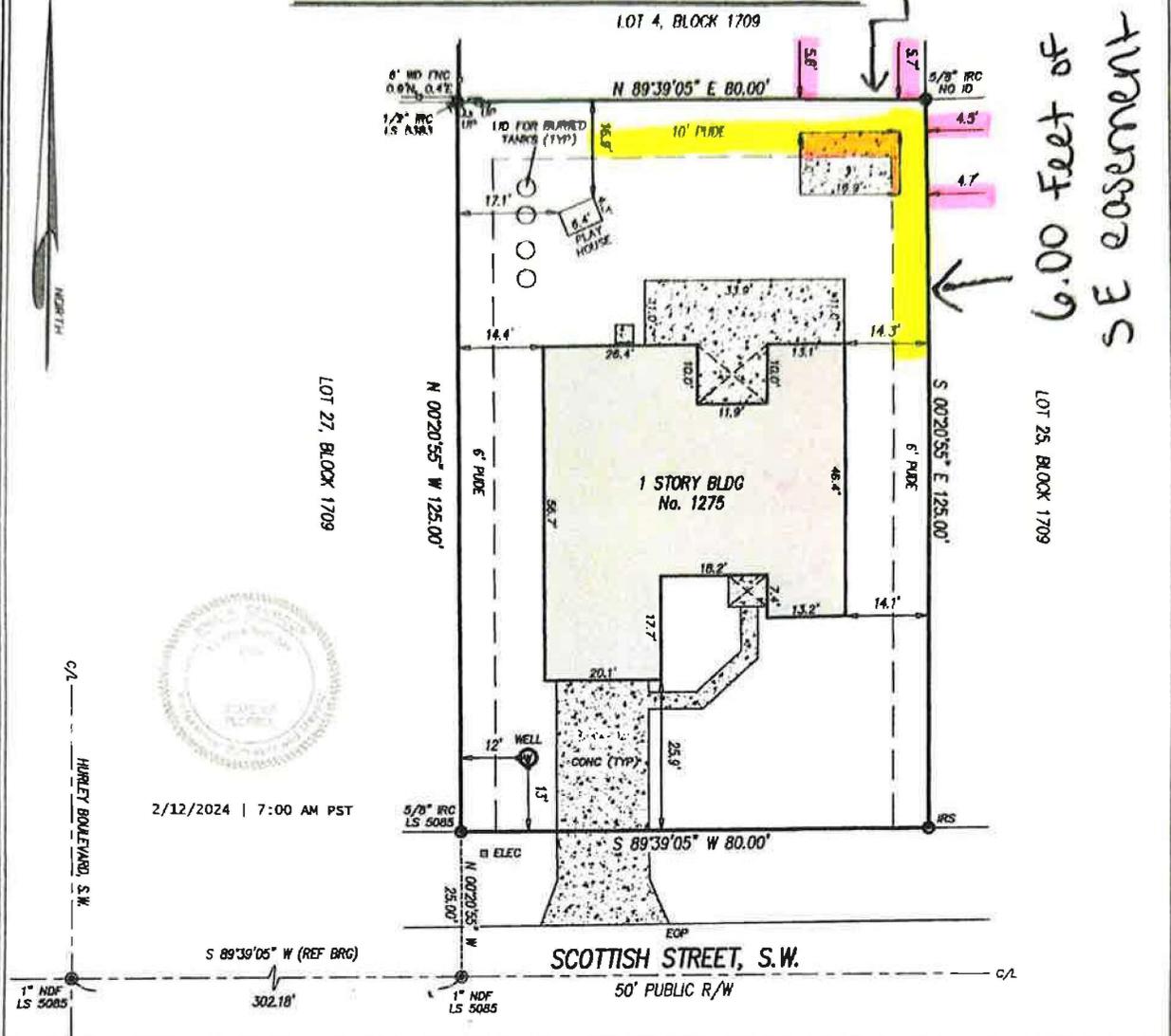
**Subject Property**

Located north of Scottish Street SW, in the vicinity east of Hurley Boulevard SW, specifically at 1275 Scottish Street SW



6.00 Feet of NE Easement

MAP OF BOUNDARY SURVEY



- A = ARC
- BFE = BASE FLOOD ELEVATION
- BLDG = BUILDING
- BLK = BLOCK
- BM = BENCHMARK
- BRG = BEARING
- (C) = CALCULATED
- CATV = CABLE TELEVISION
- CBS = CONCRETE BLOCK STRUCTURE
- CHD = CHORD
- C/L = CENTERLINE
- CLF = CHAIN LINK FENCE
- CMF = CONCRETE MONUMENT FOUND
- CMP = CORRUGATED METAL PIPE
- CONC = CONCRETE
- COR = CORNER
- (D) = DEED
- DA = DELTA ANGLE
- DB = DEED BOOK
- DHF = DRILL HOLE FOUND
- ELEC = ELECTRIC
- ELEV = ELEVATION
- ENC = ENCROACHMENT
- EGP = EDGE OF PAVEMENT
- ESMT = EASEMENT
- FB = FIELD BOOK

- LEGEND**
- FEMA = FEDERAL EMERGENCY MANAGEMENT AGENCY
  - FF = FINISHED FLOOR
  - FNG = FENCE
  - FND = FOUND
  - FPAL = FLORIDA POWER & LIGHT COMPANY
  - ID = IDENTIFICATION
  - IRP = IRON PIPE FOUND
  - IRC = IRON ROD & CAP FOUND
  - IRF = IRON ROD FOUND
  - IRS = 5/8" IRON ROD SET "LB 7838"
  - LB = LICENSED BUSINESS NUMBER
  - LS = (RLS) or (PLS) REGISTERED OR PROFESSIONAL LAND SURVEYOR
  - (M) = MEASURED
  - NAV = NORTH AMERICAN VERTICAL DATUM
  - NDF = NAIL & DISK FOUND
  - NDS = 1 1/4" NAIL & DISK SET "LB 7838"
  - NGVD = NATIONAL GEODETIC VERTICAL DATUM
  - No. = NUMBER
  - O/H = OVERHEAD
  - ORB = OFFICIAL RECORDS BOOK
  - O/S = OFFSET
  - (P) = PLAT
  - PB = PLAT BOOK

- PC = POINT OF CURVATURE
- PCC = POINT OF COMPOUND CURVATURE
- PCP = PERMANENT CONTROL POINT
- PI = POINT OF INTERSECTION
- PLS = PROFESSIONAL LAND SURVEYOR
- POB = POINT OF BEGINNING
- PCC = POINT OF COMMENCEMENT
- PRC = POINT OF REVERSE CURVATURE
- PRM = PERMANENT REFERENCE MONUMENT
- PSM = PROFESSIONAL SURVEYOR AND MAPPER
- PT = POINT OF TANGENCY
- PUE = PUBLIC UTILITY & DRAINAGE EASEMENT
- PUE = PUBLIC UTILITY EASEMENT
- R = RADIUS
- REF = REFERENCE
- RNG = RANGE
- R/W = RIGHT OF WAY
- SEC = SECTION
- SFHA = SPECIAL FLOOD HAZARD AREAS
- TEL = TELEPHONE RISER
- TWP = TOWNSHIP
- TYP = TYPICAL
- UP = UTILITY POLE
- WD = WOOD
- WIT-COR = 5/8" IRON ROD SET WITH CAP "WITNESS LB 7838"
- WM = WATER METER
- XCF = CROSS CUT FOUND

**LEGAL DESCRIPTION:**  
 LOT 26, BLOCK 1709, PORT MALABAR UNIT THIRTY SIX, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 19, PAGES 82-94, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA

BOUNDARY	DATE: 2/7/24	JOB No. 43305
		FB 23-9-63
		PM36/L26B1709

**CERTIFIED TO:**  
 GREEN HAMMER

**CERTIFICATION:**  
 I HEREBY CERTIFY THAT THE ATTACHED SURVEY WAS DONE UNDER MY DIRECTION AND MEETS THE STANDARDS AND PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 24-17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

*Joel Seymour* DATE: 2/12/24  
 JOEL A. SEYMOUR PROFESSIONAL LAND SURVEYOR AND MAPPER  
 STATE OF FLORIDA No. LB 8133

DRAWN BY: JIL SCALE 1 INCH = 20 FEET

- NOTES:**
- BEARINGS BASED ON THE C/L BEING S 89°39'05" W AS PER PLAT (SEE SKETCH)
  - ELEVATIONS BASED ON
  - FLOOD ZONE "X", MAP No. 12009C06550 COMMUNITY No. 120404, MARCH 17, 2014. FLOOD ZONE INFORMATION DEPICTED HEREON IS APPROXIMATE. FEMA RETAINS SOLE AUTHORITY REGARDING BOUNDARY AND EXTENT OF SFHA.
  - HORIZONTAL ENCLOSURE MEETS OR EXCEEDS THE ACCURACY REQUIREMENTS FOR SUBURBAN LAND AS PER FLORIDA STATUTE 24-17-8.003.
  - BEARINGS, DISTANCES OR ANGLES SHOWN ARE THE SAME AS PLAT, DEED OR RECORD UNLESS SHOWN OTHERWISE.
  - NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY, IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY.
  - THE SURVEYOR HAS NOT LOCATED NOR ATTEMPTED TO LOCATE ANY UNDERGROUND UTILITIES, FOUNDATIONS, OR STRUCTURES OTHER THAN THOSE THAT MAY BE SHOWN HEREON.
  - ONLY BOUNDARY CORNER MONUMENTS AS SHOWN HEREON ARE TO BE USED FOR THE LOCATION AND CONSTRUCTION OF IMPROVEMENTS.
  - UNLESS OTHERWISE INDICATED THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE SEARCH OR ATTORNEY'S TITLE OPINION.

**Kane Surveying, Inc.**  
 FLORIDA LICENSED BUSINESS No. LB 7838  
 505 DISTRIBUTION DRIVE  
 MELBOURNE, FLORIDA 32904  
 (321) 678-0427

6.00 Feet of SE Easement

# EXHIBIT "A"

SHEET 1 OF 2

NOT VALID WITHOUT SHEET 2 OF 2

**THIS IS NOT A SURVEY**

## LEGAL DESCRIPTION

PARENT PARCEL ID#: 29-36-03-KL-1709-26

PURPOSE: VACATION OF EASEMENT

### LEGAL DESCRIPTION: (PREPARED BY SURVEYOR)

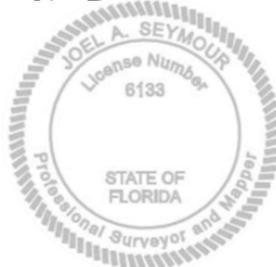
THE SOUTH SIX FEET OF THE NORTH TEN FEET OF THE WEST TWENTY FEET OF THE EAST TWENTY THREE FEET OF LOT 26, BLOCK 1709, PORT MALABAR UNIT THIRTY SIX, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 19, PAGES 82-94, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. CONTAINING 120 SQUARE FEET MORE OR LESS.

### SURVEYOR'S NOTES:

1. BEARINGS BASED ON THE C/L OF SCOTTISH STREET BEING S89°39'05"W AS PER PLAT (SEE SKETCH)
2. THIS SKETCH AND DESCRIPTION CONTAINS TWO SHEETS. EACH SHEET IS NOT FULL OR COMPLETE WITHOUT THE OTHER.
3. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER WHICH CAN BE FOUND ON SHEET 1 OF 2.

### LEGEND:

- BRG = BEARING
- C/L = CENTERLINE
- ESMT = EASEMENT
- FT = FEET
- P.B. = PLAT BOOK
- PUDE = PUBLIC UTILITY AND DRAINAGE EASEMENT
- REF = REFERENCE
- R/W = RIGHT OF WAY
- SQ SQUARE



5/7/2024 | 7:06 AM PDT

PREPARED FOR AND CERTIFIED TO:

GREEN HAMMER

PREPARED BY: **Kane Surveying, Inc.**

FLORIDA LICENSED BUSINESS No. LB 7838  
 505 DISTRIBUTION DRIVE  
 MELBOURNE, FLORIDA 32904  
 (321) 676-0427

*Joel Seymour*

JOEL A. SEYMOUR, LS 6133  
 PROFESSIONAL SURVEYOR & MAPPER  
 NOT VALID UNLESS SIGNED AND SEALED

DRAWN BY: JAS

CHECKED BY: JAS

PROJECT NO. 43305

DATE: 5/7/24

PM36/L26B1709

REVISIONS

DATE

DESCRIPTION

SECTION 3

TOWNSHIP 29 SOUTH

RANGE 36 EAST

# SKETCH OF DESCRIPTION

THIS IS NOT A SURVEY

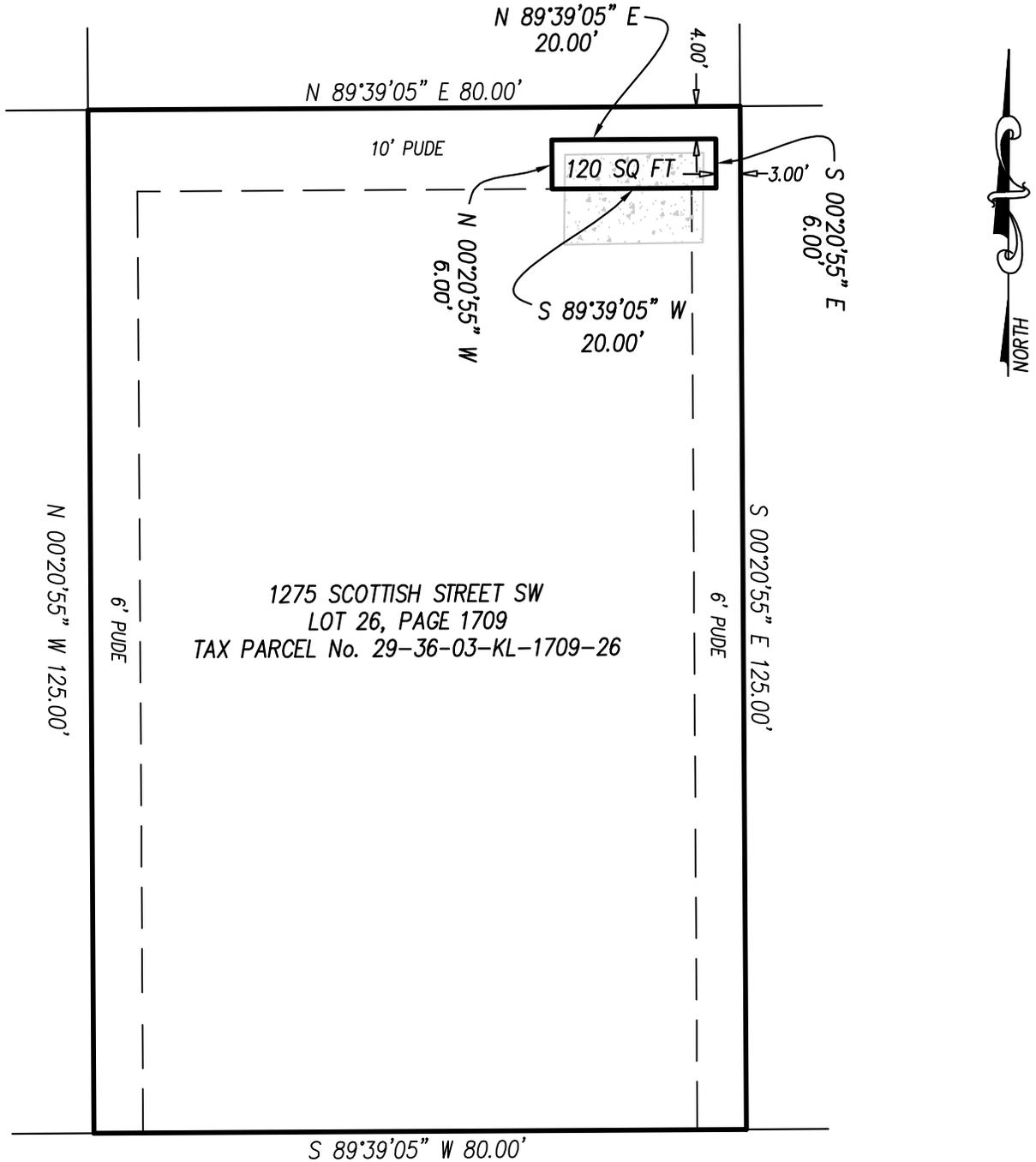
# EXHIBIT ---

SHEET 2 OF 2

PARENT PARCEL ID#: 29-36-03-KL-1709-26

NOT VALID WITHOUT SHEET 1 OF 2

PURPOSE: VACATION OF EASEMENT



$S 89^{\circ}39'05'' W$  (REF BRG)

## SCOTTISH STREET, S.W.

c/L

50' PUBLIC R/W

PREPARED BY:

**Kane Surveying, Inc.**  
 FLORIDA LICENSED BUSINESS No. LB 7838  
 505 DISTRIBUTION DRIVE  
 MELBOURNE, FLORIDA 32904  
 (321) 676-0427

SCALE: 1 INCH = 20 FEET

PROJECT NO.43305

SECTION 3  
 TOWNSHIP 29 SOUTH  
 RANGE 36 EAST

VACANT  
NO OBSTRUCTIONS  
< 7.5 FEET

VACANT  
NO OBSTRUCTIONS  
< 7.5 FEET

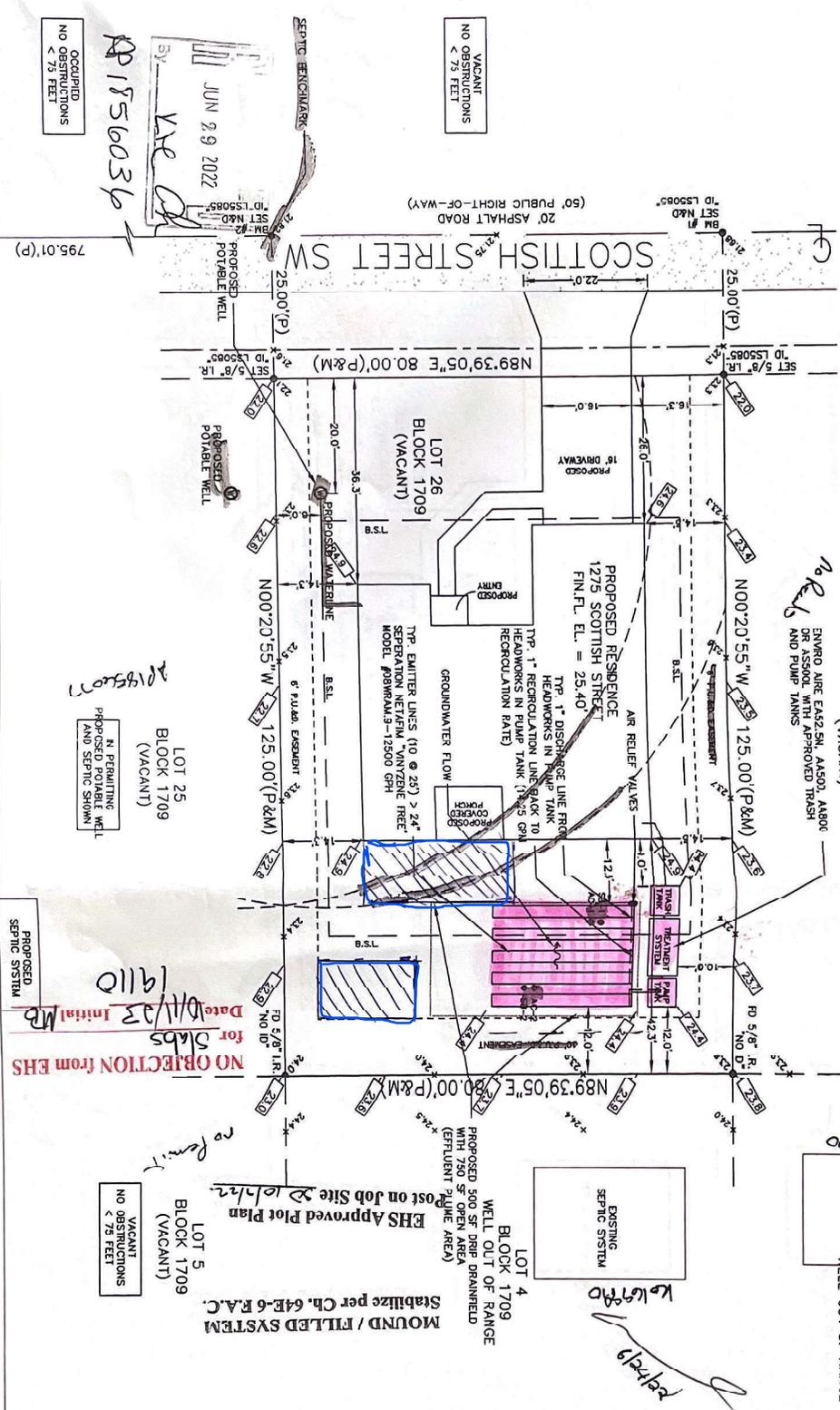
OCCUPIED  
SEPTIC SYSTEM  
NO WELL < 7.5 FEET

VACANT  
NO OBSTRUCTIONS  
< 7.5 FEET

**DRAINFIELD SPECIFICATIONS**  
DRAINFIELD SIZE REQD = 500 SQ. FT.  
UNOBSTRUCTED AREA REQD = 750 SQ. FT.  
UNOBSTRUCTED AREA PROVIDED = 750 SQ. FT.  
100' RP LINES PROVIDED @ 24" FT.  
100' RP LINES PROVIDED @ 24" FT.  
ONE ENTERER 12" O.C. X 2 SEPARATORS = 500 SF  
DRAINFIELD PROVIDED

**LOT 27**  
BLOCK 1709  
(VACANT)  
ENHANCED AIR EXHAUST, AIRBOX  
OR ASSOCIATED WITH APPROVED TRASH  
AND PUMP TANKS

**LOT 3**  
BLOCK 1709  
WELL OUT OF RANGE  
EXISTING  
SEPTIC SYSTEM  
NO WELL < 7.5 FEET



**SEPTIC PLAN**  
APPROVED SYSTEM EQUIPMENT  
APPROVED TANK TYPES FOR RESIDENTIAL, COMMERCIAL & AGRICULTURAL SYSTEMS:  
1. POLYPROPYLENE  
2. POLYETHYLENE  
3. POLYESTER  
4. FIBERGLASS  
5. CONCRETE  
6. METAL  
7. UNGLAZED CERAMIC  
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BY: *[Signature]*  
DATE: JUN 29 2022  
AP 156036

VERO BEACH, FL. 32960  
Ph. (772) 559-3699  
tinspe@bellsouth.net

LEGEND  
C/C: CENTERLINE  
D: DRAINAGE  
E: ELEVATION  
F: FENCE  
G: GROUNDWATER  
H: HEADWORKS  
I: INTERSECTION  
J: JOINT  
K: KEY  
L: LAYOUT  
M: MOUND  
N: NORTH  
O: OPEN AREA  
P: PUMP  
Q: QUANTITY  
R: ROAD  
S: SEWER  
T: TANK  
U: UTILITY  
V: VALVE  
W: WALL  
X: X-SECTION  
Y: YIELD  
Z: ZONE

SCALE 1" = 20'  
DESIGNED BY: INS  
DRAWN BY: JMS  
ENG. PROJECT #22180  
DATE: JUNE 2022  
PAGE 1 OF 2

TODD N. SMITH, P.E., INC.  
1717 INDIAN RIVER BOULEVARD  
SUITE 302  
VERO BEACH, FL. 32960  
Ph. (772) 559-3699  
tinspe@bellsouth.net









Re: V24-00001 (variance request)  
Section 169.009 (B)

Stefani Tennyson  
1275 Scottish St SW  
Palm Bay, FL 32908

(1) 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 land use category, zoning district or situation.

(2) The special conditions and circumstances identified in paragraph (1) above are not the result of actions of the applicant.

(3) Literal interpretation and enforcement of the Land Development Code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same land use category, zoning district or situation, and would result in unnecessary and undue hardship on the applicant.

\* (4) The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building or structure.

(5) Granting of the variance request will not confer on the applicant any special privilege that is denied by the development code to other lands, buildings or structures in the same land use category, zoning district or situation.

\* (6) The granting of the variance will be in harmony with the general intent and purpose of this code, and will not be injurious to the surrounding properties or detrimental to the public welfare.

(7) The variance represents a reasonable disposition of a claim brought under the Bert J. Harris Private Property Rights Protection Act, chapter 95-181, Laws of Florida, that a development order of the city has unreasonably burdened the applicant's property, based upon the recommendations of the special master appointed in accordance with the act, or the order of a court as described in the act.

### Hardship reasoning:

- 1) City inspector made error on approving pre-pour inspection for location of shed slab.
- 2) No adequate room to accommodate playset due to anaerobic septic leechfield in backyard area causing limited space.

Variance request is for an existing slab to encroach 5 feet into the 10-foot rear setback and 1.5 feet into the side SE setback easement.

7/21/2024

Stefani Tennyson  
1275 Scottish St SW  
Palm Bay, FL 32904

To Whom It May Concern,

Please find below my comments to Section 169.009:

- (1) To be honest, I'm not sure. I'm not familiar with the zoning to other lands, structures or buildings in this area, so I am unable to say if my particular property has special conditions or not. I'm still learning about our property as my family and I are new to the home and area. When purchasing our home we were never briefed on property easements or anything of that nature and honestly where we moved from I didn't even think to ask. What I can say is that three quarters of my back yard is leach field which from what I've learned prohibits any structures from being placed on this particular area.
- (2) We were not aware we couldn't place concrete structures on the leach field until months after we purchased the home. Anaerobic septic systems are new to us and not something we are educated about. We were told however that we could never put an underground pool in the area, which is completely understandable.
- (3) Again, I cannot speak to other properties because I honestly don't know. What I can tell you is that I have a multigenerational family in my household and we need extra storage desperately. This concrete slab will allow us to place a 10x16ft shed, increasing the storage on our property tremendously. Currently, I have a storage unit down the street but that's not feasible long term. We still have items inside the home that needs stored and many items outside the home sitting in the elements that I would like to have storage for as well. The feeling of having a cluttered/ unorganized home really weighs on me mentally as a mother and a person. I do not function well in this type of environment and it causes me to feel in a constant state of chaos. I feel having an adequate storage structure not only would help with this but would also allow me to give my family a healthier living environment while saving the items that hold memories as well as the items we have worked so hard to give our family over the years.

- (4) I feel the variance distance we originally requested is the minimum needed due to the fact that any structure placed on this concrete slab will have an over hanging roof. I do not have the shed as of yet so I cannot speak to exact measurements. I do know that I don't want to have the shed declined in the future because we changed the variance to the exact specs of the concrete slab how it sits now.
- (5) I cannot speak to this except for what I have heard. I have spoken to a nice gal with the city who stated in an email, "These requests are not uncommon nor unfamiliar to the Planning & Zoning Board and City Counsel. While I have no way of knowing how P&Z Board and City Counsel will vote, I will say that historically, they've approved similar requests". We also have a Rockledge Sheriff a few doors down whom used to be a contractor in Palm Bay and is familiar with the process. He offered his opinion from previous jobs he's been on and does not think there should be a problem especially now that the utilities are going underground.
- (6) We have visited many of our surrounding neighbors on our block and the block behind us and all folks we have spoken to have given us their blessing. Our next door neighbor who is closes to this concrete slab has no issues with it either. This will not affect public welfare negatively at all. If anything in my opinion it will increase my property value and in turn the property values around me. It will also help my family and I contain our items to keep the property looking clean and well maintained thus making the neighborhood look more appealing for future residents.
- (7) I feel with all utilities now being placed underground, this then clears the variance/vacate area in its entirety of utilities. The slab is on the east side of the property and the utilities will now be routed underground on the west side of the property.

I understand the responses to the 7 statements in Section 169.009 were not to be made personal. Honestly, there is no way for this to not be personal to me as this has been going on since November of 2023. I'm sure you all are aware of this particular situation but for those that might not be please let me explain.

In November of 2023 I hired Green Hammer Concrete to pour a back patio and shed slab on our property. They pulled the permits, came out and framed both the patio and shed slab and then called for a pre-pour inspection from the city. The inspector came out, gave Green Hammer Concrete the go-ahead to pour the concrete, the concrete was then poured and a final inspection was called in. The city inspector then came back out for the final inspection and approved the back patio and failed the shed slab. Please keep in mind from the pre-pour inspection to the final inspection there was only 4 or 5 days. From what I understand the city inspector missed the fact that the easement was 10ft instead of the initial thought of 5ft. I am not sure if they have change recently and used to be 5ft? My contractor Green Hammer Concrete then called and informed me of the situation in its entirety and offered to move the slab as they too missed the 10ft easement. I then asked what my options are and Green Hammer said I could either move the slab or file the vacate and variance. At this point I was frustrated and called the city. It was my feeling that city inspectors are put in place to catch these discrepancies before contractors move forward with jobs. I also felt that maybe since this was missed by the inspector that there would be an exception to the rule. I then spoke to one of the city managers and was informed that I would still unfortunately need to go through the process of the vacate and variance. I let Green Hammer Concrete know that I did not want to move the concrete slab. My reasoning is due to the fact I only have a very small portion of my back yard that I can put structures on. I desperately need storage for my family so having the shed slab to put a shed on is a must I feel. I also promised my daughter I would replace her play structure/ swing set because she was heartbroken when we couldn't bring her other one to Florida. As the shed slab sits right now I can fit a play structure right next to the slab. If this variance doesn't get approved and I am forced to make a choice between removing the concrete slab that will allow for adequate storage for my family to create a healthier living environment or breaking a promise to my daughter, I really don't want to make the choice if I don't have to. So, when I was given the option to move the slab or go through all the motions to get the vacate and variance approved, I chose to go through the motions. I can't imagine breaking a promise especially to my daughter nor do I want to continue to feel suffocated with our lack of space to store belongings. We have now been going through the motions since January of 2023 and it has been a very long and frustrating process. I'm sure many of you have seen the emails back and forth and maybe even been apart of them. I understand that my situation may not meet Sections 169.009 but that doesn't mean I don't have good reasoning. I just want to have the things that will allow my family and I to enjoy the home we were so excited to buy. I am asking you all ever so kindly to try to understand my position on this.

Thank you,  
Stefani Tennyson



# Project Details: V24-00001

## Project Type: Variance Public Hearing Variance

Project Location: 1275 SCOTTISH ST SW Palm Bay, FL 32908  
Milestone: Submitted  
Created: 2/20/2024  
Description: 1275 Scottish St/Tennyson Variance Request  
Assigned Planner: Tania Ramos

### Contacts

Contact	Information
Legal Representative	Ashley P. Beyer 1140 Maverick St NW Palm Bay , FL 32907 (321) 987-5611 greenhammerconcrete@gmail.com
Owner/Applicant	TENNYSON, STEFANI JO 1275 SCOTTISH ST SW PALM BAY, FL 32908 (720) 298-1211 stefani.tennyson@yahoo.com
Assigned Planner	Tania Ramos FL  tania.ramos@palmbayflorida.org
Submitter	Green Hammer Concrete 1140 Maverick St NW Palm Bay, FL 32907  greenhammerconcrete@gmail.com

### Fields

Field Label	Value
Block	1709
Lot	26
Township Range Section	29-36-03
Subdivision	KL
Year Built	
Use Code	0110
Use Code Desc	SINGLE FAMILY RESIDENCE

# Project Details: V24-00001

Lot Size	
Building SqFt	
Homestead Exemption	
Taxable Value Exemption	
Assessed Value	
Market Value	
Land Value	
Tax ID	2903302
Flu Description	Single Family Residential
Flu Code	SFR
Zoning Description	Single-Family Residential
Zoning Code	RS-2
Tax Account Number(s)	2903302
Are You a Property Owner of Record?	False
Bert J. Harris Private Property Act	False
Size of Area (acres)	
Exemption Type	
Site Section for Exemption	
Americans with Disabilities Act	False
How Variance Meets Sec. 169.009	Granting of the Variance will make possible the reasonable use of the land, building or structure.
Sections of Zoning Ordinance	Lot 26 Block 1709 Port Malabar Unit 36
Minimum Requested Distance/Height	6'
Intended Use of Property	Personal
Extent of Proposed Variance	6' of property Northeast easement and 6' of property Southeast easement
Date of Action	
Variance Application Status	
Nature of Previous Application	
Variance Application Filed?	False

# Project Details: V24-00001

Parcel Number(s)	29-36-03-KL-1709-26
Structures On Property?	True
Final Order Date	

February 27th, 20 24

Re: Letter of Authorization

As the property owner of the site legally described as:

"Lot 26, Block 1709, Port Malabar Unit 36, According to the plat thereof, as recorded in plat book 19, pages 82-94, public records of brevard county, florida.

I, Owner Name: Stefani J Tennyson

Address: 1275 Scottish St SW

Telephone: 720-298-1211

Email: stefani.tennyson@yahoo.com

hereby authorize:

Representative: Green Hammer Concrete

Address: 1140 Maverick St NW, Palm Bay, FL 32907

Telephone: 321-917-0196

Email: greenhammerconcrete@gmail.com

to represent the request(s) for:

V24-00001 - Variance application for 1275 Scottish St. SW

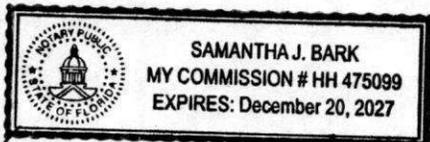
Stefani J Tennyson (Property Owner Signature)

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of [X] physical presence or [ ] online notarization, this 1st day of March, 20 24 by

Stefani J Tennyson, property owner.



[Signature] Notary Public

[X] Personally Known or [ ] Produced the Following Type of Identification:

# Acknowledgement Log

**Header:**

Legal Acknowledgement

**Text:**

I, the submitter, understand that this application must be complete and accurate before consideration by the City of Palm Bay and certify that all the answers to the questions in said application, and all data and matter attached to and made part of said application are honest and true to the best of my knowledge and belief.

Under penalties of perjury, I declare that I have read the foregoing application and that the facts stated in it are true.

**Accepted By:**

Adam J Beyer

**On:**

2/22/2024 9:41:46 PM

V24-00001

Select Language ▼

## Ad Preview

Ad#10405495; 7/25/2024

### CITY OF PALM BAY, FLORIDA NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on August 7, 2024, and by the City Council on August 13, 2024, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

1. **\*\*VS24-00001 – Stefani Tennyson (Green Hammer Concrete, LLC, Rep.)**

A Variance to allow an existing 11-foot by 16.9-foot concrete slab and a proposed shed to encroach 1.5 feet into the 6-foot side setback and 4.3 feet into the 10-foot rear setback, as established by Section 185.118 of the Palm Bay Code of Ordinances.

Lot 26, Block 1/09, Port Malabar Unit 36, Section 03, Township 29, Range 36, Brevard County, Florida; containing approximately 0.23 acres. Located north of Scottish Street SW, in the vicinity east of Hurley Boulevard SW, specifically at 1275 Scottish Street SW

**\*\*Indicates quasi-judicial request(s).**

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Chandra Powell  
Planning Specialist