AGENDA ITEM 1

BOARD OF ADJUSTMENT

AGENDA REQUEST

TO: Honorable Chairman and Members of the Okaloosa County Board of Adjustment

THROUGH: Elliot Kampert, AICP, Director

FROM: Planning & Development Review Staff

SUBJECT: 435805-BOA-2018, Variance Request

AGENDA DATE: December 12, 2018

APPLICANT(S): DC Architects Inc.

OWNER(S): Terri Jones

LOCATION: 370 Timberlake Court, Mary Esther

PARCEL INFORMATION:

- Property Appraiser’s Parcel ID Number(s): 15-1S-25-5030-000B-0090
- Property contains .30 acres more or less
- BCC District: (4) Commissioner Goodwin
- BOA District: (4) Frederick Schor
- Future Land Use Map Designation: Low Density Residential (LDR)
- Zoning District: Residential – 1 (R-1)
- Current Use: Single-Family Residence
- See attached GIS analysis for additional information

SURROUNDING LAND USES:

- North: Vacant Land
- South: Single-Family Residence
- East: Single-Family Residence
- West: Single-Family Residence

REQUESTED VARIANCE: The applicant is requesting relief from Section 3.06.05.C.2, Provisions for Flood Hazard Reductions, Specific Standards, Okaloosa County Land Development Code as follows.

According to Section 3.06.05.C.2, individuals wishing to build new structures or improve existing structures in such areas must either undertake the studies to establish a base flood elevation for their property (a costly and time-consuming undertaking), or elevate the improvements to at least five (5) feet above the highest adjacent finished grade.
STAFF ANALYSIS:

- The property is defined as Lot 9, Block B, Timberlake Estates, Plat Book 6, Page 29.
- The property is an irregular pie shape sized lot.
- The applicants are proposing to build improvements to a single-family residence without elevating the structure.
- The existing home was constructed in 1981; within Flood Zone C.
- FEMA Maps updated in 2000; portion of property within an un-numbered A Zone.
- Repair work necessitated by a recent lightning strike.

FINDINGS:

In order to authorize any variance the Board of Adjustment must and shall make findings based upon the following criteria and standards. The response to each was taken from the application.

Section 11.02.09.3(a) “That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to the other lands, structures or buildings in the same zoning district”.

When the existing home was constructed in 1981, see attachment A, the flood zone maps in force at that time showed the property as being within Zone C—which, according to FEMA, is an area “of minimal flood hazard, which are the areas outside the SFHA and higher than the elevation of the 0.2-percent-annual-chance flood”. As used in this definition, “SFHA” means Special Flood Hazard Area which is defined by FEMA as “land area covered by the floodwaters of the base flood.” When the flood maps were updated by FEMA in 2000, a portion of the subject property was, as described above, included in the SFHA (an un-numbered A Zone), with the remainder being designated as outside the SFHA in Zone X. FEMA is in the process of updating Okaloosa County’s Flood Insurance Rate Maps, and has already published preliminary maps. According to these maps, the entire property will be taken out of the SFHA and will be in Zone X (see Attachment B). Like the Zone C that was in effect when the home was built, Zone X does not have elevation requirements and does not require flood insurance. In other words, when the new maps take effect, the situation basically returns to what it was when the home was originally built, and the elevation requirement for improvements goes away. The new maps are currently scheduled to go into effect in the spring of 2019; however their adoption has been delayed multiple times (they should have gone into effect in 2012), and there is no certainty that the current schedule will hold.

As evidenced by the preceding narrative, there are special conditions and circumstances peculiar to both the land and structure, as required by this criterion.

Section 11.02.09.3(b) “That the special conditions and circumstances do not result from the actions of the applicant.”
In addition to the peculiarities of the property and structure discussed above, there are two additional special conditions and circumstances that must be considered:

1. The applicant is suffering from a degenerative condition that will require the use of a wheelchair which is why a handicapped accessible bathroom must be constructed.

2. The repair work is necessitated by a lightning strike.

Neither of these circumstances is the result of any action taken by the applicant.

Section 11.02.09.3(c) "That granting the variance requested will not confer on the applicant any special privilege that is denied by the Land Development Code to other lands, buildings or structures in the same zoning district."

The subject property is in the R-1 zoning district which specifically allows detached single family homes and customary accessory structures. The requested variance will allow improvement to an existing single family home and does not confer any special privilege under the zoning.

Section 11.02.09.3(d) "That literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant."

If the applicant is not allowed to construct a bathroom at the same elevation as the existing structure, she will not be able to use rest facilities in her own home unless she undertakes a costly study that will be rendered moot when the new flood maps take effect, or is forced to install expensive elevators or lifts that, again, will not be needed when the new maps take effect.

Section 11.02.09.3(e) "That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure."

The requested variance is the minimum necessary to allow the continued reasonable use of the property. The property and structure will comply with all other aspects of the County Land Development Code and Florida Building Code. Further, when the new flood maps take effect, the variance itself will no longer be needed. Unfortunately, the applicant cannot gamble on when FEMA will adopt the new maps, after which the County will then have to adopt them.

Section 11.02.09.3(f) "That the grant of the variance will be in harmony with the general intent and purpose of the Land Development Code, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare."
The granting of the variance will not change the character of the neighborhood, poses no threat to the public welfare, does not allow any use not already in existence either on the property or surrounding area, and will not result in any unsafe or unsanitary conditions. It is, therefore, in general harmony with the intent and purpose of the Land Development Code.

STAFF RECOMMENDATION: Based on the findings presented herein, and unless any other evidence is presented to the contrary, staff has no objection to granting the requested variance.

PUBLIC COMMENT/OPPOSITION: None to date.

ATTACHMENTS:

A – Location Map
B – Aerial Photo
C – Existing Land Use Map
D – Future Land Use Map
E – Application
F – Survey
G – House/site plan
GIS ANALYSIS RESULTS

Date: 11/08/2018

Project: 15-2S-25-5030-000B-0090

Permit: 435805-BOA-2018

Property Address: LOCATED AT 370 TIMBERLAKE COURT, MARY ESTHER, FL

Zoning: R-1

FLU: LDR

Fire District: FLOROSA  Commissioner District: 4  Census Tract: 023100

Soil Type: 4 – Chipley Foxworth – nearly level and gently sloping, somewhat poorly drained and moderately well drained soils that are sandy throughout

Wind Zone: GREATER THAN 140 MPH IN THE WIND-BORNE DEBRIS AREA

Flood Zone: A 100 Year Flood Plain  Map Number: 12091CO 436H

Storm Surge Area: NO

Urban Development Area: YES  Water Efficient Area: YES

Wells: None

Environmental Data: None  Historical Data: None

Wetlands: Uplands

Water and Sewer: OCWS  Within 3 mile of an Airport: NO
OKALOOSA COUNTY
DEPARTMENT OF GROWTH MANAGEMENT
APPLICATION FOR VARIANCE
Revised August, 2005

Applicant name: DC Architects Inc. dba DCA Design + Construction

Applicant is: Property owner _____ Authorized agent* x___
*Attach verification

Applicant address: 54 Beal Pkwy NW
Fort Walton Beach, FL 32548

Applicant telephone: 850-226-8585 FAX 850-382-6570

Name of property owner if different than applicant: Ms. Terri Jones

Address of property involved: 370 Timberlake Ct
Mary Esther, FL 32569

Property ID Number: 15-2S-25-5030-000B-0090

Land use information: FLUM category LDR Low Density Residential
Zoning district R-1

Size of property: 0.30 acres OR 12,918 sq. ft.
Variance request:

1. Specific section of the Land Development Code from which the variance is requested: **3.06.05.C.2**

2. Describe exactly what the variance is for.

The requested variance is to allow improvements (addition of a handicapped accessible bathroom and repairs from a lightning strike) to a single family residence without elevating the structure in accordance with Section 3.06.05.C.2 of the Land Development Code. Specifically, a portion of the subject property, including part of the area on which the home is situated, is shown on the current Flood Insurance Rate Maps as being within an un-numbered A-Zone. This means that, while it is in an area subject to inundation by the 1-percent-annual-chance flood event, the Federal Emergency Management Agency (FEMA) has not established a base flood elevation for this portion of the zone. According to Section 3.06.05.C.2, individuals wishing build new structures or improve existing structures in such areas must either undertake the studies to establish a base flood elevation for their property (a costly and time-consuming undertaking), or elevate the improvements to at least five (5) feet above the highest adjacent finished grade. Complying with this latter requirement would result in a bathroom that is **intended to be handicapped accessible being built five feet higher than the rest of the structure**. According to the Americans with Disabilities Act and the Florida Accessibility Code, wheelchair ramps can have a slope no greater than 1:12. Achieving this slope for a 5 foot difference in height requires a minimum of 60 feet of ramp. Even with switchbacks, this is not practical in a single family home. Elevators or other forms of mechanical assistance are also cost prohibitive.

**Standards of review**: Describe in as much detail as possible how the variance request meets each of the following standards. Attach additional sheets if necessary.

1. That 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.

When the existing home was constructed in 1981, see attachment A, the flood zone maps in force at that time showed the property as being within Zone C which, according to FEMA, is an area "of minimal flood hazard, which are the areas outside the SFHA and higher than the elevation of the 0.2-percent-annual-chance flood." As used in this definition, "SFHA" means Special Flood Hazard Area which is defined by FEMA as "land area covered by the floodwaters of the base flood." When the flood maps were updated by FEMA in 2000, a portion of the subject property was, as described above, included in the SFHA (an un-numbered A Zone), with the remainder being designated as outside the SFHA in Zone X. FEMA is in the process of updating Okaloosa
County’s Flood Insurance Rate Maps, and has already published preliminary maps. According to these maps, the entire property will be taken out of the SFHA and will be in Zone X (see Attachment B). Like the Zone C that was in effect when the home was built, Zone X does not have elevation requirements and does not require flood insurance. In other words, when the new maps take effect, the situation basically returns to what it was when the home was originally built, and the elevation requirement for improvements goes away. The new maps are currently scheduled to go into effect in the spring of 2019; however their adoption has been delayed multiple times (they should have gone into effect in 2012), and there is no certainty that the current schedule will hold.

As evidenced by the preceding narrative, there are special conditions and circumstances peculiar to both the land and structure, as required by this criterion.

2. That the special conditions and circumstances do not result from the actions of the applicant.

In addition to the peculiarities of the property and structure discussed above, there are two additional special conditions and circumstances that must be considered:

   1. The applicant is suffering from a degenerative condition that will require the use of a wheelchair which is why a handicapped accessible bathroom must be constructed.

   2. The repair work is necessitated by a lightning strike.

Neither of these circumstances is the result of any action taken by the applicant.

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

The subject property is in the R-1 zoning district which specifically allows detached single family homes and customary accessory structures. The requested variance will allow improvement to an existing single family home and does not confer any special privilege under the zoning.

4. That literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.
If the applicant is not allowed to construct a bathroom at the same elevation as the existing structure, she will not be able to use rest facilities in her own home unless she undertakes a costly study *that will be rendered moot when the new flood maps take effect*, or is forced to install expensive elevators or lifts that, again, *will not be needed when the new maps take effect*.

5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The requested variance is the minimum necessary to allow the continued reasonable use of the property. The property and structure will comply with all other aspects of the County Land Development Code and Florida Building Code. Further, when the new flood maps take effect, the variance itself will no longer be needed. Unfortunately, the applicant cannot gamble on when FEMA will adopt the new maps, after which the County will then have to adopt them.

6. That the grant of the variance will be in harmony with the general intent and purpose of the Land Development Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granting of the variance will not change the character of the neighborhood, poses no threat to the public welfare, does not allow any use not already in existence either on the property or surrounding area, and will not result in any unsafe or unsanitary conditions. It is, therefore, in general harmony with the intent and purpose of the Land Development Code.

Certification: I do hereby certify and affirm that the information represented in this application is true and correct to the best of my knowledge. I also give my permission for county staff to enter upon the property involved at any reasonable time for purposes of inspections or posting of notices.

Applicant typed or printed name
Certification: I do hereby certify and affirm that the information represented in this application is true and correct to the best of my knowledge. I also give my permission for county staff to enter upon the property involved at any reasonable time for purposes of inspections or posting of notices.

Dennis J. Chavez
Applicant typed or printed name


Applicant signature

11/5/2018
Date

Dennis J. Chavez, President
Corporate officer

Corporate seal
I hereby certify that this survey was made under my responsible charge and meets the requirements of Practice of Surveying and Mapping in chapter 550, §§17.001 and 550-17.026, pursuant to Section 472.027, Florida Statutes.

BRIAN E. PASCOE, Professional Surveyor & Mappie
Florida Certificate No. 5930

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A RESIDENCE FOR
TERRI JONES
370 TIMBERLAKE COURT * MARY ESTHER, FL

CODE REFERENCES
1. FLORIDA BUILDING CODE, 2017 EDITION
2. AMERICAN INSTITUTE OF TIMBER CONSTRUCTION, TIMBER CONSTRUCTION MANUAL, LATEST EDITION
3. AMERICAN SOCIETY FOR TESTING & MATERIALS, LATEST EDITION

BUILDING INFORMATION
ONE-STORY, WOOD-FRAMED, SINGLE-FAMILY RESIDENCE

SITE INFORMATION
1. 370 TIMBERLAKE COURT, MARY ESTHER, FL
2. STORMWATER IS TO BE RETAINED ON-SITE. NO OVERFLOW TO ADJACENT PROPERTIES IS PERMITTED

INDEX OF DRAWINGS
1. Title Sheet, Site Plan
2. Title Sheet, Site Plan
3. Foundation Plan
4. Structural Plan
5. Electrical Plan
6. Exterior Elevations
7. Sections & Details
8. Building Sections, Roofs, Walls & Mails Section
9. Elevations & Details
10. Electrical Plan

FOR CONSTRUCTION