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

THROUGH:  Elliot Kampert, Director  

FROM: Planning & Development Review Staff  

SUBJECT: 401695-BOA-2016, Variance Request  

AGENDA DATE: July 12, 2016  

APPLICANT(S): Michael and Ashley Shelton  

OWNER(S): Michael and Ashley Shelton  

LOCATION: 2346 Twin Bay View, Fort Walton Beach  

PARCEL INFORMATION:  

- Property Appraiser’s Parcel ID Number(s): 36-1S-24-0000-0040-0000  
- Property contains .46 acres more or less  
- BCC District: (3) Commissioner Boyles  
- BOA District: (3) Scott Kearney  
- 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: Residence  
- South: Don’s Bayou  
- East: Residence  
- West: Residence  

REQUESTED VARIANCE: The applicant is requesting relief from Section 2.03.06, R-1 Bulk Regulations, Okaloosa County Land Development Code as follows.  

Table 2.3, Bulk Regulations, Minimum Building Setbacks, Side Setback 10 feet.  

STAFF ANALYSIS:  

- The property is a metes and bounds parcel which is not part of a recorded subdivision.
The property is an irregular shape being long and narrow.
The applicants are proposing to demolish an existing house so as to build a new house on the property.
The side setbacks of the existing house are as close if not closer than those being requested by the applicant.
As shown on the Aerial Photo (Attachment B) adjacent and nearby houses have side setbacks situated similarly to the requested setback.
The house proposed for construction appears to be of similar size and nature as the existing adjacent and nearby houses.

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”.

As indicated on the attached survey performed by Panhandle Associates, Inc., the subject property is 52.5 feet wide and 389 feet deep. The subject property is located adjacent to Don's Bayou. The setback variance requested is not unique to the entire county, but is unique to the parcels in the immediate vicinity along Don's Bayou. Due to the dimensions of the subject parcel, the variance is needed in order to construct a home in conformity with the adjacent parcels and the neighborhood. The necessity for a variance exists as the zoning district requires a larger side yard setback; however, given the width of the subject property, a variance is necessary in order to build a residence in conformity with the surrounding neighborhood.

Section 11.02.09.3(b) “That the special conditions and circumstances do not result from the actions of the applicant.”

The applicants purchased the subject property with the current residential home located upon the property as indicated by that survey performed by Panhandle Associates, Inc. dated 8/12/2011. The house as purchased currently rests 4.8 feet from the property line on the east side and 1.9 feet from the property line on the west side. This construction was not performed by the applicants, but was present at the time of the purchase of the property.

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.”

There is no special privilege that will be obtained by the applicants if this variance is approved. The request of the applicants for the variance is done so to maintain the property in a similar manner as the other properties, buildings, and structures located
within the same zoning district. That is to say, the proposed structure to be placed within the proposed setbacks will be in conformity with the neighborhood and zoning district, as well as the adjacent properties.

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.”

The applicants have expended an extensive amount of due diligence in the design of a Single family residence utilizing 5 foot side setbacks specifically for the subject property. The 52.5 foot lot width prevents design of such a house in keeping conformity with the surrounding neighborhood while simultaneously meeting side setback regulations. Denial of requested variance will cause the applicants undue hardship in the form of lost time and funds expended to design and redesign a residence, and force the applicants into construction of a residence peculiar and disharmonious to the neighborhood.

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 variance requested would be less of an encroachment to the property line than the property's current usage. The structure located upon the property is currently closer to the property line than is requested by the applicants. 5 feet have been requested, as that is the minimum variance it will take in order to construct a house upon the property.

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 very purpose of this variance is to achieve construction of a single family residence for our family that will be in harmony with neighboring properties. We have worked extensively to design a home in conformity with our neighborhood and neighbors, and have come to a conclusion that a variance is the only way to achieve this. Allowing for this variance will achieve both harmony with the community and with the land development code in that it anticipates single exemptions when necessary, this being one of those necessary situations.

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

TJ/tj
GIS ANALYSIS RESULTS

Date: 6/13/2016

Project: 36-1S-24-0000-0040-0000

Permit: 401695-BOA-2016

Property Address: LOCATED AT 2346 TWIN BAY VIEW, FORT WALTON BEACH

Zoning: R-1

FLU: LDR

1990 FLU: MDR

Fire District: OCEAN CITY-WRIGHT  Commissioner District: 3  Census Tract: 21700

Soil Type: 12 – Lakeland sand – 0 to 5% slope, excessively drained, permeability is rapid, the available water capacity is very slow, and runoff is slow.

13 – Lakeland sand – 5 to 12% slope, excessively drained soils usually leads to drainage ways and around depressions, permeability is rapid, the available water capacity is very slow, runoff is slow.

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

Flood Zone: X 500 Year Flood Plain  Map Number: 12091CO 453H

Storm Surge Area: YES  CAT 4& 5

Urban Development Area: YES  Water Efficient Area: YES

Wells: None

Environmental Data: NO  Historical Data: None

Wetlands: Uplands

Water and Sewer: OCWS  Within 3 mile of an Airport: NO
JUNE 6, 2016

Okaloosa County Board of Adjustment
1250 N. Eglin Parkway, Suite 301
Shalimar, FL 32579

Dear Board of Adjustment,

We, Michael and Ashley Shelton, petition the board for consideration of setback variance for 2346 Twin Bay View. Specifically, the variance request is to reduce the side setback from 10 feet to 5 feet, for the purpose of building a new residence for our family that will be in conformity with the surrounding beautiful neighborhood.

Your favorable consideration of our request would be greatly appreciated.

Sincerely,

Michael Shelton

Ashley Shelton
Applicant name: Michael & Ashley Shelton

Applicant is: Property owner X  Authorized agent* ___
*Attach verification

Applicant address: 1622 Ella Ruth Drive
Fort Walton Beach FL 32547

Applicant telephone: (618) 670-8918  FAX __________

Name of property owner if different than applicant: N/A

Address of property involved: 2346 Twin Bay View
Fort Walton Beach FL 32547

Property ID Number: 36-1S-24-0000-0040-0000

Land use information: FLUM category LDR

Zoning district Residential - 1

Size of property: 0.46 acres OR __________ sq. ft.

Variance request:

1. Specific section of the Land Development Code from which the variance is requested 2.03.06

2. Describe exactly what the variance is for.
The variance request is to reduce the side setback from 10 feet to 5 feet. There is currently a house placed upon the subject property described above, and the undersigned applicants desire to remove the existing single family residence and replace it with a new home in harmony with the surrounding waterfront community.

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.

As indicated on the attached survey performed by Panhandle Associates, Inc., the subject property is 52.5 feet wide and 389 feet deep. The subject property is located adjacent to Don’s Bayou. The setback variance requested is not unique to the entire county, but is unique to the parcels in the immediate vicinity along Don’s Bayou. Due to the dimensions of the subject parcel, the variance is needed in order to construct a home in conformity with the adjacent parcels and the neighborhood. The necessity for a variance exists as the zoning district requires a larger side yard setback; however, given the width of the subject property, a variance is necessary in order to build a residence in conformity with the surrounding neighborhood.

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

The applicants purchased the subject property with the current residential home located upon the property as indicated by that survey performed by Panhandle Associates, Inc. dated 8/12/2011. The house as purchased currently rests 4.8 feet from the property line on the east side and 1.9 feet from the property line on the west side. This construction was not performed by the applicants, but was present at the time of the purchase of the property.

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.

There is no special privilege that will be obtained by the applicants if this variance is approved. The request of the applicants for the variance is done so to maintain the property in a similar manner as the other properties, buildings, and structures located within the same zoning district. That is to say, the proposed structure to be placed within the proposed setbacks will be in conformity with the neighborhood and zoning district, as well as the adjacent properties.

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.

The applicants have expended an extensive amount of due diligence in the design of a single family residence utilizing 5 foot side setbacks specifically for the subject property. The 52.5 foot lot width prevents design of such a house in keeping conformity with the surrounding neighborhood while simultaneously meeting side setback regulations. Denial of requested variance will cause the applicants undue hardship in the form of lost time and funds expended to design and redesign a residence, and force the applicants into construction of a residence peculiar and disharmonious to the neighborhood.
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The variance requested would be less of an encroachment to the property line than the property's current usage. The structure located upon the property is currently closer to the property line than is requested by the applicants. 5 feet have been requested, as that is the minimum variance it will take in order to construct a house upon the property in keeping with the harmony of the neighborhood and adjacent land owners.

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 very purpose of this variance is to achieve construction of a single family residence for our family that will be in harmony with neighboring properties. We have worked extensively to design a home in conformity with our neighborhood and neighbors, and have come to a conclusion that a variance is the only way to achieve this. Allowing for this variance will achieve both harmony with the community and with the land development code in that it anticipates single exemptions when necessary, this being one of those necessary situations.

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.

Michel Shelton & Ashley Shelton
Applicant typed or printed name

[Signature]

Applicant signature

6 June 2016
Date

Corporate officer

[Corporate seal]
LEGAL DESCRIPTION:
BEGIN 1,332 FEET NORTH AND 2,178.5 FEET EAST OF THE SOUTHWEST CORNER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 24 WEST, OKALOOSA COUNTY, FLORIDA. SAID EASEMENT LYING 12.5 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: COMENCE AT THE SOUTHWEST CORNER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 24 WEST, OKALOOSA COUNTY, FLORIDA; THENCE SOUTH 89°05'00" EAST ALONG THE SOUTH LINE OF SAID SECTION 36, A DISTANCE OF 2,649.24 FEET TO A PIPE AND BRASS CAP BEING THE SOUTH ONE-QUARTER SECTION CORNER PER 1937 GOVERNMENT SURVEY; THENCE N 91°30'00" E ALONG THE LINE DIVIDING GOVERNMENT LOTS 5 AND 6, A DISTANCE OF 896.06 FEET TO THE POINT OF BEGINNING, OKALOOSA COUNTY, FLORIDA.

TOGETHER WITH RIGHT OF INGRESS OVER AND ACROSS THE FOLLOWING DESCRIBED EASEMENT (TWIN BAY VIEW) PER O.R. BOOK 1450 PG. 1305.

LEGAL DESCRIPTION:
A 25 FOOT EASEMENT FOR INGRESS/EGRESS, UTILITIES AND DRAINAGE IN SECTION 36, TOWNSHIP 1 SOUTH, RANGE 24 WEST, OKALOOSA COUNTY, FLORIDA. SAID EASEMENT LYING 12.5 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: COMENCE AT THE SOUTHWEST CORNER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 24 WEST, OKALOOSA COUNTY, FLORIDA; THENCE SOUTH 89°05'00" EAST ALONG THE SOUTH LINE OF SAID SECTION 36, A DISTANCE OF 2,649.24 FEET TO A PIPE AND BRASS CAP BEING THE SOUTH ONE-QUARTER SECTION CORNER PER 1937 GOVERNMENT SURVEY; THENCE N 91°30'00" E ALONG THE LINE DIVIDING GOVERNMENT LOTS 5 AND 6, A DISTANCE OF 896.06 FEET TO THE POINT OF BEGINNING, OKALOOSA COUNTY, FLORIDA.

FLOOD ZONE DESIGNATION LINE AS SCALE FROM FLOOD INSURANCE RATE MAP.

REFERENCES:
1) ADJACENT SURVEYS BY PANHANDLE ASSOCIATES INC.
2) UNRECORDED PLAT OF TWIN BAY ESTATES

REVISED 8/18/2011: ADDED DESCRIPTION FOR TWIN BAY VIEW INGRESS EASEMENT.

THE SURVEY DEPICTED HEREIN IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE.