



Bush, Kevin D. & Nicole M.
Variance: To Building Setback
Project Number: P23-196



Project Aerial Map

SUMMARY

Applicant's Request:	To grant a variance of 10.27 feet to allow a 14.73-foot setback from the rear property line for an existing multi-story CBS building.
Applicant:	Alejandro Toro
Property Owner:	Bush, Kevin D. & Nicole M.
Location:	2756 SW Casella St.
Application Type: (Identify if quasi-judicial)	Variance, Quasi-Judicial
Project Planner:	Bianca Lee

Project Description

The applicant is requesting a variance of 10.27 feet to allow a 14.73-foot setback from the rear property line for an existing multi-story CBS building. Section 158.126(J)(3) Setback Requirements and Landscaping, requires a minimum building setback line of twenty-five (25) feet in the rear yard for property's abutting a residential land use category or a public right-of-way. This property abuts a drainage right-of-way. The minimum setback from side property lines shall be those set forth in the applicable zoning district. The property is zoned CS (Service Commercial).7 Section 158.126(J)(2) requires two (2) side yards, each of which providing a building setback line of ten (10) feet. A building setback line of twenty-five (25) feet shall be required when it adjoins a residential future land use category or a public right-of-way. The existing building meets the side setback requirement within the (CS) Service Commercial zoning district.

An addition to the building was made without securing the necessary permit(s). The building encroaches 10.27 feet into the required rear building setback line of twenty-five (25) feet. A permit for a 50x60 (3,000 sq. ft. building) was issued in 1993, for the original building footprint.

Review Criteria

An application for a variance is reviewed for consistency with Article XV of the Zoning Code, Sections 158.295 through 158.299. Final action on the application (approval or denial) is in the form of an Order of the Planning and Zoning Board following a quasi-judicial public hearing. A vote of approval by five (5) members of the Planning and Zoning Board is required to grant a variance.

Public Notice Requirements (Section 158.298 (B))

Public notice was mailed to owners within 750 feet and the file was included in the ad for the Planning & Zoning Board's agenda.

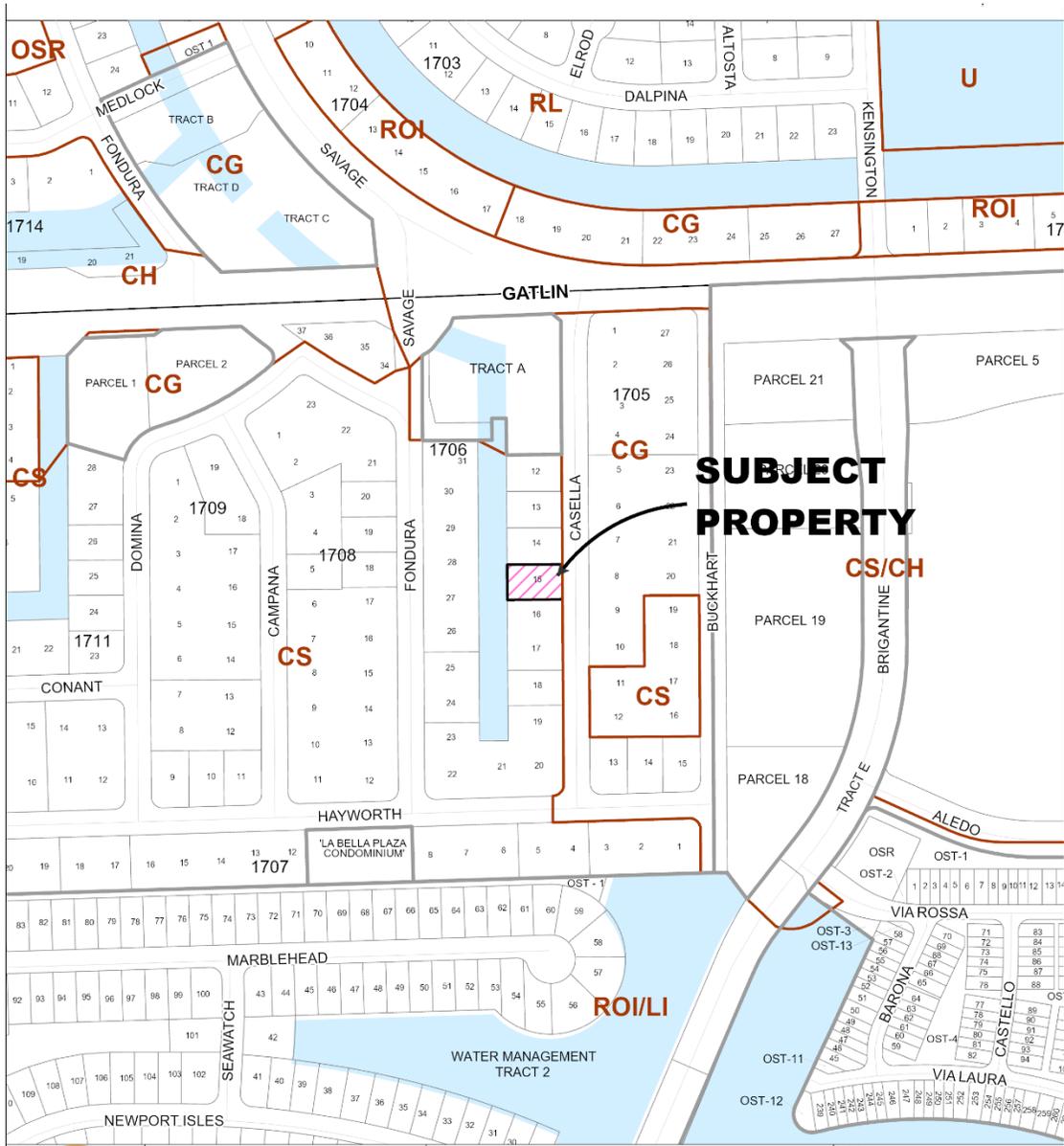
Location and Site Information

Parcel Number:	3420-650-1029-000-2
Property Size:	0.23 AC/ 10,000 SF
Legal Description:	Port St. Lucie Section 31, Block 1706, Lot 15
Address:	2756 SW Casella St.
Future Land Use:	Service Commercial (CS)
Existing Zoning:	Service Commercial (CS)
Existing Use:	Office & warehousing

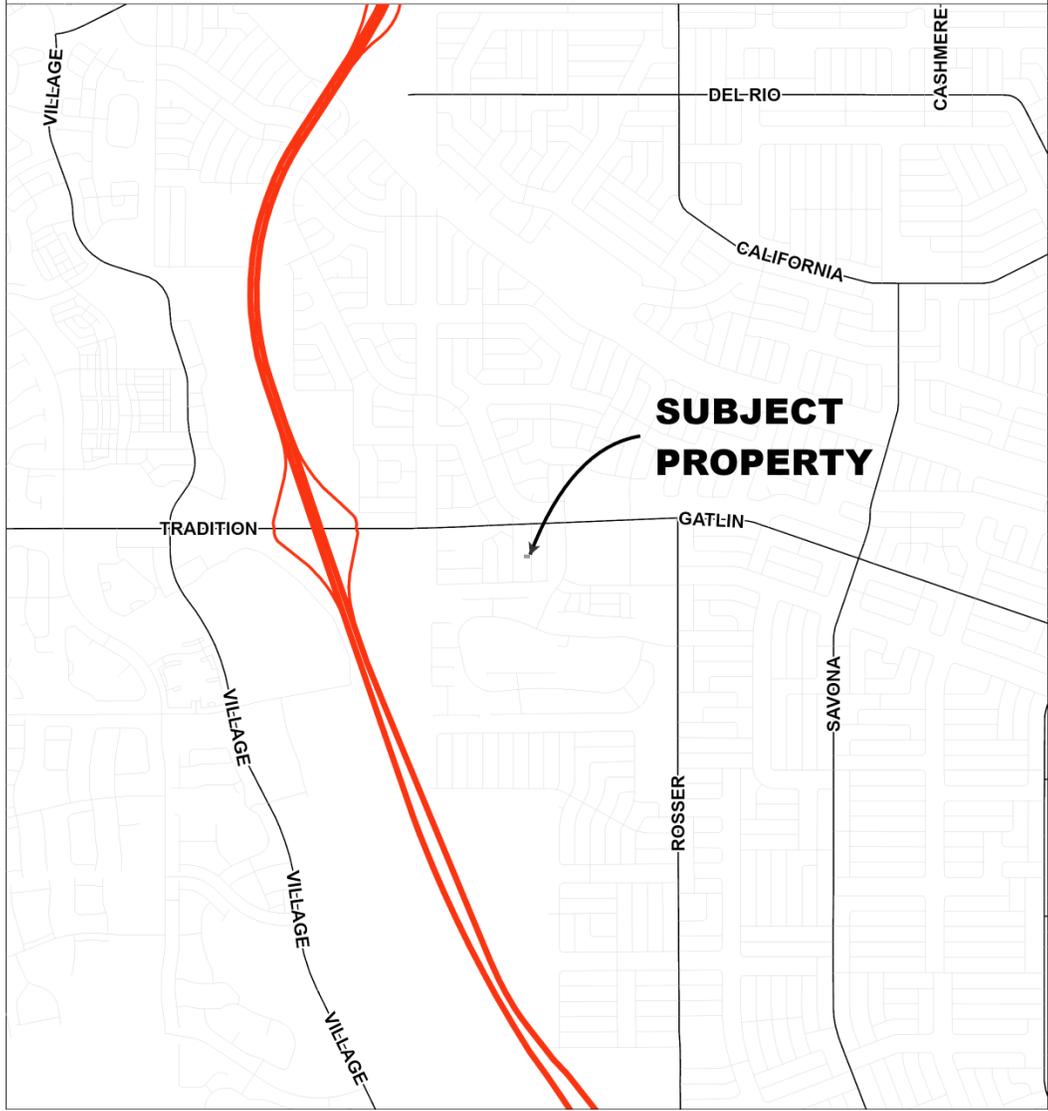
Surrounding Uses

Direction	Future Land Use	Zoning	Existing Use
North	CS	CS	Open storage yard/parking
South	CS	CS	Open storage yard
East	CG	CG	Self-storage
West	CS	WI	Warehouse (service)

CS-Service Commercial, CG- General Commercial, and WI- Warehouse Industrial



Project Land Use Map



Location Map

IMPACTS AND FINDINGS

Section 158.295 (B) of the Zoning Code establishes the duties of the Planning and Zoning Board in authorizing a variance. The Planning and Zoning Board may authorize a variance from the provisions of the Zoning Code as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship. Pursuant to Section 158.296, a variance is authorized only for height, area, and size of structure, yard size, building setback, lot size requirements, and other applicable development regulations, excluding use. To authorize a variance, the Planning and Zoning Board should consider the criteria listed under Section 158.295 (B) (1) through (7) of the Zoning Code. The applicant's response to this criterion is attached to the application and joined with staff's review provided below:

Compatibility with variance criteria Section 158:295 (B).

- 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.
 - *Applicant Response: The applicant purchased the subject property in November of 2022. At the time of purchase, the applicant was unaware that the building did not meet the rear ROW setback requirement and that the building encroached approximately 10 feet into the rear ROW setback. This circumstance is peculiar because the applicant did not anticipate the need for a variance upon making site improvements. The applicant is thus forced to get a variance approved prior to consideration of site plan approval.*
 - *Staff Findings: Special conditions and circumstances do not exist, which are peculiar to the land, structure, or building involved. The original 3,000 sq. ft. building footprint was expanded on without permits. The existing building as shown on the applicants site plan amendment application is 5,112.26 sq. ft. During review of the site plan amendment application for the addition of a storage silo & opaque fencing, Planning and Zoning staff discovered that the existing building footprint is encroaching into the rear 25-foot building setback. The existing building is not consistent with the approved site plan or building records for the site.*
- 2) That the special conditions and circumstances do not result from any action of the applicant.
 - *Applicant Response: The conditions and circumstances do not result from actions by the applicant. Based on aerial photography, the building on site was expanded by the previous owner between 1999 and 2004. The applicant bought the property in November of 2022 and seeks to resolve the hardship of not being able to meet the setback requirements per Sec 158.126(J)(3).*
 - *Staff Findings: See No. 1 above.*
- 3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district.
 - *Applicant Response: Granting the variance requested will not confer to the applicant's special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district in that:*
 1. *The applicant did not cause a self-induced circumstance that requires this variance*

2. *The applicant seeks to resolve the setback issues and go through the variance approval process with the City of PSL*

- *Staff Findings: Special privileges would be conferred upon the applicant, a 25 ft. rear building setback line is a regulatory standard applied to other lands, buildings, and structures in the CS Zoning District when it adjoins a public right-of-way, which includes drainage canals & other drainage infrastructure.*

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

- *Applicant Response: The literal interpretation of the provisions of the chapter are as follows: "Rear Setback. Each lot shall have a rear yard with a building setback line of ten (10) feet. A building rear setback line of twenty-five (25) feet shall be required when it abuts a residential future land use category or public right-of-way."*

The rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter are being able to operate business and have the right to make improvements to their properties via site plan approval process without the need for a variance application. The applicant must resolve the setback issue via this variance application prior to getting a site plan amendment approval from the City of Port St. Lucie.

- *Staff Findings: Literal interpretation of the provisions of the chapter would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district or introduce unnecessary and undue hardships on the applicant. The applicant may seek a remedy with the Public Works Department to mitigate any drainage related issues pertaining to the drainage right-of-way, the building does not interfere with site utilities.*

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

- *Applicant Response: The variance requested will allow the building to maintain its square footage and location. The building has been unchanged since the early 2000's. It is reasonable to allow the building to maintain its current size rather than demolishing a portion of it.*
- *Staff Findings: The variance granted is the minimum variance that will allow the existing multi-story CBS structure to maintain the current building footprint, as shown on the site survey. The existing building is 5,112.26 sq. ft. Since the building also encroaches 5.27 feet into the 20-foot drainage and utility easement along the rear of the property, an abandonment of easement was filed by the applicant and reviewed by the Public Works Department. The abandonment was approved at the first reading of Ordinance 24-23 on May 13, 2024, by the City Council to abandon 6.0 feet of the easement.*

6) That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

- *Applicant Response: Granting variance will be in harmony with the general intent and*

purpose of the chapter in that it will allow the applicant to continue to operate their business and not halt any workflow or employment. The granting of the variance will not be injurious to the area involved because no demolition would be required. All site conditions would remain as they currently exist.

- *Staff Findings: See No. 5 above.*
- 7) That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.
- *Applicant Response: The Planning and Zoning department made the request for this variance during the June 14, 2023, SPRC meeting. As a result, the applicant is currently seeking to be in full compliance with the conditions and safeguards and respectfully requests review and approval of the attached variance. The applicant will be in full compliance with any additional conditions the Planning and Zoning Board may request.*
 - *Staff Findings: The applicant has acknowledged this.*

PLANNING AND ZONING BOARD ACTION OPTIONS

The Board may choose to approve, deny, or table the proposed variance. If the Board finds that the variance application is consistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code (listed above), then the Board may:

- Motion to approve
- Motion to approve with conditions

If the Board finds that the variance application is inconsistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code, then the Board may:

- Motion to deny

Should the Board need further clarification or information from either the applicant and/or staff, the Board may:

- Motion to table or continue the hearing or review to a future meeting

(NOTE TO APPLICANTS: Any request for a variance that is denied by the Planning and Zoning Board may be appealed to the Board of Zoning Appeals. Appeal applications are made through the City Clerk's office and must be submitted within 15 days after the Planning and Zoning Board hearing).