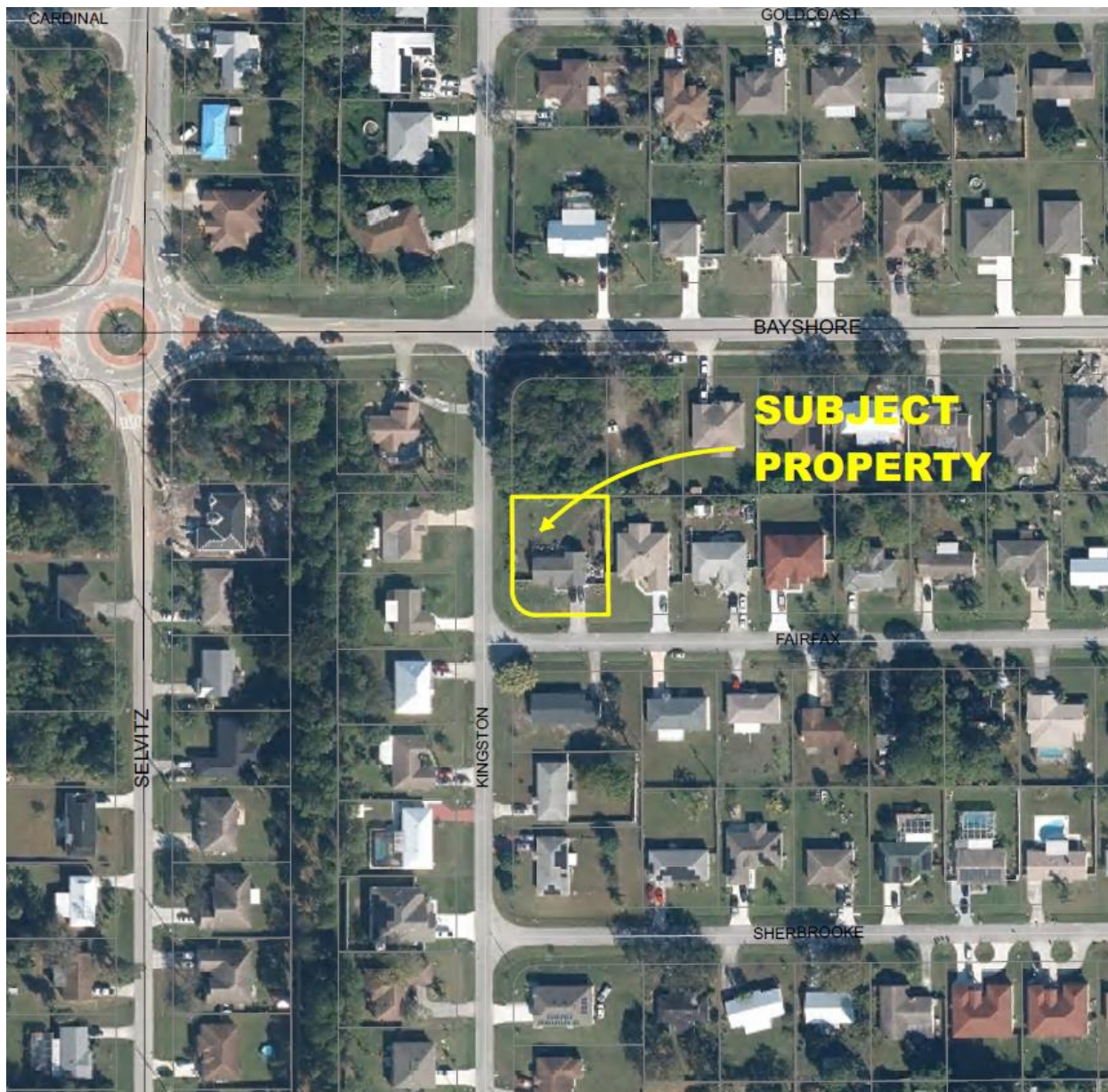




**Lauren & Norma Quintero
Variance (Fence Height)
P24-121**



Project Location Map

SUMMARY

Applicant's Request:	To grant a variance of two (2) feet to allow a 10-foot- high fence on the eastern perimeter of the property.
Application Type:	Variance, Quasi-Judicial
Applicant:	Lauren & Norma Quintero
Property Owner:	Lauren & Norma Quintero
Address:	597 NW Fairfax Avenue
Location:	The property is located on the northeast corner of Kingston Street and Fairfax Avenue.
Project Planner:	Daniel Robinson, Planner III

Project Description

The owner is requesting a variance of two (2) feet to allow a 10-foot- high fence on the eastern perimeter of their property. The existing plywood shall be removed and replaced with approved fencing material as the variance for type of material is not part of the request. Section 158.216(B) of the Zoning Code permits a maximum height of eight (8) feet for residential fences.

Background

The subject property is located on the northeast corner of Kingston Street and Fairfax Avenue. The property owner has stated that they are requesting the variance to the fence height due to their inability to feel safe with a shorter fence. The property owner has included their concerns with the application.

There are several code violations due to the current fence installed at this location. There is 6-foot-high vinyl fence on the north, south, and west sides of the property. The fencing has 4-foot lattice added to the top of the vinyl fencing. The property owner has stated that the fencing and lattice on these three sides will be changed to meet current code requirements.

The fencing on the east perimeter consists of 6-foot wooden fence with 4-foot plywood added to the top of the fencing. The owner has stated that the plywood will be removed, and the remaining height of the fencing will be made with permitted material.

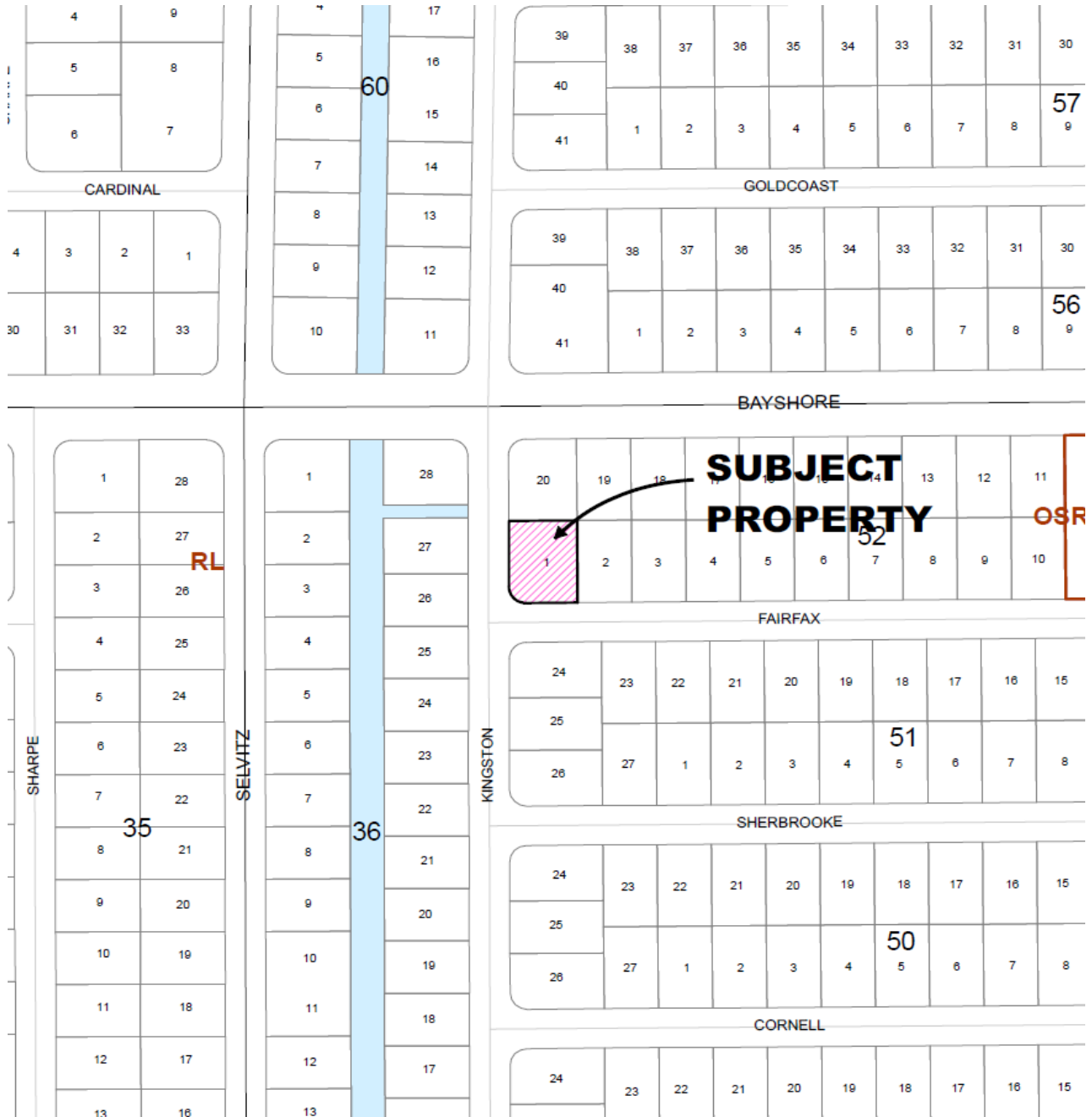
Also on the east perimeter in the front yard is a fence made of several different materials and covered in a black tarp material that must be removed.

Review Criteria

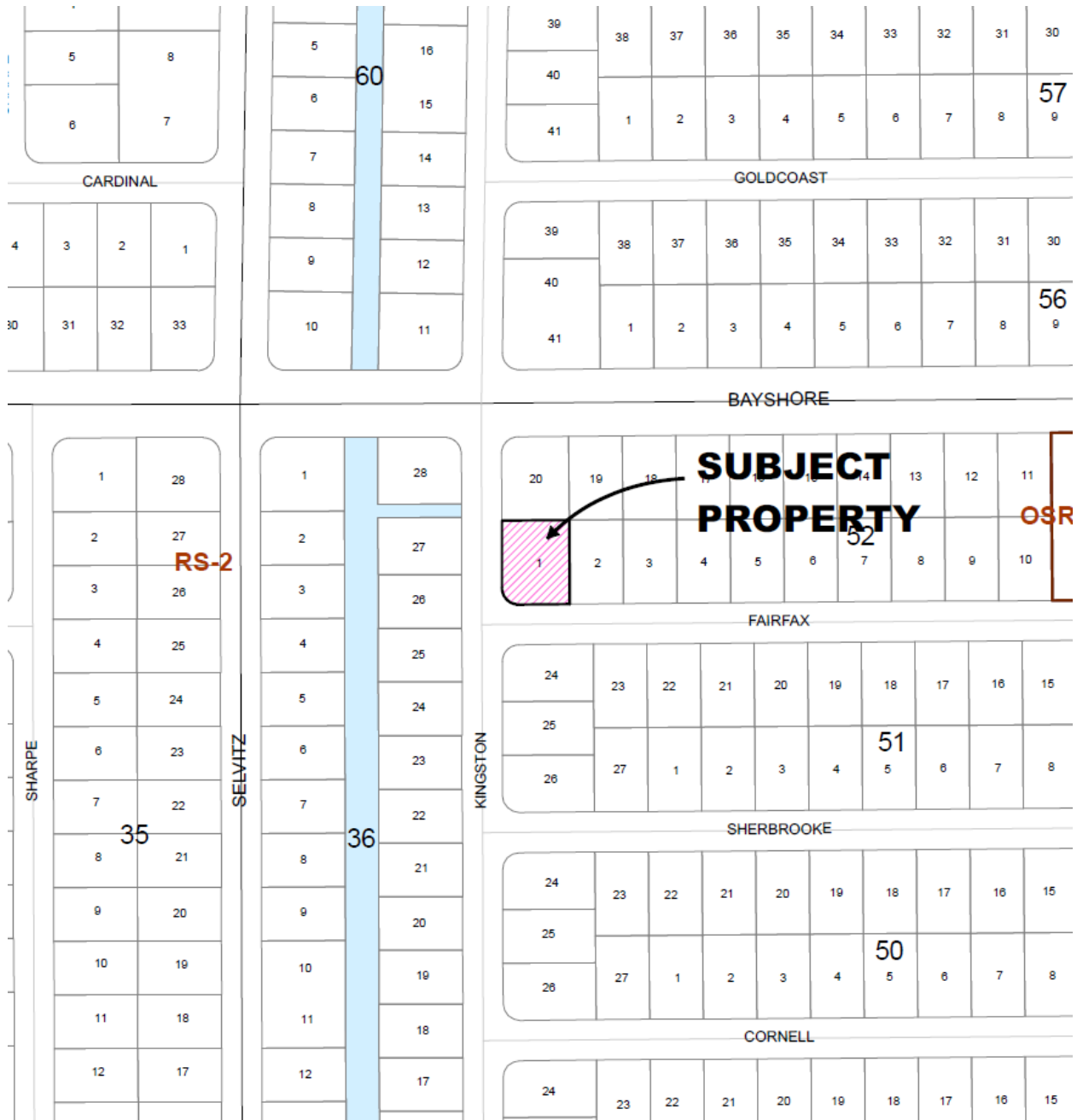
An application for a variance is reviewed for consistency with Article XV of the Zoning Code, Sections 158.295 through 158.299. Final action on the application (approval or denial) is in the form of an Order of the Planning and Zoning Board following a quasi-judicial public hearing. A vote of approval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

Public Notice Requirements

Public notice was mailed to owners within 750 feet on April 26, 2024, and the file was included in the ad for the Planning & Zoning Board's agenda.



Future Land Use



Existing Zoning

Location and Site Information

Parcel Number:	3420-620-1360-0001
Property Size:	+/- 0.29 acres
Legal Description:	Port St. Lucie-Section 25- BLK 52 Lot 1
Address:	597 Fairfax Avenue
Future Land Use:	RL (Low Density Residential)
Existing Zoning:	RS-2 (Single-Family Residential)
Existing Use:	Single-Family Residence

Surrounding Uses

Direction	Future Land Use	Zoning	Existing Use
North	RL	RS-2	Vacant
South	RL	RS-2	Single-Family Residence
East	RL	RS-2	Single-Family Residence
West	RL	RS-2	Single-Family Residence

RL, Low Density Residential – RS-2, Single Family Residential

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. Staff’s review is 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’s Response: I need the fence to be 10 feet to fully be protected with privacy from the next-door neighbor stalking behavior.*
 - *Staff Findings: The granting of this variance request will confer special privilege that is denied by this chapter to other lands in the same zoning district.*

- 2) That the special conditions and circumstances do not result from any action of the applicant.
 - *Applicant’s Response: Yes, I need the fence to be an extra 2 feet.*
 - *Staff Findings: No 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.*

- 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's Response: *Granting this variance gives me special privilege that my family requires to feel safe.*
 - Staff Findings: *The granting of this variance request will confer special privilege that is denied by this chapter to other lands in the same zoning district.*
- 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's Response: *8 feet isn't tall enough. He still looks in with his camera and tree.*
 - Staff Findings: *As far as the height of the fence, the 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 under the terms of the chapter and would not work unnecessary and undue hardship on the applicant. All properties zoned RS-2 zoned lots are limited to 8-foot-high fences per the Zoning Code.*
- 5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- Applicant's Response: *Yes, minimum is 10 feet.*
 - Staff Findings: *The applicants request for the height variance is the maximum height of their fence that is currently installed as per the applicant's application. The existing fence is made of several materials. There is 6-foot fencing of wood and 4 feet of added material that consists of plywood. The use of several materials for fencing is not the most reasonable use of the structure. Plywood is not a permitted material for fencing and lattice design is permitted on top of fencing if its less than two (2) feet in height and the overall height of the fence and lattice work does not exceed the permitted fence height.*
- 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's Response: *We will grow beautiful bougainvillea and sky vines on trellis on the rest of the sides. We already started five bougainvillea and two sky vines.*
 - Staff Findings: *Granting the variance will not be in harmony with the general intent and purpose of the chapter. The variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*
- 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's Response: *I understand that I will go through anything that is needed to grant the variance.*

- Staff Findings: Acknowledged.

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).