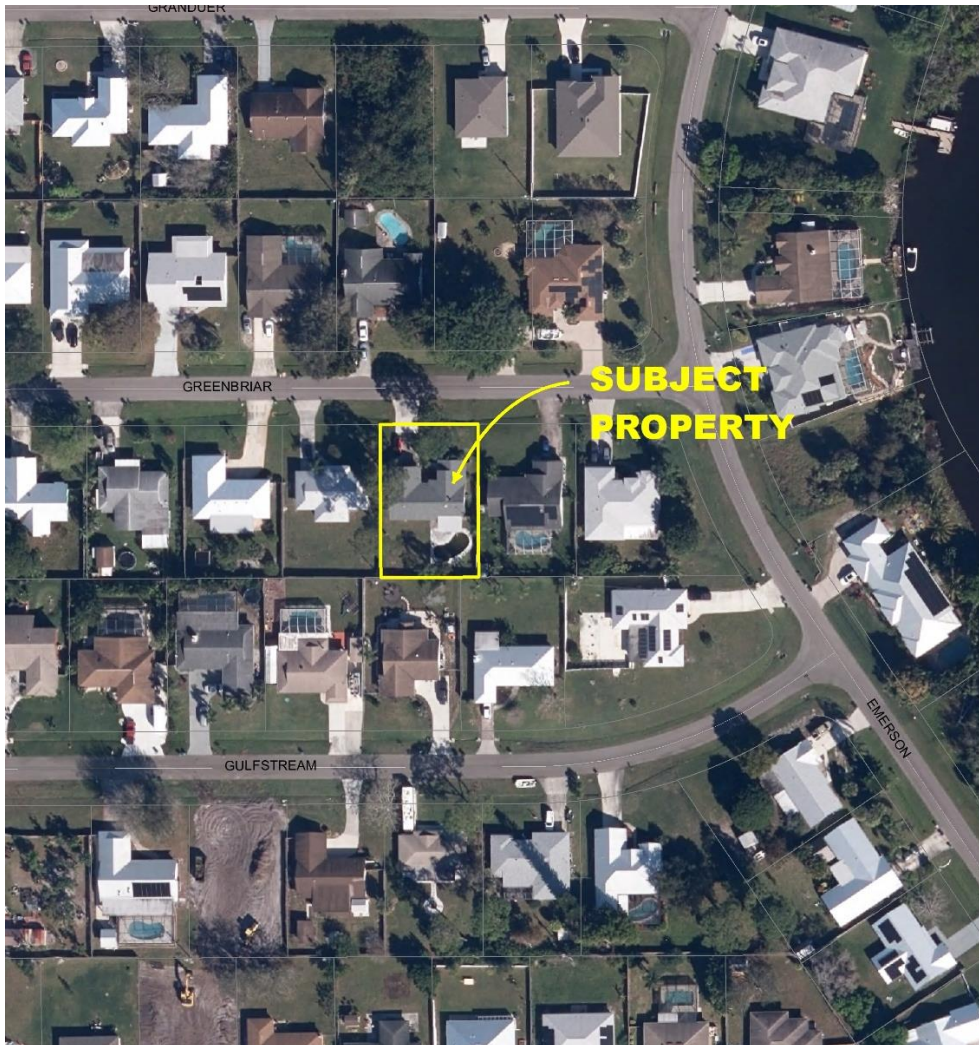


Sam and Elaine Enterprises – Variance
Project No. P24-171



Aerial Map

SUMMARY

| | |
|-----------------------------|--|
| Applicant's Request: | To grant a variance to allow a side setback of 4.5' from the property line for an existing pool and pool deck. |
| Application Type: | Variance, Quasi-Judicial |
| Applicant / Property Owner: | Linda Turney / Same and Elaine Enterprises LLC |
| Location: | 374 NE Greenbrier Avenue |
| Project Planner: | Sofia Trail, Planner I |

Project Description

The City of Port St. Lucie has received a request from Linda Turney, the applicant, to grant a variance from setback requirements for a property located at 374 NE Greenbrier Avenue. The request is for a variance of 5.5’ to allow a side setback of 4.5’ from the side property line for an existing pool and pool deck. The subject property is within the Single-Family Residential (RS-2) Zoning District and is legally described as Port St. Lucie Section 26, Block 470, Lot 1.

The pool deck also encroaches the 6’ utility easement on the side of the property line by 1.5’. Per Public Works, they have no objection to the pool deck encroaching the utility easement (See attached memo).

Background

The pool and pool deck were permitted, inspected, and approved by the City of Port St. Lucie Building Department in 1985 through Permit 26039. The property has sold multiple times, and this encroachment was not noticed until the current property owner decided to sell the property.

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 November 22, 2024, and the file was included in the ad for the Planning & Zoning Board’s agenda.

Location and Site Information

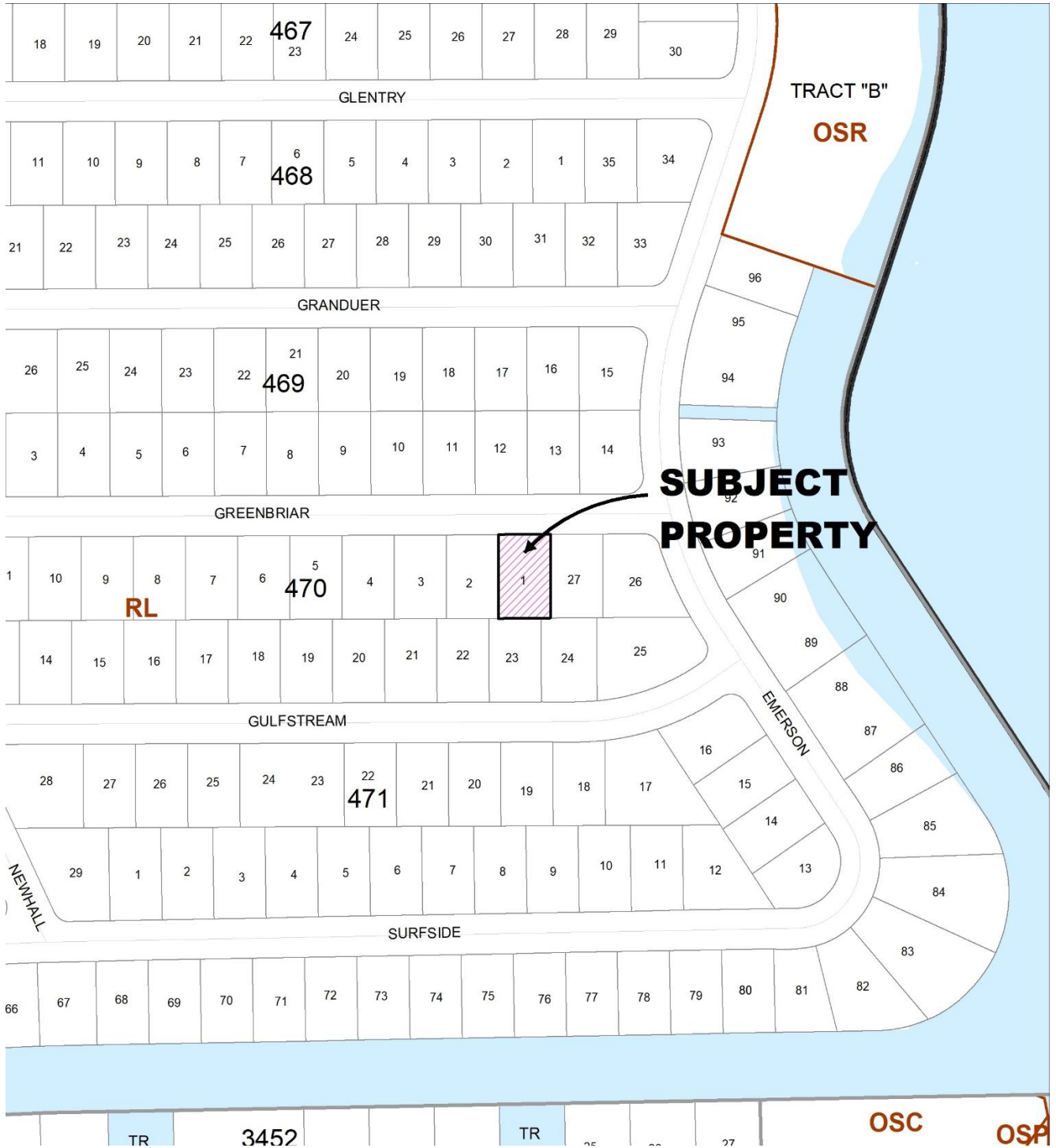
| | |
|--------------------|--|
| Parcel Number: | 3420-625-0435-000-6 |
| Property Size: | 0.23 acres |
| Legal Description: | Port St Lucie Section 26, Block 470, Lot 1 |
| Future Land Use: | RL |
| Existing Zoning: | RS-2 |
| Existing Use: | Single-Family Residence |

Surrounding Uses

| Direction | Future Land Use | Zoning | Existing Use |
|-----------|-----------------|--------|-------------------------|
| North | RL | RS-2 | Single-Family Residence |
| 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

Future Land Use



Zoning



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 the 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 the 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). The applicant's response to this criterion is attached to the application. Staff's review is provided below.

See the applicant's responses that are included in the Variance application.

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: The pool was built on private property by Adams Designer Pools Inc in 1985. The City of PSL approved the Permit # 26039.*
 - *Staff Findings: The pool and pool deck were inspected and permitted by the City of Port St. Lucie Building Department in 1985 by a different property owner. This mistake was recently acknowledged when the current property owner attempted to sell the property.*
2. That the special conditions and circumstances do not result from any action of the applicant.
 - *Applicant's Response: None*
 - *Staff Findings: Special conditions and circumstances do not result from any action of the applicant. The applicant did not own the property at the time of the pool and pool deck installation.*
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: The request is reasonable for the homeowner to enjoy his property and sell as desired.*
 - *Staff Findings: The granting of this variance request will confer special privilege that is denied by this chapter to other lands in the Single-Family (RS-2) Zoning District. Properties within this zoning district, are required to maintain 10' rear and 10' side setbacks for accessory uses.*
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: Without a variance, future sales will result in an exception on the title policy.*
 - *Staff Findings: The literal interpretation of the provisions would not deprive the applicant of any commonly enjoyed rights by other property owners. However, without the variance, the property owner would have to modify the pool and pool*

deck, which does not appear feasible.

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: *The property can be sold with clear and clean title to anyone who requires financing.*
 - Staff Findings: *The pool and pool deck were permitted in 1985 and the variance requested is to allow these accessory uses to continue to exist as they have since 1985.*
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: *The pool is located in a completely fenced private backyard. This variance will not affect another lot.*
 - Staff Findings: *It does not appear that the granting of the variance will negatively affect the public welfare or neighbors. The yard is fenced in.*
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: *Yes, I will comply.*
 - 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) and the City of Port St. Lucie Land Use Conversion Manual performance standards, 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).