

**NOTICE OF PUBLIC MEETING
JANUARY 28, 2020- 6:30 PM**

**CITY OF BELLE ISLE
PLANNING AND ZONING BOARD REGULAR SESSION**

ITEM 3

M E M O R A N D U M

TO: Planning and Zoning Board

DATE: January 17, 2020

Public Hearing Case #2019-12-016- Pursuant to Belle Isle Code Sec. 50-102 (b) (5), Sec. 50-102 (b) (16) and Sec. 42-64, the Board shall consider and take action on a requested variance to place a fence with a recessed gate in the front yard of a residential property, submitted by applicant Daniel E. Colpitts (DATSON FENCE) located at 7464 Daetwyler Drive, Orlando, FL 32812 also known as Parcel # 29-23-30-2980-00-020.

Background:

1. On December 13, 2019, Datson Fence submitted the application and required paperwork.
2. A Notice of Public Hearing legal advertisement was placed in the Saturday, January 18, 2020, Orlando Sentinel.
3. Letters to the abutting property owners within 300 feet of the subject property were mailed on Friday, January 17, 2020.

The Board may adopt all, some, or none of these determinations as part of their findings-of-fact. The Board may also add any additional findings-of-fact that are presented at the public hearing. The Board will need to determine if the criteria set forth in Chapter 42, Article III, Section 42-64(1) of the Land Development Code have been met, and approve, approve with conditions, or deny this request.

SAMPLE MOTION TO APPROVE:

"I move, the criteria of Section 42-64 of the Belle Isle Land Development Code having been met TO APPROVE the requested variance from **Sec. 50-102 (b) (5), Sec. 50-102 (b) (16) and Sec. 42-64**, the Board shall consider and take action on a requested variance to place a fence with a recessed gate in the front yard of a residential property, submitted by applicant Daniel E. Colpitts (DATSON FENCE) located at 7464 Daetwyler Drive, Orlando, FL 32812 also known as Parcel # 29-23-30-2980-00-020.

SAMPLE MOTION TO DENY:

"I move, the justifying criteria of the Belle Isle Land Development Code, having NOT been met; *[use only if NONE of the justifying criteria have been met]* the requirements of section 42-63, Subsections: *[STATE ONLY THE SUBSECTIONS BELOW THAT ARE NOT SATISFIED]* **having NOT been met;** *[may be used in addition to above or alone]* **TO DENY** the requested variance from Sec. 50-102 (b) (5), Sec. 50-102 (b) (16) and Sec. 42-64, the Board shall consider and take action on a requested variance to place a fence with a recessed gate in the front yard of a residential property, submitted by applicant Daniel E. Colpitts (DATSON FENCE) located at 7464 Daetwyler Drive, Orlando, FL 32812 also known as Parcel # 29-23-30-2980-00-020.

SUBSECTION (D), a literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar to the land, structure or building involved, including but not limited to dimensions, topography or soil conditions.

SUBSECTION (E), personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Code or for the purpose of obtaining a variance.

SUBSECTION (F), the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

SUBSECTION (G), the granting of the variance will be in harmony with the general purpose and intent of the Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary to the public interest.



April Fisher, AICP
PRESIDENT
407.494.8789
fisherpds@outlook.com

January 17, 2020

Fence Variance Application: 7464 Daetwyler Drive

1. Applicant Request: PUBLIC HEARING CASE #2019-12-016- PURSUANT TO BELLE ISLE CODE SEC. 50-102 (B) (5), SEC. 50-102 (B) (16) AND SEC. 42-64, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO PLACE A FENCE WITH A RECESSED GATE IN THE FRONT YARD OF A RESIDENTIAL PROPERTY, SUBMITTED BY APPLICANT DANIEL E. COLPITTS (DATSON FENCE) LOCATED AT 7464 DAETWYLER DRIVE, ORLANDO, FL 32812 ALSO KNOWN AS PARCEL # 29-23-30-2980-00-020.

Existing Zoning/Use: R-1-AA/ single-family home

Review Comments

This variance application seeks a variance from Sec. 50-102 (b) (5) (a) to allow a six-foot high fence with a recessed gate in the front yard of the property. The code expressly prohibits fences or walls in the front yard of a property. A variance is required before the proposed fence can receive a building permit.

The board in granting an application for the variance may consider as justifying criteria, the following from Sec. 50-102 (b) (16):

1. A difference in grade between the property upon which the fence will be installed and the immediately adjacent property;
2. The height or construction materials of already existing abutting walls or fences; and/or
3. Conditions existing upon or occupational use of adjacent property creating an exceptional privacy or security need of applicant.

The requirements of Sec. 42-64 (1) except for subsections 42-64 (1) (d) and (1) (f) shall otherwise be met.

The applicant has provided information supporting the variance request. Please see this information enclosed with this agenda item packet.

Staff Recommendation

The applicant identifies that they are seeking relief from road noise and recognize a need for security from foot traffic as the primary issues for installing the fence and gate in the front yard. This expressly meets the criterion established in Sec. 50-102 (b) (16) (3), which the Board may consider as justifying criteria according to the Code and does not violate the requirements of Sec. 42-64 (1). Staff recommends approval of the requested variance.

City of Belle Isle

1600 Nela Avenue, Belle Isle, Florida 32809 * Tel 407-851-7730 * Fax 407-240-2222

APPLICATION FOR VARIANCE / SPECIAL EXCEPTION

DATE: 12/13/2019 P&Z CASE #: 2019-12-016

VARIANCE SPECIAL EXCEPTION OTHER DATE OF HEARING: _____

Applicant <u>DANIEL E COLPITTS (DARTSON FENCE)</u>	Owner <u>PAMELA SYVENTSON</u>
ADDRESS <u>7464 DAETWYLER DR</u>	
PHONE: <u>407 448 9283</u>	<u>407 312 5419</u>
PARCEL TAX ID #: <u>29 23 30 2980 00 020</u>	

LAND USE CLASSIFICATION: _____ ZONING DISTRICT: _____

DETAILED VARIANCE REQUEST: 366' OF 4-TALL 2-RAIL ALUMINUM FENCE (3 GATES)
711' OF 6-TALL BLACK VINYL CHAIN LINK FENCE (62' TO BE APPROX. 8' FROM
PROPERTY LINE) 1-14' ALUMINUM DRBL GATE (RECESSED 60' ADDITIONAL FEET)

SECTION OF CODE VARIANCE REQUESTED ON: _____

- The applicant hereby states that the property for which this hearing is requested has not been the subject of a hearing before the Planning and Zoning Board of the kind and type requested in the application within a period of nine (9) months prior to the filing of the application. Further that the requested use does not violate any deed restriction of the property.
- By submitting the application, I authorize City of Belle Isle employees and members of the P&Z Board to enter my property, during reasonable hours, to inspect the area of my property to which the application applies.
- Applicant shall provide a minimum of ten (10) sets of three (3) photographs in support of this application as follows: at least one (1) photograph of the front of the property and at least two photographs (from different angles) of the specific area of the property to which the application applies.
- **Sec. 42-54. - Variances.** The board shall have the power to approve, conditionally approve or deny applications for variance from the terms of the Land Development Code.
 - o Criteria. The board shall not approve an application for a variance from terms of the Land Development Code unless and until:
 - a. A written application for a variance is submitted to the city manager or the city manager's designee on a form provided by the city clerk setting forth all of the special conditions and circumstances that exist in favor of the granting of the variance and addressing the requirements of subsections (1)d-g of this section of the criteria set forth in this section. Upon submission of the properly completed application and the appropriate fee, the city manager or the city manager's designee shall refer the application to the board.
 - b. Notice of public hearing for the variance shall be given as required by the article for hearing before the board.
 - c. The public hearing on the application for the variance shall be held. The applicant, the applicant's agent as evidenced by a signed writing, or the applicant's attorney shall appear before the board.
 - d. It is determined that literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar to the land, structure or building involved, including but not limited to dimensions, topography or soil conditions.
 - e. It has been determined that personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Land Development Code or for the purpose of obtaining a variance.
 - f. It is determined that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
 - g. It is determined that the granting of the variance will be in harmony with the general purpose and intent of the Land Development Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary to the public interest.

Labels 31

The board shall find that the preceding requirements have been met by the applicant for a variance.

(2) *Violations of conditions.*

- a. In granting any variance, the board may prescribe appropriate conditions and safeguards to ensure compliance with the Land Development Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Land Development Code and punishable in accordance with this article. At the discretion of the board, such variance may be revoked for violation of the condition and/or safeguards.
- b. The board may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both. Under no circumstances, except as permitted above, shall the board grant a variance to permit a use not generally or by special exception permitted in the zoning district involved, or any use expressly or by implication prohibited by the terms of the Land Development Code in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the same zoning district, and no permitted use of land, structures or buildings in other zoning districts, shall be considered grounds for the authorization of a variance.

APPLICANT'S SIGNATURE

894200B3CF7B45A...
Pamela Syvertson
 DocuSigned By: Pamela Syvertson

OWNER'S SIGNATURE

12/13/2019

FOR OFFICE USE ONLY:

FEE: \$150.00

12/13/19
Date Paid

ck# 27554
Check/Cash

Hrp
Rec'd By

Determination _____

Appealed to City Council: Yes No

Council Action: _____

Variance Request – Application Supplement (Answers)

For Property:

7464 Daetwyler Drive

Per the Application Supplement, since we are requesting for a variance for the placement of a fence, we are not required to answer Section 42-64 (1) d and f, respectfully.

Our request for a variance is to place our fence along Daetwyler Drive 8 feet back from the front property line on two sides and an aluminum gate recessed an additional 60 feet back off of the property line.

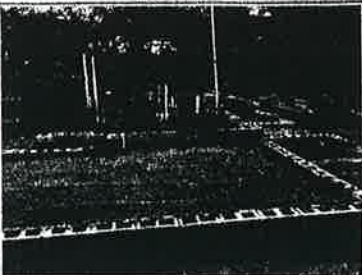
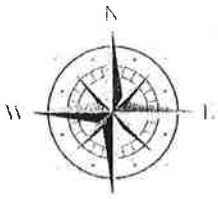
Daetwyler is a very busy street and we would like to place the fence in an area that will also allow us to plant shrubs directly behind it (inside of the fence) to try and block the road noise as much as possible while allowing as much use of our yard as possible. We also feel that there is quite a bit of foot traffic and we feel the fence would provide additional security for us.

Per Sections 42-64 (1) e the question is whether we personally have created the hardship. The answer is the busyness of the road was not created by our own actions.

Per Section 42-64 (1) g the question stems around what the variance request if granted will be detrimental to the neighborhood and public welfare. The answer is I don't believe a chain link fence and aluminum gate will interfere in an unsightly or detrimental way to either the public or the neighborhood. We are only trying to beautify and protect the property.

Thank you for your consideration.

Pamela Syvertson, Owner
7464 Daetwyler Drive

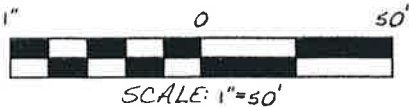


Boundary

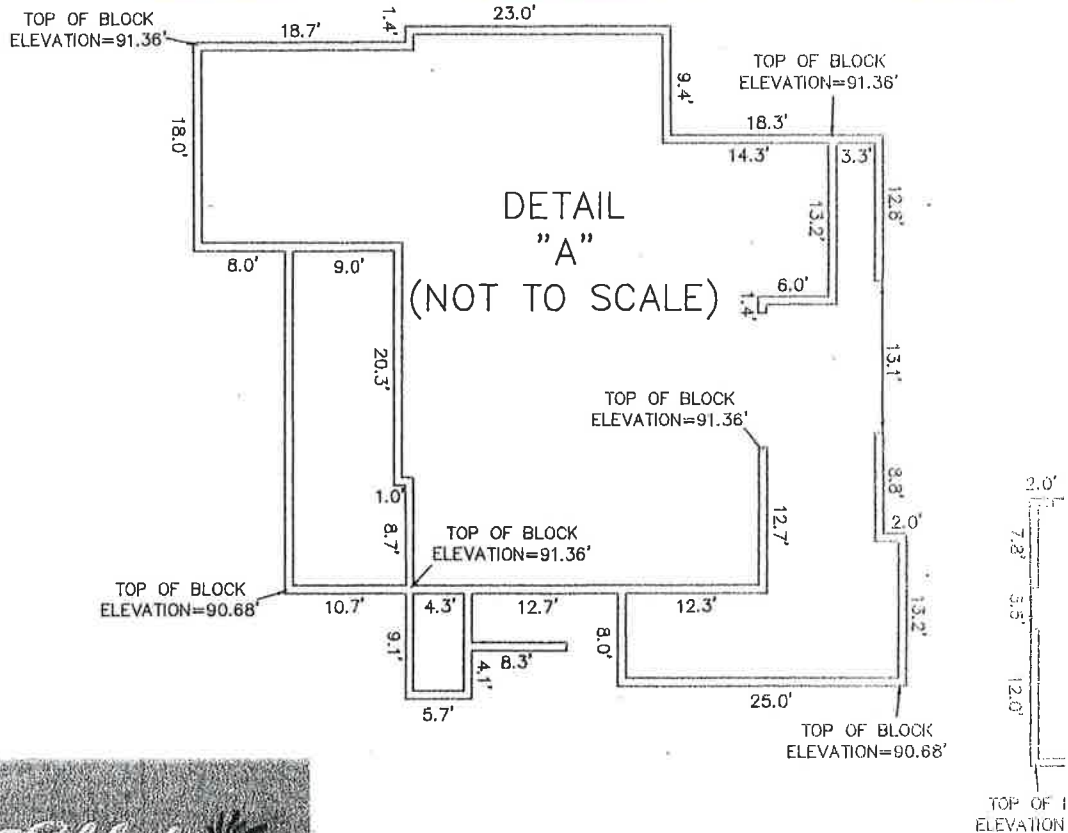
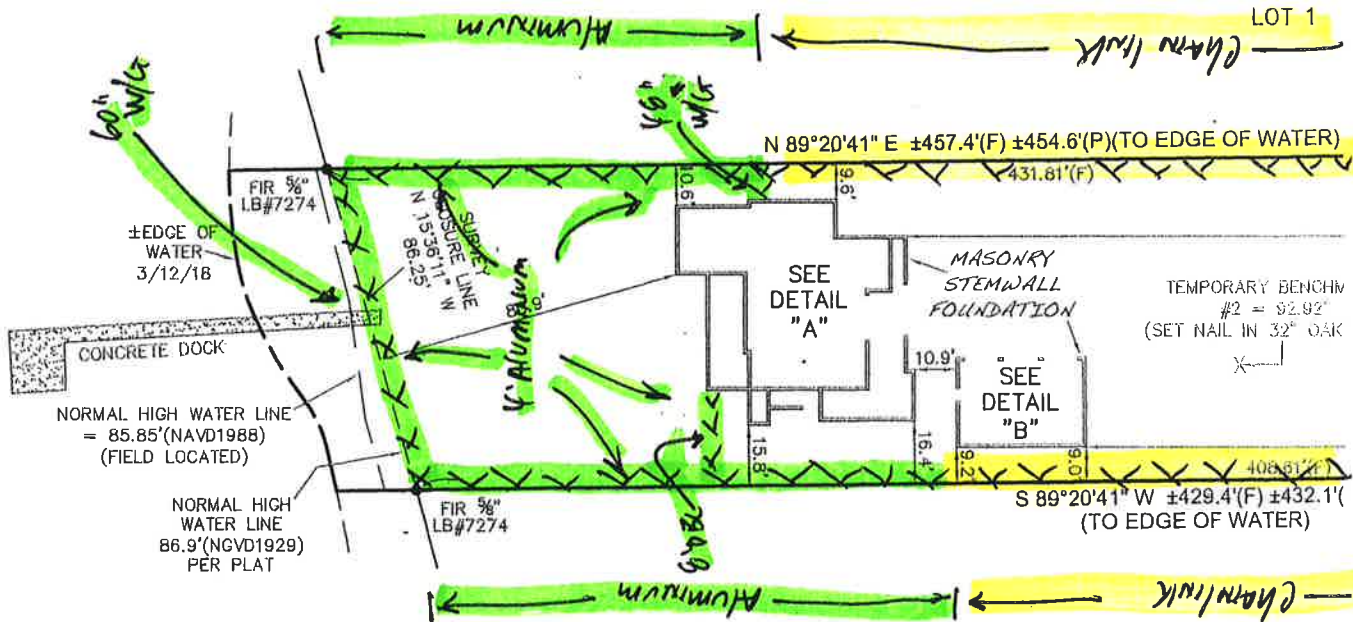
ELEVATION INFORMATION DERIVED FROM ORANGE COUNTY BENCHMARK *L648021 HAVING AN ELEVATION OF 92.852'(NAVD1988)

NORMAL HIGH WATER LINE ELEVATION SHOWN HEREON PROVIDED BY ORANGE COUNTY STORMWATER MANAGEMENT DEPARTMENT

ADDRESS
0 Daetwyler Drive
Orlando, FL 32812



LAKE CONDA



JOB #: VLSR18-25670	
CLIENT #:	
FIELD DATE: 3/12/18	CREW: CS
DRAFTER: DF	
APPROVED: JEW	
SCALE: 1" = 50'	

COPYRIGHT 2011

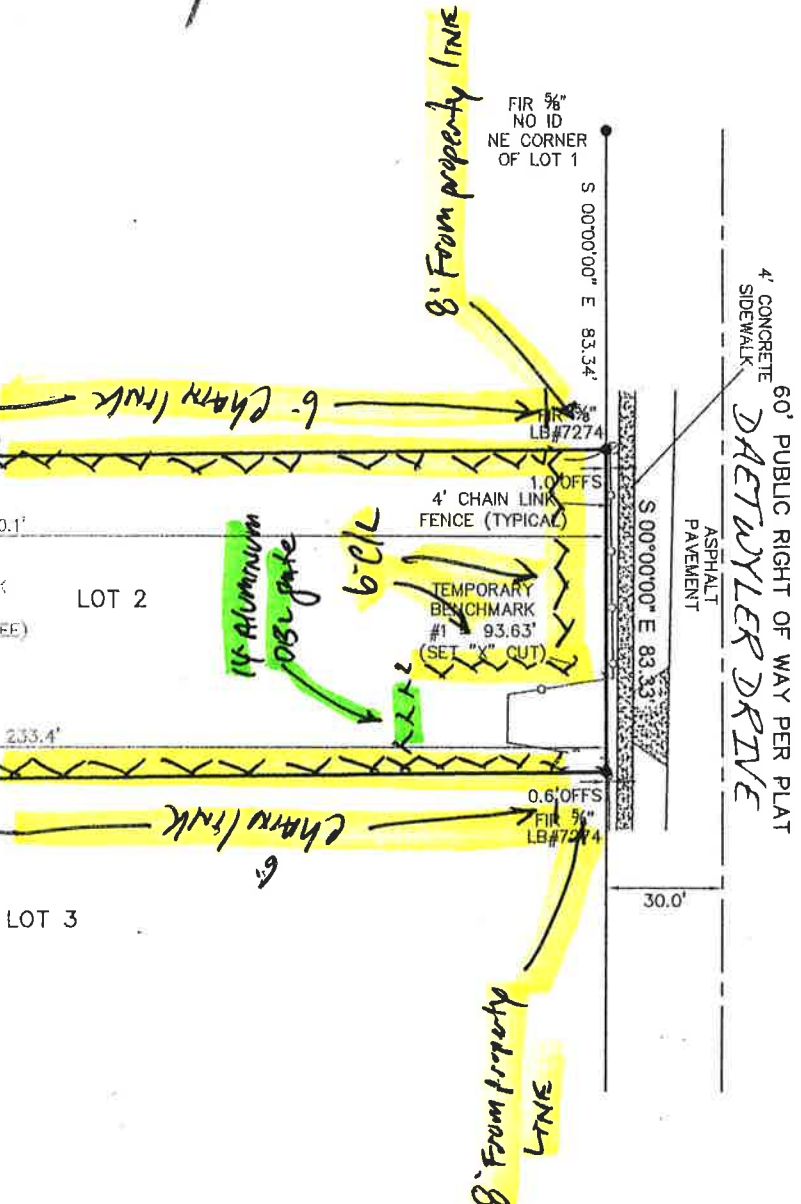
X
Borrower's Acknowledgment and Acceptance

X
Borrower's Acknowledgment and Acceptance



urvey

EASEMENT NOTE:
SUBJECT TO EASEMENTS NOTED ON RECORD PLAT.



CERTIFIED TO: (AS FURNISHED)
Pamela McNab Syverston and James J. Syverston
First American Title Insurance Company
Celebration Title Group
Iberia Bank

FLOOD ZONE
SUBJECT PROPERTY SHOWN HEREON APPEARS TO BE LOCATED IN FLOOD ZONE "AE, X500 & X", AREAS DETERMINED TO BE INSIDE & OUTSIDE THE 100-YEAR FLOODPLAIN, PER F.I.R.M. PANEL NUMBER 12095C0430F, LAST REVISION DATE 9/25/09, (PER MAPWISE WEBSITE). THIS SURVEYOR MAKES NO GUARANTEES AS TO THE ACCURACY OF THE ABOVE INFORMATION. THE LOCAL F.E.M.A. AGENT SHOULD BE CONTACTED FOR VERIFICATION.

LIST OF POSSIBLE ENCROACHMENTS:
GRAVEL DRIVEWAY, DOCK, CARPORT & FENCES CROSS PROPERTY LINE. OWNERSHIP OF FENCES HAS NOT BEEN DETERMINED.

BASIS OF BEARING
BEARINGS ARE BASED ON THE WEST RIGHT-OF-WAY OF DAETWYLER DRIVE WHICH HAS A BEARING OF S 00°00'00" E PER PLAT.

Legal Description
(as furnished)
Lot 2, Gilmore Estates at Lake Conway, according to the plat thereof as recorded in Plat Book 80, Page 112, of the Public Records of Orange County, Florida.

- NOTES**
- Underground utility installations, underground improvements, foundations and/or other underground structures were not located by this survey.
 - The purpose of this survey is for use in obtaining title insurance and financing and should not be used for construction purposes.
 - Additions or deletions to this survey by anyone other than the signing party or parties is prohibited without the written consent of the signing party or parties.
 - The property shown hereon is subject to all easements, restrictions and reservations which may be shown or noted on the record plat and within the public records of the county the subject property is located. This survey only depicts survey related information such as easements and setbacks that are shown on a record plat or have been furnished to the Surveyor.
 - Building lines and dimensions for improvements should not be used to reconstruct boundary lines.

THIS SURVEY IS PREPARED FOR THE EXCLUSIVE USE AND BENEFIT OF THE PARTIES LISTED HEREON. LIABILITY TO THIRD PARTIES MAY NOT BE TRANSFERRED OR ASSIGNED.

LB 7788

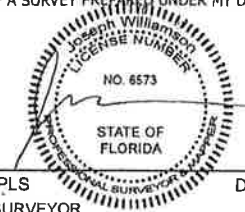


VISION LAND
SERVICE

941 S Pennsylvania Ave, Winter Park, FL 32789 | (888) 399-8474

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND ACCURATE REPRESENTATION OF A SURVEY PREPARED UNDER MY DIRECTION.



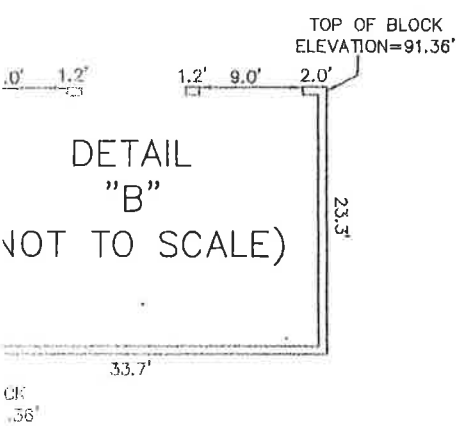
Joseph E. Williamson, PLS
PROFESSIONAL LAND SURVEYOR
FLORIDA REGISTRATION #6573
NOT VALID WITHOUT THE ELECTRONIC SIGNATURE AND/OR ORIGINAL RAISED SEAL OF THE LISTED FLORIDA LICENSED SURVEYOR AND MAPPER

DATED: 3/14/18

DATE	REVISION	DATE	REVISION
2/28/19	Show Foundation	3/27/19	Recert

LEGEND

- | | |
|----------------------------|--------------------------|
| CA = Covered Area | Pg = Page |
| ID = Identification | EB = Electric Box |
| LB = Licensed Business | WM = Water Meter |
| FIP = Found Iron Pipe | LP = Light Pole |
| FIR = Found Iron Rod | TR = Telephone Riser |
| C/S = Concrete Slab | TR = Transformer |
| D = Central Angle | P/E = Pool Equipment |
| L = Arc Length | CR = Cable TV Riser |
| R = Radius | ONS = Onsite |
| (P) = Plat Dimension | OFFS = Offsets |
| (C) = Calculated Dimension | OP = Overhead Power Pole |
| (D) = Deed Dimension | OHU = Overhead Utilities |
| (F) = Field Dimension | W = Well |
- OR Book = Official Record Book
SIR = Set 1/4" Iron Rod & Cap LB#7788
CBP = Covered Brick Pavers
FCM = Found Concrete Monument
SECC = Screen Enclosed Covered Concrete
FN&D = Found Nail & Disk
SN&D = Set Nail & Disk LB#7788
BP = Brick Pavers
CWD = Covered Wood Deck
MES = Mitered End Section
NCF = No Corner Set or Found
WV = Water Valve
SA = Septic Area



Note: Improvements were not verified upon Re-Certification.