



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Planning Commission

Through: Emily Schemper, AICP, CFM, Senior Director of Planning & Environmental Resources

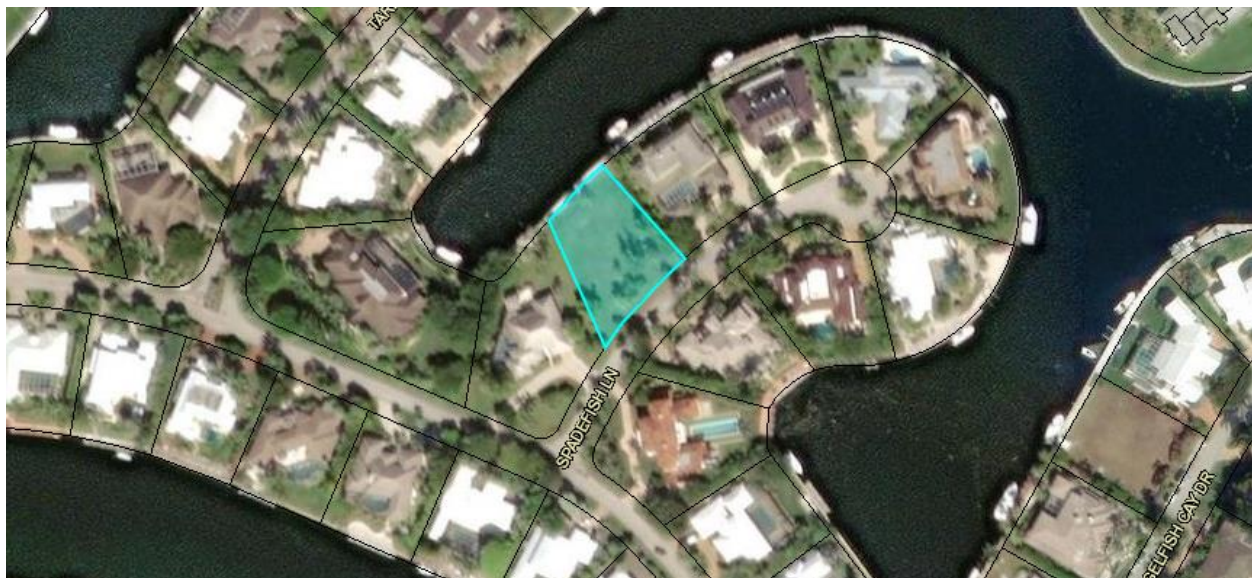
From: Brad Stein, AICP, Planning & Development Review Manager

Date: January 10, 2021

Subject: *A Request for an Administrative Setback Variance for Property Legally Described as Lot 49, Angel Fish Cay Ocean Reef Plat No. 5 Key Largo, Monroe County, Florida, according to the Map or Plat Thereof, as recorded in Plat Book 6, Page 17, of the Official Records of Monroe County, currently having Property Identification Number 00569441-004900.(File # 2021-164)*

1 I REQUEST:

2 The applicant(s), Sean and Jacqueline Griffiths (“Applicant”, “Applicant(s)”, “Applicants-
3 Owners”, or “Griffiths”), has requested approval of a variance of five (5) feet from the required
4 five (5) foot secondary side-yard setback adjacent the western property line of the subject
5 property, depicted in the below aerial photograph. If approved, the required side-yard setback
6 would be zero (0) feet. The applicant has represented that the subject variance has been
7 requested in order to construct a single-family dwelling unit.
8



9
10 *Subject Property highlighted in blue on 2018 Aerial*
11

12 II BACKGROUND INFORMATION:

13 **Location:** Ocean Reef

1 **Address:** 49 Spadefish Lane, Ocean Reef, Key Largo, Monroe County, Florida
 2 **Legal Description:** Lot 49, Angel Fish Cay Ocean Reef Plat No. 5 Key Largo, according to
 3 the map or plat thereof, as recorded in Plat Book 6, Page(s) 17, of the Official Records of
 4 Monroe County, Florida
 5 Together with a perpetual use easement as created by and set forth in deed recorded in Official
 6 Records Book 861, Page 725 and re-recorded in Official Records Book 864, Page 725, Official
 7 Records of Monroe County, Florida, more particularly described as that portion of Lot 50,
 8 Angelfish Cay, Ocean Reef Plat No. 5, according to the Plat thereof, recorded in Plat Book 6,
 9 Page(s) 17, of the Official Records of Monroe County, Florida
 10 **Property Identification Number:** 00569441-004900
 11 **Property Owner(s)/Applicant(s):** Sean and Jacqueline Griffiths
 12 **Agent:** James Lupino, Esq.
 13 **Size of Site:** 17,947 Square Feet (per the survey from Miguel Espinosa Land Surveying, Inc.,
 14 dated May 31st, 2017)
 15 **Land Use District:** Improved Subdivision (IS)
 16 **Future Land Use Map (FLUM) Designation:** Residential Medium (RM)
 17 **Tier Designation:** No Tier - Ocean Reef
 18 **Flood Zone:** AE10
 19 **Existing Uses:** Vacant Parcel, Previous Dwelling Unit Demolished
 20 **Existing Vegetation / Habitat:** Developed Land
 21 **Community Character of Immediate Vicinity:** Single-family residential

22
 23 **III RELEVANT PRIOR COUNTY ACTIONS:**

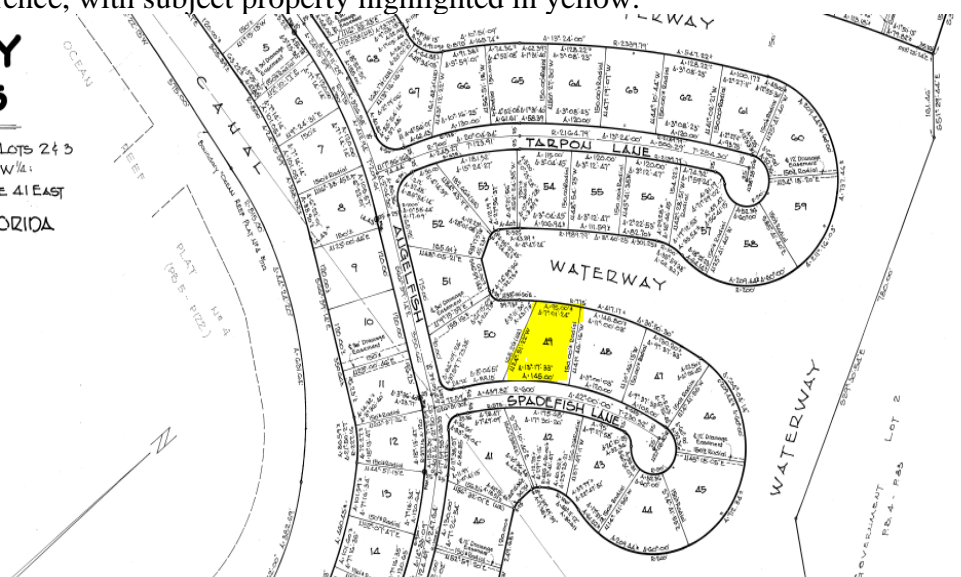
24 The plat of Angel Fish Cay Ocean Reef Plat No. 5 Key Largo was approved by Monroe County
 25 Board of County Commissioners (“BOCC”) Resolution on April 23, 1969, and filed in Plat
 26 Book 6, Page 17, Official Records of Monroe County. See a true-and-correct copy of the
 27 pertinent plat below for reference, with subject property highlighted in yellow.

ANGELFISH CAY
OCEAN REEF PLAT NO. 5

BEING A SUBDIVISION OF A PORTION OF GOVERNMENT LOTS 2 & 3
 THE WEST 1/2 OF THE NE 1/4 AND THE NE 1/4 OF THE SW 1/4
 ALL LYING IN SECTION 7, TOWNSHIP 59 SOUTH, RANGE 41 EAST
 KEY LARGO MONROE COUNTY FLORIDA

POST, DUCKLEY, MOONEY & SCHUH, INC.
 CONSULTING ENGINEERS & LAND SURVEYORS
 MIAMI SPRINGS - FLORIDA

Graphic Scale
 SCALE: 1" = 100'
 MARCH 1969
 SHEET 2 OF 2 SHEETS



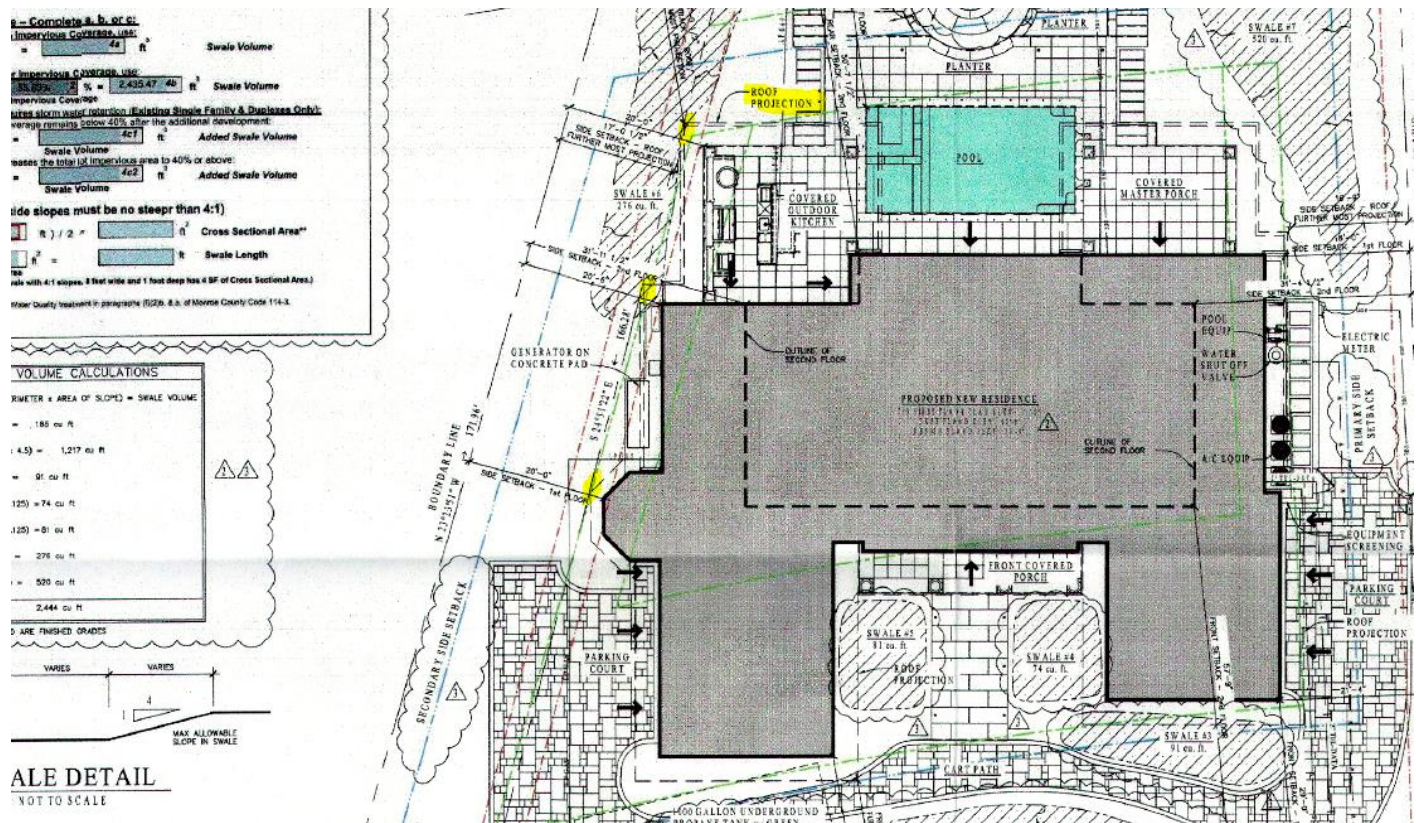
1
2
3 **IV REVIEW OF APPLICATION:**

4 The requested variance is requested in order to construct a single family residential dwelling
5 unit on the subject property.
6

7 The property is located within the Improved Subdivision (“IS”) Land Use (“Zoning”) District.
8 Pursuant to Monroe County Land Development Code (“LDC”) Section 131-1. The LDC-
9 required non-shoreline setbacks within the IS Zoning District are as follows:
10

Land Use District/ Land Use	Primary Front Yard (ft.)	Secondary Front Yard (ft.)	Primary Side Yard (ft.)	Secondary Side Yard (ft.)	Rear Yard (ft.)
Improved Subdivision (IS)	25	15	10	5	20

11 Approval of the requested variance would result in a secondary side-yard setback of zero (0)
12 feet, according to the site plan submitted with the application, signed-and-sealed by architect
13 Mark P. Finlay, bearing a May 14th, 2021, revision date. See a true-and-correct copy of the
14 previously referenced proposed site plan below.
15
16



1 **This Variance request was reviewed under the criteria set forth for an Administrative**
2 **Variance LDC Section 102-186(f), and was found by the Planning Director to be in**
3 **compliance with these requirements. Upon the required 30 calendar days of**
4 **posting/noticing of the intent to grant the variance, an adjacent property owner/resident**
5 **requested in writing that the variance be considered at a public hearing by the Planning**
6 **Commission, as is allowed by LDC Section 102-186(k). This in turn requires the**
7 **Administrative Variance to be reviewed in accordance with LDC Section 102-187.**
8

9 *Pursuant to LDC Section 102-187(d), a variance may only be granted if the applicant*
10 *demonstrates that all of the following standards are met:*

11
12 (1) *The applicant shall demonstrate a showing of good and sufficient cause:* **IN**
13 **COMPLIANCE**

14
15 The applicant(s) state “*Applicant is replacing the prior Single Family Residence in*
16 *essentially the same location as the prior structure. The property has a full perpetual*
17 *easement which has been recorded of Record for approximately 40 years (since 1982)*
18 *which allows the use of the easement for setbacks and other uses. A modification to the*
19 *easement was recorded on March 13, 2020. Side yard setback measured from the unique*
20 *easement line (as opposed to property line) is consistent with historical use of the unique*
21 *easement area for construction on Lot 49 and the deeds for both lots involved. It is*
22 *important to note that the full use of easement continues to provide setbacks approved by*
23 *prior owners. Ocean Reef requires side entrance garages. The limited use of the area*
24 *fulfills that obligation.*”

25
26 The applicants-owners have represented that previous litigation between the owners and
27 neighboring landowner(s) resulted in a settlement whereby the owners executed an
28 amended easement agreement that specifically assents to the easement’s setback
29 calculation use. An easement granted between those property owners does not eliminate
30 the requirement that all development comply with the setback provisions of the Monroe
31 County Land Development Code; therefore, the variance is required in order for the owner
32 to construct a residence within the required 5-foot side yard setback.
33

34 The professional staff confirm that the applicant demonstrates a showing of good and
35 sufficient cause.
36

37 (2) *Failure to grant the variance would result in exceptional hardship to the applicant:*
38 **IN COMPLIANCE**

39
40 LDC Section 101-1 defines *exceptional hardship* as “a burden on a property owner that
41 substantially differs in kind or magnitude from the burden imposed on other similarly
42 situated property owners. Financial difficulty/hardship does not qualify as exceptional
43 hardship.”
44

45 The applicant(s) state “*The applicant relied on prior approvals and preexisting uses as*
46 *well as recorded documentation to confirm the allowed uses in purchasing the property*”

1 and designing the house. The use of the easement is limited in nature to allow entrance
2 into a garage as Ocean Reef Club does not allow front entrance garages. The
3 documentation allowing this users unique to Lot 49 and 51 as it was designed and divided
4 for this purpose by the prior owner of the subject lots See attachments B & I. This hardship
5 is created in part by the requirement of side entrance garages by Ocean Reef. The historical
6 use was created by prior owners and approved by Ocean Reef Club and Monroe County.”
7

- 8 (3) *Granting the variance will not result in increased public expenses, create a threat to public*
9 *health and safety, create a public nuisance, or cause fraud or victimization of the public:*
10 **IN COMPLIANCE**

11
12 The applicant(s) state “*There will be no effect to public health, safety nor create a nuisance*
13 *or fraud.*”
14

15 The professional staff does not anticipate that granting the variance would result in an
16 increased expense, create a threat to public health and safety, create a public nuisance, or
17 cause fraud or victimization to the public.
18

- 19 (4) *Property has unique or peculiar circumstances:* **IN COMPLIANCE**
20

21 The applicant(s) state “*The easement was created on both sides of Lot 50 for the full use of*
22 *Lots 49 and 51. This does not exist elsewhere, see attached deed/easement dated 1982 as*
23 *amended in March 2020. The side entrance garages are a function of Ocean Reef Club*
24 *Requirements.*”
25

26 The professional staff has/have determined that the subject property has a unique or
27 peculiar circumstance that applies to this property, but does not apply to all other properties
28 within the IS zoning district. Previous litigation between the subject property owners
29 resulted in a settlement whereby the owners executed an amended easement agreement that
30 specifically agrees to allow use of the easement for the purpose of setback calculations. An
31 easement granted between owners does not eliminate the requirement that development
32 comply with the setback provisions of the Monroe County Land Development Code;
33 therefore, the variance is required in order for the owner to construct a residence within the
34 required 5-foot side yard setback.
35

- 36 (5) *Granting the variance will not give the applicant any special privilege denied to another*
37 *property owner in the immediate vicinity:* **IN COMPLIANCE**
38

39 The applicant(s) state “*The easement as has historically been used by this property with*
40 *approval of Ocean Reef Club and Monroe County. The use is allowed by historical agreed*
41 *upon property right documentation and was previously approved for this lot in prior*
42 *building permit applications it's unique due to the intent of the "full use easement"*”.
43

44 The professional staff has/have determined that granting the requested variance shall
45 not/will not give the applicant(s) a special privilege denied other properties in the
46 immediate neighborhood in terms of the provisions of this chapter or established patterns.

1
2 (6) *Granting the variance is not based on disabilities, handicaps or health of the applicant or*
3 *members of his family: IN COMPLIANCE*

4
5 The applicant(s) have stated “No.”

6
7 The professional staff confirms that granting the variance is not based upon disabilities,
8 handicaps, or the health of the applicant(s) or members of his family.

9
10 (7) *Granting the variance is not based on the domestic difficulties of the applicant or his*
11 *family: IN COMPLIANCE*

12
13 The applicant(s) have stated “No.”

14
15 The professional staff confirm that the request to grant the subject variance is not based
16 upon the domestic difficulties of the applicant(s) or their family.

17
18 (8) *The variance is the minimum necessary to provide relief to the applicant:*
19 **IN COMPLIANCE**

20
21 The applicant(s) state “*Yes, modifications have already been made to existing plans at the*
22 *direction of the planning staff to satisfy all stated concerns and submitted for approval.*”

23
24 The professional staff confirm that the requested variance is the minimum necessary to
25 provide relief to the applicant(s). The applicant(s) originally requested to construct the
26 house across the property line and into the easement. The site plan has been modified and
27 the variance request is now only to bring the structure *to* the property line, not *across* it.

28
29 **V RECOMMENDATION:**

30 The professional staff recommend **APPROVAL** of the requested variance of five (5) feet from
31 the required 5-foot secondary side yard setback adjacent the western property line of the subject
32 property. As a result of this approved variance, the required side-yard setback shall be zero (0)
33 feet for the construction of a single-family dwelling unit, with the following conditions (if
34 necessary, following the consideration of public input, the professional staff hereby reserve the
35 right to request additional conditions):

- 36
37 1. The administrative variance approval is based upon the design and placement of the
38 proposed structures as shown on the site plan signed-and-sealed by architect Mark P.
39 Finlay bearing a May 14th, 2021, revision date, as a part of this variance application.
40 Work not specified or alterations to the subject site plan may not be carried out without
41 additional Monroe County Planning and Environmental Resources Department
42 approval.
43
44 2. The variance approval does not waive any other required setbacks for any future
45 structures or additions.
46

- 1 VI PLANS REVIEWED:
- 2 A. Site plan signed-and-sealed by architect Mark P. Finlay, bearing a May 14th, 2021, revision
- 3 date
- 4 B. Boundary survey by Miguel Espinosa Land Surveying, Inc., dated May 31st, 2017
- 5
- 6