

REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT
APPLICATION FOR WAIVER OF THE MINIMUM ARCHITECTURAL AND
AESTHETIC REQUIREMENTS WAAR-22-01

OCTOBER 18, 2022

Location: 4817 Kingsbury Street
Between Cassat Avenue and Woodruff Avenue

Real Estate Number(s): 062553-0000

Waiver Sought: Waiver of the Part 4 Requirement for perpendicular orientation.

Current Zoning District: Residential Low Density-60 (RLD-60)

Current Land Use Category: Low Density Residential (LDR)

Planning District: 5- Northwest

Agent: Hunter Faulkner
1 Independent Drive, Suite 1400
Jacksonville, Florida 32202

Owner: BCEL 5A, LLC
7563 Philips Highway, Suite 208
Jacksonville, FL 32256

Staff Recommendation: DENY

GENERAL INFORMATION

Application for Waiver of Minimum Architectural and Aesthetic Requirements WAAR-22-01 seeks to deviate from part 4 requirement in regards to perpendicular orientation. Per Section 656.432, the dwelling shall be oriented on the lot so that its long axis is parallel with the street or if it is not, the variation off parallel shall be less than ten percent. The applicant has stated that the proposed waiver is due to the lot only being 25 feet in width and constructing a dwelling parallel to the street would not be possible. The subject property is approximately 0.08± acres (3,275 square feet) and is the East ½ of Lot 243, Block 127 of Murray Hill Heights Plat, not a legal lot of record. The original platted lots of Murray Hill Heights were 50 feet in width and this established pattern of development has continued for the surrounding neighborhood.

There is a companion Administrative Deviation application (2022-0678/AD-22-61) seeking to reduce the minimum lot width from 60 feet to 25 feet and reduce required minimum lot area from 6,000 square feet to 3275 The department is recommending Denial on the Administrative

Deviation application and therefore will recommend denial of the Waiver of Architectural and Aesthetic Requirements. If the property were the correct lot width of 60 feet or the lot of record status of 50 feet the property would be large enough to orient the dwelling to meet part 4 requirements.

Additionally, there is a companion Waiver of Minimum Required Road Frontage Ordinance 2022-0676 (WRF-22-24) seeks to reduce the required minimum road frontage from 48 feet to 25 feet. The department is also recommending Denial on the waiver.

DEFINITION

According to Section 656.1601 of the Zoning Code, the term waiver means a relaxation of the Zoning Code minimum architectural and aesthetic requirements for single-family dwellings, pursuant to Section 656.436 of the Zoning Code. Waivers are granted by the Planning Commission pursuant to the criteria set forth in Section 656.436 of the Zoning Code.

STANDARDS, CRITERIA AND FINDINGS

Pursuant to the provisions of Section 656.436 of the Zoning Code, a waiver from the minimum architectural and aesthetic regulations for single-family dwellings may be granted if the Planning Commission makes a positive finding based on substantial, competent evidence that the application meets all of the following criteria:

- (i) *Are there practical or economic difficulties in carrying out the strict letter of the regulation?*

No. While the current size of the property being 25 feet in width does make it impractical to orient the dwelling to meet the part 4 requirements for Architectural and Aesthetic this is a self-imposed hardship. If the property were the correct lot width of 60 feet or the lot of record status of 50 feet the property would be large enough to orient the dwelling to meet part 4 requirements.

- (ii) *Is the request based exclusively upon the desire to reduce the cost of constructing or siting the single-family dwelling?*

No. The request does not have the effect of reducing the cost of development, and it does not circumvent the requirements of Chapter 654. The property is currently vacant and the grant of this waiver would allow a new single family structure to be built. There is a companion Administrative Deviation application that is seeking to reduce the minimum lot width from 60 feet in width to 25 feet in width and reduce required minimum lot area from 6,000 square feet to 3275.

- (iii) *Will the proposed waiver substantially diminish property values in, or alter the essential character of, the area surrounding the single-family dwelling and will the waiver substantially interfere with or injure the rights of others whose property would be affected by the waiver?*

ELA

Yes. The subject property is a not considered a lot of record due to being subdivided from the original platted lot 243, Block 127 of Murray Hill Heights. All other lots in the surrounding area are either considered lots of record or meet the minimum lot width and lot area requirements and therefore can construct dwellings that meet the requirements of part 4 for Architectural and Aesthetic. Approval of this waiver would create a dwelling out of character or the surrounding area.

- (iv) *Will the proposed waiver be detrimental to the public health, safety or welfare, result in additional expense, the creation of nuisances or conflict with any other applicable law?*

Yes. Staff finds the proposed waiver will be detrimental to the public health, safety, or welfare by allowing for a dwelling to be constructed out of character for the surrounding area. There have been no similar waiver requested approved for the surrounding area.

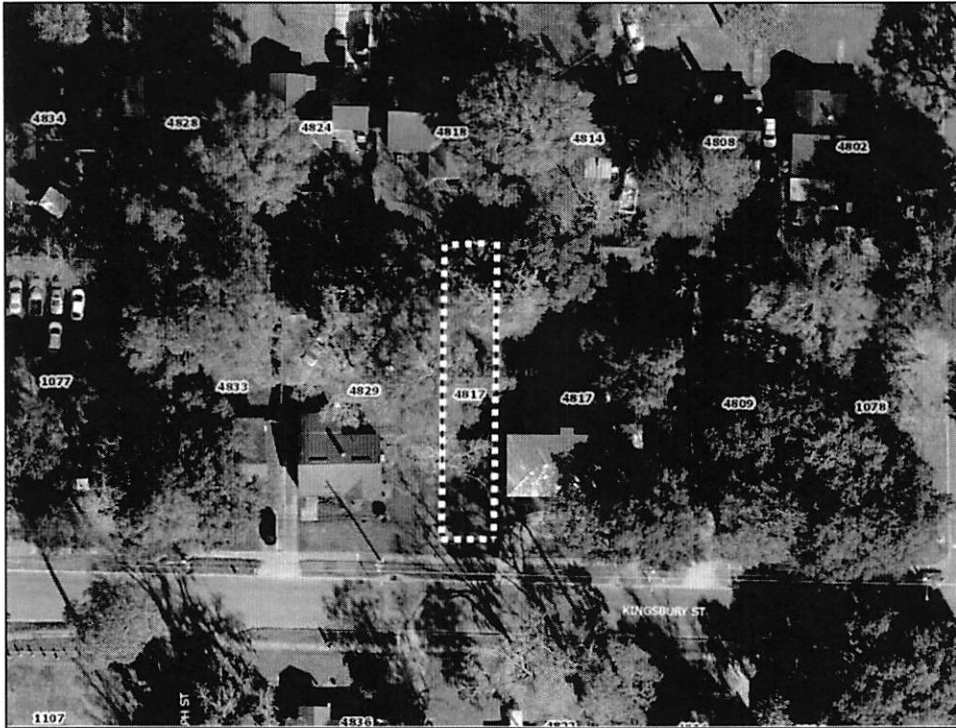
SUPPLEMENTARY INFORMATION

Upon visual inspection of the subject property on **October 3, 2022** by the Planning and Development Department, the required Notice of Public Hearing **was** posted.



RECOMMENDATION

Based on the foregoing, it is the recommendation of the Planning and Development Department that Application for Waiver of Minimum Architectural and Aesthetic Requirements **WAAR-22-01** be **APPROVED**.



Aerial View



Subject Property

Source: Staff, Planning and Development Department, COJ
Date: 09/21/2022



Property to the East

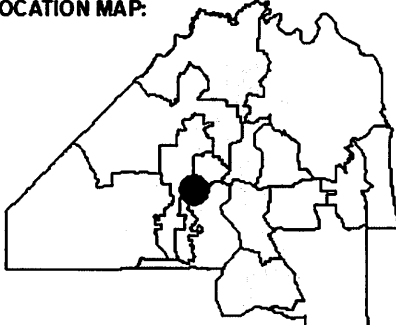
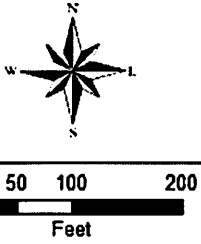
*Source: Staff, Planning and Development Department, COJ
Date: 09/21/2022*



Property to the West

*Source: Staff, Planning and Development Department, COJ
Date: 09/21/2022*



<p>REQUEST SOUGHT:</p> <p>WAIVER OF ARCHITECTURAL AND AESTHETIC REQUIREMENTS FOR PERPENDICULAR ORIENTATION</p>	<p>LOCATION MAP:</p>  <p>TRACKING NUMBER WAAR-22-01</p>	 <p>COUNCIL DISTRICT: 9</p> <p>EXHIBIT 2 PAGE 1 OF 1</p>
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Date Submitted: 08-08-22
Date Filed:

Application Number: VAAR-22-01
Public Hearing: 10-18-2022

Application for Waiver of Architectural and Aesthetic Requirements
 City of Jacksonville, Florida
 Planning and Development Department

Please type or print in ink. Instructions regarding the completion and submittal of this application are located at the end of this form. For additional information, please contact the Planning and Development Department at (904) 255-8300.

For Official Use Only		
Current Zoning District: RLD-60	Current Land Use Category: LDR	
Council District: 9	Planning District: 5	
Previous Zoning Applications Filed (provide application numbers): N/A		
Applicable Section of Ordinance Code:		
Notice of Violation(s): N/A		
Neighborhood Associations: Mumy Hill Preservation Assn., Holy Girl Rock Party Inc.		
Overlay: NA		
Number of Signs to Post: 1	Amount of Fee:	Zoning Asst. Initials: EA

PROPERTY INFORMATION	
1. Complete Property Address: 4817 Kingsbury St., Jacksonville, FL 32205	2. Real Estate Number: 062553-0000
3. Land Area (Acres): 0.08	4. Date Lot was Recorded: 6/25/1969
5. Property Located Between Streets: Kingsbury St. and Attleboro St.	6. Utility Services Provider: City Water / City Sewer <input checked="" type="checkbox"/> Well / Septic <input type="checkbox"/>
7. Waiver Sought: Waiver of Architectural and Aesthetic Requirements for perpendicular orientation	
8. In whose name will the Waiver be granted? BCEL 5A, LLC	

OWNER'S INFORMATION (please attach separate sheet if more than one owner)

9. Name: BCEL 5A, LLC	10. E-mail: hfaulkner@jimersonfirm.com
11. Address (including city, state, zip): 7563 Phillips Highway, Suite 208 Jacksonville, FL 32256	12. Preferred Telephone: (904) 389-0050

APPLICANT'S INFORMATION (if different from owner)

13. Name: Hunter Faulkner	14. E-mail: hfaulkner@jimersonfirm.com
15. Address (including city, state, zip): 1 Independent Dr., Suite 1400 Jacksonville, FL 32202	16. Preferred Telephone: (904) 389-0050

CRITERIA

Section 656.436(a)1 through 4, Ordinance Code, provides that, with respect to action upon Applications for Waivers, the Planning Commission shall grant a waiver for relief from the minimum architectural and aesthetic requirements for a single-family dwelling if, based on competent and substantial evidence, the application meets all of the following criteria:

1. *There are practical or economic difficulties in carrying out the strict letter of the regulation;*
2. *The request is not based exclusively upon the desire to reduce the cost of constructing or siting the single-family dwelling;*
3. *The proposed waiver will not substantially diminish property values in, nor alter the essential character of the area surrounding the single family dwelling and will not substantially interfere with or injure the rights of others whose property would be affected by the waiver; and*
4. *The proposed waiver will not be detrimental to the public health, safety or welfare, result in additional expense, the creation of nuisances or conflict with any other applicable law.*

17. Given the aforementioned criteria by which the request will be reviewed against, please describe the reason that the waiver is being sought. Provide as much information as you can; you may attach a separate sheet if necessary. Please note that failure by the applicant to adequately substantiate the need for the request and to meet the criteria set forth may result in a denial.

The Owner respectfully requests a Waiver of Architectural and Aesthetic Requirements for perpendicular orientation based upon the following:

1. There are practical difficulties carrying out the strict letter of the regulation. The lot is only twenty-five feet (25') wide. Constructing a new single-family home parallel to the road within the required zoning setbacks would not be possible. The new home would be too small and undesirable for any potential homeowner.
2. The request is not based upon the desire to reduce the cost of constructing the new single-family dwelling. The request is solely based on being able to construct a desirable new single-family home on a lot that is deficient in width and size.
3. The proposed waiver will not substantially diminish property values in, nor alter the essential character of the area surrounding the single family dwelling and will not substantially interfere with or injure the rights of others whose property would be affected by the waiver. Instead, the new single-family home will likely increase the surrounding property values.
4. The proposed waiver will not be detrimental to the public health, safety or welfare, result in additional expense, the creation of nuisances or conflict with any other applicable law.

ATTACHMENTS

The following attachments must accompany each copy of the application.

- Survey
- Site Plan – two (2) copies on 8 ½ x 11 and two (2) copies on 11 x 17 or larger
- Photographs and/or elevation drawings of the proposed dwelling.
- Photographs of single family dwellings within the immediate neighborhood (within 350 feet of subject property)
- Property Ownership Affidavit (Exhibit A)
- Agent Authorization if application is made by any person other than the property owner (Exhibit B)
- Legal Description – may be written as either lot and block, or metes and bounds (Exhibit 1)
- Proof of property ownership – may be print-out of property appraiser record card if individual owner, http://apps.coi.net/pao_propertySearch/Basic/Search.aspx, or print-out of entry from the Florida Department of State Division of Corporations if a corporate owner, <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>.

AUTHORIZATION


Please review your application. No application will be accepted until all of the requested information has been supplied and the required fee has been paid. The acceptance of an application as being complete does not guarantee its approval by the City Council. The owner and/or authorized agent must be present at the public hearing.

The required public notice signs must be posted on the property within five (5) working days after the filing of this application. Sign(s) must remain posted and maintained until a final determination has been made on the application.

I hereby certify that I have read and understand the information contained in this application, that I am the owner or authorized agent for the owner with authority to make this application, and that all of the information contained in this application, including the attachments, is true and correct to the best of my knowledge.

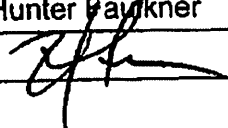
Owner(s)

Print name: BCEL 5A, LLC

Signature: 

Applicant or Agent (if different than owner)

Print name: Hunter Faulkner

Signature: 

**An agent authorization letter is required if the application is made by any person other than the property owner.*

Owner(s)

Print name: _____

Signature: _____

SUBMITTAL

This application must be typed or printed in ink and submitted along with three (3) copies for a total of four (4) applications. Each application must include all required attachments.

Submit applications to:

Planning and Development Department, Zoning Section

214 North Hogan Street, 2nd Floor

Jacksonville, Florida 32202

(904) 255-8300

EXHIBIT 1

Legal Description

The East 1/2 of Lot 243, Block 127, MURRAY HILL HEIGHTS, according to the plat thereof as recorded in Plat Book 2, Page 87 and Replat of Murray Hill Heights, according to the plat thereof as recorded in Plat Book 5, Page 86, of the current public records of Duval County, Florida.

Property Ownership Affidavit – Limited Liability Company (LLC)

Date: 7/7/22

City of Jacksonville
Planning and Development Department
214 North Hogan Street, Suite 300,
Jacksonville, Florida 32202

Re: Property Owner Affidavit for the following site location in Jacksonville, Florida:
Address: 4817 Kingsbury St, Jacksonville, FL 32256 RE#(s): 062553-0000

To Whom it May Concern:

I, Adam Rigel, as Authorized Member of BCEL 5A, LLC
a Limited Liability Company organized under the laws of the state of Florida, hereby certify
that said LLC is the Owner of the property described in Exhibit 1 in connection with filing application(s)
for waiver of architecture requirements submitted to the Jacksonville Planning and Development
waiver of road frontage
Department.

(signature) *Adam Rigel*

(print name) Adam Rigel

Please provide documentation illustrating that signatory is an authorized representative of the LLC. This may be shown through a printout from sunbiz.org showing that the person is either a "sole member" or a "managing member." Other persons may be authorized through a resolution, power of attorney, etc.

**STATE OF FLORIDA
COUNTY OF DUVAL**

Sworn to and subscribed and acknowledged before me by means of physical presence or online notarization, this 20 day of July 2022, by Adam Rigel, as Authorized Member, of BCEL 5A, a Limited Liability corporation, who is personally known to me or who has produced n/a - personally known as identification and who took an oath.

Brittany Caroon
(Signature of NOTARY PUBLIC)



Brittany Caroon
Comm.: HH 153890
My Commission Expires:
July 14, 2025

Brittany Caroon
(Printed name of NOTARY PUBLIC)

State of Florida at Large.
My commission expires: July 14, 2025

Agent Authorization – Limited Liability Company (LLC)

Date: 7/7/22

City of Jacksonville
Planning and Development Department
214 North Hogan Street, Suite 300,
Jacksonville, Florida 32202

Re: Agent Authorization for the following site location in Jacksonville, Florida:

Address: 4817 Kingsbury St., Jacksonville, FL 32256 RE#(s): 062553-0000

To Whom It May Concern:

You are hereby advised that Adam Rigel as Authorized Representative of BCEL 5A, LLC hereby certify that the BCEL 5A, LLC is the Owner of the property described in Exhibit 1. Said owner hereby authorizes and empowers Hunter Faulkner to act as agent to file application(s) for Waiver of Architecture Requirements and Waiver of Road Frontage for the above referenced property and in connection with such authorization to file such applications, papers, documents, requests and other matters necessary for such requested change as submitted to the Jacksonville Planning and Development Department.

(signature) *Adam Rigel*

(print name) Adam Rigel

**STATE OF FLORIDA
COUNTY OF DUVAL**

Sworn to and subscribed and acknowledged before me by means of physical presence or online notarization, this 20 day of July 2022, by Adam Rigel, as Authorized Member of BCEL 5A, a limited liability corporation, who is personally known to me or who has produced n/a - personally known as identification and who took an oath.

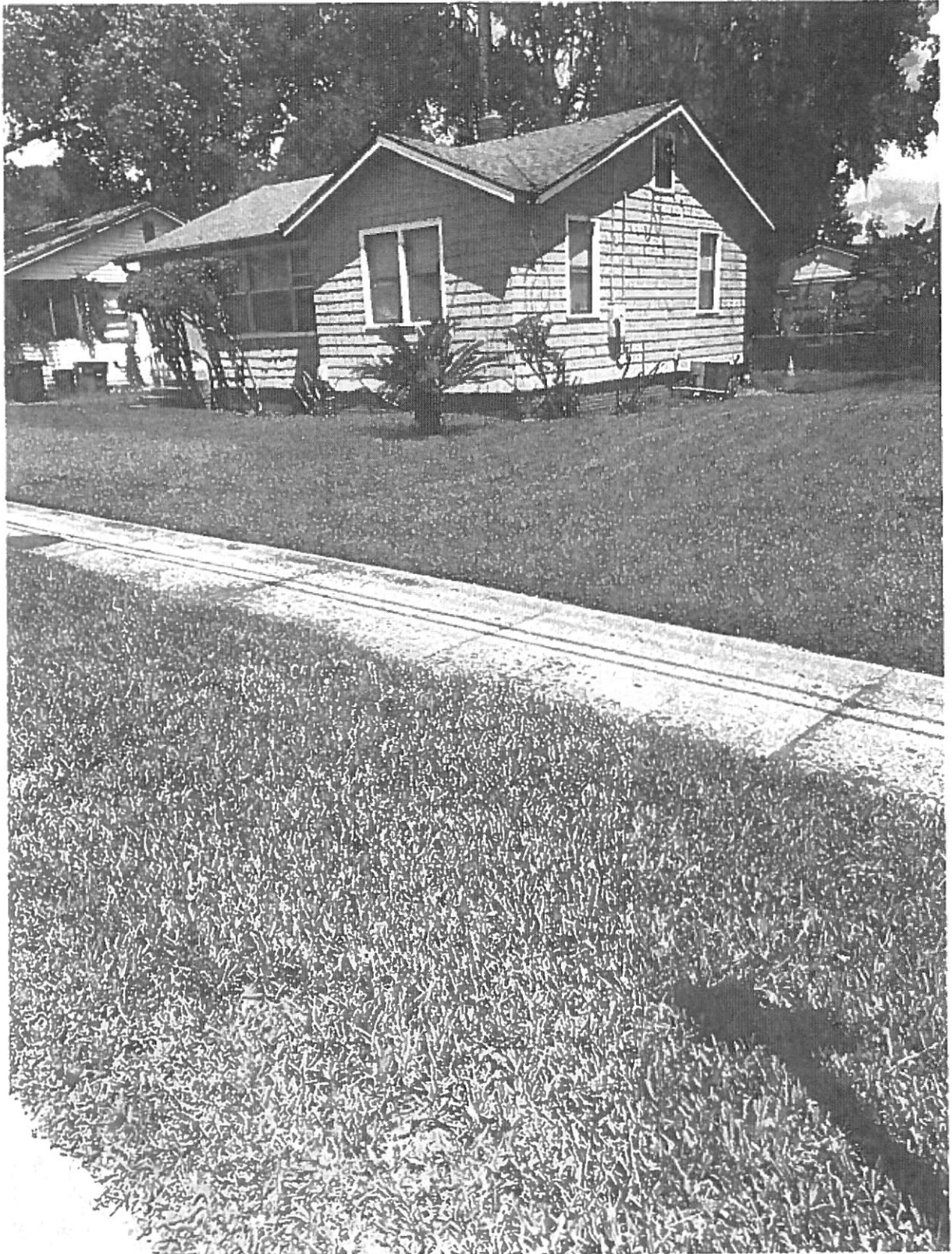
Brittany Caroon
(Signature of NOTARY PUBLIC)

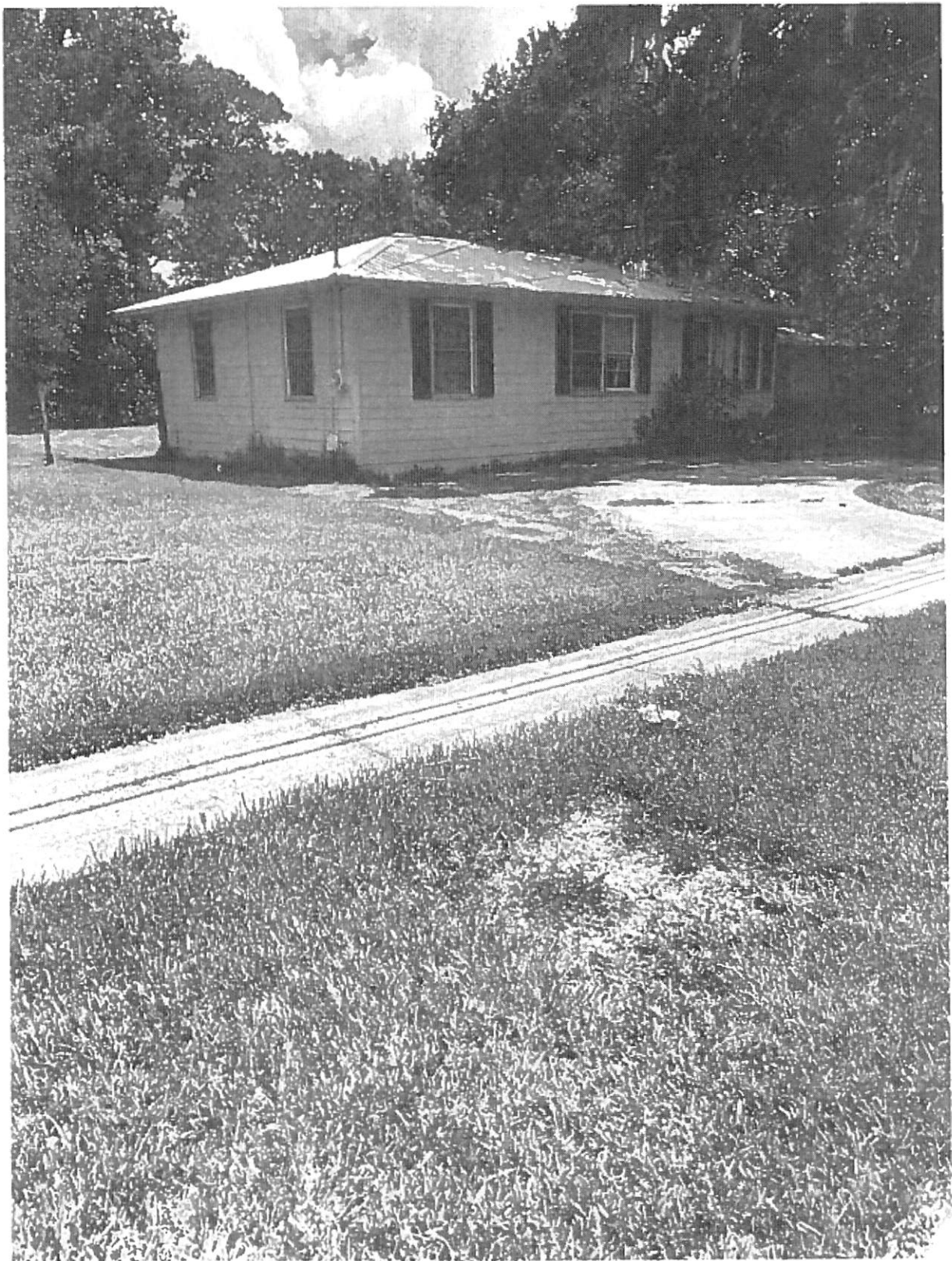


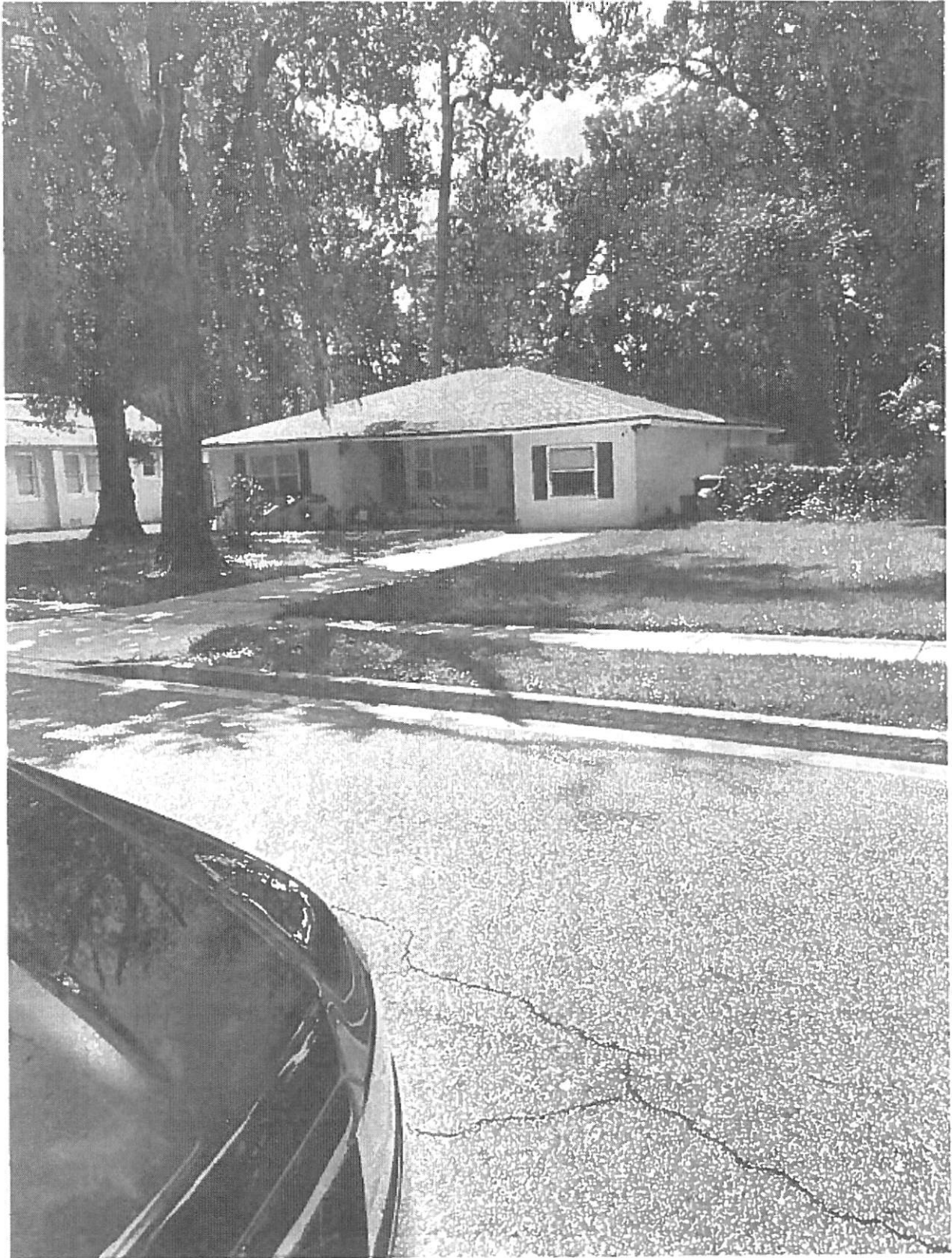
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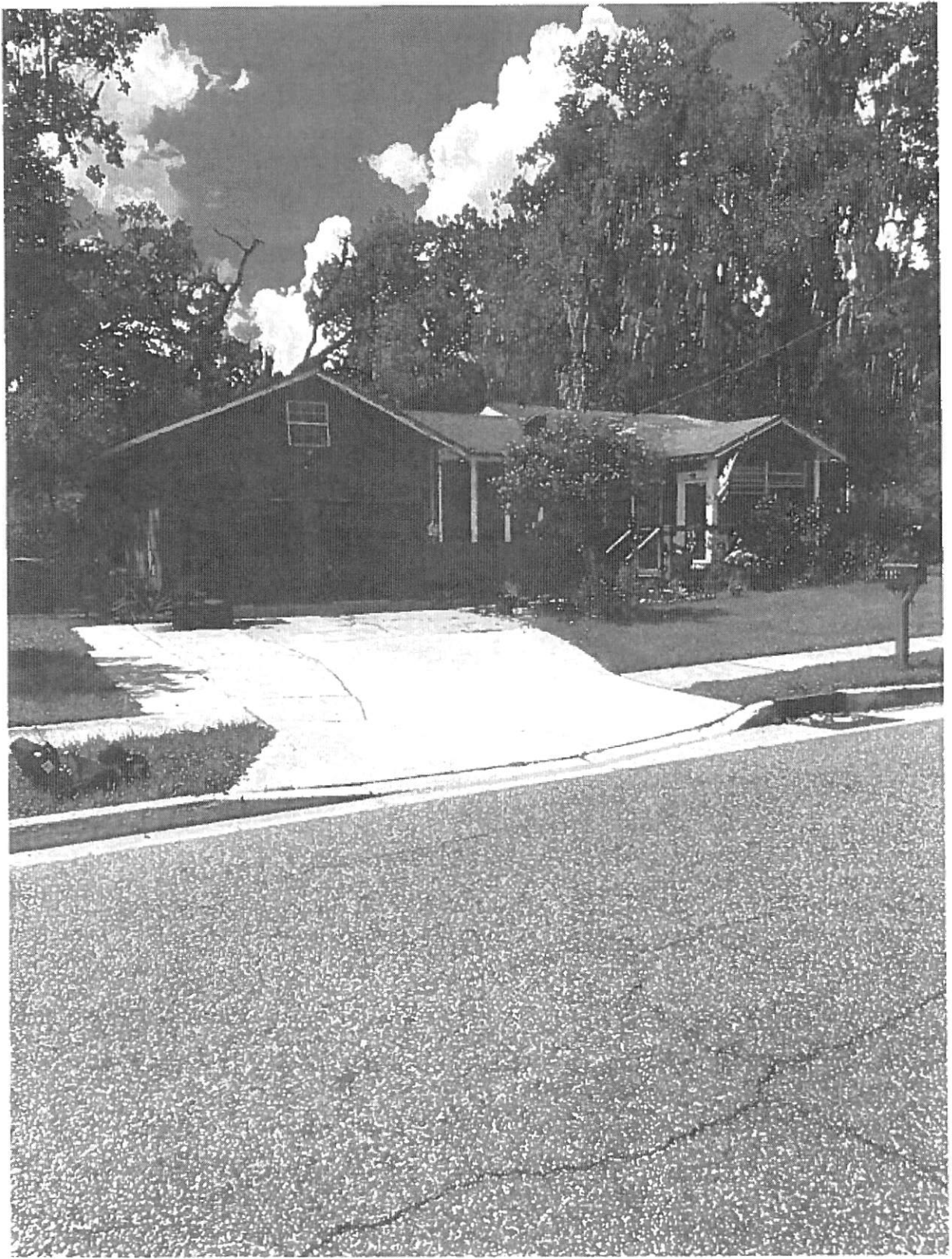
Brittany Caroon
(Printed name of NOTARY PUBLIC)

State of Florida at Large.
My commission expires: July 14, 2025









Prepared under the direction of and return to:

Ian McKillop
McKillop Law Firm, PL
7563 Philips Highway
Building 500
Jacksonville, FL 32256
File Number: 18-1025
Consideration: \$8,900.00

WARRANTY DEED

This Warranty Deed made this 13th day of November, 2019 between Aaron Rokosz, Individually and as Trustee of Zachary Rokosz Father Established Education, Medical Insurance, and Child Support Irrevocable Trust dated December 6, 2018, whose post office address is 1340 South Ocean Boulevard, Apt 1605, Pompano Beach, FL 33062 (whether singular or plural, "Grantor"), and BCEL SA, LLC, a Florida Limited Liability Company, whose post office address is 7563 Philips Highway, Suite 208, Jacksonville, FL 32256 (whether singular or plural, "Grantee"):

(Whenever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts, and trustees)

WITNESSETH, that said Grantor, for and in consideration of Ten Dollars (\$10.00) and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in Duval, FL, (the "Property"):

The East 1/2 of Lot 243, Block 127, MURRAY HILL HEIGHTS, according to the plat thereof as recorded in Plat Book 2, Page 87 and Replat of Part of Murray Hills Heights, according to the plat thereof as recorded in Plat Book 5, Page 86, of the current public records of Duval County, Florida.

RE#: 062553-0000
Address: 4817 Kingsbury Street, Jacksonville, FL 32205

Together with all the tenements, hereditaments and appurtenances thereto belonging or in otherwise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever. And the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple, that the Grantor has good right and lawful authority to sell and convey said land, that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever, and that said land is free of all encumbrances except taxes for 2019 and subsequent years and covenants, restrictions, easement and reservations of record, if any, without the intention of creating or reimposing same.

This Property is not the constitutional homestead of the Grantor.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Witness Signature: [Signature]
Witness Name: Vanniska Torres

Witness Signature: [Signature]
Witness Name: David Heiser

[Signature]
Aaron Rokosz

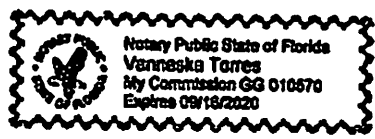
Zachary Rokosz Father Established Education, Medical Insurance, and Child Support Irrevocable Trust d
ated December 6, 2018

By: [Signature]
Aaron Rokosz, Trustee

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 7 day of November, 2019, by Aaron Rokosz,
Individually and as Trustee of Zachary Rokosz Father Established Education, Medical Insurance, and Child
Support Irrevocable Trust dated December 6, 2018, who is personally known to me or who produced the
identification set forth below.

[Signature]
Signature of Notary Public
Print, Type/Stamp Name of Notary



Personally Known: _____ OR Produced Identification: X
Type of Identification
Produced: FL Driver License H220-010-76047-0

Legal Description

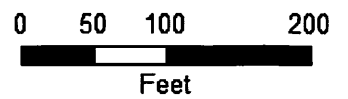
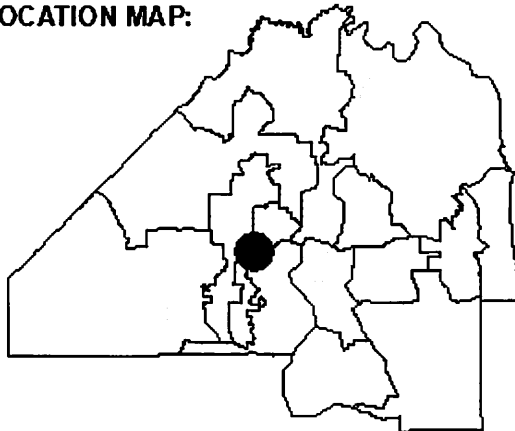
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REQUEST SOUGHT:

**WAIVER OF ARCHITECTURAL
AND AESTHETIC
REQUIREMENTS FOR
PERPENDICULAR
ORIENTATION**

LOCATION MAP:



COUNCIL DISTRICT:

9

TRACKING NUMBER

WAAR-22-01

**EXHIBIT 2
PAGE 1 OF 1**