

**Planning Commission Agenda
October 1, 2020 - 5:30 p.m.**

**Robert Froehling- Chair
Daniel Grannan - Vice Chair
Randy Martin
Charles Kish
Scott Ebert**

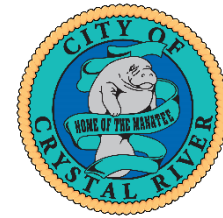


**Doug Smith
Tonia Herring
Alternate 1 – Terry Thompson
Alternate 2 – Vince Morris**

- 1) Call to Order
- 2) Roll Call
- 3) Moment of Silence
- 4) Pledge of Allegiance
- 5) Adoption of Agenda
- 6) Approval of Minutes – **August 20, 2020; September 3, 2020**
- 7) Citizen Input – 3 minutes
- 8) Public Hearings – Quasi Judicial
 - a) Request for Variance – Request Number V20-0018 –
- 9) Unfinished Business – None
- 10) New Business – **Planning Department Status – Brian Herrmann, Director**
- 11) Citizen Input – 5 minutes
- 12) Staff Comments
- 13) Commissioner’s Comments
- 14) Chairman’s Comments
- 15) Adjournment

Any person requiring reasonable accommodation at this meeting because of a disability or physical impairment should contact the City of Crystal River, City Manager's Office, 123 N. W. Highway 19, Crystal River, FL 34428 (352) 795-4216, at least two (2) days prior to the meeting.

CITY OF CRYSTAL RIVER PLANNING COMMISSION



STAFF REPORT

Planning and Development Services Department

MEETING DATE:	October 1, 2020				
APPLICANT:	Melissa Westbrook and Clifford Dollar 129 SE Paradise Point Road, Crystal River, Florida 34429				
REQUEST FOR VARIANCE:	<p>The City of Crystal River Code of Ordinances, Appendix A – Land Development Code:</p> <p>Chapter 5, Sec. 5.01.02. – Accessory buildings and structures in all zoning districts (Table I). Minimum Setbacks for Accessory Structures.</p> <table border="1"> <thead> <tr> <th>Location</th> <th>Minimum Setback in Residential Districts</th> </tr> </thead> <tbody> <tr> <td>Side</td> <td>5 ft.</td> </tr> </tbody> </table> <p>Chapter 5, Section 5.01.07. – Docks, boat davits, boat lifts, boat covers, & boathouses (J-1) ...shall comply with any applicable side yard setback.</p> <p>Applicant Requests the following variance to sub-section J (1): allowing a zero side setback for the construction of a boat dock on property located at 129 SE Paradise Point, Unit 2, Crystal River, Florida (Parcel ID Number 17E18S280040 00055 0020).</p>	Location	Minimum Setback in Residential Districts	Side	5 ft.
Location	Minimum Setback in Residential Districts				
Side	5 ft.				
PROJECT MANAGER:	Brian D. Herrmann, CNU-A, LEED AP Director of Planning and Development Services				

REQUESTED VARIANCE:

The applicant is requesting a variance from the Crystal River Land Development Code (LDC) Chapter 5, **Sec. 5.01.02:** Accessory buildings and structures in all zoning districts; **Table I:** Minimum Setbacks for Accessory Structures (above).

The required minimum side setback for any accessory structure, including a dock and boat in a residential district is 5 feet. This line extends beyond the property and into the water. As a result, both the dock and boat must be located at least 5 feet from the side property line on land or water.

The applicant owns a townhome in which the property has an extremely narrow width of just 14 feet (maximum – the Citrus County Property Appraisers website appears to contradict itself as it depicts the width of the property as 13 feet in one location and 14 feet in another). Currently, the two 5 foot side setback requirements will allow the applicant to construct a 4 foot wide dock in the middle of their property. However, because of these standards a boat exceeding 4 feet in width would not be able to access the property in a “head in” direction. The applicant’s boat is 8 feet in width. The only other option would be to park the boat parallel to the dock and seawall. This would not be possible because the applicant’s boat is approximately 19 feet in length. This length exceeds the property’s 14 feet of width (The **Citrus County Property’s Appraiser** website states two different widths for the applicant’s lot – 13 ft. under **Land and Agriculture** and 14 ft. under **Sketch**).

As a result, the applicant is requesting a variance to reduce the 5 foot setback on each side of their property to 0. They have stated that they intend to locate a 5 foot wide dock on the south side of their property. This will leave 8–9 feet to park the boat “head in” or “back in” against the seawall.

SUMMARY OF REQUEST:

1. Reduction in both side setbacks from 5 ft. to 0 ft.
2. Allow a new (5 foot wide) dock to be sited on the southern property line, adjacent to the neighbors existing dock; and
3. Allow a boat to be parked “head in” or “rear in” against the seawall (adjacent to the new dock).

TWO ISSUES OF CONCERN:

1. **Chapter 5, Section 5.01.07. – Docks, boat davits, boat lifts, boat covers, and boathouses (Sub-section M)** states that *no dock shall extend waterward of the mean high water line more than twenty-five (25) percent of the width of the waterway. No boat shall be docked or anchored at any dock in such a manner that it extends into a waterway more than 25% of the width of the waterway.*

As conveyed, the length of the applicant’s boat is approximately 19 feet. It will extend from the seawall into the canal. The canal appears to be no more than 70 feet in width. As stated above, a dock and boat shall not extend more than 25% of this width. This would allow a boat to extend no more than 17.5 feet. **The applicant has not requested a variance for this.**

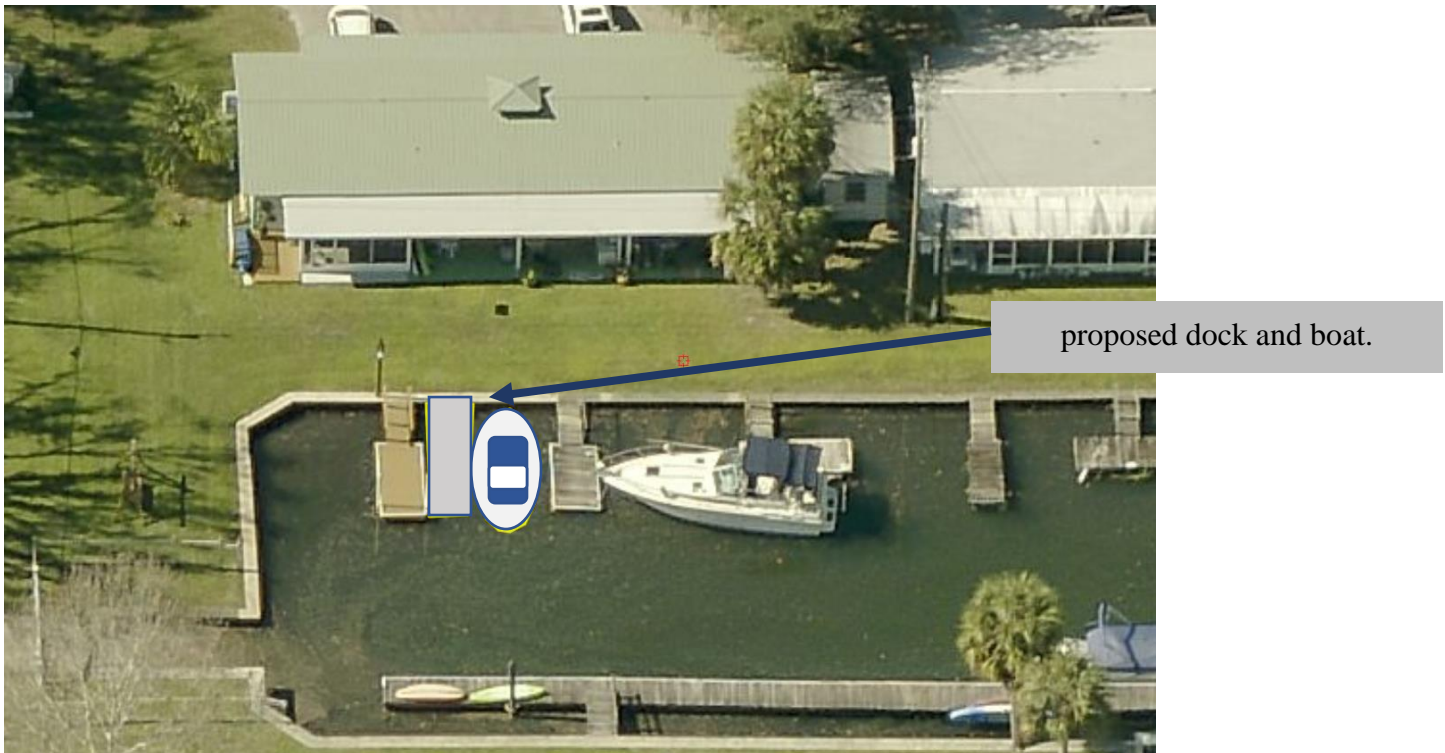
2. Staff feels that the proposal needs a:
 - boundary survey from the applicant. This will ensure that all property lines are accurately defined as shown. For example, the Citrus County Property Appraiser’s website has conflicting widths shown for the property.
 - professional drawing of the proposed dock location and boat with dimensions.

As stated, the Property Appraiser and applicant differ on the supposed width of the site. Staff understands that the applicant is trying their best to meet deadlines associated with Manatee season; however, this site is quite congested and complicated. It may be possible to explain everything during the meeting; however, staff feels strongly that the City would benefit from both a survey of the site and a professional drawing of the proposal.

ADDITIONAL INFORMATION:

1. The proposed dock could disrupt the ability of the neighbor to the south to park their boat “head in” or parallel to the seawall. They reached out to staff on two occasions to express concern. They were adamant that this was not personal and that they liked their new neighbors. However, they stated that they paid more money for their unit because it had a dock. They questioned whether they would have done something different had they known that they could purchase a less costly unit and apply for a variance.
2. The Planning and Zoning Commission must decide if they feel as though all of the space along the seawall can be properly shared given the number of boat docks and boats. Specifically, they must decide if the applicant’s proposal is fair in terms of a “head-in” boat dock AND whether or not they are concerned with the fact that the applicant has not requested a second variance to exceed the 17.5 feet across the channel with a boat that is at least 19 feet in length.

SUPPORTING DIAGRAMS ILLUSTRATIONS & TABLES: See site plan below:



COMPLIANCE WITH VARIANCE CRITERIA: Staff reviewed the application against each of the ten (10) criteria in subsection (A) of 9.02.02 and reached the following conclusions:

A. *In order for an application for a variance to be **approved** or **approved with conditions**, the planning commission shall make a positive finding, based on the evidence submitted, with regard to **each** of the following provisions:*

1. **There is a specific hardship affecting the development of the lot resulting from the strict application of the provisions of the LDC;**

False. *The proposed variance is not the result of a hardship that came about when implementing the existing provisions of the LDC. The applicant has decided to move to a townhouse located on a narrow lot and channel within the harbor. While space is certainly limited here for boaters, and this should have been addressed better when the building was converted to townhomes, the applicant was aware of the situation when they purchased the property.*

2. **The hardship is not a result of actions of the owner and is not based solely on a desire to reduce development costs;**

False. *The proposed hardship is the result of actions of the owner, but it is not based solely on a desire to reduce “development costs”.*

3. **The need for the proposed variance is due to the physical shape, configuration, or topographical condition of the lot in such a manner as to distinguish it from other adjacent or nearby lots or from other lots in the district;**

False. *The proposed variance is the result that occurs when occupants of a townhouse lot (that is narrow) desires the same “boat frontage” on a canal or similar type of waterway as those who purchase larger single-family lots. This is a problem that should be addressed through a shared or common boat dock, not a series of individual docks.*

4. **The proposed variance is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby lots or other lots in the zoning district;**

True. *The proposed variance to the site will provide the applicant with similar waterfront access, ensuring that they can preserve a substantial property right generally available to other property owners of adjacent or nearby lots.*

5. **The grant of the proposed variance does not confer on the applicant any special privilege that is prohibited by this LDC to other lands, buildings, or structures in the same zoning district;**

False. *The proposed variance to the site does confer to the applicant privileges that are otherwise prohibited by the LDC for other lands, buildings, or structures of this size in the same zoning district. The applicant could have chosen to purchase a different parcel.*

6. **The proposed variance does not substantially increase congestion on surrounding streets, does not increase the danger of fire or other hazard, and is not otherwise detrimental to the health, safety, or general welfare of the public;**

True. *The proposed variance, if granted, does not substantially increase congestion on surrounding streets, increase the danger of fire or other hazards, and is not otherwise detrimental to the health, safety, or general welfare of the public.*

7. **The development following the proposed variance is compatible with adjacent and nearby development and does not alter the essential character of the district;**

False. *The variance being requested provides water access to a narrow lot on the canal that should only be provided via a shared dock. This is the case across the canal. The applicant must request that the setbacks be removed entirely in order to build a dock that provides them with boating access. While boats are commonplace in our area, so too are boat ramps, boat landings, shared docks, etc.*

8. **The variance granted is the minimum variance that results in reasonable use of the land, building, or structure;**

False. *The proposed variance is not necessary for the applicant to reasonably use the land, building, or structure. The applicant was aware of the fact that this home lacked a boat ramp when they purchased it. They could use a communal boat ramp to launch their boat.*

9. **The effect of the proposed variance is consistent with the general intent of the LDC and the specific intent of the relevant standards and criteria; and**

False. *The effect of the proposed variance, if granted, is not consistent with the general intent of the LDC and the specific intent of the relevant standards and criteria. The setbacks are extreme. The applicant was aware of the fact that this was a narrow property that lacked a boat ramp when they purchased it.*

10. **The effect of the proposed variance is consistent with the comprehensive plan.**

False. *The Comprehensive Plan establishes parameters for Future Land Use in the City, including the zoning regulations implemented by the LDC. The applicant purchased the home with not variance. They could find other ways to access the waterway.*

CONSIDERATIONS: As conveyed in Subsection (B.5.) of 9.02.03. (Procedures for variances), the Planning Commission shall “approve, deny, or approve with conditions the application for variance, based upon the findings regarding conditions set forth in subsection 9.02.02.A.

In addition, subsection (C) of 9.02.03 (Limitations on the grant of a variance) states:

1. A variance shall not be granted which authorizes a use that is not permissible in the zoning district in which the property subject to the variance is located.
2. A variance shall not be granted which authorizes any use or standard that is expressly prohibited by this LDC.
3. No nonconforming use of adjacent 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.

STAFF FINDINGS: Staff reviewed the application and determined that the proposal meets two (2) of the ten (10) requirements for a variance listed in subsection 9.02.02(A).

4. **The proposed variance is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby lots or other lots in the zoning district;**

True. The proposed variance to the site will provide the applicant with similar waterfront access, ensuring that they can preserve a substantial property right generally available to other property owners of adjacent or nearby lots.

5. **The proposed variance does not substantially increase congestion on surrounding streets, does not increase the danger of fire or other hazard, and is not otherwise detrimental to the health, safety, or general welfare of the public;**

True. The proposed variance, if granted, does not substantially increase congestion on surrounding streets, increase the danger of fire or other hazards, and is not otherwise detrimental to the health, safety, or general welfare of the public.

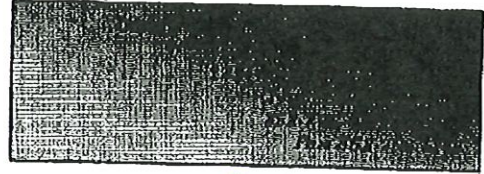
Based on the fact that the applicant only meets two of the ten criteria, the Planning Commission should not grant the requested variance.

That said, the boating situation along this harbor seems to be quite disjointed. Many property owners do have boats. It seems to be a first come, first serve situation. While staff does not recommend a variance, primarily because of overcrowding, and a boat that still exceeds the current criteria for length, we do feel as though the applicant should work with their neighbors to see if it is possible to share an existing facility.

The Planning Commission should consider the above findings prior to acting on the proposed request.

ATTACHMENTS:

1. Variance Application V20-0087
2. Dezayas Law Group – Applicants Responses to the 10 questions
3. Resident Advertisement
4. Citrus County Property Appraisers website



P2 20-0087

Office Use Only:	Paid	Date
Residential - \$250		Commercial - \$500

Applicant Information: Clifford Dollar 863-661-7684
 Name: Melissa Westbrook Phone # 863-255-2743
 Street Address: 129 SE PARADISE Point Rd Crystal River FL
CITY ST ZIP 34429
 Email Address: MJMudd1@Yahoo.com

Property Information:
 Alt Key #: 2888814 Parcel Id # 17E185280040 00055 0020
(AVAILABLE AT THE CITRUS COUNTY PROPERTY APPRAISER'S WEBSITE: www.citruspa.org.)
 Legal Description: Glen Aire ESTS PB 4 PG 466 PT OF LOTS
Unit: 2 COM AT THE SW COR OF LOTS TH N 89 DG 55M 40S E AL
The S LN OF LOT 5 A DIST OF 145 FT. TH LEAVING SD S LN N A DIST OF
(or attach description on a separate page)
 Subdivision: 000772 - Glen Aires Estates Lot: 5 Block: _____
 Current Zoning District: CITY LIMITS OF INV. OR CR.
 Flood Zone: AE Base Flood Elevation: 5.3
(This information shall be based on the latest Flood Insurance Rate Maps)

The applicant for a variance has the burden of proof of demonstrating that the application for a variance complies with each of the requirements of Section 9.02.02(A).

Variance Request: Please enter a description of request and Land Development Code Sections that pertain to the requested action.
https://library.municode.com/fl/crystal_river/codes/code_of_ordinances?nodeId=PTIICOOR_APX_ALADECO_CH9VACORE_9.02.00VA

Dock will not meet setbacks 9.02.02

Melissa Westbrook
 Signature Owner Agent
Clifford Dollar 863-661-7684

9/6/20
 Date

RECEIVED
 SEP 09 2020
 BY: AH

Main Office:
4915 Southfork Drive
Lakeland, Florida 33813
Telephone: (863) 904-4710
www.dezayaslawgroup.com



Mailing Address:
Post Office Box 6069
Lakeland, Florida 33807
Facsimile: (863) 904-4720
attorney@dezayaslawgroup.com

Provision (Sec. 9.02.02(a)): 129 SE Paradise Point Rd. Unit 2 Crystal River, FL 34429
1. When the unit was purchased it was represented to the Applicant that a dock could be built behind the unit. All other unit Owners have docks constructed behind their homes. The property adjacent to the Applicant's lot has a dock that is located directly on the property line between both units. This dock is preventing the Owners of the subject property from being able to comply with the setback requirements and construct their own dock without a variance.
2. The hardship in this case is not the result of the action of the Applicant's. Applicant's cannot comply with the setback requirements because adjacent property owners have a dock located directly on the property line between both lots. When the unit owners moved in, the docks were already in place and they were not made aware of the setback requirements until after they had purchased the property. Furthermore, they were unaware that the adjacent property owners had a dock constructed so close to their property line. Other unit owners are subject to the same setback requirements and have failed to comply with them forcing the Owners of the subject property to apply for a variance.
3. Applicant's property has a similar layout to the other adjacent or nearby lots; however, they cannot comply with setback requirements due to placement of other landowners' docks.
4. The proposed variance is necessary because without it the property owners cannot construct a dock. The adjacent property owners have docks constructed and their docks are preventing the owners of the subject property from being able to comply with the variance and build their own dock.
5. The granting of the proposed variance will merely allow the Applicants of the subject property to construct a dock on their land and does not confer any special privileges prohibited by this LDC to other lands, buildings, or structures in the same zoning district.
6. The proposed variance does not substantially increase congestion on surrounding streets, does not increase the danger of fire or other hazard, and is not otherwise detrimental to the health, safety, or general welfare of the public. The proposed variance will only allow the Applicant to deviate from the currently established setback requirements.
7. The proposed variance is compatible with the adjacent lots and nearby development and does not alter the essential character of the district. The adjacent lots and several other have docks, providing the Applicant's lot with a variance will merely allow them to construct their own dock

- | |
|---|
| <p>8. The variance granted is the minimum variance that results in reasonable use of the land. The lot behind the applicant's unit is not very large. There is not enough space between units to comply with the setback requirements. Furthermore, one of the adjacent units has their dock constructed directly on the property line between both units and is preventing compliance with the setback requirements.</p> |
| <p>9. The effect of the proposed variance is consistent with the general intent of the LDC and the specific intent of the relevant standards and criteria. The proposed variance merely allows construction of a dock on applicant's property. The dock should have no impact on the rights or use of neighbor's property.</p> |
| <p>10. The effect of the proposed variance is consistent with the comprehensive plan.</p> |



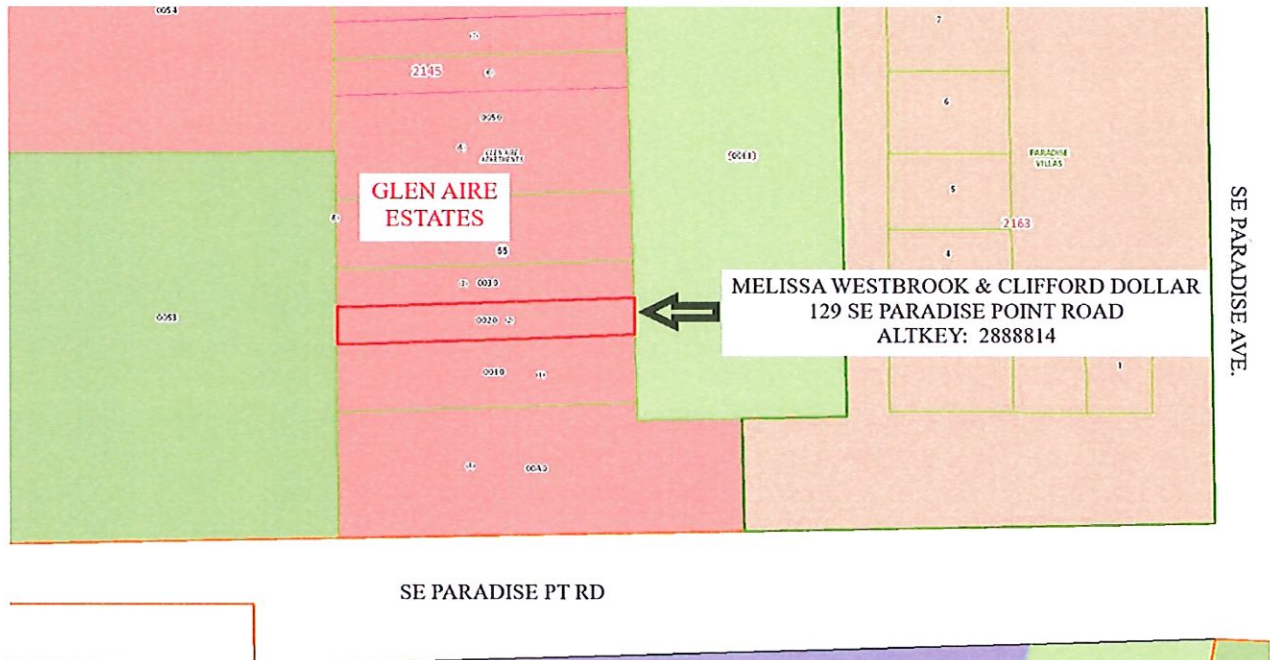
123 NW Highway 19
Crystal River, FL 34428
352-795-4216 P
352-795-6245 F
www.crystalriverfl.org

September 15, 2020

**RE: NOTICE TO REQUEST A VARIANCE FROM THE CITY OF CRYSTAL RIVER
LAND DEVELOPMENT CODE**

Dear Property Owner:

Please be advised that *Melissa Westbrook and Clifford Dollar, 129 SE Paradise Point, Unit 2, Crystal River, FL 34442*, has made formal application to the City of Crystal River to request a Variance to Chapter 5, Section 5.01.02. - Accessory buildings and structures in all zoning districts, Table 5.01.02(I). Minimum Setbacks for Accessory Structures and Chapter 5, Section 5.01.07. - Docks, boat davits, boat lifts, boat covers, and boathouses, Sub-section J(1) to allow a zero side setback for the construction of a boat dock on property located at 129 SE Paradise Point, Unit 2, Crystal River, Florida more precisely identified as Parcel ID Number 17E18S280040 00055 0020 in the records of the Citrus County Property Appraiser.



You are being sent a notification because you are located within 300 feet of the property. Please be advised that a Quasi-Judicial Public Hearing will be held on Thursday, October 1, 2020 at 5:30 p.m. before the City Planning Commission at City Hall, 123 NW Highway 19, Crystal River, FL 34428 if you wish to speak for or against this request for a Variance to the City of Crystal River Land Development Code.

This application is available for viewing during normal business hours, 8:30 a.m. to 4:30 p.m. in the Planning and Community Development Department located at 123 NW Highway 19, Crystal River, Florida 34428.

Any person requiring reasonable accommodation at this meeting because of a disability or physical impairment should contact the City of Crystal River, City Clerk's Office, 123 N.W. Highway 19, Crystal River, FL 34428 (352) 795-4216, at least two (2) days prior to the meeting.

If you have any questions concerning this application, please call 352-795-4216 Ext. 306.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeanette Rehberg". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Jeanette Rehberg, Zoning Administrator
Planning & Community Development

Cc: file



Altkey: 2888814 Parcel ID: 17E18S280040 00055 0020
WESTBROOK MELISSA 129 SE PARADISE POINT RD , CRYSTAL RIVER

Summary

Legal

Land & Agriculture

Residential

Commercial

Misc Improvements

Values

Sketch

Photos

Permits

Quick Links

Map

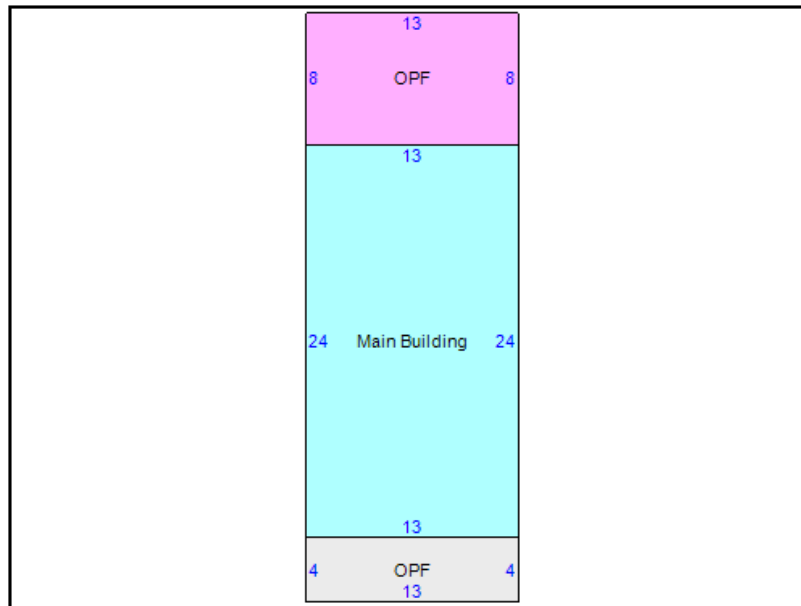
Pictometry

Land & Agricultural

Line	Land Use	Type	Units	Frontage	Depth	Ag Flag	Classified Value	Just Value	Zoning
1	0104-SFR CANAL FRONT	F-FRONT FOOT	14.00	14.0	107			\$33,440	RW

Altkey: 2888814
WESTBROOK MELISSA

Parcel ID: 17E18S280040 00055 00
129 SE PARADISE POINT RD , CRYSTAL RIVER



A
L
S

Options

Type	Line #	Item	Area
Dwelling	0	Main Building	31
Dwelling	1	OPF:OPEN PORCH FIN	10
Dwelling	2	OPF:OPEN PORCH FIN	5
Outbuilding	1	SEW - SEW3:SEA WALL REINFORCED CONCRETE-[2-LINEAL]	1