

**PALM BEACH COUNTY  
PLANNING, ZONING AND BUILDING DEPARTMENT  
ZONING DIVISION**



**ZONING COMMISSION VARIANCE  
STAFF REPORT  
11/4/2010**

<b>APPLICATION NO.</b>	<b>CODE SECTION</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>VARIANCE</b>
ZV-2010- 01980	1. 5.B.1.A.1.b	No accessory structure shall be located in the front yard.	Art studio located in the front yard	Allow accessory structure located in the front yard.
	2. 5.B.1.A.1.b	No accessory structure shall be located in the front yard.	Gazebo located in the front yard	Allow accessory structure shall be located in the front yard.
	3. 5.B.1.A.1.b	No accessory structure shall be located in the front yard.	Orchid Arbor located in the front yard	Allow accessory structure located in the front yard.
	4. 5.B.1.A.1.b	No accessory structure shall be located in the front yard.	Archery Storage located in the front yard	Allow accessory structure located in the front yard.
	5. 5.B.1.A.1.b	No accessory structure shall be located in the front yard.	Flower Arbor located in the front yard	Allow accessory structure located in the front yard.
	6. 5.B.1.A.1.b	No accessory structure shall be located in the front yard.	Garden Shed located in the front yard	Allow accessory structure located in the front yard.
	7. 5.B.1.A.1.b	No accessory structure shall be located in the front yard.	Bath House located in the front yard	Allow accessory structure located in the front yard.
	8. 5.B.1.A.1.b	No accessory structure shall	Storage Shed located in the	Allow accessory

	9. 5.B.1.A.1.b	be located in the front yard.  No accessory structure shall be located in the front yard.	front yard  Gate house located in the front yard	structure located in the front yard  Allow accessory structure located in the front yard
SITUS ADDRESS:	18826 Loxahatchee River Rd Jupiter 33458			
AGENT NAME & ADDRESS:	JIM FROGNER Frogner Consulting, Inc. 1402 W Trammell St LANTANA FL 33462			
OWNER NAME & ADDRESS:	Craig Lichtblau 18826 Loxahatchee River Rd Jupiter FL 33458			
PCN:	00-42-40-35-04-003-0054			
ZONING DISTRICT:	RS			
BCC DISTRICT:	01			
PROJECT MANAGER:	Douglas Robinson, Site Planner I			
LEGAL AD:	<b>Title:</b> Resolution approving A Type II Standalone Variance application of Craig Lichtblau by Frogner Consulting, Inc., Agent. <b>Request:</b> to allow accessory structures to be located in the front yard <b>General Location:</b> Approximately 460 feet north of Pennock Point Road east of Loxahatchee River Road. <b>(LICHTBLAU RESIDENCE) (2010-00259)</b>			
LAND USE:	LR-2	S/T/R: 35-40-42		
CONTROL #:	2010-00259			
LOT AREA:	1 acres			
LOT DIMENSIONS:	Average of 55.94 feet in width and 327.95 feet in depth.			
CONFORMITY OF LOT:	Non conforming width.	CONFORMITY OF ELEMENT: Non conforming.	Non conforming.	
TYPE OF ELEMENT:	Multiple accessory structures.	ELEMENT SIZE:	Varies due to multiple structures.	
BUILDING PERMIT #:	None.	NOTICE OF VIOLATION:	None.	
CONSTRUCTION STATUS:	Structures existing without permits.			
APPLICANT REQUEST:	To allow accessory structures to be located in the front yard.			

## STAFF SUMMARY

Proposed are 9 Type II Variances to allow accessory structures in the front yard of a single-family residence. The original dwelling unit was constructed on a 1 acre lot in 1959 and has undergone major expansion and renovations over the years and is conforming to code regulations.

The proposed request is to address the accessory structures constructed and built without the proper approvals. The Unified Land Development Code (ULDC) does not allow accessory structures to be located in the front yard. The structures consist of an art studio, gazebo, orchid arbor, archery storage, flower arbor, garden shed, bath house, storage shed and gate house and have been built without permits. The applicant is requesting to allow the existing 9 accessory structures in the front yard to remain. All the structures are completely screened from view by dense vegetation. If approved the property owner may obtain building permits for the structures. One access point to the property will remain from Loxahatchee River Road.

### General Location, Previous Approvals and Existing Conditions

The site is located on the north fork of the Loxahatchee River, 1 mile north of Indiantown Road in Jupiter as shown on the location map to the right. The 1 acre irregular shaped site is a waterfront property with only 36'-8" of frontage Loxahatchee River Road. The property supports a single family dwelling and has a Residential Single Family (RS) zoning designation and a LR-2 Future Land Use.

The single family home was built under building permit in 1959. Applicant had been approved for renovations to the structure under permits B89031464, B95017461 and B00026123.

On 05/06/2010 a notice of violation was sent to the property owner due to a finding that a permit had not been approved for an accessory structure in the rear of the property. As a result of that violation the applicant met with Zoning staff concerning other accessory structures in the front yard that were not permitted and not cited at the time of the May violation. The applicant states that the structures have been there between 7-9 years.

During the review of the subject application the Land Development division questioned the status or state of the drainage for the area. However upon further review determined that the structures in question do not contribute to the drainage issue for the neighbors...

### Compatibility with Surrounding land Uses

The subject property is surrounded on all four sides by single family homes. The existing illegal structures do not create an incompatibility with the surrounding residences and are completely screened from view by bamboo and dense vegetation. Many of the structures are typical accessory structures such as a garden house, gazebo, and trellis however they are located in the front yard. The house was built close to the water front to maximize the view and ambiance leaving most of the rear yard available for other uses.

### Variance Summary

A summary of the variance being requested are more particularly described and discussed in the Standards section below as follows:

**Variance 1-9 Article 5.B.1.A.1.b Accessory and Temporary Structure location.** The ULDC states that all accessory uses, buildings and structures except for approved off-site parking shall be located on the same lot as the principle use. No accessory structure shall be located in the front or side street yard.

### Staff Recommendation

**Denial** based upon the application of the standards enumerated in Article 2.B.3.E. of the Palm Beach County Unified Land Development Code (ULDC), which an applicant must meet before the Zoning Commission may authorize a variance.





ZV-2010-1980 Lichtblau Residence

produced by: myGeoNav



**Figure 1 Aerial**









Figure 3 Studio



Figure 4 Gazebo





Figure 5 Orchid house



Figure 6 Accessory structure for archery supplies





Figure 7 Flower house



Figure 8 Utility garden shed





Figure 9 Outdoor restroom shower



Figure 10 Outdoor restroom toilet





Figure 11 Outdoor restroom sink





Figure 12 Storage shed



Figure 13 Gate house



## STAFF RECOMMENDATIONS

Staff recommends **denial** based upon the following application of the standards enumerated in Article 2.B.3.E. of the Palm Beach County Unified Land Development Code (ULDC), which an applicant must meet before the Zoning Commission who may authorize a variance.

### ANALYSIS OF ARTICLE 2.B.3.E. VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

**Yes (V1-V9).** The subject property is located 1 mile north of Indian Town Road on on Loxahatchee River Road. Most of the lots in this area are waterfront lots are narrow with minimal road frontage. The road frontage is considered the front and the waterfront is the rear. The configuration of the subject lot is the only lot in the area that has five (5) property lines. The original dwelling unit was constructed in 1959 and placed near the water front, giving the site a front yard larger than normal. Accessory structures are generally placed in the rear of principle uses, but in this case the configuration of the subject property doesn't leave room to do so. The accessory structures are all existing and were constructed without permits. Even though the structures may meet the property development regulation setbacks, the ULDC prohibits accessory structures to be in the front or side street yard. The exception to this is properties located in the Agricultural Residential (AR) Zoning Districts. The subject property is located in the Residential Single Family (RS) Zoning District and is therefore prohibited.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

**No (V1-V9).** The accessory structures were illegally constructed. If an application for permits had been made this issue would have been known prior to the structures being constructed. In addition, the property owner has made several improvements to the property that required permitting.

3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:

**No (V1-V9).** The granting of this variance would confer upon the applicants a privilege that other parcels in the same zoning district are not currently allowed by the Comprehensive Plan or ULDC.

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

**No (V1-V9).** The interpretation of the code would not deprive the applicants of rights commonly enjoyed by other parcels of land in the same zoning district. The code specifically states that no accessory structure shall be located in the front or side street yard.

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

**No (V1-V9).** The granting of this variance would allow accessory structures to be located in the front yard of the property and would be in direct violation of the code.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

**No (V1-V9).** The granting of this variance would be inconsistent with the goals and objectives of the Comprehensive Plan and the ULDC due to the request not being consistent with the intent of the ULDC. As stated previously, the code specifically states that no accessory structure shall be located in the front or side street yard. Historically variances been denied for the same request when there appears to be no indisputable hardship on the part of the applicants.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

**Yes (V1-V9)** The granting of this variance would not have an injurious affect on the surrounding area but would establish a precedent when the justification can not be supported by zoning staff. The



zoning code intends to prohibit accessory uses in the front yards to create uniformity within a district and to avoid the creation of a visual nuisance. Even though the existing accessory structures are completely screened by dense vegetation and meet setbacks, they were illegally constructed. The ULDC prohibits accessory structures to be in the front or side street yard. The exception to this is properties located in the Agricultural Residential (AR) Zoning Districts. The subject property is located in the Residential Single Family (RS) Zoning District and is therefore prohibited.



## Exhibit C

### ZONING COMMISSION CONDITIONS

Staff recommends the following conditions if the Zoning Commission approves the variance request:

VARIANCE-1. At time of application for a building permit, the property owner shall provide a copy of this variance approval along with copies of the approved site plan to the Building Division. (BUILDING PERMIT:ZONING-Landscape)

VARIANCE-2. The Development Order for this non-concurrent variance shall be valid till 10/7/2011, a period of one year from the date of the Zoning Hearing. The property owner must secure a building permit or commence development to vest the variance pursuant to ULDC Table 2.E.3-B-1. (DATE: MONITORING - Zoning)

VARIANCE-3. In granting this approval, the Zoning Commission relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

VARIANCE-4. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code (ULDC) at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)



**Exhibit D**

**Disclosures**

PALM BEACH COUNTY - ZONING DIVISION

FORM # 09

**DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY**

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE  
DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared  
Craig Lichtblau, MD, hereinafter referred to as "Affiant,"  
who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the  Individual or  \_\_\_\_\_ [position—  
e.g., president, partner, trustee] of \_\_\_\_\_ [name and type of  
entity—e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership  
interest in real property legally described on the attached Exhibit "A" (the "Property").  
The Property is the subject of an application for Comprehensive Plan amendment or  
Development Order approval with Palm Beach County.

2. Affiant's address is: 18826 Loxahatchee River Rd  
Jupiter, FL 33458

3. Attached hereto as Exhibit "B" is a complete listing of the names and  
addresses of every person or entity having a five percent or greater interest in the  
Property. Disclosure does not apply to an individual's or entity's interest in any entity  
registered with the Federal Securities Exchange Commission or registered pursuant to  
Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm  
Beach County policy, and will be relied upon by Palm Beach County in its review of  
application for Comprehensive Plan amendment or Development Order approval  
affecting the Property. Affiant further acknowledges that he or she is authorized to  
execute this Disclosure of Ownership Interests on behalf of any and all individuals or  
entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this  
disclosure to reflect any changes to ownership interests in the Property that may occur  
before the date of final public hearing on the application for Comprehensive Plan

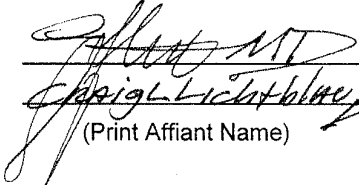
**Figure 1 Disclosure Owner 1**



6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

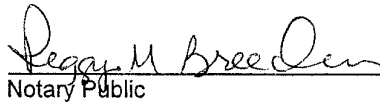
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
~~Craig Lichtblau MD~~ Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of August, 2010, by Craig Lichtblau MD, [ ] who is personally known to me or [] who has produced Craig Lichtblau MD as identification and who did take an oath.

NOTARY PUBLIC-STATE OF FLORIDA  
Peggy M. Breeden  
Commission # DD601138  
Expires: OCT. 10, 2010  
BONDED THRU ATLANTIC BONDING CO., INC.

  
\_\_\_\_\_  
Notary Public

Peggy M Breeden  
(Print Notary Name)

NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: 10-10-10



**EXHIBIT "A"**

**PROPERTY**

*See attached Legal Description*

Disclosure of Beneficial Interest Ownership form  
Page 3 of 4

Created 01/22/2007  
Updated 01/31/2007  
Web Format 2008

**Figure 3 Disclosure Owner 3**







August 18, 2010

**TYPE II STAND ALONE VARIANCE**

**SUMMARY & JUSTIFICATION**

*For*

18826 Loxahatchee River Road  
Jupiter, FL 33458

The site is located on the north fork of the Loxahatchee River, 1 mile north of Indiantown Road in Jupiter as shown on the location map to the right. The 1 acre irregular shaped site is a waterfront property with only 36'-8" of frontage Loxahatchee River Road. The characteristics of the waterfront lots in the Pennock Point area are long and narrow with minimal road frontage: the narrow portions being the road and waterfront frontage. The road frontage is considered the "front" yard while the waterfront portion would be the "back" yard. The configuration of the subject lot is the only lot in the area that has five (5) property lines. This irregular shape and placement of the SFD dwelling towards the water taking advantage of the water view leaving the majority of the lot as the front yard.

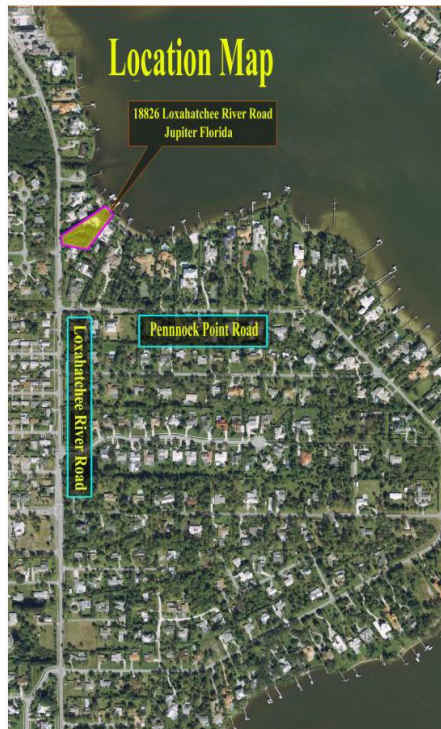
The original dwelling was constructed in 1959 and the architect and builder placed the dwelling on the easterly portion of the lot to take advantage of the waterfront view on the river orienting the interior rooms towards the water. By placing the dwelling at existing location, the water front portion of the site (back yard) was reduced creating a larger (front) portion of the lot between the dwelling and road as the "front yard".

The property supports a single family dwelling and has a Residential Single Family (RS) zoning designation and is subject to the regulations contained in

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the Unified Land Development Code (The ULDC).

The Property Development Regulations in the ULDC on Table 3.D.1.A, identify the setbacks in the RS district as 7 ½ feet on the side interior, 25 feet on the front and 15 feet on the rear.



A survey completed by Timothy Smith, Land Surveyor on June 23, 2010 depicts the structures on the lot: the SFR and all

**Figure 1 Justification**

accessory structures meet the RS zoning district side setbacks of 7 ½’.

The principal dwelling has undergone major expansion and renovations over the years as indicated by the building records meeting the Property Development Regulations with respect to setbacks and lot coverage.

Dense foliage consisting of mature native vegetation, bamboo and trees cover the majority of the front yard providing a dense “rainforest” atmosphere. The site supports the original 4’ concrete pathway running throughout the front yard as indicated on the site plan. To compliment the landscaping in the front yard, the owner has commissioned landscape features on the existing pathways consisting of wood sculptures such as totem poles and decorative wood walls. These features are utilized by the owner, a nationally recognized physician in his specialty, as a “meditation path” for relaxation.

The meditation path supports various structures including, a garden shed, archery storage shed, gazebo, art studio, workshop, orchid arbor, flower arbor and outdoor-enclosed shower area that are considered accessory structures. These structures have been placed along the existing concrete walkway both preserving and utilizing the existing lot layout creating the “meditation pathway”.

**The one (1) acre lot has an irregular configuration with only 36’-8” of**

**frontage on Loxahatchee River Road (LRR) as shown on the photo at below.**



The Applicant is requesting Nine **(9) Type II Variances** as summarized in the Table below:

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## Figure 2 Justification



<b>ULDC Code Section</b>	<b>Required</b>	<b>Proposed</b>	<b>Variance</b>
Article 5.B.1.A.1.b Accessory Structure location	No accessory structure shall be located in the front yard.	<u>Art Studio</u> located in the front yard	Accessory structure located in the front yard.
Article 5.B.1.A.1.b Accessory Structure location	No accessory structure shall be located in the front yard.	<u>Gazebo</u> located in the front yard	Accessory structure located in the front yard.
Article 5.B.1.A.1.b Accessory Structure location	No accessory structure shall be located in the front yard.	<u>Orchid Arbor</u> located in the front yard	Accessory structure located in the front yard.
Article 5.B.1.A.1.b Accessory Structure location	No accessory structure shall be located in the front yard.	<u>Archery Storage</u> located in the front yard	Accessory structure located in the front yard.
Article 5.B.1.A.1.b Accessory Structure location	No accessory structure shall be located in the front yard.	<u>Flower Arbor</u> located in the front yard	Accessory structure located in the front yard.
Article 5.B.1.A.1.b Accessory Structure location	No accessory structure shall be located in the front yard.	<u>Garden Shed</u> located in the front yard	Accessory structure located in the front yard.
Article 5.B.1.A.1.b Accessory Structure location	No accessory structure shall be located in the front yard.	<u>Bath House</u> located in the front yard	Accessory structure located in the front yard.
Article 5.B.1.A.1.b Accessory Structure location	No accessory structure shall be located in the front yard.	<u>Storage Shed</u> located in the front yard	Accessory structure located in the front yard.
Article 5.B.1.A.1.b Accessory Structure location	No accessory structure shall be located in the front yard.	<u>Gatehouse</u> located in the front yard	Accessory structure located in the front yard.

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### Figure 3 Justification

**VARIANCE JUSTIFICATION (#1 through #9)**

*1. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same district;*

**YES.** The **1 acre five-sided irregular shaped lot is a waterfront property** with 36'-8" of road frontage. The characteristics of the lots in the Pennock Point area are long and narrow: the narrow portions being the road and waterfront frontage. The configuration of the subject lot is the only lot in the area that has five (5) property lines.

The original architect and builder placed the dwelling on the easterly portion of the lot to take advantage of the waterfront view creating a small beach on the river with the interior rooms facing the water. By placing the dwelling at that location, the small backyard is the "water front" portion of the site leaving the majority of the lot considered the "front yard" between the dwelling and road. This irregular shape and placement of the SFD dwelling near the water is a circumstance that reduces the size of the back yard and increases the front yard. Accessory structures, while subordinate to the principal structure (the house) such as the case here, are typically located in the back yard. The mature trees and vegetation on the site prohibit the structures being viewed by the adjacent property owners and therefore, there is no impact to adjoining lots.

**The irregular lot shape is a special condition and circumstance unique to this particular parcel not applicable to other lots in the same district.**

*2. Special circumstances and conditions do not result from the actions of the applicant;*

**NO.** The **existing irregular site configuration** is a special circumstance that runs with the land and is not created by the Applicant. The five (5) sided lot configuration is not the result of an action of the Applicant, but is a characteristic of the long, narrow width typical to lots in this area. The unique lot configuration and placement of the dwelling towards the water left the majority of the site in the front yard. The nature of the abundant vegetation on the site allowed the owner to utilize the existing pathways to construct artistic structures and landscape features creating a special and relaxing atmosphere in what he considered the "back yard". The placement of accessory structures is not possible in the back yard because they would prohibit water views which are unique and add great value to the lot. The structures are artistically designed and constructed using the finest rare woods and fasteners. The owner considers the structures "outdoor art" on his meditation path transforming an otherwise unusable portion of the lot. The owner does not consider these unique structures to be "buildings" in the normal sense.

The owner's desire for the artistic structures allowing him to enjoy the out-of-doors for relaxation from a stressful occupation was the only consideration when these structures

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**Figure 4 Justification**



were built. The ULDC is confusing in that accessory structures can be located anywhere on the lot in the AR district as long as they meet the setbacks. In the RS district, the code specifies accessory structures located in the back or side yard (see page 7).

**The irregular site configuration is a special circumstance that runs with the land and was not created by the Applicant.**

3. *Granting the variance shall not confer upon the applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district;*

**NO.** The **location of the SFD on the site** takes advantage of the water view by the placement of the house close to the water. The placement effectively impacted and reduced the size of the back yard leaving the majority of the lot with its road frontage as the “front yard”. By the same token, the value of the site is based on the waterfront location. Obstructing the view of the water with landscaping and features such as exists in the front yard would block the water view and detract from the property’s value. The front yard was the only option for the installation of the structures, art studio and gazebo that take advantage of the existing concrete path ways. The grant of the variance will not be disruptive to the surrounding area and improves the quality of life for the owner by providing a rain forest atmosphere, solitude and meditation path critical for relaxation from an extremely stressful occupation.

**Letters of support have been furnished by two adjacent neighbors that abut the majority of the subject property’s lot line.**

4. *Literal interpretation and enforcement of the terms and provisions of this Code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship;*

**YES.** Literal interpretation of the requirements would present an undue hardship upon the Applicant, as **the existing SFD was placed on the site to take advantage of the water front location leaving the majority of the site being the “front yard” where a premium is placed on the “waterfront” (rear yard) location of the site.**

The majority of the lot remains the front yard. The back yard has little room for the owner’s outdoor meditation pathway, artistic sculptures and storage sheds necessary for relaxation and maintenance of the lot. The structures greatly improve the quality of life for the owner providing privacy and allowing meditation from his occupation. There is no impact to the adjacent lots whatsoever due to the screening by mature vegetation and trees. The majority of the houses in this area are modern upscale 2 story structures with second story views and garages with multiple bays and ample storage.

5. *Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;*

**YES.** The location of the accessory structures in the front yard is the only reasonable and logical area where such structures can be located. ULDC regulations allow accessory structures to be placed in the front yard in the AR zoning district where lots are typically

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## Figure 5 Justification

**The ULDC Regulations in Article 5 for accessory structures:**

**CHAPTER B ACCESSORY AND TEMPORARY USES  
Section 1 Supplementary Regulations**

**A. Accessory Uses and Structures**

**1. General**

The following standards in this Section shall apply to all development in standard, PDD or TDD zoning districts, unless otherwise stated: **[2007-001]**

**a. Standards**

An accessory use or structure shall be subject to the same regulations that apply to the principal use or structure, except as otherwise stated.

**b. Location**

All accessory uses, buildings and structures except for approved off-site parking, shall be located on the same lot as the principal use. No accessory structure shall be located in the **front or side street yard.**

**d. Setbacks, Accessory Structure**

**1) Residential Districts, Except AR**

Accessory structures may be setback a distance of **five feet from the side and rear** property lines provided it is not located in an established easement or required landscape buffer.

**AR District: c) Accessory Structure**

Must be five feet from all established easements and may not be located within the required landscape buffer or within the required **front or side street setback.**

**Figure 6 Justification**



larger. The subject lot is 1.0 acres surrounded by a 6' CBS wall that provides privacy and screening. In this case, the accessory structures are located in the front yard because that is the largest portion of the property and the location of the structures does not impact adjacent property owners. With approval of the variances, property development regulations including setbacks are met, albeit, within the front yard. Because of the dense mature vegetation and mature native trees, the structures are 100% screened from the road and the adjacent property. The approval of the variances will promote the residential quality of life for the owner whom greatly values his privacy and relaxation considering his 120+ hour workload each week.

6. *Granting the variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code; and*

**YES.** The requested deviation will allow the proposed use of the accessory structures with no adverse impacts to the adjacent residential community or to area's drainage system. Allowing the use of the structures in the front yard improves the quality of life and recreation promoting relaxation from the owner's occupational stress. Additionally, the use takes advantage of the open space in a more usable manner than simply passive gardens. The site has a 6' CBS wall along the south property line providing privacy and screening and preventing water runoff to the adjacent sites.

The improvements are consistent with the ULDC regulations pertaining to accessory structures located in a rear or side yard. Provisions requiring compliance with setbacks have been met. The existing characteristics of the parcel necessitate placement of the artistic and accessory structures within the front yard. The Applicant has complied with the spirit of the Code accommodating property development regulations with respect to setbacks. These structures are compatible in nature with other properties in the area which are more modern, larger and support multiple garages, gazebos and similar structures.

7. *Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

**NO.** A variance from Article 5.B.1.A.1.b for the accessory structures will not impact adjacent properties or otherwise be detrimental to the public. This request does not have any negative impact to the surrounding area. Existing site conditions such as the 6' CBS wall surrounding the property and mature trees and vegetation are so thick the structures are completely 100% screened from view by adjacent property owners. The approval of this request will allow a unique landscape to continue providing an unusual quality of life for the owner and surrounding environment.

**As the Agent for Dr. Lichtblau, I respectfully request approval from the Board to allow the structures remain at the present locations within the property.**

**[The ULDC in Article 1 describes accessory structures as follows:](#)**

**13. Accessory Building or Structure** - a detached, subordinate structure meeting all property development regulations (PDRs), the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

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## Figure 7 Justification