REQUEST FOR A VARIANCE
304 TRIMARAN DRIVE FOR ROSS AND SUSAN HENDERSON

APPLICANT: Gary Straight for:
Ross and Susan Henderson
P.O. Box 214,
Easton, MA 02334

APPLICANT REQUEST: Applicant requests Approval from the City of St. Marys for:

VARIANCE: Gary Straight, on behalf of Ross and Susan Henderson, P.O. Box 214, Easton, MA 02334 is requesting a Variance for 304 Trimaran Drive, St. Marys, GA 31558 to reduce the side and rear setbacks. The property is zoned R-1. Tax Parcel ID 161C 02 055.

MEETING DATES:
Planning Commission
July 17, 2018

City Council
August 6, 2018

PUBLIC NOTICE:
Posted on City website
June 15, 2018

Surrounding Landowner Letters Mailed
July 2, 2018

Applicant Notice Letter
July 2, 2018

Public notice sent to Tribune & Georgian
June 29, 2018

t and all media outlets

MATERIALS:
Agenda
June 15, 2018

Staff Report
July 2, 2018

Application
May 22, 2018

Survey
February 28, 2018

STAFF REPORT:

Gary Straight, on behalf of the property owners Ross and Susan Henderson, is requesting a Variance to reduce the setbacks (side and rear) to 4’ (four feet).

APPLICABLE STANDARDS:

Sec. 110-146. - Variances.

(a) Conditions governing the granting of a variance. A variance may be granted by the planning commission only in the event that all of the following circumstances exist:

(1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same vicinity, and result from lot size or shape, topography or other circumstances over which the owners of the property since enactment of this chapter have had no control.

Staff Comment:
The property is currently zoned R-1 and the area regulations are as follows:
Minimum lot area: 10,000 square feet
Minimum lot width at building line: 75 feet
Minimum front yard setback from street: 25 feet
Minimum side yard, setback from street: 25 feet; setback from other property line: 15 feet
Minimum rear yard, setback from street: 25 feet; setback from other property line: 15 feet
Maximum parentage of lot coverage: 30 percent
Maximum building height: 35 feet
According to the survey dated February 28, 2018, the lot is 12,736.65 square feet in area; thereby meeting the minimum lot area requirement. The frontage, along Trimaran Drive, is 130’ with a depth of 135.21’ on the west property line and 71’ on the east property line; thereby meeting the minimum R-1 district requirement for lot width of 75’ along one property line.

The lot is a quadrilateral shape with the side lot lines running roughly parallel to one another and the front lot line not parallel to the rear lot line. According to the aforementioned survey, the house is setback approximately 25’ from the front lot line on the west side of the house (garage) and approximately 21.6’ from the front property line along the east side of the house. The structure therefore meets the R-1 district required front yard setback of 25’ at the northwest corner of the house but does not meet the requirement at the northeast corner of the house.

The west elevation, according to the aforementioned survey, is setback 14’ from the property line, and therefore does not meet the requirements of the R-1 district. The east elevation is setback 31.9’ from the property line thereby meeting the requirements for the R-1 district.

(2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of their property in the same zone or vicinity possess.

Staff Comment: No comment.

(3) The variance would not materially be detrimental to the purposes of this chapter, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objective of any city plan or policy.

Staff Comment: No comment.

(4) The variance requested is the minimum variance which would alleviate the hardship.

Staff Comment: No comment.

(5) The lot in question cannot yield a reasonable return unless the variance is granted.

Staff Comment: No comment.

(6) The need for a variance is not the result of the action of the owner or previous owner.

Staff Comment: No comment.

STAFF RECOMMENDATIONS:

Staff will abstain from making a recommendation because of difficulty in making a discrete conclusion under the current law.

PLANNING COMMISSION MOTIONS:

Approval: Motion to approve the variance application

Approval with Conditions: Motion to approve upon the condition that...

Denial: Motion to deny application.

PLANNING COMMISSION RECOMMENDATIONS: The Planning Commission is scheduled to meet for a Regular Called meeting on Tuesday, July 17, 2018 to consider this application.
Action taken: Approved ( )  Denied ( )  Postponed ( )

**CITY COUNCIL RECOMMENDATION:** The City Council is scheduled to meet on Monday, August 6, 2018 to consider the Planning Commission’s recommendation.

Action taken: Approved ( )  Denied ( )  Postponed ( )
CITY OF ST. MARYS, GEORGIA

VARIANCE APPLICATION

APPLICANT: READ PART A COMPLETELY, THEN ANSWER EACH ITEM IN PART B. PLEASE PRINT OR TYPE. DO NOT WRITE IN PART C. PLANNING STAFF WILL HELP YOU, IF NECESSARY. YOU MUST FILE THIS APPLICATION AND ALL REQUIRED MATERIALS WITH THE COMMUNITY DEVELOPMENT DEPARTMENT AT LEAST 30 DAYS BEFORE THE PLANNING COMMISSION MEETING AT WHICH IT WILL BE CONSIDERED.

PART A GENERAL INFORMATION

YOU ARE ENCOURAGED TO READ APPLICABLE SECTIONS OF THE ZONING ORDINANCE IF YOU ARE REQUESTING A ZONING VARIANCE, AND THE SUBDIVISION REGULATIONS IF YOU ARE REQUESTING A VARIANCE. SINCE ZONING VARIANCES ARE MUCH MORE COMMON AND REQUIRE A PUBLIC HEARING, THEY ARE THE ONLY ONES DESCRIBED IN THIS PART.

A VARIANCE IS A "LOOSENING" OF THE REQUIREMENTS OF THE ZONING ORDINANCE TO RELIEVE A HARDSHIP. A VARIANCE CAN ONLY BE GRANTED BECAUSE A HARDSHIP BEYOND YOUR CONTROL IS BEING CAUSED BY A DIMENSIONAL REQUIREMENT, THAT IS, ONE DEALING WITH DISTANCE, AREA, HEIGHT OR SOME OTHER DIMENSION OF YOUR LAND OR BUILDING. PLEASE NOTE THAT A VARIANCE DOES NOT ALLOW YOU TO START A NEW USE IN A ZONING DISTRICT WHERE IT IS PRESENTLY NOT PERMITTED. IN OTHER WORDS, YOU COULD NOT PUT A GROCERY STORE IN A RESIDENTIAL NEIGHBORHOOD.

ONCE YOU HAVE FILED A COMPLETE APPLICATION WITH THE COMMUNITY DEVELOPMENT DIRECTOR, YOUR REQUEST WILL BE ADVERTISED AND A LETTER WILL BE SENT TO THE ADJACENT PROPERTY OWNERS. THE PLANNING COMMISSION WILL THEN HOLD A PUBLIC HEARING. AT THE MEETING YOU WILL TELL THE PLANNING COMMISSION WHY YOU NEED THE VARIANCE AND YOUR NEIGHBORS MAY ASK QUESTIONS AND MAKE COMMENTS. THE PLANNING COMMISSION WILL THEN MAKE A DECISION ABOUT THE VARIANCE. THE VARIANCE IS VALID FOR ONE YEAR. IF YOU DISAGREE WITH THE DECISION, YOU HAVE 15 DAYS TO FILE AN APPEAL TO THE CITY COUNCIL. THE PLANNING DIRECTOR CAN PROVIDE YOU WITH THE INFORMATION AND FORMS FOR THIS STEP.

PART B APPLICANT ONLY

1. THIS IS AN APPLICATION ASKING THE ST. MARYS COMMUNITY DEVELOPMENT DEPARTMENT TO GRANT A VARIANCE FROM THE REQUIREMENTS OF THE (CHECK ONE): ☒ ZONING ORDINANCE ( ) SUBDIVISION REGULATIONS

2. NAME: Ross Henderson & Susan Henderson PHONE: 508-942-8040

3. ADDRESS: 10 O'Keefe St., Taunton, MA 02780

4. LOCATION OF PROPERTY: STREET 304 Triman Dr., St. Marys, GA 31558

5. PARCEL NO. 161C 02 055 LOT NO. 55 ZONING MAP NO. 2

6. THIS LAND IS ZONED: ( ) R-1 ( ) R-2 ( ) R-3 ( ) R-4 ( ) R-5 ( ) MH ( ) PD ( ) C-1 ( ) C-2 ( ) C-3 ( ) H ( ) I-L ( ) I-G ( ) I-A ( ) CP ( ) FH

7. PLEASE DESCRIBE THE TYPE OF VARIANCE YOU NEED. EXAMPLE: REDUCTION OF SIDEYARD SETBACK FROM 25 FT TO 18 FT. REDUCTION OF SIDEYARD TO 4 FEET. REDUCTION OF BACK TO 4 FEET

8. ALL THE FOLLOWING POINTS MUST APPLY TO YOUR SITUATION FOR THE VARIANCE TO BE GRANTED. DESCRIBE HOW YOU MEET EACH "TEST." Please see attached.

A. SPECIAL CONDITIONS OR CIRCUMSTANCES OVER WHICH I HAVE NO CONTROL, AFFECT MY PROPERTY.

B. BECAUSE OF THE SITUATION, I DO NOT HAVE THE SAME PROPERTY RIGHTS AS MY NEIGHBORS OR AS OTHER PROPERTY OWNERS IN THE SAME ZONING DISTRICT DO.

C. THE VARIANCE WOULD NOT SIGNIFICANTLY DEFEAT THE PURPOSES OF ANY CITY PLAN, POLICY ORDINANCE

D. THIS IS THE MINIMUM VARIANCE WHICH WOULD RELIEVE MY HARDSHIP.

7. IN THE CASE OF A ZONING VARIANCE, ATTACH THESE TO THIS APPLICATION:

A) A SIMPLE MAP SHOWING LOCATION OF THE PROPERTY, ITS DIMENSIONS, LOCATION OF EXISTING AND PROPOSED STRUCTURES, AND THE NEAREST PUBLIC ROAD.

B) A LIST OF NAMES AND ADDRESSES OF ALL ADJACENT PROPERTY OWNERS

8. SIGNED: [Signature] DATE: 5/22/18

1. DATE COMPLETE APPLICATION WAS FILED:
2. LIST OF ATTACHMENTS ( ) SIMPLE MAP ( ) NAMES/ADDRESSES OF ADJACENT PROPERTY OWNERS ( ) FINAL PLAT ( ) PRELIMINARY PLAT ( ) OTHER
3. PUBLIC HEARING (IF ZONING VARIANCE) DATE APPLICANT WAS NOTIFIED: 5/22/18

*Filed by Gary Straight as authorized agent, contact information attached.*
Appendix to Variance Application:

6. A. Applicants’ pool contractor accidentally placed a pool shell on the Applicants’ property several feet over the setback lines. The location of the pool shell was approved by a City official on April 5, 2018. (See attached). After approval of the shell placement, the pool contractor filled the area outside the shell with concrete and installed the pool liner.

Prior to installing the enclosure around the pool, Applicants’ enclosure contractor determined that the pool was too close to the property line and informed City officials. Thereafter, the City placed a stop work order on construction of the pool finding it to violate setback lines. The removal of the pool from its current location would cost $15,000 and would cause a serious economic hardship on the Applicants.

B. The granting of a variance to the Applicants would preserve the right of the Applicants to have the pool located on the Applicants’ property in the location approved by a City official. Applicants further state that the owners of other properties in their same zone or vicinity also should have the right to rely on the approvals of City officials.

C. The granting of a variance to the Applicants would not materially be detrimental to the purposes of the City zoning ordinance, to property in the same zone or vicinity of the Applicants’ property or otherwise conflict with the objective of any city plan or policy because a swimming pool would not detract from the residential nature or character of Applicants’ neighborhood and the residential zoning of Applicants’ neighborhood. Furthermore, Applicants’ pool is located behind a six foot privacy fence.

D. The variance in question is the minimum variance that would alleviate the hardship to Applicants because the pool cannot be relocated without a substantial expense to Applicants.
**BUILDING PERMIT SITE INSPECTION RECORD**

**City of St. Marys**
418 Osborne St.
St. Marys, GA 31558
912-510-4032 Call to Schedule Inspections – Must be scheduled 24 hours in advance, if scheduled after 2:30 inspection will be performed the day after. No weekend inspections available.

Date: 3/12/2016

**Address:** 304 Trimaran Dr.

**Description of Work:** Residential Swimming Pool

**Issued By:**

(Building Department)

**Contractor:** Wildcat Electrical Contractors

**S And S Pools**

This sheet must be posted in a construction doc box. **Inspector will sign off when inspection passes.**

Below listed inspections may or may not be applicable to your project. Please call the Building Department if necessary to verify applicable inspections required for your project.

<table>
<thead>
<tr>
<th>Building Inspection Approvals</th>
<th>HVAC Inspection Approvals</th>
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</thead>
<tbody>
<tr>
<td>1. Setback Verified</td>
<td>1. Rough – Prior to Cover Up</td>
</tr>
<tr>
<td>2. Termite Treatment</td>
<td>2. Final (C.O.)</td>
</tr>
<tr>
<td>3. Footing/Piers</td>
<td>FIRE &amp; LIFE SAFETY APPROVALS</td>
</tr>
<tr>
<td>4. Slab</td>
<td>1. 50% Complete</td>
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<tr>
<td>5. Nail Off Roof &amp; Wall</td>
<td>2. 100% Complete</td>
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<td>6. Window/Door</td>
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<td>7. Framing-Prior to Cover Up</td>
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<tr>
<td>8. Strapping</td>
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<td>9. Insulation</td>
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<td>10. Gas Vent</td>
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<tr>
<td>11. Final (C.O.)</td>
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<tr>
<td>PLUMBING INSPECTION APPROVALS</td>
<td></td>
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<tr>
<td>1. Pre-Slab</td>
<td>WATER, SEWER, LOT, DRIVEWAY, CULVERT AND EROSION/SEDIMENT APPROVALS</td>
</tr>
<tr>
<td>2. Rough – Prior to Cover Up</td>
<td>1. Water Connect (city connect)</td>
</tr>
<tr>
<td>3. Gas Piping – Prior to Cover Up</td>
<td>2. Water Connect (at structure)</td>
</tr>
<tr>
<td>4. Final (C.O.)</td>
<td>3. Sewer Connect (city connect)</td>
</tr>
<tr>
<td>5. Electrical Inspection Approvals</td>
<td>4. Sewer Connect (at structure)</td>
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<tr>
<td>1. Temporary Pole</td>
<td>5. Lot Grading</td>
</tr>
<tr>
<td>2. Grounding</td>
<td>6. Driveway Prior to Concrete Pour</td>
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<tr>
<td>3. Rough – Prior to Cover Up</td>
<td>7. Driveway/Culvert</td>
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<tr>
<td>4. Pre-Final</td>
<td>8. Erosion/Sediment Control</td>
</tr>
<tr>
<td>5. Final (C.O.)</td>
<td>9. Final (C.O.)</td>
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**INSPECTOR COMMENTS:**

"The issuance of this permit authorizes improvements for the real property designated herein which improvements may subject such property to 'mechanics' and chapter 14 of title 44 of the official code of GA annotated in order to protect any interest in such property and to avoid encumbrance thereon the owner or any person with an interest in such property should consider contacting an attorney or purchasing a consumer's guide to the lien laws which may be available at building supply centers."

LOAD CERTIFICATE:  THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS TOWN TO BE IN FLOOD HAZARD ZONE "X" (UNSHADED) AS PER F.I.R. MAP 13039CO485G, COMM No. 130027, PANEL No. 0485, IFIX G, DATED: 12-21-17 FOR: CAMDEN COUNTY, GEORGIA  

DWN. BY: TLP
Adjacent Property Owners:

1. Charles P Notter  
   613 Carrack Court  
   Saint Marys, Ga 31558

2. Clinton R Scott & Jill Christenson  
   213 Barkentine Drive  
   Saint Marys, GA 31558
Applicant Agent:

Gary Straight
111 Palms Plaza
1621 F Hwy 40 E
Kingsland, GA 31548
912-674-2094
May 15, 2018
To Whom It May Concern,

RE: Pool Install at 304 Trimaran Drive, St. Marys, GA 31558

We appoint Mr. Gary Straight of S and S Pools, of Kingsland, GA to represent us in applying for the application for a variance for the pool installed at our home at 304 Trimaran Drive, St. Marys, GA.

Mr. Straight has our permission to act on our behalf to resolve this matter as quickly as possible.

We appreciate your cooperation in this matter.

Susan T. Henderson
Ross D. Henderson
Please see Mr. Straight’s email below.

Also, I believe the Hendersons are in town and will be attending with their attorney.

Stephen V. Kinney
Kinney & Kinney, LLC
1815 Osborne Road
St. Marys, Georgia 31558
(912) 882-5678
(912) 882-3758 fax
skinney@kklawga.com

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From: Gary Straight [mailto:gary.straight@straightco.com]
Sent: Thursday, July 12, 2018 7:01 PM
To: Stephen Kinney
Subject: Re: July 17, 2018 Planning Commission - Variance - 304 Trimaran Drive

Stephen,

Please use this E Mail as my authorization to have Miles Hendrix’s of your office as my selected representation regarding the Henderson variance matter. As you know, I will also be attending. Mr. and Mrs. Henderson are out of state and will not be attending.

Gary Straight
Appointed by the Henderson Family
CITY OF ST. MARYS
(912) 310-4000

RECN: 00692924  5/22/2018  4:18 PM
USER: MGE  TERM: 004
REF#: 0692924

TRAN: 40.0000 BUILDING/PLANNING
HENKINSON
100-32-2010
ZONING FEES
200.00CR

TENDERED:  200.00 CREDIT CARD
APPLIED:  200.00-

CHANGE:  0.00
July 8, 2018

To Whom It May Concern,

My name is Charlie Notter and I live at 613 Carrack Court, Saint Marys, GA. I own the property designated as 302 Trimaran Drive. I would like to get along with my neighbors but I have come to the conclusion that they are not very bright.

It seems that Mr. Henderson does what he damn well pleases. When Mr. Henderson first moved here, he had somebody cut his grass. The grass cuttings along with the branches and tree limbs were dumped on my lot. He had a 200 ft. fence along my property that was rotten and falling down. He had a fence company replace the fence. They took 2/3 of the old fence with them. The other 1/3 I had to clean up because it was on my lot. I didn't say anything because I wanted to get along with my neighbors so I cleaned it up.

Now we have another issue. Mr. Henderson put in a pool disregarding the setbacks. When he applied for a Permit, surely he was made aware of the restrictions on the pool as well as the setbacks. I am sure that Building and Planning informed him of the City Ordinance. The pool has been installed. To reach the pool during construction, the concrete truck had to come onto my property and left 6-8" ruts. Mr. Henderson did not bother to have the ruts filled. The concrete people washed out the excess concrete on my property and left it there.

Mr. Henderson has not been a good neighbor or does not know any better because he is from Maine.

My opinion is “Enough is Enough” and I have reached my limits. Mr. Henderson has to follow City Ordinance just like everybody else.

Sincerely,

Charlie Notter
July 9, 2018

To: Morgan Granger

In reference to your letter, dated July 2, 2018, regarding the requested variance for Ross and Susan Henderson, I, as an adjacent property owner, have no objections to the variance. Please proceed with approving the requested variance of the reduced setback.

Sincerely,
Mercedes Rodriguez
307 Trimaran Drive
Saint Marys, GA 31558

[Signature]

Mercedes Rodriguez