TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: David M. Abramson, Planner I

SUBJECT: Quasi Judicial Hearing: Variance, V 4-2-04 Russell J. Bass / Generally located at the southeast corner of Nova Drive and College Avenue

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: V 4-2-04 / 04-299 / Russell J. Bass

REPORT IN BRIEF: The applicant is requesting a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum thirty (30′) foot side setback from the property line in the A-1 zoning district, to reduce the minimum to a twenty-five (25′) foot side setback from the property line.

The subject site is a 2.5 acres net (108,900 square feet) parcel of land located on the eastside of S.W. 148th Avenue between Orange Drive and S.W. 26th Street. The parcels adjacent to the north, south, east and west of the subject site are all residential 1 dwelling unit per acre. The subject site situated in Davie's Rural Lifestyle neighborhoods.

The applicant is proposing to build an approximately two-hundred and fifty-one (251) square foot addition consisting of a bedroom and bathroom on the north side of the existing house. The proposed bedroom and bathroom addition would be constructed on the north side of the existing one-story residential building with a side setback of twenty-five feet (25′). According to § 12-81(A) of the Land Development Code, Table of Conventional Single-Family Development Standards, typical A-1, Agricultural Districts are required to provide a thirty foot (30′) side setback. This variance is reduce the required thirty foot (30′) side setback five (5) feet.

The criteria for approval of a variance requires that the applicant's request show no evidence of self created hardship. In the case of Mr. Bass, his property is one-hundred sixty-five (165) feet in width and is six-hundred sixty (660) feet in length. The existing house is one-story in height and approximately 1,471 square feet. In review of the survey, staff concluded that Mr. Bass property can accommodate a two-hundred and fifty-one (251) square foot addition without a variance.

The Rural Lifestyle Initiative (RLI) regulation were designed to provide greater open space between structures. To allow a five (5) foot reduction could over time, cumulatively affect the intention of the (RLI).

The request is not consistent with stated policies from the comprehensive plan. Specially, policy 17-3, which states that each development proposal shall be reviewed with respect to its

compatibility with adjacent existing and planned uses. In addition, policy 17-7, states that adopted land development regulations shall continue to set forth setback or separation regulations landscaping requirements, and minimum open space criteria to enhance living and working environments.

Therefore, granting of a variance to allow a twenty-five (25') foot side setback from the property line does not meet the intent set forth in the Land Use Compatibility and Community Appearance as required by the Comprehensive Plan and the (RLI).

PREVIOUS ACTIONS: None

CONCURRENCES: At the June 23, 2004 Planning and Zoning Board Meeting, Mr. McLaughlin made a motion, seconded by Ms. Turin, to deny V 4-2-04, Russell J. Bass. (Motion carried 3-1, Ms. Lee was absent)

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Planning Report, Justification, Survey, Radius Map, Future Land Use Plan Map, Zoning and Aerial Map

TOWN OF DAVIE

Development Services Department
Planning and Zoning Division
Staff Report and Recommendation

Applicant Information

Owner / Petitioner:
Name: Russell J. Bass
Address: 2800 S.W. 148th Avenue
City: Davie, Florida 33331
Phone: (954) 473-6387

Background Information

Date of Notification: June 9, 2004 **Number of Notifications:** 52

App. History: None

App. Request: Variance **FROM:** Section 12-287 (B) of the Land Development Code, which requires a minimum thirty (30) foot side setback from the property line in the A-1 zoning district. **TO:** Reduce the minimum to a twenty-five (25) foot side setback from the property line.

Address/Location: 2800 S.W. 148th Avenue / Generally located on the eastside of S.W. 148th Avenue between Orange Drive and S.W. 26th Street

Future Land Use Plan Map: Residential 1 DU / Acre

Existing Zoning: A-1, Agricultural District

Proposed Zoning: A-1, Agricultural District

Existing Use: Single-Family Residential Dwelling Unit

Proposed Use: Single-Family Residential Dwelling Unit

Parcel Size: 2.5 acres (108,900 square feet)

	Surrounding Uses:	Surrounding Future Land Use Plan Map Designations:
North:	Single-Family Residential	Residential 1 DU / Acre
South:	Single-Family Residential	Residential 1 DU / Acre
East:	Single-Family Residential	Residential 1 DU / Acre
West:	Single-Family Residential	Residential 1 DU / Acre

Surrounding Zoning:
North: A-1, Agricultural District
South: A-1, Agricultural District
East: A-1, Agricultural District
West: R-1, Estate Dwelling District

Zoning History

Related Zoning History: Records indicate that the existing Future Land Use Plan Map designation and Zoning classification were in place at the time of annexation.

Applicable Codes and Ordinances

§12-309(B)(1) of the Land Development Code, review for variances.

DIVISION 3. RURAL LIFESTYLE REGULATIONS
§12-287 (A) & (B) of the Land Development Code, For the A-1 zoning district, the minimum lot area shall be 35,000 square feet, the minimum lot frontage is 150′, and maximum building coverage is 25%.. The building setbacks shall be as followed for the A-1 zoning district: front 40′-50′, side 30′, rear 35′, and 35′ maximum height.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 2. This planning area includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 113.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17 - Land Use Compatibility and Community Appearance, Policy 17-3*: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses, *Land Use Compatibility and Community Appearance, Policy 17-7*: Adopted land development regulations shall continue to set forth setback or separation regulations landscaping requirements, and minimum open space criteria to enhance living and working environments.

Application Details

The applicant is requesting a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum thirty (30′) foot side setback from the property line, to reduce the minimum to a twenty-five (25′) foot side setback from the property line in the A-1 zoning district.

The 165′ x 660′ subject site is a 2.5 acre (108,900 square feet) parcel of land located on the eastside of S.W. 148th Avenue between Orange Drive and S.W. 26th Street. The parcels adjacent to the north, south, east and west of the subject site are all residential 1 dwelling unit per acre.

In addition, majority of the properties surrounding the subject site are residential acre lots.

The applicant is proposing to build an approximately two-hundred and fifty-one (251) square foot addition consisting of a bedroom and bathroom on the north side of the existing house. The proposed bedroom and bathroom addition would be constructed on the north side of the existing one-story residential building with a side setback of twenty-five feet (25′). According to § 12-81(A) of the Land Development Code, Table of Conventional Single-Family Development Standards, typical A-1, Agricultural Districts are required to provide a thirty foot (30′) side setback. This variance is reduce the required thirty foot (30′) side setback five (5) feet.

Findings of Fact

Variances:
Section 12-309(B) (1):
The following findings of facts apply to the variance request:

(a) There are not special circumstances or conditions applying to the land or building for which the variance is sought;

The 165′ x 660′ parcel of land consists of 2.5 acres (108,900 square feet) can support an addition to the existing structure that does not require a variance.

which circumstances or conditions are not peculiar to such land or building and do apply generally to land or buildings in the same district;

The parcel can continue its development rights and can be used in accordance with the A-1, Agricultural District without a variance.

and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought;

The parcel can be reasonably used without a variance. The parcel can support an addition in other locations that would not require a variance. A visual and financial burden does not represent a justifiable hardship claim for necessity of a variance.

and that alleged hardship is self-created by any person having an interest in the property.

The need for a variance is created by the owner's desire for the addition to be only located on the north portion of the existing one-story residential building.

(b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

The applicant can achieve reasonable use of the land without a variance, and as such the variance is not the minimum needed. An addition to the existing structure can be designed and placed on this parcel without the need for any variance.

(c) Granting of the requested variances will not in harmony with the general purpose and intent of this chapter and may be injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the side building setback to be reduced from thirty-feet (30') to twenty-five (25') will not be detrimental to the adjacent properties.

Staff Analysis

The criteria for approval of a variance requires that the applicant's request show no evidence of self created hardship. In the case of Mr. Bass, his property is one-hundred sixty-five (165) feet in width and is six-hundred sixty (660) feet in length. The existing house is one-story in height and approximately 1,471 square feet. In review of the survey, staff concluded that Mr. Bass property can accommodate a two-hundred and fifty-one (251) square foot addition without a variance.

The Rural Lifestyle Initiative (RLI) regulation were designed to provide greater open space between structures. To allow a five (5) foot reduction could over time, cumulatively affect the intention of the (RLI).

The request is not consistent with stated policies from the comprehensive plan. Specially, policy 17-3, which states that each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses. In addition, policy 17-7, states that adopted land development regulations shall continue to set forth setback or separation regulations landscaping requirements, and minimum open space criteria to enhance living and working environments.

Therefore, granting of a variance to allow a twenty-five (25') foot side setback from the property line does not meet the intent set forth in the Land Use Compatibility and Community Appearance as required by the Comprehensive Plan and the RLI regulations contained in the land development code.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to Town Council and the Planning and Zoning Board for further consideration.

Planning and Zoning Board Recommendation

At the June 23, 2004 Planning and Zoning Board Meeting, Mr. McLaughlin made a motion, seconded by Ms. Turin, to deny V 4-2-04, Russell J. Bass. (Motion carried 3-1, Ms. Lee was absent)

Town Council Action

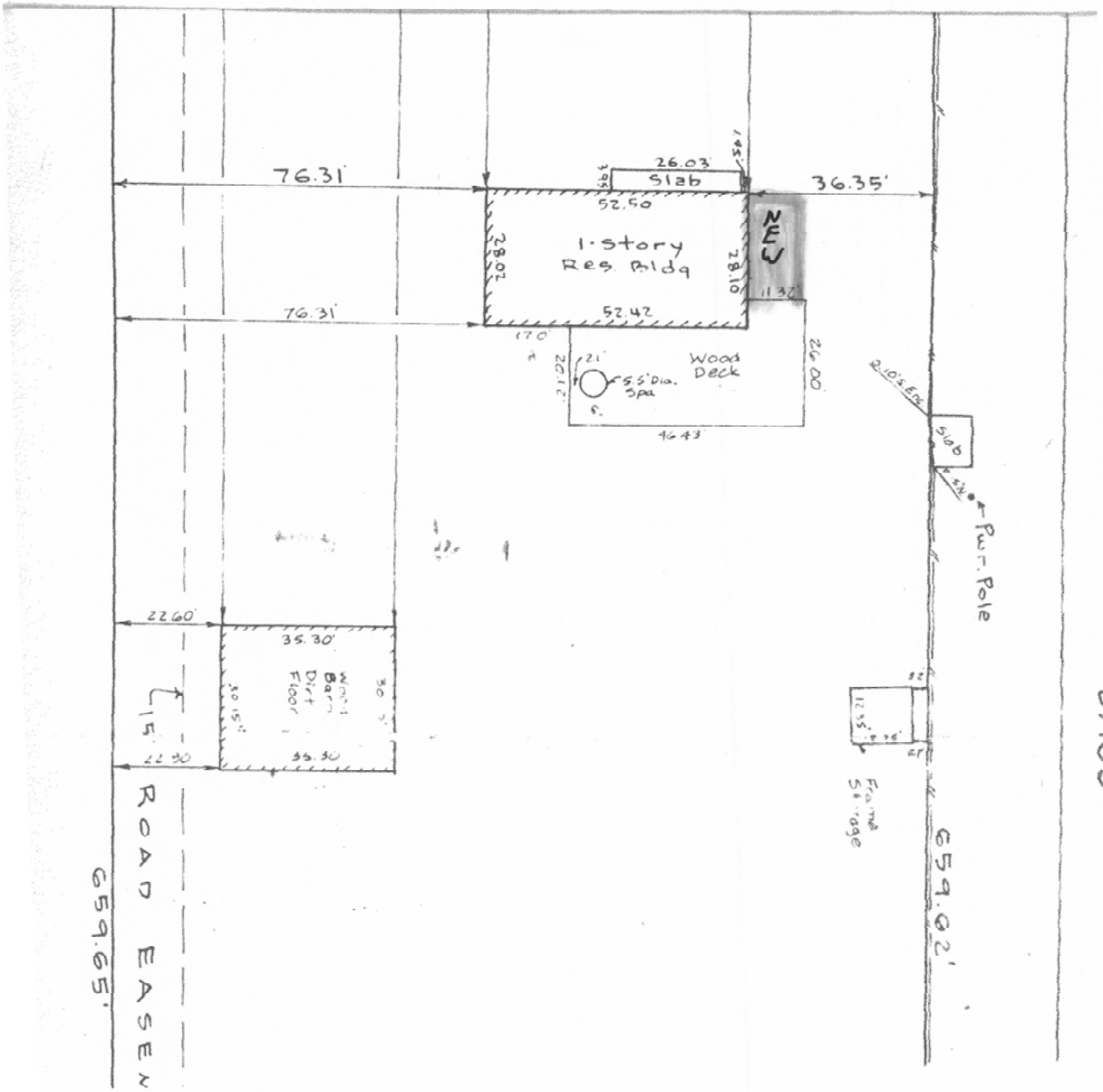
Exhibits

1. Justification and Survey
2. Future Land Use Plan Map
3. Zoning and Aerial Map

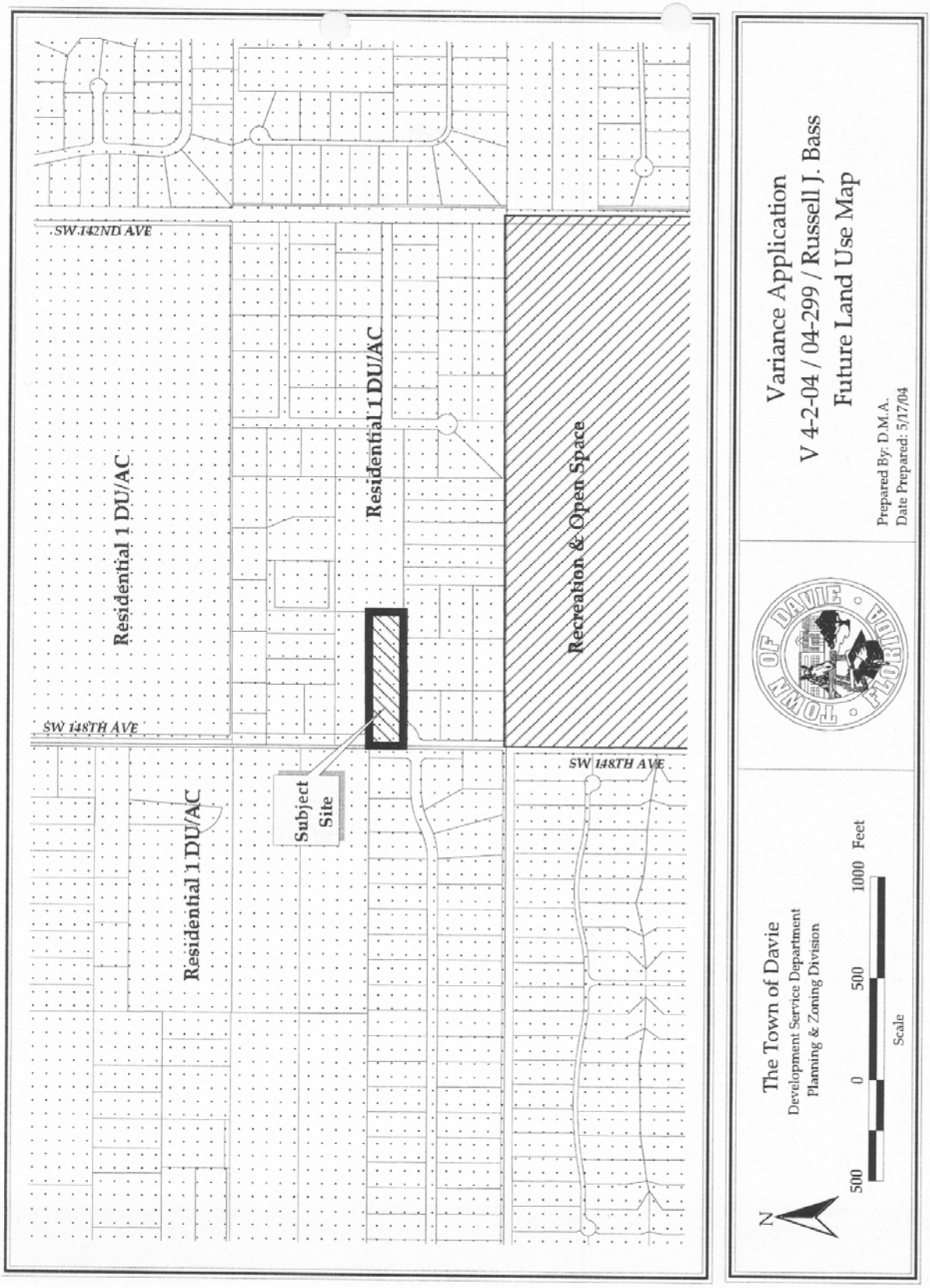
Prepared by: _____ Reviewed by: _____

"Exhibit 1"

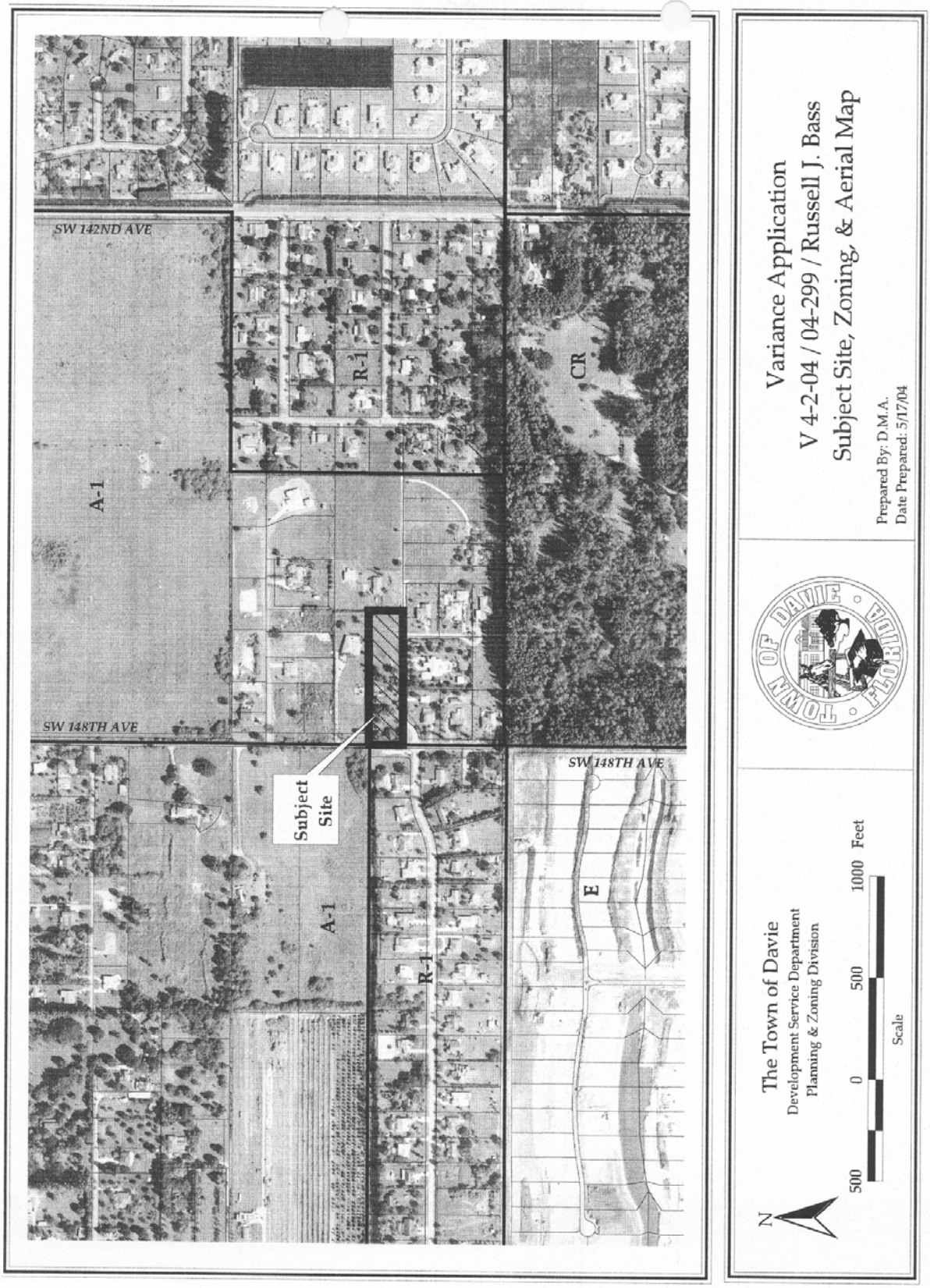
I am appliying for a variance for the purpose of adding a bedroom and a bathroom on the north side of my exsisting house. My setback when I bought the place was 25ft and about 18 years ago I got a permit to build a deck gazibo and roof areasas shown on site plan. I don't need to go beond the 25ft but 30 wouldnot be feasible as it would create a visual an a financial burden on me.



"Exhibit 2"


SW 142ND AVE
Residential 1 DU/AC
Residential 1 DU/AC
Recreation & Open Space
SW 148TH AVE
Subject Site
Residential 1 DU/AC
SW 148TH AVE
Variance Application
V 4-2-04 / 04-299 / Russell J. Bass
Future Land Use Map
Prepared By: D.M.A.
Date Prepared: 5/17/04
TOWN OF DAVIE FLORIDA
The Town of Davie
Development Service Department
Planning & Zoning Division
N
500 0 500 1000 Feet
Scale

"Exhibit 3"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A-1
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SW 148TH AVE
Subject Site
A-1
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SW 148TH AVE
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Variance Application
V 4-2-04 / 04-299 / Russell J. Bass
Subject Site, Zoning, & Aerial Map
Prepared By: D.M.A.
Date Prepared: 5/17/04
TOWN OF DAVIE
FLORIDA
The Town of Davie
Development Service Department
Planning & Zoning Division
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