

**NOTICE OF MEETING
CITY OF SOUTH PADRE ISLAND
BOARD OF ADJUSTMENTS & APPEALS (ZONING)**

NOTE: One or more members of the City of South Padre Island City Council may attend this meeting; if so, this statement satisfies the requirements of the OPEN MEETINGS ACT.

NOTICE IS HEREBY GIVEN THAT THE BOARD OF ADJUSTMENTS & APPEALS (ZONING) OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, WILL HOLD A REGULAR MEETING ON:

**TUESDAY, AUGUST 5, 2014
9:00 A.M. AT THE MUNICIPAL BUILDING,
CITY COUNCIL CHAMBERS, 2ND FLOOR
4601 PADRE BOULEVARD, SOUTH PADRE ISLAND, TEXAS**

1. Call to Order.
2. Pledge of Allegiance.
3. Public Comments and Announcements: *This is an opportunity for citizens to speak to the Board relating to agenda or non-agenda items. Speakers are required to address the Board at the podium and give their name before addressing their concerns. [Note: State law will not permit the Board of Adjustments & Appeals (Zoning) to discuss, debate or consider items that are not on the agenda. Citizen Comments may be referred to City Staff or may be placed on the agenda of a future Board of Adjustments & Appeals (Zoning) meeting]*
4. Approval of Minutes of the July 8, 2014 Regular Meeting.
5. Discussion and action regarding a request by William Schmidt a variance from Section 20-7.1 District "B-2" – Residential & Multi-family Dwelling District (D) Area regulations (2) Side Yards and/or Section 20-12 Certain non-conforming uses (D) Continuance of non-conforming use subject to regulations of the City's Code of Ordinance. Applicant is requesting to rebuild the stairs the way they were. *(120 E. Esperanza Street; Lot 12 Block 121 Padre Beach Subdivision, Section VIII)*
6. Adjourn

DATED THIS THE 1ST DAY OF AUGUST 2014



Susan Hill, City Secretary

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF REGULAR MEETING OF THE BOARD OF ADJUSTMENTS & APPEALS (ZONING) OF THE CITY OF SOUTH PADRE ISLAND, TEXAS IS A TRUE AND CORRECT COPY OF SAID NOTICE AND THAT I POSTED A TRUE AND CORRECT COPY OF SAID NOTICE ON THE BULLETIN BOARD AT CITY HALL/MUNICIPAL BUILDING ON **AUGUST 1, 2014** AT/OR BEFORE **10:30 A.M.** AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.





Susan Hill, City Secretary

THIS FACILITY IS WHEELCHAIR ACCESSIBLE, AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT BUILDING OFFICIAL, JAY MITCHIM; ADA DESIGNATED RESPONSIBLE PARTY AT (956) 761-1025.

BOARD OF ADJUSTMENTS & APPEALS (ZONING)
MEETING MINUTES
JULY 8, 2014

1. Call to Order.

Roy De los Santos called the meeting to order at 9:00 a.m. in the City Council Chambers on the Second Floor of the Municipal Complex Building: 4601 Padre Boulevard and declared a quorum of members present. Board Members in attendance were: Jerry Pace, Jim Winholtz, Paul Fedigan and Roy De los Santos. Alternate Members present were Peter Maheu and Stephen Burch. Staff Members present were Development Director Sungman Kim, Building Official Jay Mitchim, and Marta Martinez. Also present was City Council Member Alex Avalos.

2. Pledge of Allegiance.

Mr. De los Santos led those present in the Pledge of Allegiance.

3. Public comments and Announcements.

None

4. Approval of Minutes of the January 7, 2014 Regular Meeting.

Mr. De los Santos announced the item from the agenda and asked the Board Members if they had any corrections to the January 7, 2014 regular Meeting Minutes. Mr. Pace made a motion to approve as submitted. Mr. Winholtz seconded the motion. The motion carried unanimously.

5. Discussion and action regarding a request by John and Leticia Ravenberg for a variance from Section 20-13 Setback area – Special regulations and uses (A) Setbacks-Area Not To Be Used of the City’s Code of Ordinance. Applicant is requesting to place an aboveground portable spa within the frontyard setback area. (232 W. Hibiscus Street; Lot 33 Block 117 Padre Beach Subdivision, Section VIII)

Mr. De los Santos announced the item from the agenda and opened it up for discussion by the Board. Mr. Fedigan made a motion to approve as submitted. Mr. Pace seconded the motion. The motion carried unanimously.

6. Adjourn

Since the Board had no further business to discuss, Mr. Winholtz made a motion to adjourn the meeting. Mr. Fedigan seconded the motion. The meeting was adjourned at 9:03 a.m.

Marta Martinez, Secretary

Roy De los Santos, Chairman

**BOARD OF ADJUSTMENT
AGENDA REQUEST FORM**

MEETING DATE: August 05, 2014

Item: 5

SPONSOR / ORIGINATOR: William Schmidt (the owner)

ITEM DESCRIPTION:

Discussion and action regarding variance review under the provisions of both 'Sec. 20-12(D) Continuance of Non-Conforming Use Subject to Regulations' and 'Sec. 20-13(A) Setbacks – Area Not to be Used'.

DISCUSSION:

The Location

120 E. Esperanza Street

Issue

The owner currently has a permit to renovate exterior windows, siding, stairs and railing. The stairs on the West has been within the required 5' side setback area. The building was built in 1974. Without understanding its non-conforming status, the owner removed entire stairs that is located in the West to replace it rather than fixing it.

The Request

The owner is requesting for a side-yard setback variance: The property is within B-2 Zone that requires a minimum 5' side-yard setback (Sec.20-7.1(D)(2)). On the other hand, although the building users may lose convenience, removal of the stairs may not create hardship to the owner since access to 2nd and 3rd floors can be provided by another stairs located in the East.

Related Sections of the Zoning Ordinance

In this case, however, the following subsections may be applicable:

Sec.20-12 (B) "...If a building occupied by a non-conforming use is destroyed by fire or the elements, it may not be reconstructed or rebuild except to conform with the provisions of this ordinance."

*Sec.20-12 (E) Restoration of damaged building permitted. Nothing in this order shall be taken to prevent restoration of a **building destroyed to the extent of not more than fifty-one percent (51%) of its reasonable value by fire, explosion or other casualty or act of God or public enemy, nor the continued occupancy or use of such building, or part thereof, which existed at the time of such partial destruction.***

*Sec.20-12 (D) Continuance of non-conforming use subject to regulations. The right of any non-conforming use to continue shall be subject to such regulations as to maintenance of the premises and conditions of operation as may, **in the judgment of the Board of Adjustments, be reasonably required for the protection of adjacent property.***

BOARD OF ADJUSTMENT AGENDA REQUEST FORM
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STAFF RECOMMENDATIONS / COMMENTS:

Therefore, staff recommends the Board view the case in lights of non-conformance provision and approve continuance of the non-conforming use.

COMMISSION ACTION:

MOTION: _____

BY: _____

SECOND BY: _____

Fedigan	Helms	De los Santos	Pace	Winholtz	Maheu	Huffman	Burch
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
No	No	No	No	No	No	No	No
Abstain	Abstain	Abstain	Abstain	Abstain	Abstain	Abstain	Abstain

- (9) 20 inch minimum distance between rack and curb,
- (10) Do not position racks within roadside bus stops,
- (11) Ensure that a six foot long bicycle can utilize the rack without impeding pedestrians, and
- (12) Only stainless steel or unodized aluminum bicycle parking racks may be used to satisfy the requirements of this section. Bike racks shall be maintained in a structurally sound and rust free state.

Sec.20-7.1 District "B-2" – Residential & Multi-family Dwelling District.

- (A) Area, width, and depth of lots, sanitation and temporary building provisions are the same as District "A", except townhouse lots must have a minimum frontage of twenty five (25') feet; a minimum width of twenty-five (25') feet; a minimum depth of one hundred feet (100'); and a minimum area of two thousand five hundred square feet (2,500 sq. ft.).
- (B) Use Regulations: In District "B-2", no land shall be used and no buildings shall be erected for or converted to any use other than:
 - (1) Single family dwellings, multi-family dwellings; apartment buildings, condominiums and Townhomes.
 - (2) Incidental uses to any of the above specified uses include, but are not limited to, customary home occupations when engaged in by the private dwelling occupant. Said incidental use, however, shall never be permitted as a principal use, but only as a secondary use when indispensably necessary to the enjoyment of the premises by the private dwelling occupant.
 - (3) Special Exceptions: Public Service Facility.
 - (4) Off Site Parking - Commercial parking lots prohibited. Required parking may be located off-site under the following circumstances:
 - (a) No more than 50% of the required parking may be located off-site.
 - (b) The off-site parking lot shall be no further than ninety feet (90') from the nearest property line of the principal use.
 - (c) The off-site parking may be located on another street from the principal use. If the off-site parking lot is located on another street from the principal use, and the principal use does not abut and have pedestrian access to the proposed off-site parking lot, pedestrian access must be created between the principal use and the off-site parking lot, by means of a private pedestrian easement agreement granted to the Property Owners Association and/or property owner of the principal use. The easement shall be recorded in Cameron County and filed with the City of South Padre Island. A public right-of-way shall not serve as the means for meeting the pedestrian access requirements to install an off-site parking lot established in this section, .
 - (d) Offsite Parking Design Standards
 - (1) Streetscape and Perimeter Landscaping
 - a. Provide a landscaped area at least 3 feet in width between surface parking and all property lines.
 - b. Edge treatments along streets and other public spaces should visually screen parked vehicles, but not completely obstruct views into and out of the parking lot for the purpose of supporting pedestrian safety and security.

c. For parking lot edges adjacent to streets, parks or other public open space, provide the following:

- at least one row of shade trees, spaced evenly at 5' to 6' intervals (or as appropriate to the selected species) for the length of the parking lot edge

- screening, consisting of continuous planting, alone or in combination with a low decorative fence/wall or a landscaped berm. Typically, keep shrubs, fences or walls to a maximum height of thirty inches.

d. Set back screening at least 1' from the edge of public street right-of-way. Screening should not encroach into the public street right-of-way.

e. Install a permanent irrigation system in all landscaped areas. Where possible, collect rainwater from rooftops and other surfaces for plant irrigation. Identify hose bibs, sprinkler outlets, storage reservoirs, and other applicable irrigation elements on the Building Permit. Locate valves and other maintenance controls in discrete, yet accessible areas.

(f) Where landscaping might impact motorist pedestrian sight distance, keep shrubs below 24" in height and prune trees so that the lowest branches will be at least 6' above ground level.

(g) Ensure overhanging branches of trees or shrubs adjacent to pedestrian pathways maintain a clear headspace of at least 8' .

(h) Coordinate tree planting with the location of light standards and other utilities.

(2) Legally Conforming Non-Conforming Off-Site Parking Lots

– Off-site parking lots in existence, at the time of the enactment of this Sec. 20-7.1(B)(4)(d)(2), that do not conform to the streetscape and perimeter landscaping requirements established in this section shall be considered legally conforming off-site parking lots.

(C) Height regulations: No building shall exceed three stories. The height shall be restricted to fifty (50) feet above the FEMA Base Flood Elevation.

(D) Area regulations:

(1) Front yards: Same as District "A" (minimum of 25'), except that all lots fronting the west side right-of-way line of Gulf Boulevard may have a front yard setback of ten (10) feet from the property line abutting the west Gulf Boulevard right-of-way line.

(2) Side Yards: Same as District "A" (minimum of 5').

(3) Rear yards: Same as District "A" (minimum of 20'), except that the structure may have decks and/or balconies extending within 10 feet of the rear property line, as long as said decks or balconies are not enclosed and shall only have such enclosures thereabouts as may be required as a good building practice. Any open deck or patio that undertakes to extend beyond the 20 feet rear yard setback within 10 feet of the rear property line as provided for above, shall only be erected or placed in such a manner after a permit specifically therefore is issued by the Building Inspector. The open deck allowed within said area may not in any manner be enclosed, and by way of illustration and not by limitation, such as awnings, shutters, walls or having fixtures or any other type of device other than that which is required as a safety measure under the Building Codes. Any

- (A) No displays of merchandise on top or side of buildings or in any manner hanging on or from the building with the exception of windsocks and spinners;
- (B) No storage of merchandise or inventory in vehicle(s), trailers or outside of the building;
- (C) All outdoor display facilities or fixtures must be secured and/or anchored so that they will not become detached in winds up to 75 miles per hour and must be removed daily at the close of business and brought into the place of business or placed in a fenced-in area on the property that is secure and windproof;
- (D) All outdoor display(s) shall only be permitted during the hours the business is open and staffed of each day;
- (E) All outdoor display facilities, except for windsocks and spinners, must be located within an area not to exceed Five (5) feet from the front wall of the main structure. The total maximum area may not exceed one hundred (100) square feet and may include two (2) displays, but no single display area can exceed fifty (50) square feet;
- (F) Windsocks and spinners will be allowed to display outside up to a maximum of Fifteen (15) items and these must be attached to the front structure of the business;
- (G) No outdoor display may eliminate any existing parking, block sidewalks in any way, and may not cause patrons to park or encroach on the City's right of way;
- (H) Up to a maximum of six (6) periods (dates) per calendar year as designated by the City Manager merchants will be allowed to display merchandise normally sold by the merchant. No tents will be allowed in any outdoor display facility;
- (I) Kite stores may continue to display pursuant to (F) above which has no limitation for time period except for (D) above.
- (J) Beach floats only can be displayed outside for the summer months beginning the weekend before Memorial Day and ending the weekend after Labor Day as specified in (E) above.

Sec.20-12 Certain non-conforming uses.

- (A) Uses existing prior to passage of ordinance deemed conforming or non-conforming. Any lawful use of property existing prior to zoning or re-zoning of said property that does not conform to the regulations of Chapter 20 of the Code of Ordinances shall be deemed a non-conforming use; except that any duplex or apartment use existing prior to November 9, 1979 shall be thereafter deemed a conforming use.
- (B) Future non-conforming uses prohibited. The lawful use of land existing prior to zoning or re-zoning of said property, although such does not conform to the provisions hereof, may be continued, but if such non-conforming use is discontinued for six (6) months, any future use of said premises shall be in conformity with the provisions of this ordinance. If a building occupied by a non-conforming use is destroyed by fire or the elements, it may not be reconstructed or rebuilt except to conform with the provisions of this ordinance.
- (C) Reverter of non-conforming use to lower classification prohibited. The lawful use of a building existing prior to zoning or re-zoning of said property may be continued, although such does not conform to the provisions hereof, and such use may be extended throughout the building, provided no structural alteration, except

those required by law or ordinance is made therein. If no structural alterations are made, a non-conforming use of the building may be changed to another non-conforming use of the same or more restricted classification; provided, however, that in the event a non-conforming use of a building is once changed to a non-conforming use of a higher or more restricted classification, it shall not later revert to the former or less restricted classification.

- (D) Continuance of non-conforming use subject to regulations. The right of any non-conforming use to continue shall be subject to such regulations as to maintenance of the premises and conditions of operation as may, in the judgment of the Board of Adjustments, be reasonably required for the protection of adjacent property.
- (E) Restoration of damaged building permitted. Nothing in this order shall be taken to prevent restoration of a building destroyed to the extent of not more than fifty-one percent (51%) of its reasonable value by fire, explosion or other casualty or act of God or public enemy, nor the continued occupancy or use of such building, or part thereof, which existed at the time of such partial destruction.
- (F) Improvements and additions to existing non-conforming uses. The Board of Adjustment may grant the right to improve or make additions to existing non-conforming uses, after a public hearing, and subject to the following limitations and requirements, to wit:
 - (1) Additions or improvements shall only be considered for the same non-conforming use.
 - (2) Any additions or improvements shall not increase the original non-conforming use (being the size of the structure(s) at the time it became a non-conforming use) by more than 100%.
 - (3) All property owners within 200 feet of any application to expand a non-conforming use shall be notified of the hearing before the Board of Adjustment at least 15 days prior to the date of the hearing.
 - (4) Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in the City's official newspaper.
 - (5) The Applicant hereunder shall be responsible for all costs incurred for the hearing and permit process along with a \$100 fee.
 - (6) The Applicant must demonstrate to the Board of Adjustment that the proposed addition or improvements will have no or minimal negative impact upon surrounding properties or upon the character of the neighborhood or the application will be denied."

Sec.20-13 Setback area -- Special regulations and uses.

- (A) Setbacks--Area Not To Be Used. No vertical structures or manufacture of any kind, temporary or permanent, or any types of goods, wares or merchandise of any kind, nor other property of any kind, will be placed within the setback requirements required by this code, except for fences, signs, trash pads, walks, linen cabinets as detailed in Section 20-13(E) below and retaining walls and the sideyard setback may have placed in it swimming pool equipment, trash pads, walks, shower pads and air conditioning equipment not to exceed first floor level. The setback area shall be that portion of the property between a public right-of-way or lot line and the permissible building line for that piece of property. [Ord 98-03; Jan 1998]



CITY OF SOUTH PADRE ISLAND BOARD OF ADJUSTMENT & APPEALS APPLICATION

- \$250 variance
- Special Exception Use (Sec. 20-16.1)
- Administrative Appeal

APPLICANT INFORMATION

Name William Schmidt
 Mailing Address PO Box 2266
 City, State, Zip South Padre Island, TX
 Phone number (954) 367-3474 78597
 Fax number _____
 E-mail Address Schmidtfish@msn.com

OWNER INFORMATION

Name William Schmidt
 Mailing address PO Box 2266
 City, State, Zip South Padre Island, TX
 Phone number (954) 367-3474 78597
 Fax number _____
 E-mail Address Schmidtfish@msn.com

SITE LOCATION FOR REQUEST:

Physical Address (Street Name & Number): 120 E. Esperanza St.
 Legal Description (Lot / Block / Subdivision): lot 12, Block 121, Padre Beach Sec. VIII

I hereby request the following from the Board of Adjustment and Appeals: 20-7.1 (A) (2)
Side YARDS: SAME AS DISTRICT "A" (minimum of 5')

- In addition, the application requires the submission of the following:
- ◇ \$250 application fee per variance, special exception, and appeal request.
 - ◇ Stamped/Sealed & dated survey of Improvements of the Subject Property.
 - ◇ Copy of Floor Plan of structure proposed to be constructed or expanded.
 - ◇ Current/recent photographs of the site.
 - ◇ And any additional information to more clearly understand the request.

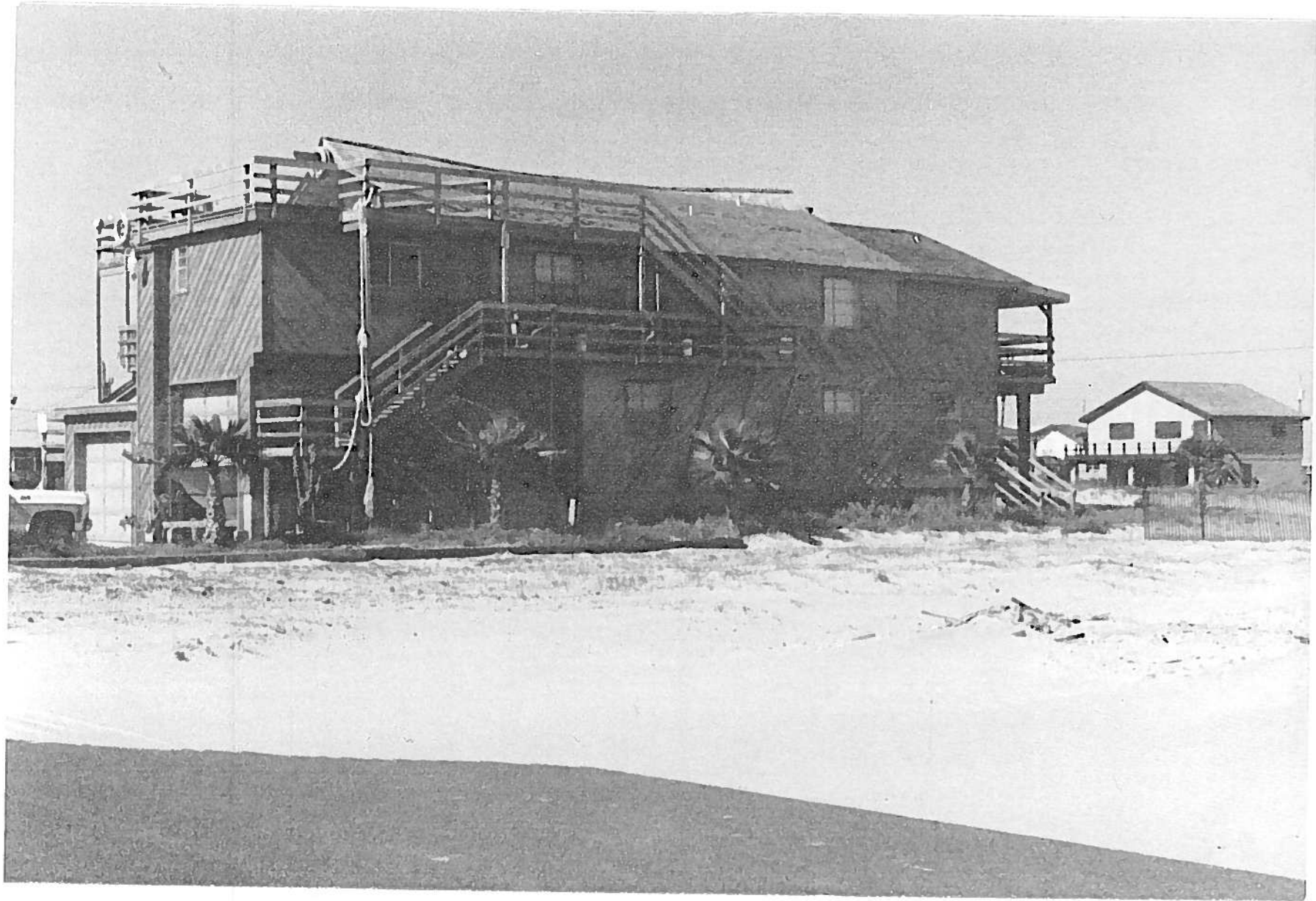
For Internal use only:	
Amount Paid:	_____
Paid Cash or Check No.	_____
Date Received:	_____

Note: Applicants are required to fully disclose in the application all information that is necessary for the various bodies to make their determination prior to issuance of any permit. At a minimum, an application for a variance or Special Exception shall contain ten (10) copies of the information outlined above. All information must be submitted no later than twenty (20) days prior to the meeting date. All fees must be paid prior to the Board reviewing the application.
If Staff determines that the application is incorrect, incomplete, illegible, or in any way inadequate to insure the complete understanding of the variance or special exception, staff shall return the application to the applicant.

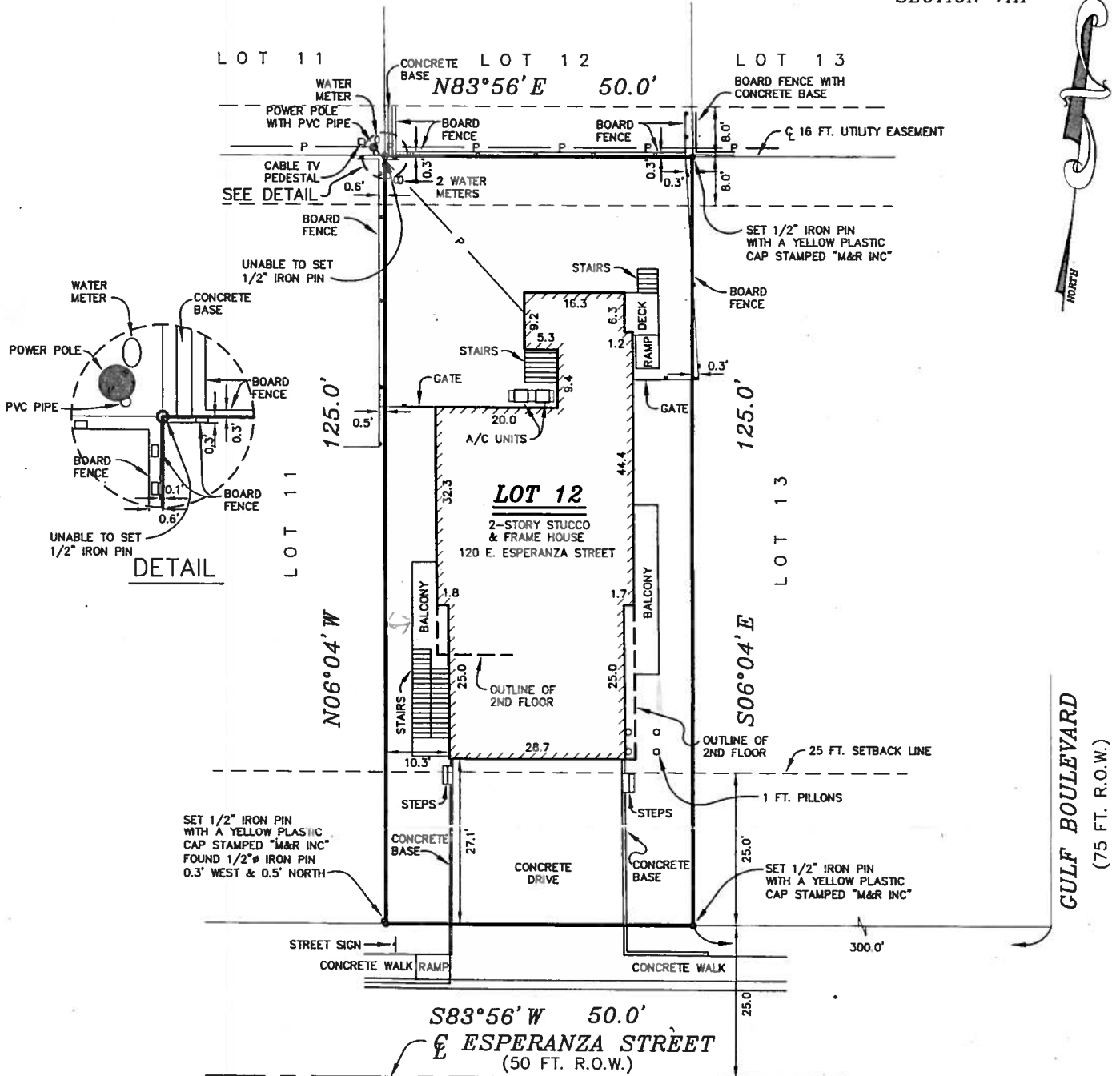
Applicant's Name (Please Print) William Schmidt Owner's Name (Please Print): William Schmidt
 Applicant's Signature: [Signature] Owner's Signature: [Signature]
 Date: 7/15/14 Date: _____







MERIDIAN OF
PADRE BEACH
SUBDIVISION
SECTION VIII



NOTES:

- 1) THIS TRACT LIES IN FLOOD ZONE "AE" (ELEV. 8) PER THE F.I.A. FLOOD INSURANCE RATE MAP OF COMMUNITY NO. 480115, PANEL NO. 0001D, REVISED MARCH 9, 1999.
- 2) MONUMENTATION FOUND ALONG THE NORTH RIGHT-OF-WAY LINE OF ESPERANZA STREET WAS USED AS THE BASIS OF BEARING.

SURVEY OF

LOT NUMBER TWELVE (12), BLOCK NUMBER ONE HUNDRED TWENTY-ONE (121), PADRE BEACH SUBDIVISION, SECTION VIII, CITY OF SOUTH PADRE ISLAND, CAMERON COUNTY, TEXAS, ACCORDING TO THE MAP RECORDED IN VOLUME 15, PAGE 27, MAP RECORDS OF CAMERON COUNTY, TEXAS.

SCALE: 1" = 20'

SURVEYED FOR:

WILLIAM M. SCHMIDT

The undersigned hereby certifies that the survey described hereon was made on the ground on 6-2-2014; that the only improvements on the ground are as shown; that there are no visible encroachments, visible overlappings, apparent conflicts, or visible easements except as shown hereon. THIS CERTIFICATION IS ONLY VALID WITH AN ORIGINAL SIGNATURE AND IF THE DRAWING CONTAINS NO ERASURES OR ADDITIONS.

E. H. Mejia
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 3900



Mejia & Rose, Incorporated

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S.TROWBRIDGE