

Board of Adjustment Hearing City of Belleair Beach, Florida

Thursday, October 13, 2022 Community Center 6:00 PM

Public Hearing Notice Agenda

Call to Order Roll Call

- 1. Approval of August 11, 2022, Board of Adjustment Hearing Minutes.
- 2. Swearing in of Witnesses.
- Review of Rules and Procedures:
 - a. Chairperson reads the appeal.
 - b. Staff report is made by Forward Pinellas.
 - c. Applicant's statement is made.
 - d. Open discussion.
 - e. Motion and Second. (motion always in affirmative)
 - f. Roll Call Vote.
- 4. Consideration of Appeal #22-01. 204 22nd Street. CAROLLO, SANTO TRE CAROLLO, SANTO TRUST is appealing an administrative decision made by the Interim City Manager, consistent with Sec. 94-62(b) of the City's code of ordinances. Decision pertains to Sec. 94-209. Heights; Within the RL district II, all residences shall comply with the base flood elevation (BFE) requirements as set forth in chapter 74 of this Code. Two habitable stories may be constructed alongside a garage or storage area or over a garage or storage area. The garage floor shall be a minimum of 24 inches above the crown of the road. All residences shall not exceed a height of 35 feet, as measured from the BFE to the highest point of the roof. Permitted exceptions to the height regulations set forth in this section are chimneys, cupolas and similar decorations, provided no height extension (i.e., cupola) shall be used as a habitable space, and, provided, no plumbing or electric service shall be allowed after the 35-foot height restriction. Variances to the provisions of this section shall not be requested or granted.; to build a single-family home with three habitable floors. APPEAL #22-01.

5. Adjournment.

Any person who decides to appeal any decision of the Board of Adjustment with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The law does not require the City Clerk to transcribe verbatim minutes, therefore, the applicant must make the necessary arrangements with a private reporter or private reporting firm and bear the resulting expense. Any person with a disability requiring reasonable accommodation in order to participate in this meeting should call 727-595-4646 or fax a written request to 727-593-1409.



NOTICE OF PUBLIC HEARING ON APPLICATION OF APPEAL

CAROLLO, SANTO, owner of the property located at 204 22ND ST, BELLEAIR BEACH FL Legal Description BELLEVUE ESTATES 5TH ADD LOT 65, Parcel Number 30-29-15-07650-000-0650, according to the map or plat thereof as recorded in Plat Book 39, Page 51, of the Public Records of Pinellas County, Florida,

is appealing an administrative decision made by the Interim City Manager, consistent with Sec. 94-62(b) of the City's code of ordinances. Decision pertains to Sec. 94-209. - Heights; Within the RL district II, all residences shall comply with the base flood elevation (BFE) requirements as set forth in chapter 74 of this Code. Two habitable stories may be constructed alongside a garage or storage area or over a garage or storage area. The garage floor shall be a minimum of 24 inches above the crown of the road. All residences shall not exceed a height of 35 feet, as measured from the BFE to the highest point of the roof. Permitted exceptions to the height regulations set forth in this section are chimneys, cupolas and similar decorations, provided no height extension (i.e., cupola) shall be used as a habitable space, and, provided, no plumbing or electric service shall be allowed after the 35-foot height restriction. Variances to the provisions of this section shall not be requested or granted.; to build a single-family home with three habitable floors. APPEAL #22-01.

A Public Hearing is to be held on Thursday, October 13, 2022, at 6:00 PM in the Belleair Beach Community Center located at 444 Causeway Boulevard, Belleair Beach, Florida 33786.

Any person wishing to appeal any decision of the Board of Adjustment with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which an appeal is based. The law does not require the City Clerk to transcribe verbatim minutes. Therefore, the applicant must make the necessary arrangements with a private reporter or private reporting firm and bear the resulting expense. Any person with a disability requiring reasonable accommodations in order to participate in this meeting should call 727-595-4646, or fax a written request to 727-593-1409.

Patricia A. Gentry, CMC City Clerk

Sec. 94-209. - Heights.

Within the RL district II, all residences shall comply with the base flood elevation (BFE) requirements as set forth in chapter 74 of this Code. Two habitable stories may be constructed alongside a garage or storage area or over a garage or storage area. The garage floor shall be a minimum of 24 inches above the crown of the road. All residences shall not exceed a height of 35 feet, as measured from the BFE to the highest point of the roof. Permitted exceptions to the height regulations set forth in this section are chimneys, cupolas and similar decorations, provided no height extension (i.e., cupola) shall be used as a habitable space, and, provided, no plumbing or electric service shall be allowed after the 35-foot height restriction. Variances to the provisions of this section shall not be requested or granted.

(Ord. No. 94-14, § 1(27-5(h)), 9-7-1994; Ord. No. 99-13, § 1(27-5(h)), 10-4-1999)

Patti Gentry

From:

Patti Gentry

Sent:

Friday, September 30, 2022 12:08 PM

To:

santo@olproducts.com

Cc:

shrmlw@cs.com; Patti Gentry

Subject:

Notice of Public Hearing 204 22nd St, Belleair Beach, FL

Attachments:

Carollo-Notice of Public Hearing-Appeal #22-01 204 22nd St.pdf

Dear Mr. Carollo,

The Notice of Public Hearing for October 13, 2022 is attached.

Promptly advise whether an extension is needed.

Best regards,

Patricia A. Gentry, CMC
City Clerk
City of Belleair Beach
444 Causeway Boulevard
Belleair Beach, FL 33786
727.595.4646
727.593.1409 fax
pgentry@cityofbelleairbeach.com

Please Note: All mail to and from the City of Belleair Beach is subject to the Public Records Law of Florida.





City of Belleair Beach
Public Hearing of October 13, 2022
Appeal #22-01

SUMMARY

Location: 204 22nd St Request Type: Appeal

Request Description: Build single-family home

Applicable Zoning District: Residential Low District II

An applicant is requesting an appeal of an administrative decision made by the Interim City Manager, regarding a proposed single-family home located at the abovementioned address. The applicant originally reached out to the former City Manager with said request. Both City Managers, during their respective tenures, denied the proposed single-family home, citing the relevant section of the City's Code of Ordinances below:

Code Section

Sec. 94-209 Heights:

Within the RL district II, all residences shall comply with the base flood elevation (BFE) requirements as set forth in chapter 74 of this Code. Two habitable stories may be constructed alongside a garage or storage area or over a garage or storage area. The garage floor shall be a minimum of 24 inches above the crown of the road. All residences shall not exceed a height of 35 feet, as measured from the BFE to the highest point of the roof. Permitted exceptions to the height regulations set forth in this section are chimneys, cupolas and similar decorations, provided no height extension (i.e., cupola) shall be used as a habitable space, and, provided, no plumbing or electric service shall be allowed after the 35-foot height restriction. Variances to the provisions of this section shall not be requested or granted.

Analysis

This section of the code request allows all residences to construct two habitable stories alongside a garage or storage area OR over a garage or storage area.

The proposed single-family home has provided a site plan which constructs two habitable stories alongside a garage or storage area AND over a garage or storage area.

The code section states that variances to the provisions of this section shall not be requested or granted.

FINDINGS:

Staff recommendation: Denial of appeal

On balance, staff recommends denial of requested appeal, upholding the decision of the former City Manager and Interim City Manager of the City of Belleair Beach. The City's code, per review by professional staff and legal counsel, has been interpreted as only one option of constructing two habitable stories alongside a garage or storage space or over garage or storage space, prohibiting the construction of both simultaneously within

the same single-family residence. As the applicant is requesting the construction of both configurations, staff finds this proposed single-family home non-compliant with the letter of the City of Belleair Beach Code. Therefore, the requested appeal is denied.

LIST OF ATTACHMENTS:

Attachment 1 Interim City Manager Determination (Email)

Attachment 2 Carollo Appeal Letter

Attachment 3 Carollo Residence Site Plan



City of Belleair Beach Appeal #22-01

Application Information

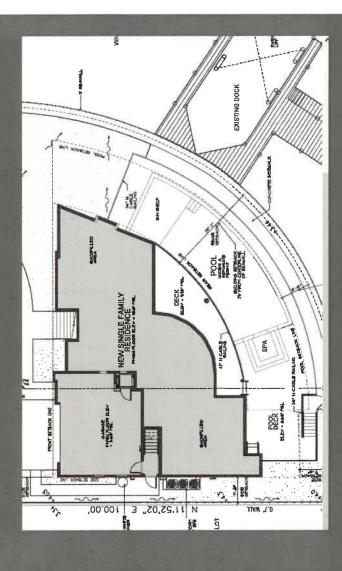
- Location: 204 22nd St
- Request type: Appeal
- Request description: Build single-family home
- Applicable zoning district: Residential Low District II





Application Context

- Applicant requesting appeal of administrative decision made by Interim City Manager
- Applicant requests to construct a single-family home with three habitable stories
- Applicant was denied request, therefore submits the proposed appeal

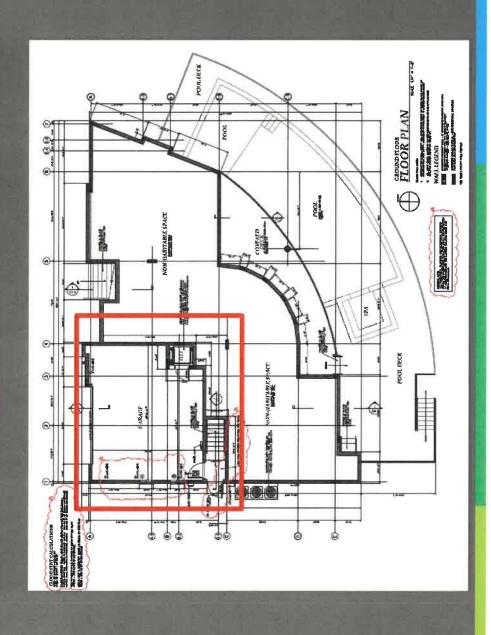




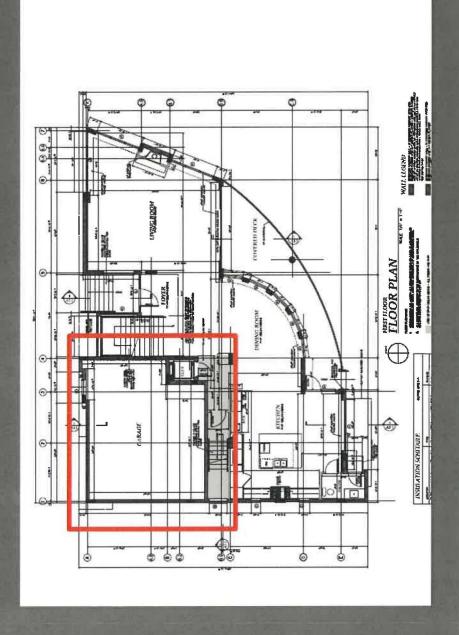
Code Section 94-209 Heights

- Sec. 94-209 allows all residences to construct two habitable stories alongside a garage or storage area OR over a garage or storage area
- Code section states that variances to the provisions of this section shall NOT be granted or requested
- Proposed single-family home would consist of two habitable stories alongside a garage or storage area AND over a garage or storage area

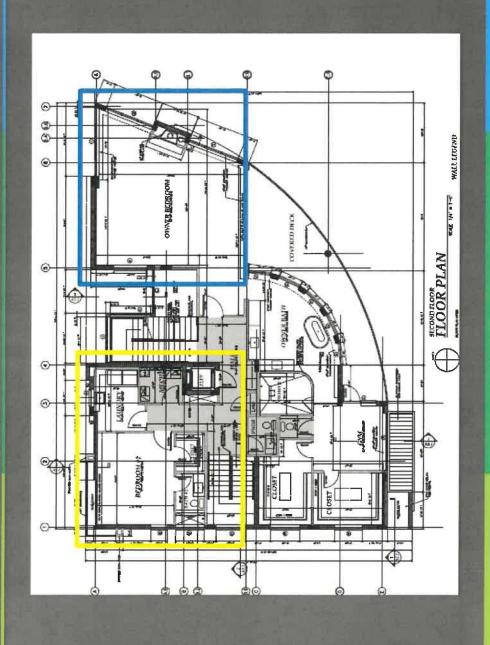




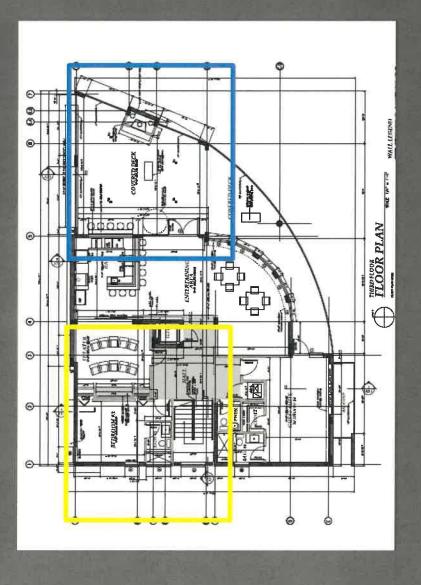














Conclusion

Per professional and legal counsel, the City's code has been interpreted as only allowing construction of one of the following configurations:

Two habitable stories alongside a garage or storage space OR

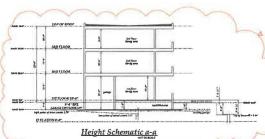
Two habitable stories above a garage or storage space

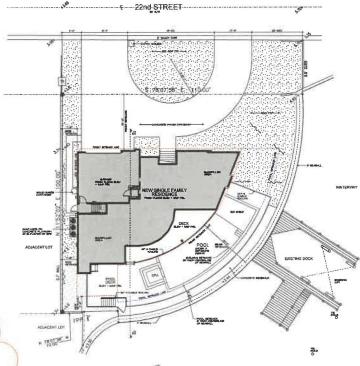
- Applicant requests construction of both configurations simultaneously
- Staff recommends denial of requested appeal
- Uphold administrative decision of Interim City Manager





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JONNATTI ARCHITECTURE INCORPORATED 21021 US Highway 25 N Clastrostes, Elorida 33765 (727) 725-ARCH (727) 725-2603 fc





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SD.1

From: Santo Carollo

To: Kyle Riefler; "mjonnatti@jarch.com"
Cc: "Lawrence Migliara"; Shrmlw
Subject: RE: CAROLLO RESIDENCE

Date: Wednesday, July 27, 2022 9:28:36 AM

[EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Kyle

We maintain that we are correct in our interpretation and elect to contest the City's position through the proper channels.

Is there any further administrative remedies for us to follow in order to change the City' decision?

Thank You



Santo Carollo, CEO

santo@olproducts.com TEL: 727-410-6306 OFC: 813-855-0700 FAX: 813-855-9334 3874 Tampa Rd, Oldsmar, FL 34677

www.olproducts.com

From: Kyle Riefler < Kyle.Riefler @ CityofBelleairbeach.com>

Sent: Wednesday, July 27, 2022 7:37 AM

To: 'mjonnatti@jarch.com' <mjonnatti@jarch.com>

Cc: Santo Carollo <santo@olproducts.com>; 'Lawrence Migliara' <lawrence@sl2consulting.com>;

Shrmlw < Shrmlw@cs.com>

Subject: RE: CAROLLO RESIDENCE

Mark,

Thank for your patience while I've looked into your question. I discussed Section 94-209 with three sources, the former City Manager, Forward Pinellas, and the City Attorney. Lynn Rives advised that the code has always been interpreted as one option or the other, never allowing three habitable floors. I then contacted a Principal Planner at Forward Pinellas, who concurred with the interpretation. Lastly, the City Attorney reviewed the section and saw no issue with the description. Unfortunately, the design cannot be approved with three habitable floors. Please call if you would like to discuss further. Thanks, Kyle.

Kyle Riefler, CFM, CPRP Interim City Manager

City of Belleair Beach 444 Causeway Boulevard Belleair Beach, FL 33786 (727) 229-8433 (727) 593-1409 FAX

From: mionnatti@iarch.com <mionnatti@iarch.com>

Sent: Thursday, July 21, 2022 10:14 AM

To: Kyle Riefler < Kyle.Riefler@CityofBelleairbeach.com>

Cc: 'Santo Carollo' <santo@olproducts.com'>; 'Lawrence Migliara' <lawrence@sl2consulting.com'>;

'Jeffrey Sherman' <<u>shrmlw@cs.com</u>> **Subject:** CAROLLO RESIDENCE

[EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Kyle;

Thanks for with us meeting yesterday.

As discussed, attached are the plans for the Carollo Residence.

Also attached is a height schematic that shows that the residence does not exceed the maximum height of 35 feet above BFE. (This detail is from the permit set sheet SD.1)

This schematic also shows that we have a maximum of 2 habitable stories over the garage in accordance with code Section 94-209.

I included just the architectural files as the complete file is too large to email, the full set including structural, electrical and mechanical can be downloaded from here https://ldrv.ms/u/s!AuorSQiN23OairB2PXo-a0_Vylcvmg?e=kdflEr

Please have Lynn call or email me if he has any questions.

Thank you;

Mark A. Jonnatti

Jonnatti Architecture, Inc.

21021 US Highway 19 North Clearwater, Florida 33765 (727) 725-2724 ph (727) 683-9397 fx (727) 415-8229 cel

www.jarch.com

Celebrating 33 years 1989-2022!

JEFFREY MARK SHERMAN

ATTORNEY AT LAW

3874 Tampa Road Oldsmar, Florida 34677

Admitted Florida and New York

Phone (813) 855-0700 Fax (813) 925-3585 Email shrmlw@cs.com

August 31, 2022

Belleair Beach Board of Adjustments 444 Causeway Boulevard Belleair Beach, Fl. 33786

re:

Carollo Home permit appeal 204 22nd Street, Belleair Beach

Dear Sirs:

Enclosed please find a request for the Board to review the denial of the Carollo Home permit. I have enclosed three copies and three thumb drives for the Board's convenience. It is my understanding that the plans are compliant with the variety of base and height restrictions in the ordinances.

Further, after reviewing the public record on homes in the community, there are a variety of homes that have designs that differ from the language of the ordinance, where the Carollo Home is compliant.

As my client and I are unaware if you provide hearing time or an informal discussion of this request. Any consideration of this matter with be appreciated. Please contact me if your board would like to meet or if you have questions on reaching a resolution.

Thank you.

Jeffrey Mark Sherman

JEFFREY MARK SHERMAN

ATTORNEY AT LAW 3874 Tampa Road Oldsmar, Florida 34677

Admitted Florida and New York

Phone (813) 855-0700 Fax (813) 925-3585

August 31, 2022

Belleair Beach Board of Adjustment 444 Causeway Boulevard Belleair Beach, FL 33786

Re:

NOTICE OF APPEAL
Appeal on Denial of Permit
204 22ND STREET, Belleair Beach, "Carollo Home"

Dear Sirs:

This is a request for the Board of Adjustments to reconsider on this appeal from the decision denying the Permit request for the construction of the "Carollo home". Provided on the thumb drive attached are all of the permit related documents, plans, the permit application, and various emails together with properties that are not in exact compliance with the Height ordinance.

The relevant code provision is the Height Ordinance: Sec. 94-209 Height. This section states there is a 35 foot height restriction on construction and the garage floor must be 24 inches above the crown of the road. The first floor elevation must be above base flood elevations. The permit application and supporting plans are compliant with each of these height requirements, and therefore the permit should have been approved. It is undisputed that the permit application is consistent with the height restrictions regarding the base is above flood elevation for the proposed first floor of the building, its garage floor is two feet above the crown of the road and the entire structure is under the upper limit of 35 feet.

The appellant submits this appeal for the Board to reconsider the Belleair Beach suggested application of the code. The code provides: "Two habitable stories may be constructed alongside a garage..." This requirement is clearly not followed. Many homes in the community have one story along side of the garage with the second story over or partially over the garage. Attached are pictures of various homes in the community with the second floor built over the garage. (See thumb drive pictures) These are examples of homes that are built in compliance with the "Height" ordinance, but not in compliance with the language limiting the manner of construction. While such homes are not in accordance with the code they are being built as acceptably within the Height and Base limits of the Height Ordinance.

Included in the Belleair Beach home information supplied with this appeal are records for homes in Belleair Beach with three habitable living floors. In this case, the Carollo Home has two stories above the garage, in compliance with the ordinance.

Further, if the Board looks at Sec 94-220 mentions Maximums. The ordinance only states "Minimum" living areas and setbacks, the ordinance does not provide any information on maximums only that minimum living areas must be met, there is no limitation on maximum living areas. Again, the Carollo home meets all of the minimum requirements, as well as set backs, base flood elevations and Height limits.

Given the extensive time spent on the physical planning and design of the home to have it fit neatly within the height requirements in Sec. 94-209, this Board should grant this appeal as the home clearly fits within the scheme of the community and the ordinances. To not do so would be an arbitrary and capricious application of the ordinances that serves no purpose.

So long as the home is compliant with the terms of the height restrictions, and minimums the permit should be granted. There is no variance required nor requested in this case as the code limits are being followed. The code clearly permits the structure. In order to properly review the interpretation of the ordinance, judicial rules of interpretation should be employed as a guide when reading ordinances. If the words of the statute are in themselves precise and unambiguous then no more can be necessary than to expound those words in their natural and ordinary sense, the words themselves alone do as such a case best declare the true intention of the Lawmakers. In this case the ordinance is a "height" ordinance, so as stated above the plain meaning of height is clear. It is the added language regarding building alongside that creates an ambiguity. If the code's true purpose in the height restriction section is to limit height, then the permit should be granted.

Golden Rule of Interpretation, is where due to a plain or ordinary meaning of an ordinance results in an absurdity, the court should give an implied meaning, as well as interpret such statute slightly different from its plain provision. "It is a very useful rule on the construction of a statute to adhere to the ordinary meaning of the words used, and to the grammatical construction unless that is at variance with the intention of the legislature to be collected from the statute itself or leads to any manifest absurdity or repugnancy, in which case the language may be varied or modified so as to avoid such inconvenience, but no further." In this case, the exact home may be constructed

This implies that the Golden rule of interpretation allows for departure from the literal rule when the application of the statutory words in its ordinary state would be repugnant to or inconsistent ordinance provides for construction around and on top of a garage within certain height restrictions. The home being built is in compliance with the height and according to the town's interpretation, an identical home could be built if the first habitable floor was called "storage", which is an absurd interpretation of the height restrictions which enables the granting of the permit. It would permit every aspect of the home except living in it.

Beneficial Construction rule: This rule postulates that where the courts seems to be faced with two possible interpretation for a statutory provision, one having a wider meaning and the other, a narrow meaning, the court should adopt the wider meaning. This is because the wider meaning is considered to be more beneficial for the development of the law. Again, this is a height restriction and the boarded interpretation of the restriction, limiting the base and height of the construction should again require the granting of the permit.

Based upon the information provided to the Board, the homeowner respectfully requests this matter be reviewed and the request for the permit be granted. Thank you for your consideration of this appeal.

Respectfully submitted;

Jeffrey Mark Sherman, Esq.

3874 Tampa Road Oldsmar, Fl. 34677

Tel 813 855-0700x227

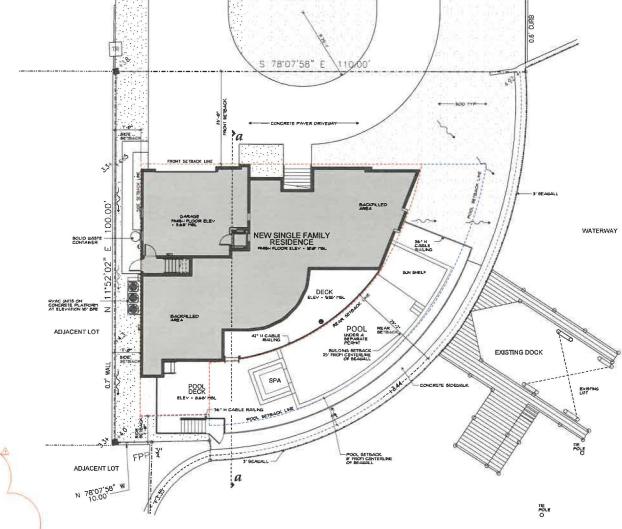
Shrmlw@cs.com

SITE DATA

STANDARD	REQUIRED	PROPOSED
ZONING DISTRICT	RL DISTRICT 2	RL DISTRICT 2
SITE AREA	NO STANDARD	9,1832 SQ. FT.
PERMITTED USE	SNOLE FAMEY	MINGLE FAMILY
DENSITY	ONE LIVING UNIT	ONE LIVING UNIT
MAXIMUM HEIGHT	38.0 FEET MAX ABOVE BFE	35.0 FEET MAX ABOVE DIFE
MPERVIOUS SURFACE RATIO	NO STANDARO	15.6% 1,4655 6Q. FT.
FRONT YARD SETBACK	75.0 FEET	75.0 PEST
REAR YARD SETBACK	25.0 FEET	75.00 FEET
POOL BETBACK	SAP FEET FROM CAL OF SEAUALL	AP FEET FROM C/L OF SEABALL
BIDE YARO BETBACK	10 FEET	1.0 FEET
PARKING SPACES	2 SPACES	3 SPACES
PLOOD ZONE	ZONE AE	ZONE AE
MIN FINISH FLOOR ELEVATION	10.0" M6L	10.0° meL

BUILDING AREAS

FIRST FLOOR LIVING AREA 2ND FLOOR LIVING AREA 3RD FLOOR LIVING AREA	2,684.9 SQ. FT. 7,632.9 SQ. FT. 2,51.0 SQ. FT.	
TOTAL LIVING AREA	8,861 SQ. FT.	
GARAGE AREA BT FLOOR COVERED DECK THO FLOOR COVERED DECK SRO FLOOR COVERED DECK	16 1.0 5Q FT. 370.0 8Q FT. 370.0 8Q FT. 10066.0 8Q FT.	
TOTAL GARAGE AND DECK AREA	2,600.0 5Q, FT.	





LEGEND

BUILDING SETBACK

----- POOL BETBACK

6. D SUALE AND DIRECTION OF FLOW

SITE PLAN

GENERAL SITE NOTES

- ALL BTILITY POLE RELOCATIONS TO BE COORDINATED WITH THE OWNERS OF SUCH FACILITY.
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 SHEWLIK ANCION DRIVE APPROVED INSTALLATION WITHIN THE RIGHT-OF-WAYS OF THE
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 BY THE CONTRACTOR AT THE APPLICANTS EXPENSE. THE REGIT-OF-MAY(S) ARE TO BE RESTORED.
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 OF BE CONSTRUCTED WITHIN APPORT MEANS.
- NOT BE CONSTRUCTED WITHIN APPROX AREA(S).

 4. ALL BOD, SIDEMALK, CURES AND SPRINKLER DAPLAGE, IF ANY, WITHIN THE RIGHT-OF-WAY SHALL BE REPRINED/REPLACED PRIOR TO ENGINEERING FRAIL INSPECTION.
- REPAIRED/REPLACED PRIOR TO ENGINEERING FINAL INSPECTION.

 5. CONTRACTOR SHALL CALL IN ALL REQUIRED ENGINEERING INSPECTIONS PRIOR TO THE COMPLETION OF THE SHALLE PARTY RESIDENCE.
- OF THE SMGLE PAYILY RESIDENCE

 6. AT THE DIMER'S OPTION BRICK PAYERS CAN SE INSTALLED AT THE DRIVE APRONS CONTRACTOR SHALL OBTAIN ANY REQUIRED RIGHT-OF-MAY PERMITS.
- SHALL OBTAIN ANT REQUIRED RIGHT-CF-WAY PERMITS.

 1. ALL MECHANICAL EQUIPMENT SHALL BE LOCATED ABOVE THE BASE FLOOD ELEVATION (BFE)





JONNATTI ARCHITECTURE

INCORPORATED 21021 US Highway 19 N Clearwater, Florida 33765 (727) 725-ARCH (727) 725-2603 fx

> www.jarch.com info@jarch.com © Journatti Architecture Incorporated 2022



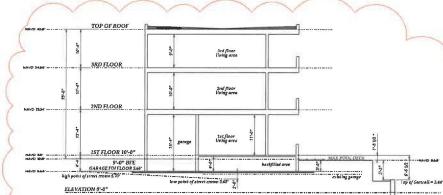
THE CAROLLO RESIDENCE

204 22ND STREET BELLEAIR BEACH FLORIDA 33786

SITE PLAN AND DETAILS

Drawn	MAJ
Check	MAJ
Date	MAR 15, 2022
Scale	AS NOTED
Job No	CAROLLO BB





Height Schematic a-a