



TOWN OF BELLEAIR
BUILDING DEPARTMENT
901 Ponce de Leon Blvd.
Belleair, Florida 33756-1096
Phone: (727) 588-3769 ext. 215
Fax: (727) 588-3768

MEMORANDUM

DATE: May 8th, 2020

TO: Mayor and Commissioners

FROM: J.P. Murphy, Town Manager

SUBJECT: Request for Variance –Eagles Nest Gardens Estate.
Parcel No. 29-29-15-23778-003-0040

Property Owner: Richard & Sonja Tutwiler
3 Winston Drive
Belleair, Florida 33756

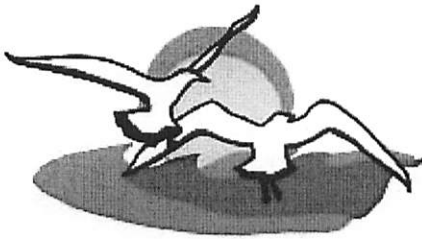
The following information is regarding the above referenced variance request.

I. Existing conditions of land and structure(s):

- A. Zoning designation: R-1 (Single Family Residential)
- B. Original Construction date:
 - 2020 (New Construction)
- C. Structural and other improvements to date:
 - 2020-New House
- D. Existing Easements: 5' Utility Easement

II. Proposed request:

The applicant is requesting a variance, which would allow the construction of a new wrought iron fence with concrete pillars to be installed in the primary front yard setback. The fence would encroach into the required 25 foot primary front yard setback by 25 feet resulting in a 0'foot front yard setback.(Please see the attached fence regulations 74-287)



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BELLAIR BLDG. DEPT.

MAY 08 2020

TIME REC. _____

DATE May 8, 2020

To the Town Commission of the Town of Belleair, Florida

1. The undersigned, Richard & Sonja Tutwiler, owner of Lot UNIT 4
Block BLK C, Subdivision Eagles Nest Garden Estates, property
Commission of the Town of Belleair for a variance on the above-described property.
2. The property is presently zoned R-2.
3. The present land use on the property is Residential - Single Family.
4. The decision involves Article IV Section 74-287 of the Belleair Land
Development Code.
5. The Commissions power arises under Article V, Section 66.253 of the Belleair Land Development
Code.
6. The Relief prayed by the applicant is: Kindly Reference the Enclosed.
7. The Justification for the request is (requests for the variances must demonstrate the practical
difficulty or unnecessary hardship which justifies the variance): Kindly Reference the Enclosed.
8. Attached is a non-refundable fee to defray expenses incurred by the Town of Belleair in processing
this application. (** Note: All costs incurred by the Town of Belleair, above and beyond the
variance application fee, will be the responsibility of the applicant regardless of approval or denial
of the request**)
9. I am aware that this request will be voided should I or my representative fail to appear at the public
hearings scheduled to consider this request.
10. I am aware that any variance that may be granted will automatically expire twelve months after
approval by the Town Commission unless a building permit id produced from the Town with
respect to the improvements contemplated by this application for variance within said twelve
month period unless the construction of said improvements is promptly commenced pursuant to
the building permit and diligently pursued to completion thereafter.

FEE: \$300.00

Paid: \$300.00
5/6/20

Rick & Sonja Tutwiler
Owner
3 Winston Dr.
Address
727-420-9141
Telephone Number

Sec. 74-287. - Fences and fence walls.

- (a) All fences shall comply with the provisions of the Standard Building Code, 1988 edition, section 1205, appendix D, or subsequent editions, and subject to the Town of Belleair property maintenance provisions, article VIII, section 74-517 of the Code of Ordinances.
- (b) The posts of each fence must be resistant to decay, corrosion and termite infestation. Wood fence posts shall be pressure treated or otherwise preserved.
- (c) Fence walls may be constructed of concrete, concrete block, stone, brick or any suitable masonry material. Concrete and concrete block walls shall be finished with a painted stucco finish on both sides. All perimeter retaining walls that are visible from public rights-of-way or open spaces/parks shall require caps.
- (d) Fences and fence walls may be located in side, rear and secondary front yard setback areas and shall not exceed the height of six feet except as otherwise provided in this section, exclusive of decorative supporting posts which may extend no more than nine inches above the maximum six-foot height of the fence or fence wall; provided, however, any fence or fence wall placed along any property line which abuts the Pinellas Trail may not exceed ten feet in height.
- (e) Fences, fence walls, and hedges within ten feet of the mean high-water line or sea wall shall be no more than 48 inches in height.
- (f) The height of a fence or fence wall shall be determined from grade to the average top elevation of the fence or fence wall. Landscape berms, in conjunction with fences, shall be included in height determinations. Fences and fence walls shall be of uniform height along a running face, as topography allows, unless prohibited by other requirements of this Code.
- (g) Fences and fence walls shall be prohibited within the front yard setback area and within the primary front yard setback area of corner parcels.
- (h) In areas where the property faces two roadways, or is located in any other area construed to be a corner lot, no fence, fence wall, or landscape buffer shall be located in the clear visibility triangle.
 - (1) No fence, wall, gate, or landscape buffer shall be allowed to constitute a visual obstruction to motorists, pedestrians, or bicyclists upon the streets, roads, sidewalks, bike paths, driveways, and alleyways of the town.
- (i) Except as provided in subsections (c) and (k), fences and walls may be constructed of wood, masonry, composite materials, vinyl, metal or wire, and shall be constructed of one material type only, except where specifically permitted herein, or by approval of the town manager.
- (j) Fences shall be placed with the finished side out.
- (k) Chainlink fences with canvas (or similar material) backing or mesh may only be permitted as a temporary construction fence, or on any parcel zoned public district. Except as provided below, all chainlink fences shall:
 - (1) Be shielded on the exterior side (the side facing out) as to completely obscure the fence by

a hedge or similar planting;

- (2) Be coated with a black vinyl coating. Green vinyl coatings may only be used for properties zoned public district;
- (3) Have a top rail; and
- (4) May not be utilized along a primary or secondary front yard setback.

All fences, or fence walls placed along a front yard setback or a primary front yard setback or along or within a secondary front yard setback area shall be shielded on the exterior side (the side facing out) by a hedge or similar planting. Any planting must grow to shield said fence over 85 percent of its surface within two years of planting. Should the shielding material die or be destroyed below the 85 percent coverage standard it shall, upon notification by the city, be replaced immediately or the city may take code enforcement action as provided in division 4 of article II.

- (l) No fence or fence wall shall be constructed or installed in such a manner as to adversely affect drainage on or adjacent to the site. To provide adequate drainage or to prevent the obstruction of drainage on or adjacent to the site, a fence or fence wall may be constructed so as to allow the bottom of the fence or fence wall to begin no more than two inches above the ground without being in violation of the maximum height restrictions set out in subsections (d), (e) and (f) of this section.
- (m) Any fence or fence wall required to be shielded by a hedge or similar planting shall be shielded by plant material approved by the town and such plant material shall be, at minimum, a size equivalent to a three-gallon plant and each such plant shall be planted not more than two feet apart. In addition, any fence or fence wall which is required to be shielded by a hedge or similar planting as provided in this section must be set back off a property line a sufficient distance to allow for the planting and growth of the hedge or similar planting and for the maintenance thereof.
 - (1) The town manager may waive the requirement for fence or walls to be shielded with plant material depending on the fence or fence wall materials, or zoning district; if greater than 50 percent of the fence area is open and unobstructed when viewed at a right angle from the public right-of-way. Except as a security measure for parcels zoned public district, the vegetative screening requirement may not be waived for chainlink fences.
 - (2) All chainlink fences must meet the 85 percent vegetative planting requirement at the time of installation. The town manager may waive this requirement for properties zoned public district, where the fencing is used around recreational play fields.
 - (3) Any fence or fence wall requiring vegetative planting must provide or demonstrate a means of irrigation acceptable to the town at the time of installation.
- (mi) Electrically charged, barbed wire or razor wire fences, or any fence or wall containing broken glass, or other substances reasonably designed to do bodily harm are prohibited.
- (mii) New sections of fence being installed shall require the removal of the old sections. Old sections of fence shall not be abandoned in place.

- (miii) Temporary fencing during construction is permitted and regulated in chapter 74, division 4 of the Code of Ordinances. Once a building permit is closed or becomes inactive, the temporary construction fencing shall be removed. The parcel may remain without a fence, or a permanent fence can be erected pursuant to this section, and other sections of the Code, as applicable.

(Ord. No. 399, § 1, 11-20-01; Ord. No. 523, § 1, 7-16-19)

May 8, 2020

CERTIFIED MAIL

&

VIA EMAIL: gkatica@townofbelleair.net

Mayor Gary H. Katica
Town of Belleair
901 Ponce de Leon Blvd.
Belleair, FL 33756

RE: TUTWILER RESIDENCE - REQUEST FOR VARIANCE APPROVAL

Dear Mayor Katica:

We trust you and your family are staying well and safe in the midst of this most dreadful Covid-19 pandemic.

The purpose of this correspondence is to respectfully request a Variance Approval to install a gate and fence within the setback of our property, which is located on 3 Winston Dr. Belleair, FL 33756 for the following reasons noted below and also enclosed herein. As you may recall, our home was severely damages by Hurricane Irma in 2017 and the Town of Belleair would not issue a Permit to Repair our home given the property damage caused by Hurricane Irma exceeded FEMA's 50% Rule. Ultimately, we were required to demolish our home and are a currently in the process of rebuilding a new building necessary to comply with the Florida's current Building Code requirements.

As you will note enclosed, our Architect included for a gate and fence in our building plans, however the Town of Belleair Building Department would not Permit our gate and fence unless we obtained a Variance from the Town of Belleair, thus the reason for our request. Specifically, we were informed by our Architect that in order to obtain our Building Permit, the Town of Belleair's Building Department requested that our Architect remove the entry columns, fencing and gates from our plans due a specific Town Ordinance: **Sec. 74-287 (g). - Fences and fence walls**, which states: "Fences and fence walls shall be prohibited within the front yard setback area and within the primary front yard setback area of corner parcels."

While we understand and respect The Town of Belleair's Code of Ordinances as set forth by the Town's Commission, please understand that it is not our intent to configure an large fence and gate that would be aesthetically displeasing to our surrounding neighbors or residents, rather we are more concerned

about the life, health, and safety issues that we have repeatedly had to endure since purchasing our home in 2013, notwithstanding our liability exposure as it relates to same.

Mayor Gary H. Katica

Town of Belleair

May 8, 2020

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Given our property/seawall borders the Winston drive bridge access and is also located directly across the street from Winston Park, we have endured some of the troublesome issues, which we believe the Town of Belleair should take into consideration as it considers our Variance request to incorporate a fence and gate. Please also note that our neighbors directly behind us have experienced similar issues wherein they have placed NO TRESPASSING signs on their property, but these examples are the very reasons we believe configuring a fence and gate might prevent in future instances and more importantly, reduce our (as well as the Town of Belleair's) liability exposure. Some examples include but are not limited to:

1. Off-leash dogs from Belleair Park frequently venture onto our property provoking our dogs. One dog owner was injured as well as myself. Another recent altercation occurred on December 31, 2019 that required us to retain an attorney to defend the allegations against us so therefore, we believe having our property safely contained would prevent the risk of our pets leaving our property and others entering ours, which would also prevent the interaction of other people or other animals becoming injured. (Please let us know if you require proof of these interactions.)
2. We often encounter people entering into our property from the bridge to fish, and have found trash beer bottles, etc. dumped into our yard. On one occasion, we came home to find kids jumping off our dock and on another we have noticed items stolen from our boat. Occasionally, we have to remove fishing tackle, hooks and fishing line due to people casting, which there is evidence of this still hanging on power lines over the bridge.
3. We have had altercations with people urinating on our property and others who set up their chairs to sunbath.
4. We've came home one time to find kids swimming in our pool, which is another reason why we would like our property safely secured, and especially so given we frequently travel for work lengths of time.
5. We also recognize many other homes in the Town of Belleair have similar gates and fencing and feel that if others have been approved for this type of installation, we feel we should be treated the same. Kindly refer to the attached pictures and addresses.

In closing, we hope that you and the Commissioners of the Town of Belleair will agree that our request would produce an aesthetically proper addition if not an enhancement to our neighborhood. Our Architect has informed us that he has saved the entry columns, fencing and gates from our plans so they can easily be placed back in as an addendum, but before doing so, they do require approval of our

Mayor Gary H. Katica
Town of Belleair
May 8, 2020
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Variance before they can add these items back in and resubmit for Permit approval. It is our sincere hope that the Town of Belleair, will honor and approve our request.

While we await your response, please do not hesitate to contact us should you have any thoughts, questions, or concerns. We can be reached anytime at 727.420.9141.

Thank you for your thoughtful consideration of this request.

Respectfully submitted,

Rick & Sonja Tutwiler

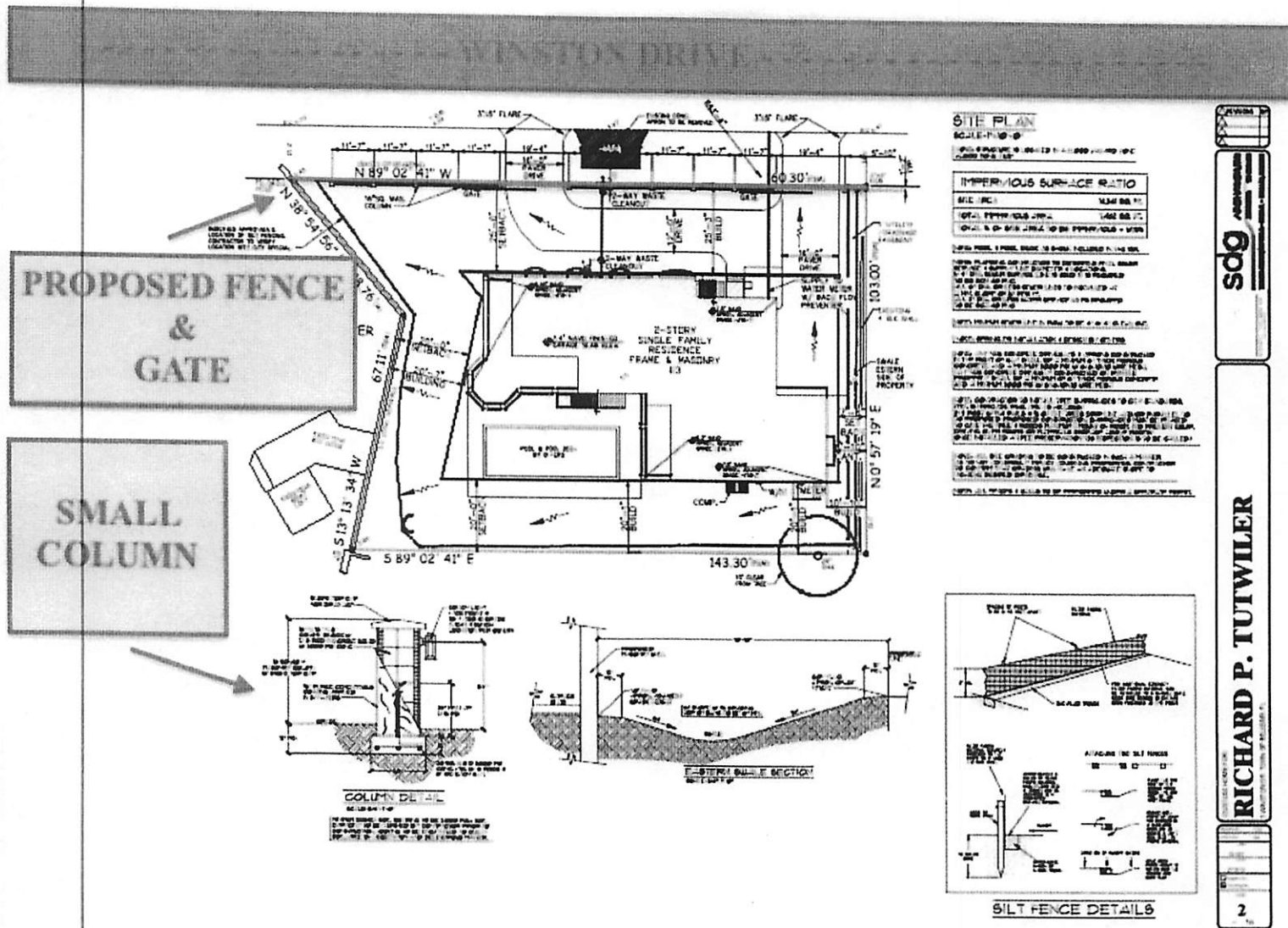
Enclosure(s):

1. Tutwiler Residence - Fence, Column, and Gate Diagram Proposal
2. Similar Homes in Belleair w/ Fences and Gates

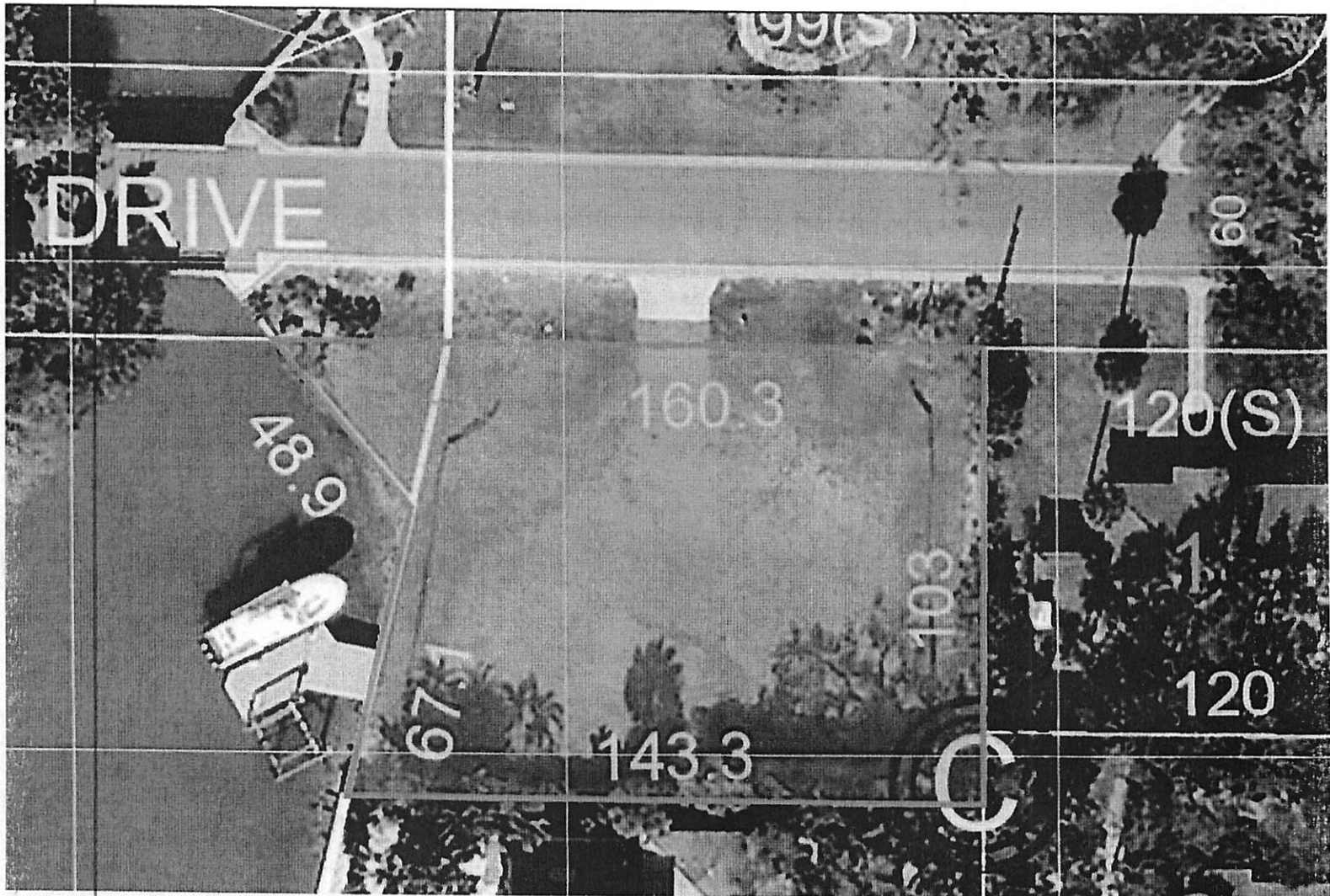
Cc: Mr. Gregg Lauda - Building and Zoning Tech.
VIA EMAIL: glauda@townofbelleair.net

Cc: Town of Belleair Commission
VIA EMAIL: Comminson@TownBelleair.net

TUTWILER RESIDENCE:



FENCE, COLUMN, AND GATE PROPOSAL



SITE MAP

PER: PINELLAS COUNTY PROPERTY APPRAISER

SIMILAR HOMES W/ GATES IN BELLEAIR

1600 Magnolia Rd

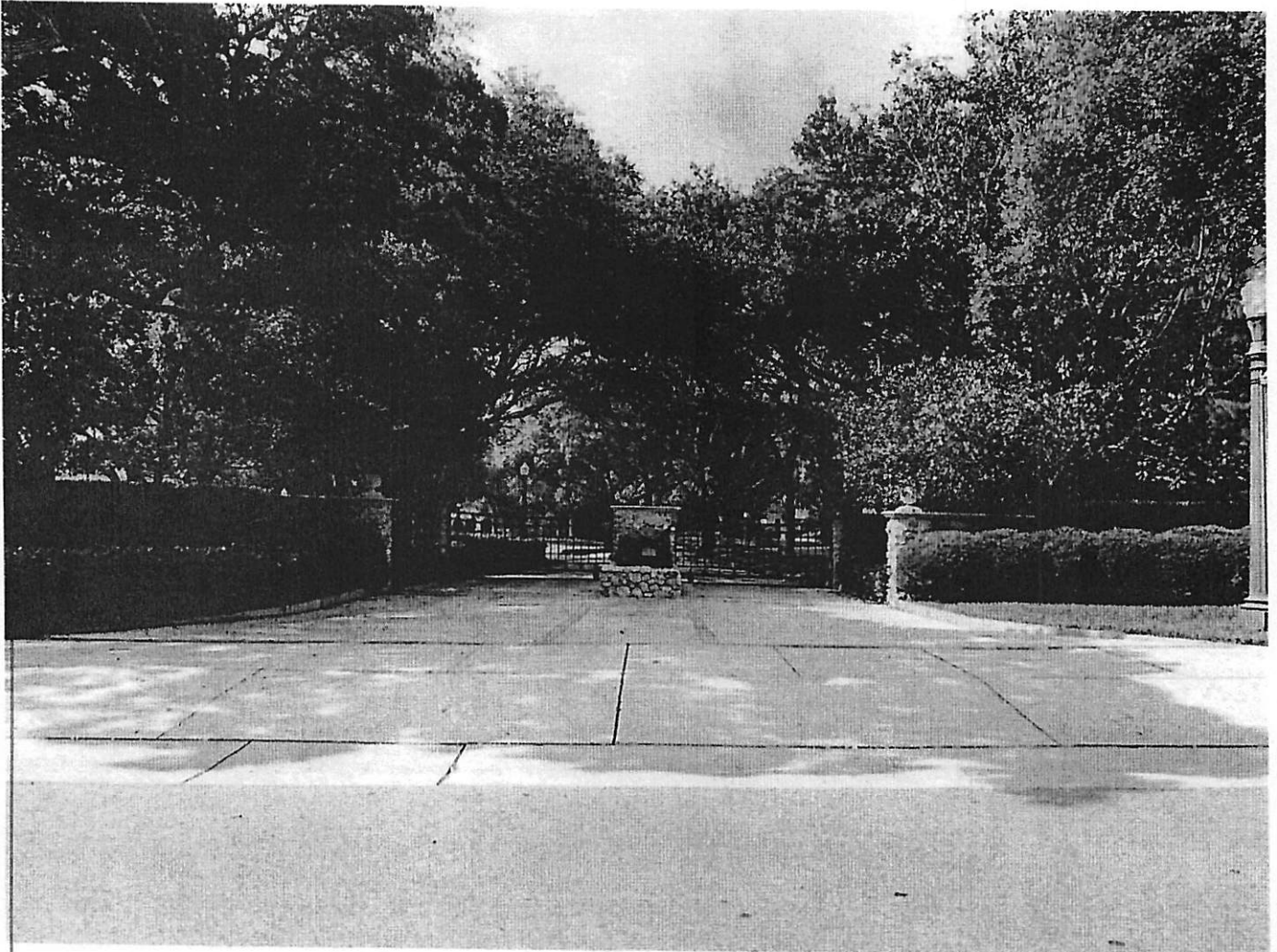
Belleair, FL 33756



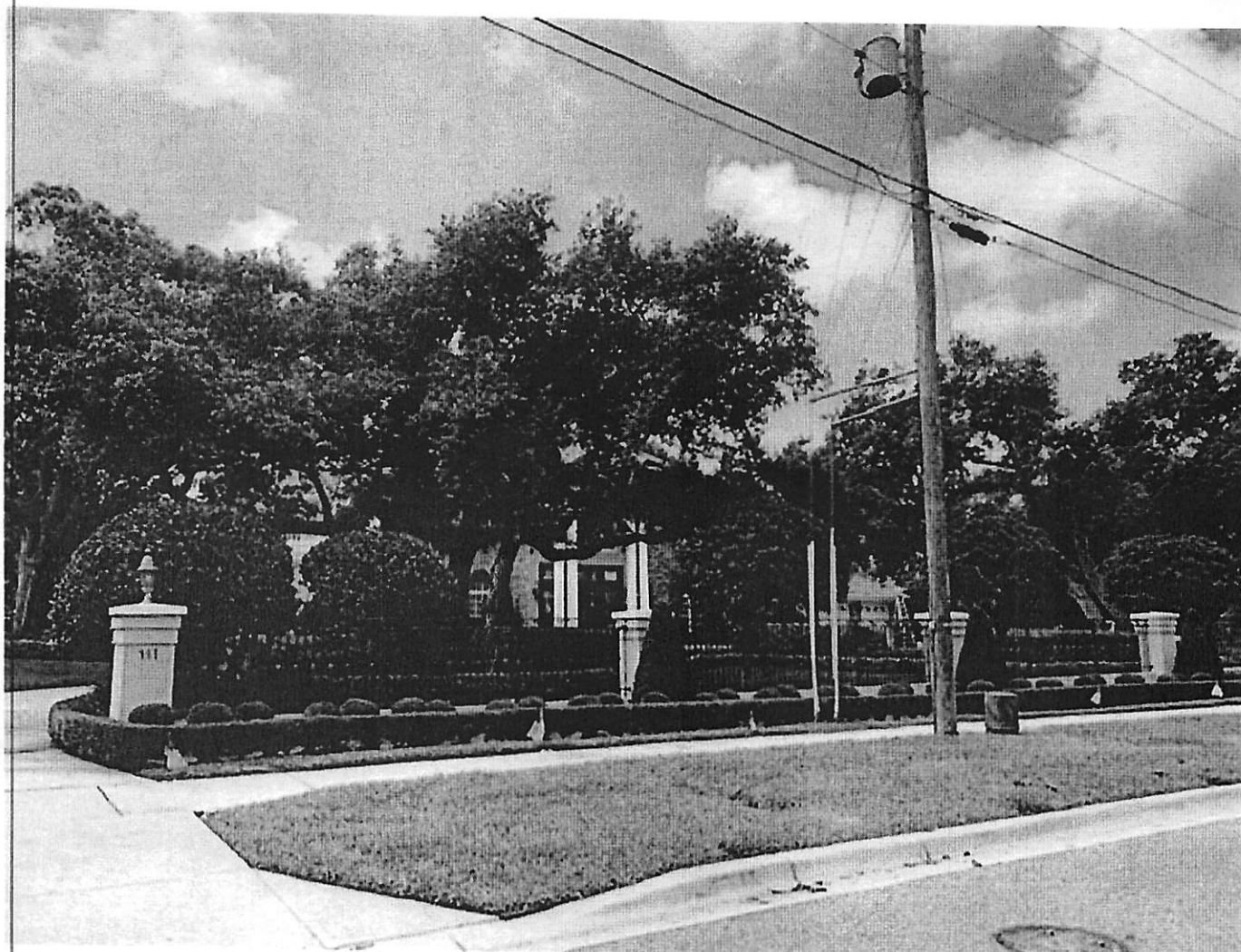
**3 Harborside Dr
Belleair, FL 33756**



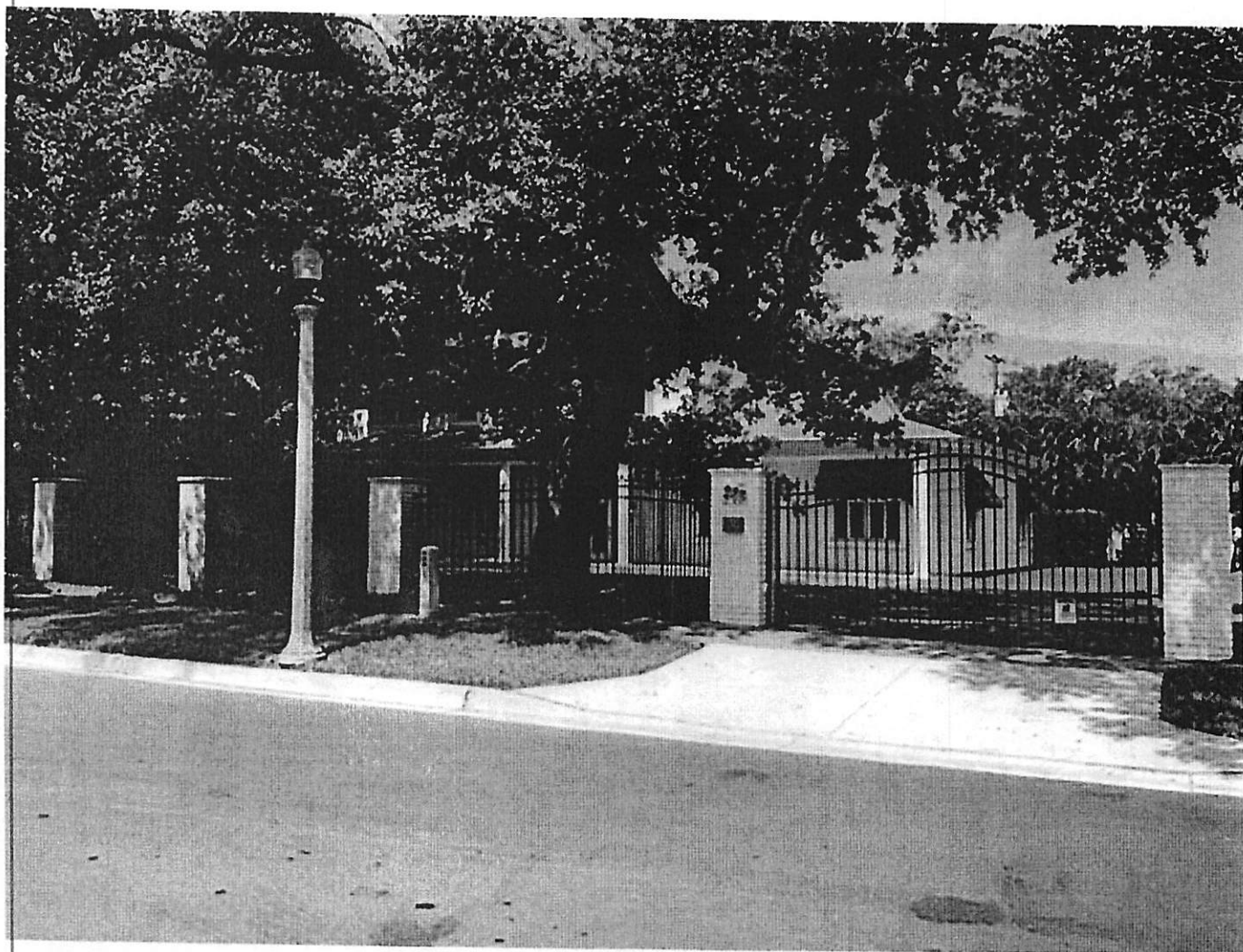
4 Stonegate Dr
Belleair, FL 33756



111 Manatee Rd
Belleair, FL 33756



**135 Willadel Dr
Belleair, FL 33756**



135 Willadel Dr

Belleair, FL 33756



100 Palmetto Rd

Belleair, FL 33756

