

City Planning Department



Memo

To: Cranston City Plan Commission
From: Doug McLean, AICP - Principal Planner / Administrative Officer
Date: September 30, 2020
Re: **Dimensional Variance Application; Kimberly Capirchio**

**Owners/
Applicant:** Kimberly Capirchio

Location: 361 Magnolia Street; AP 5, Lot 2599

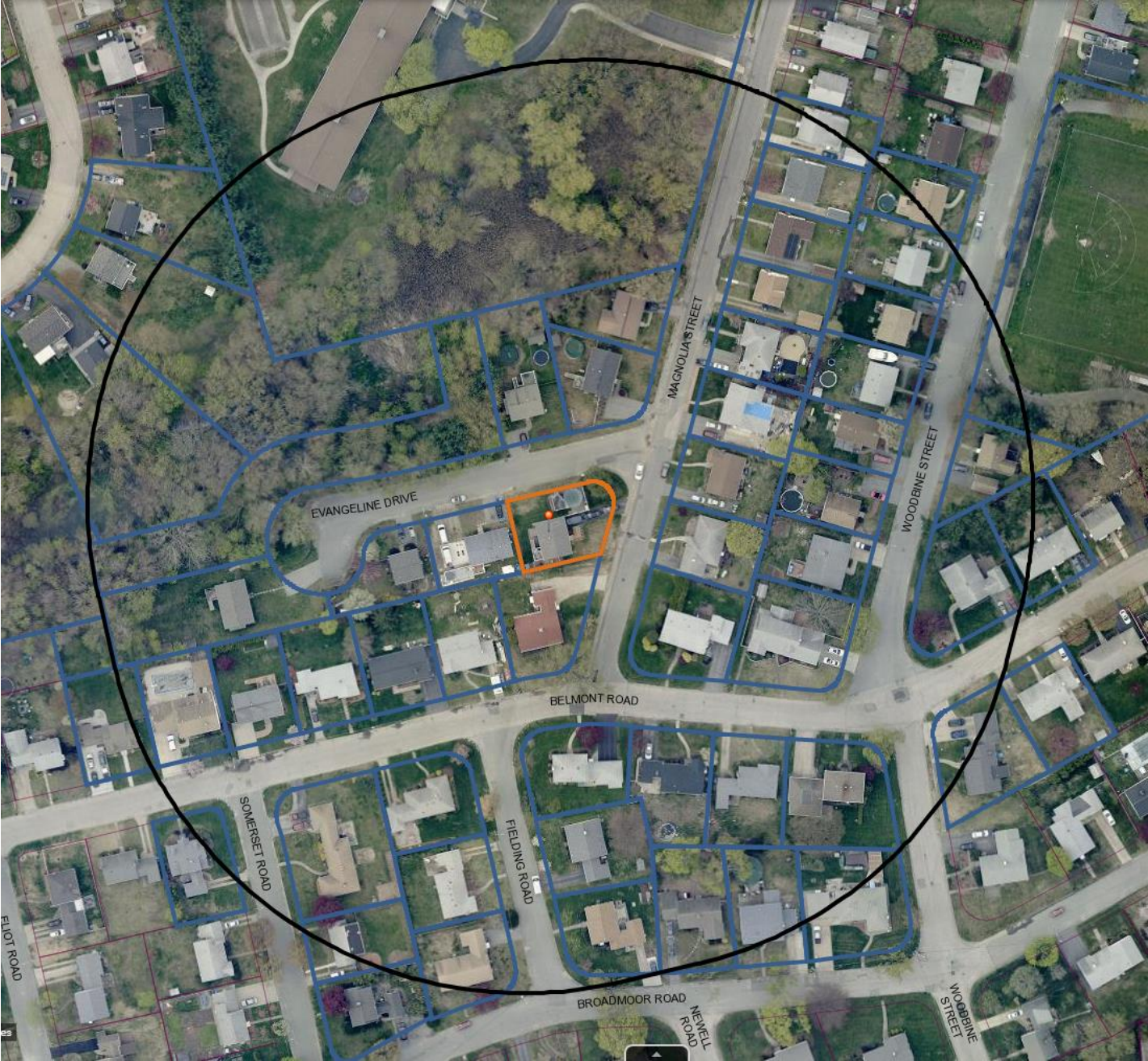
Zone: A-6 (Single-family dwellings on lots of minimum areas of six thousand (6,000) square feet)

FLU: Single Family Residential 7.26 to 3.64 units per acre

DIMENSIONAL VARIANCE REQUEST:

To construct a below ground swimming pool in a front yard setback whereas the pool will be located 5' from the nearest front property line while 25' is required [Section 17.20.120 – Schedule of Intensity; Section 17.60.010 – Accessory Uses]

AERIAL VIEW



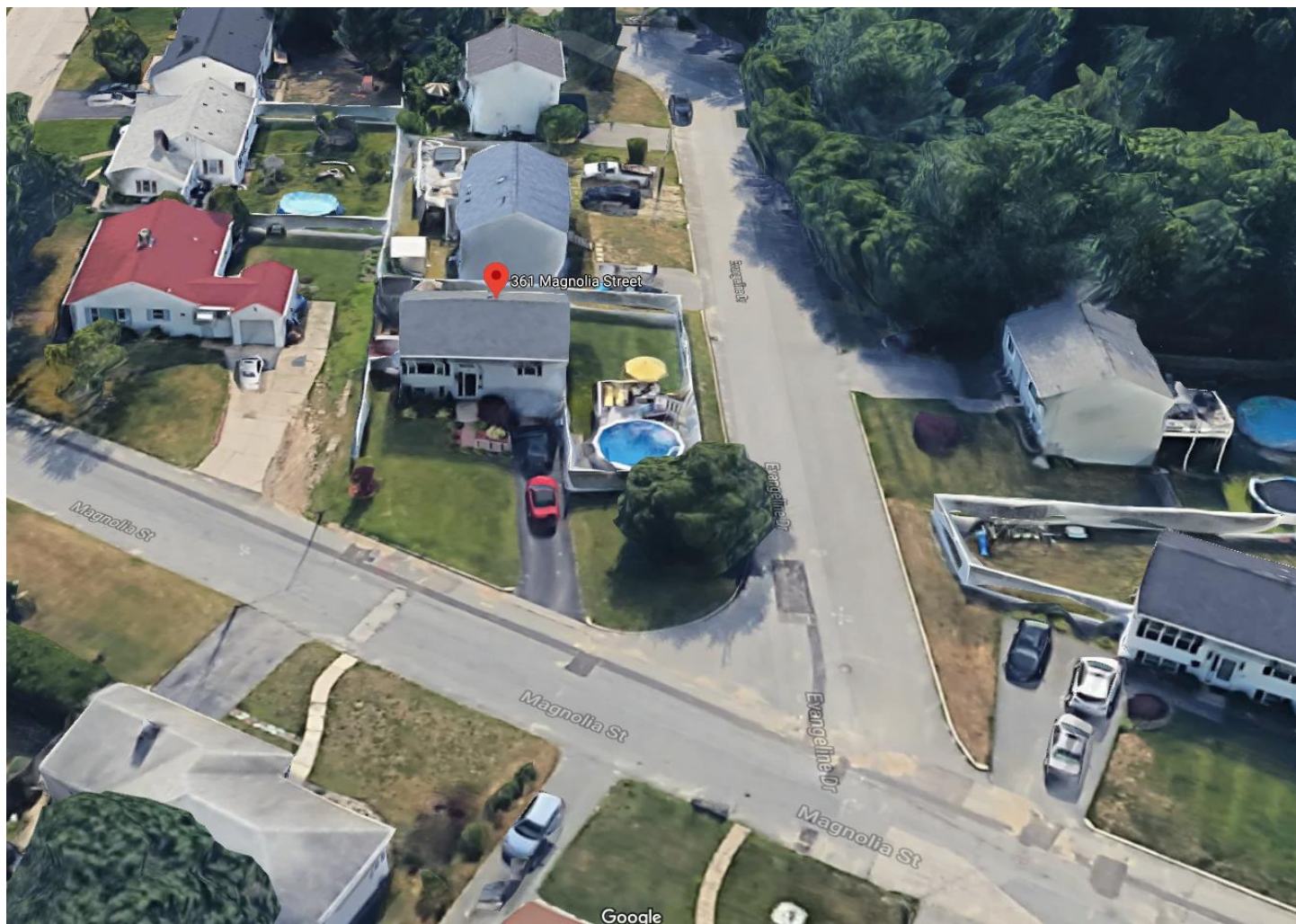
AERIAL VIEW (close up)



ZONING MAP



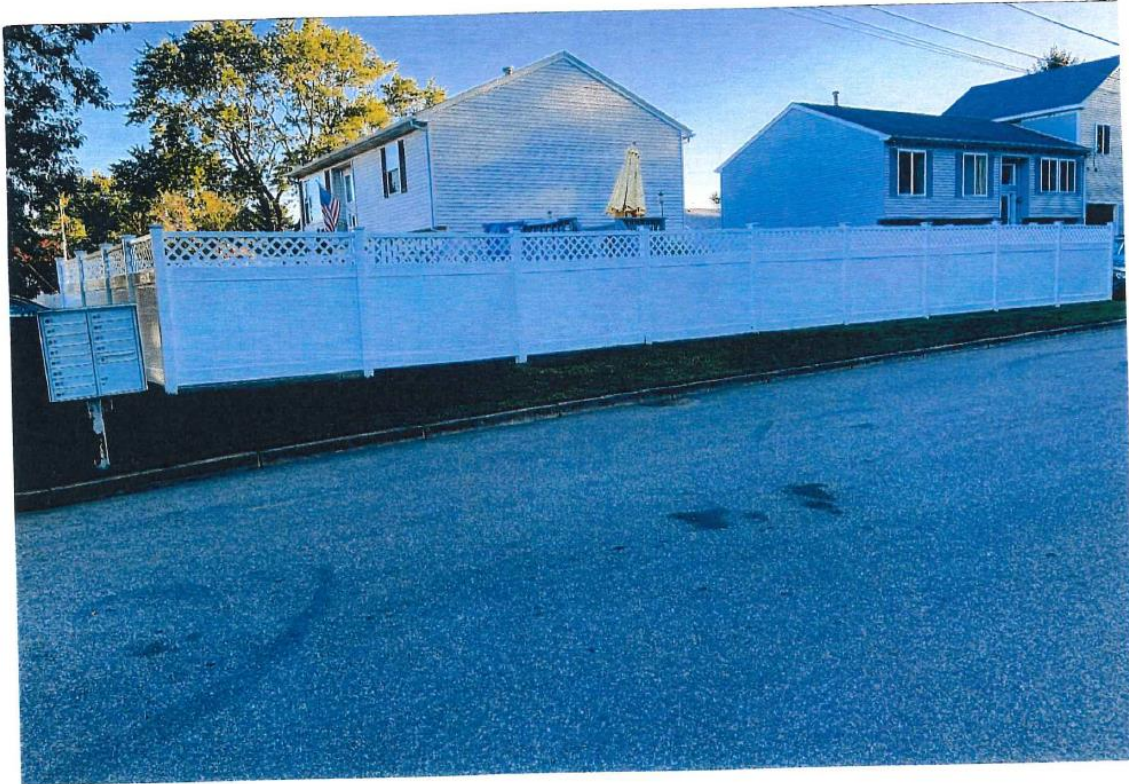
3-D AERIAL VIEW



STREET VIEW (from Magnolia Street)



STREET VIEW (from Evangeline Drive facing south)



STREET VIEW (from Evangeline Drive facing east)

**wood fence in this photo has been replaced with white PVC fence shown in other photos*

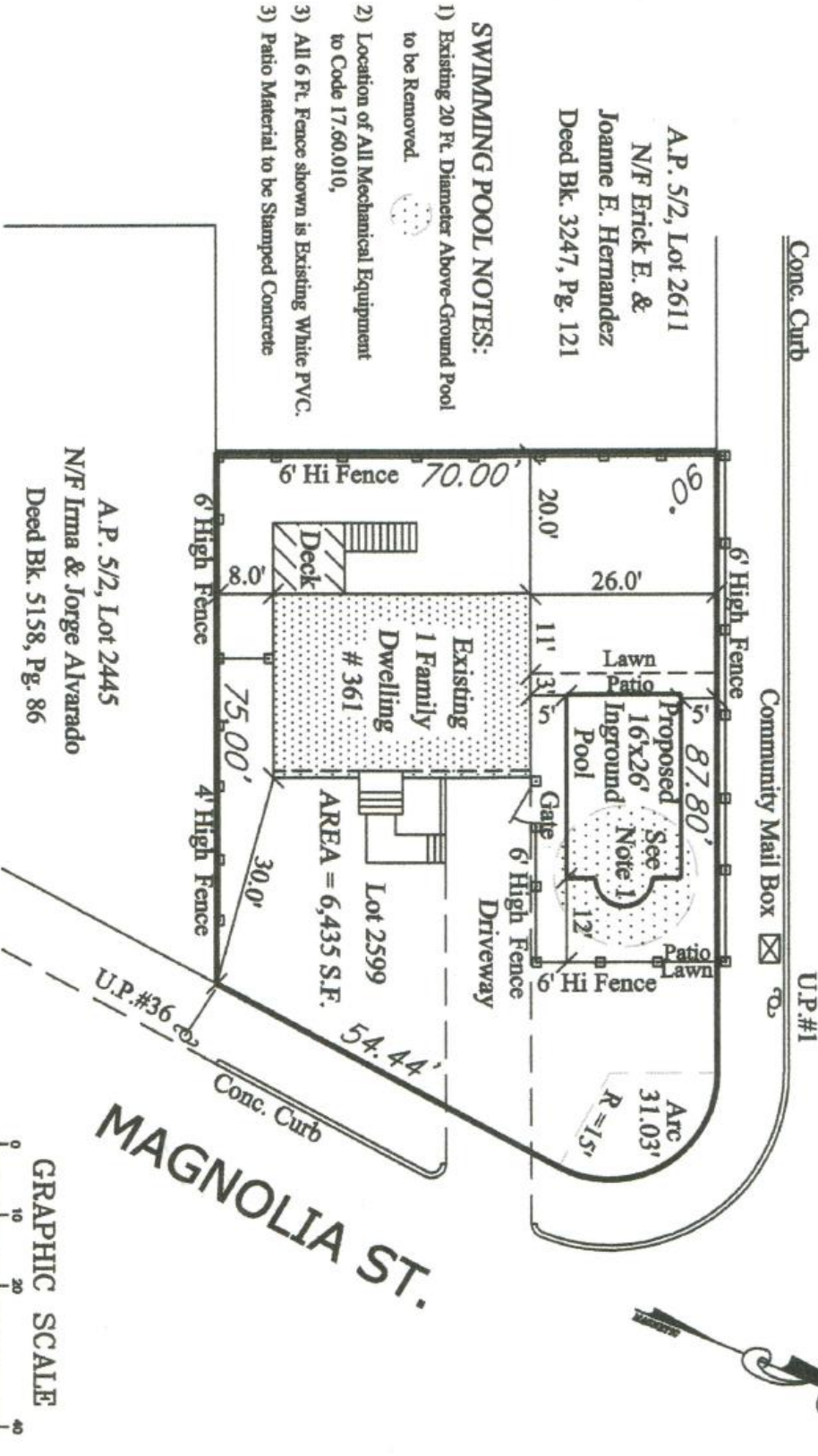


CLOSE UP VIEW OF BACKYARD/EXISTING POOL



SITE PLAN

EVANGELINE ST.



A.P. 5/2, Lot 2611
 N/F Erick E. &
 Joanne E. Hernandez
 Deed Bk. 3247, Pg. 121

SWIMMING POOL NOTES:

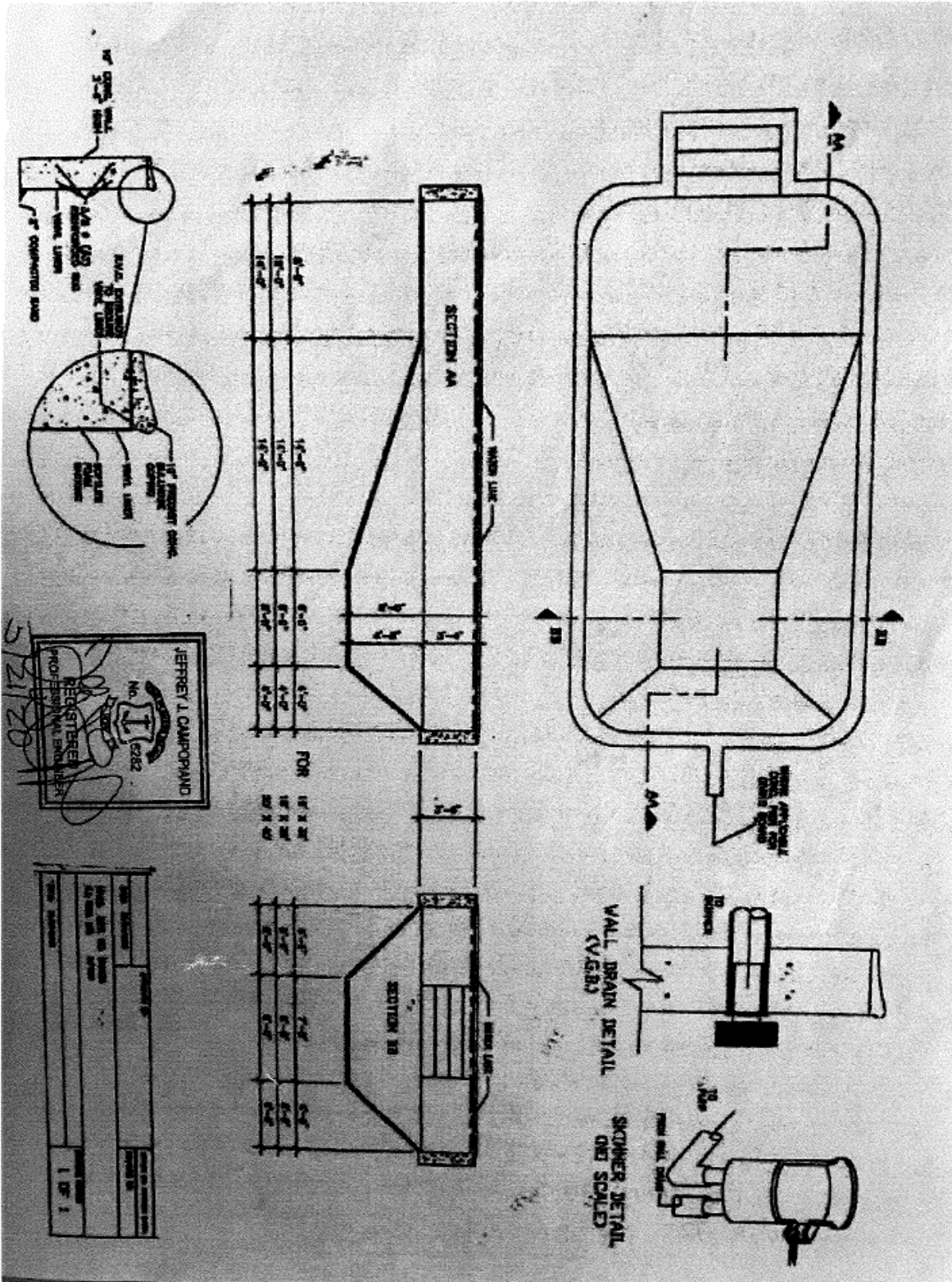
- 1) Existing 20 Ft. Diameter Above-Ground Pool to be Removed.
- 2) Location of All Mechanical Equipment to Code 17.60.010.
- 3) All 6 Ft. Fence shown is Existing White PVC. Patio Material to be Stamped Concrete

A.P. 5/2, Lot 2445
 N/F Irma & Jorge Alvarado
 Deed Bk. 5158, Pg. 86

MAGNOLIA ST.



PROPOSED POOL SPECIFICATIONS



JEFFREY T. CAMPORANO
No. 0282
REGISTERED
PROFESSIONAL ENGINEER

DATE	PROJECT NO.	SCALE
1/21/20		1/8" = 1'

FINDINGS OF FACT:

1. The applicant is seeking to construct a below ground 16'X26' swimming pool in a front yard setback in an A-6 zone. The proposed pool will be located 5' from the front property line abutting Evangeline Drive.
2. The lot conforms to all A-6 standards for required lot dimensions.
3. The existing single-family dwelling conforms to all required building setbacks.
4. There is an existing above ground pool on the subject property located in the front yard setback. The applicant has acknowledged that this pool was constructed without benefit of a city permit approximately 15-20 years ago at the direction of an individual who previously co-owned the property. The applicant has stated in their application that they will remove the existing above ground pool.
5. Section 17.60.010 "Accessory Uses" of the zoning code establishes specific setbacks for a pool in an A-6 zone (5' for rear setback and 5' for side setback). This section of code does NOT provide a specific setback for pool in a front yard, thus the required front yard setback for a pool is the same as the required setback for a building (25').
6. The property does not have the benefit of a typical size backyard because it is a corner lot and is required to have 2 front yard setbacks. A front yard setback must be measured from both the Magnolia Street right-of-way and the Evangeline Drive right-of-way. Because the existing dwelling conforms to all setbacks, there is limited space for improvements in the backyard area. The unique circumstance of this property being a corner lot creates a hardship with regard to locating customary accessory uses in the backyard.
7. There are additional site conflicts with locating the pool in the backyard of the property because there is an existing rear deck and stairs that serves as an emergency second egress from the dwelling.
8. The front yard area where the pool is proposed is surrounded by a 6' white PVC fence. The views of the proposed pool area from the surrounding public rights-of-way are largely screened by the existing fence.
9. The proposal to remove the existing above ground pool and construct a below ground pool will decrease the height of the pool and deck from its current condition to the proposed conditions. Putting the pool at grade, along with keeping the 6' PVC fence, combines to create an effective visual mitigation strategy to provide privacy from abutting neighbors and public rights-of-way.
10. Staff reviewed the Cranston Comprehensive Plan for policies relating to swimming pools, accessory uses, front setbacks, and corner lots. There are no specific policies relating to these items. Staff did identify a limited number of policies relating to community character and visual impacts within residential neighborhoods that provide some direction with regard to the subject application:
 - a. Land Use Element; Principle 4 (page 34): *"Protect and stabilize existing residential neighborhoods by basing land use decisions on neighborhood needs and quality of*

*life. Protect the natural, historic and **visual resources** that define the neighborhoods. In addition, support the existing residential development patterns in order to stabilize the residential blocks and neighborhoods.”*

- b. Land Use Element - LU-2 (page 47): “Continue to amend subdivision regulations to promote land development patterns that minimize site disturbance, **minimize visual impacts**, and retain rural features and community character.”

11. Based on the above cited Comprehensive Plan policies, with consideration of the visual mitigation efforts noted in Findings #8 and #9 above, staff finds that the proposed application is consistent with the intent of the Comprehensive Plan with regard to minimizing visual impacts in residential neighborhoods. Staff acknowledge that this Comprehensive Plan language is not directly tied to accessory swimming pools in front yard setbacks. However, based on the limited amount of specific policies that relate to the subject application, staff is this is the most relevant policy guidance available and is supportive of the application based on existing conditions.

PLANNING ANALYSIS:

The applicant is requesting to construct a below ground swimming pool in a front yard setback that would be 5’ from the front property line. In staff’s discussions with the applicant, they have acknowledged that an existing above ground swimming pool was constructed without benefit of a city permit approximately 15-20 years ago. While the current property owner also owned the subject application when the existing pool was constructed, they stated that the pool was installed at the direction of an individual who previously co-owned the property. The applicant has stated in their application that they wish to “clear the record” on this matter and the application includes a statement that the existing above ground pool will be removed.

The property does not have the benefit of a typical size backyard because it is a corner lot and is required to have 2 front yard setbacks. The aerial imagery and site photos included as part of this memo provide additional evidence that there are site conflicts to locate the pool in the backyard of the property because of limited space behind the house and an existing rear deck and stairs that serves as an emergency second egress from the dwelling.

The front yard area where the pool is proposed is surrounded by a 6’white PVC fence that screens the views from surrounding properties and public rights-of-way. Staff finds that 1) lowering the height of the pool to ground level and 2) maintaining the fence, both combine to provide an effective visual mitigation. As such, staff is of the view that maintaining the fence is a critical component to considering a positive recommendation on this matter.

Staff reviewed the Cranston Comprehensive Plan for policies relating to swimming pools, accessory uses, front setbacks, and corner lots. No such specific policies exist in the plan. In staff’s view, the closest relatable policies in the plan (identified in Finding #10) are related to maintaining community character. Based on these polices, in combination with the visual mitigations included as part of the application, staff finds that the application is consistent with the Cranston Comprehensive Plan.

RECOMMENDATION:

Due to the fact that the application is consistent with the Cranston Comprehensive Plan, and due to the fact that the applicant has providing a mitigation element (fence) to reduce visual impacts and maintain the aesthetic character of the neighborhood, staff recommends the Plan Commission forward a **positive recommendation** to the Zoning Board of Review. Staff further recommends that the Plan Commission consider including a condition as part of its recommendation that that the existing fence (or equivalent replacement fence of similar height and opacity) be maintained for the life of the swimming pool.