



# City of Sanibel

## Planning Commission

### Planning Department Staff Report

**Planning Commission Meeting:** July 28, 2026

**Application Number:** PL20260018 (Variance)

**Applicant:** Deborah Bouchard

**Address:** 499 Leather Fern Place

#### PUBLIC HEARING DESCRIPTION

Consideration of an application for a variance filed pursuant to Land Development Code Chapter 82, Article III, Division 3, Subdivision II – Variances, Section 82-138 – Application and hearing, to request a variance from Section 126-557(b)(1) – Wetlands conservation lands within Sanibel Gardens, Sanibel Highlands, and Tarpon Bay Subdivisions, to allow placement of fill to exceed 20 percent of the gross area of the parcel proposed for development located in the Interior Wetlands Conservation District at 499 Leather Fern Place – tax parcel (STRAP) no. 25-46-22-T3-01107.0050. The application is submitted by Deborah Bouchard (the applicant), on behalf of Deborah A. Bouchard + Corey T. Bouchard et al (owners). **Application No. PL20260018**

#### ISSUES

Pursuant to Sanibel Code Section 82-136. – Authorization, the subject application has been referred to the Planning Commission to address the following issues:

1. Does the application meet all seven variance standards listed in *Sec. 82-140 – (Variance) Standards – Generally* for each of the variances requested?
2. If the Planning Commission approves the application, what additional conditions should be required?

#### ATTACHMENTS

|   |                                               |
|---|-----------------------------------------------|
| A | Applicant's Narrative of Variance Request     |
| B | Applicant's Response to 7 Variance Standards  |
| C | E-mail chain with Savannah White              |
| D | Spot Elevation Survey                         |
| E | Site Plan                                     |
| F | Building Permit 2003-00023837 As-Built Survey |
| G | Building Permit BLDR-2021-001559 Site Plan    |
| H | Natural Resources Department Memorandum       |

## PROPOSAL

This application is to request a variance from Section 126-557(b)(1) to allow the placement of fill to exceed 20 percent of the gross parcel proposed for development, to allow for the installation of a swimming pool and deck accessory to a single-family home.

A copy of the applicant's narrative of the variance request is Attachment A. The applicant's responses to the seven variance standards is Attachment B. A copy of an e-mail chain with Savannah White, Senior Planner, is provided as Attachment C. A spot elevation survey is Attachment D. The proposed site plan is Attachment E. A copy of the as-built survey for the 2003 building permit is provided as Attachment F. The site plan for the 2021 building permit is provided in Attachment G. The Natural Resources Department Memorandum is Attachment H.

## BACKGROUND

The parcel located at 499 Leather Fern Place is developed with a single-family home including a gravel driveway and shell pathways. The house and gravel drive and walkway were built in 2003 (permit no. 2003-00023837, see Attachment F). The shell pathways were constructed sometime around 2020 without permits.

The building permit in 2003 appears to have been reviewed and approved under the D-2 Ecological Zone development standards, without regard to the fact the property is also located within the Interior Wetlands Conservation District (IWCD) in the Sanibel Highlands Subdivision (Figure 1). The IWCD has stricter development standards than that of the underlying ecological zone. City Council created the Interior Wetlands Conservation District in July 1984 in order to "extend a higher degree of protection to the interior wetlands."

An addition/alteration building permit was issued for enclosing the rear screen enclosure and adding an attached elevator (32-sf) in 2021 under building permit number BLDR-2021-001559 (Attachment G). While the elevator was approved under an allowed deviation from impermeable coverage and developed area limitations for building access for people with disabilities (Sec. 126-940), the record was not corrected at that time to show that the site is within the Interior Wetlands Conservation District.

The existing conditions are shown in the 2026 aerial (Figure 2).

An application for a pool permit was submitted to the city in 2025 (Application PRPO202500315). The Planning Department's review correctly identified the property being located within the Interior Wetlands Conservation District with a 20 percent limitation on fill, and also noted the proposed plans were inconsistent with the 2021 as-built survey. Upon receiving these review comments, the owner contacted the city because they had checked with the city before purchasing the property to verify there was room for a pool (Attachment C). The Planning Director determined a variance request was the proper route to seek authorization for the construction of a pool on the property.

Figure 1 – Location of 499 Leather Fern Place



■ = Interior Wetland Conservation District

Figure 2: Existing Site (2026 Aerial)



## ANALYSIS

The original building permit (2003-00023837) and the addition/alteration permit (BLDR-2021-001559) plans included land use tables applying the D2-Upland Wetlands Zone development standards (i.e., maximum impermeable coverage is 25% of the lot area and vegetation removal/developed area is 30% of the lot area). Based upon the 2021 permit, it appeared there was available impermeable coverage and developed area to accommodate a pool area. However, this property lies within the Interior Wetlands Conservation District where no more than 20% of the gross parcel area may be filled. Fill includes, but is not limited to, dirt, sand, shell, stone, mulch, concrete, rubble, plastics, wood chips, vegetation debris, or similar materials (Sec. 78-1). Therefore, the maximum allowed combined impermeable coverage and developed area is 20% of the gross parcel area. The subject property has a gross parcel area of 16,060-square feet. The maximum allowed combined impermeable coverage and developed area at 20% of the gross parcel area is 3,212-square feet.

The proposed site plan includes 3,294-square feet of impermeable coverage and 4,205-square feet of developed area (Attachment E). The proposed pool and pool deck area plus the pool equipment pad is 933-square feet. The proposed plan does not include the 757-square feet of shell pathways that were included on the 2021 site plan. However, it is Planning staff's understanding that the property owner wishes to retain the unpermitted shell pathways based upon e-mail and phone communications. Staff does not support retaining the existing unpermitted shell paths as this would increase the proposed developed area beyond the standards of both the Interior Wetland Conservation District and the D-2 Upland Wetlands Zone and does not represent the minimum necessary to accommodate the requested addition of a pool and deck.

|                      | Proposed 2026 Plan | Maximum allowed per Interior Wetlands Conservation District |
|----------------------|--------------------|-------------------------------------------------------------|
| Impermeable Coverage | 3,294-sf or 21%    | Allowed 20% = 3,212-sf                                      |
| Developed Area       | 4,205-sf or 27%    | Allowed 20% = 3,212-sf                                      |

In order to meet the intent of the Interior Wetland Conservation District while also acknowledging the permits that were incorrectly issued based upon the development standards of the D2-Upland Wetlands Zone, Planning staff recommends a condition of approval limiting impermeable coverage to 21 percent of the gross parcel area and vegetation removal/developed area to 26percent of the gross parcel area.

### Consistency with Sanibel Plan

The Sanibel Plan states that the purpose and intent of the Interior Wetlands Conservation District includes "To ensure that, where development activity does take place in the wetland area, it will be located on those portions of the site and in a manner that will be the least disruptive to the natural functions of these environmentally-sensitive lands" (Section 3.2.2 Conservation Element). The proposed pool is located adjacent to the existing house which is the least disruptive to the natural functions. Natural Resources staff conducted a site inspection with the location of the pool being staked and noted that the proposed swale and berm for stormwater management would impact existing native vegetation within naturally lower elevation areas (See Attachment

H). The city engineer indicated the stormwater management plan could be redesigned to utilize the existing lower areas for the required retention. Therefore, to ensure the project is located where it will be the least disruptive to the natural functions of the site, consistent with the Sanibel Plan, staff is recommending a condition of approval that requires a revision to the stormwater management plan.

### **Consistency with Sanibel Code**

Planning staff reviewed the subject application relative to the seven variance standards in Section 82-140. The tables below include the variance standards, the applicant's response on how the standards are met, and staff review notes for the requested variances.

| <b>Table 1: Consistency with the Sanibel Code Variance Standards</b>                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                           |                      |
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| <b>Sanibel Code Requirement</b>                                                                                                                                                                                                                                                                                                                                                                                      | <b>Applicant's Response</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>Staff Comments</b>                                                                                                                                                                                                                                                                                                                     | <b>Standard met?</b> |
| <b>Sec. 82-140. – Variance Standards</b>                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                           |                      |
| (1) A literal enforcement of the particular regulation would result in undue and unnecessary hardship to a property owner because the particular shape, size, location or topography of a lot or parcel, or of a structure thereon, would cause practical difficulties that would deprive the owner of reasonable use and enjoyment of such lot or parcel in the same manner as other properties similarly situated. | The property located at 499 Leather Fern Place lies within the Sanibel Highlands, an interior wetlands conservation district that limits development to 20 percent of the lot area, as compared to 30 percent for non-wetlands properties. This reduced developable area, combined with the parcel's irregular shape, the placement of the existing residence and driveway, required setbacks, drainage requirements, easements, and protected wetland areas, significantly restricts the available buildable envelope of the residential pool and deck. As a result, there is insufficient impervious and developable area to accommodate a reasonably sized residential swimming pool under strict application of the development regulations. This practical hardship arises from the property's unique physical characteristics and applicable regulatory constraints, not from any action by the property owners. | The property was purchased based upon information provided by Planning staff that indicated there was available impermeable coverage and developed area on the parcel for installing a small pool and deck area resulting in unnecessary hardship for the property owner. Many homes within Sanibel Highlands are constructed with pools. | Yes                  |
| (2) That the special conditions relate to unusual conditions peculiar to the specific lot or parcel or relate to special conditions of the structure involved and are not generally applicable to other lands or structures similarly situated.                                                                                                                                                                      | The conditions necessitating the variance are unique to this parcel and are not representative of general conditions within the zoning district. Many surrounding properties have larger or less constrained buildable areas that allow for pools without variance relief. At 499 Leather Fern Place, however, the wetlands designation and the existing site layout substantially limit yard space. Given these site-specific constraints, the proposed side-yard location, as shown on the amended plat and drainage plan, represents the only feasible placement for a residential pool.                                                                                                                                                                                                                                                                                                                            | The original home was incorrectly approved without reference to the Interior Wetlands Conservation District standards, and the applicant received inaccurate information regarding the available impermeable coverage and developed area from city staff prior to purchasing the property.                                                | Yes                  |
| (3) That the special conditions and circumstances do not result from actions taken by the applicant or proposed by the applicant and are not otherwise self-imposed.                                                                                                                                                                                                                                                 | The hardship is not self-created and results solely from a combination of the property's environmental designation and development limitations, as well as errors made on the City of Sanibel's part. This information was requested when we were initially looking to purchase a home. A requirement for us was having a pool, thus the inquiry about adding a pool to 499 Leather                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | The applicant received inaccurate information regarding the available impermeable coverage and developed area from city staff prior to purchasing the property.                                                                                                                                                                           | Yes                  |

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|  | <p>Fern Pl. when I made the inquiry on March 19th, 2025, this is the information I was provided by Savannah White, Senior Planner at the City of Sanibel's office, after I provided the property plat:</p> <p>"The setbacks drawn are approximate and not to exact scale." The required setbacks in the Upland Wetlands Zone area as follows:</p> <p>Front yard: 50' from centerline of Leather Fern<br/> Side yard: 10' from property line<br/> Rear yard: 10' from property line</p> <p>According to the calculations on the survey, this property has a remainder of 1,511sf of impervious area left and 745sf developed area left."</p> <p>When we were provided this information, we made the decision to purchase 499 Leather Fern Place. Once we closed on the home May 2, 2025, about a week later we had our electric upgraded with anticipation of installing a pool, this upgrade cost to get the electric up to spec to handle the amperage of a pool pump and pool heater, cost us over \$13,000. We immediately contracted with a pool company, Bahama Pools of Fort Myers. Their engineer (LIS Engineering) drew up a pool and small brick paver deck based on the information provided by Savannah White on March 19th, 2025. Once the permit was submitted to the City of Sanibel, it was rejected after a deeper dive was done on the property, after extensive conversations with several city planners and officials, and ultimately Kim Ruiz, the original plans weren't calculated correctly. Which she can speak to.</p> <p>In addition, the proposed pool will provide significant health and quality-of-life benefits for Caitlin Bouchard, a resident of the home who has Phelan-McDermid Syndrome, a rare and profound developmental disability, she is unable to speak and requires 24-hour</p> |  |  |
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|                                                                                                                                                                                                                                                                                                                                                 | care by her family. Aquatic therapy is an essential component of her care, offering physical benefits such as improved mobility, balance, strength, and circulation, as well as important psychological benefits including reduced anxiety and improved emotional well-being. The pool will serve a meaningful therapeutic purpose while remaining consistent with residential use.                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                     |                                  |
| (4) That the applicant has taken all reasonable steps to mitigate or eliminate the requested variance by the acquisition of adjacent lands or the relocation or redesign of the structure involved.                                                                                                                                             | The applicants have made diligent efforts to minimize the variance request. The pool has been reduced in size and carefully configured to remain as compliant as possible within the limited buildable area. Alternative layouts, including rear-yard placement and further dimensional reductions, were thoroughly evaluated but found to be impractical due to safety, functionality, or continued noncompliance. Acquisition of adjacent property is not feasible, as all neighboring parcels are fully developed.                                                                                | There are not any undeveloped adjacent lands to acquire. The pool design has been revised to use stem wall construction to reduce the amount of fill proposed. The proposed site plan also shows the removal of existing unpermitted shell pathways. However, it is staff's understanding that the applicant would like to keep the shell pathways. | Yes, with conditions of approval |
| (5) That the development or use of the subject parcel in some other manner than that proposed, in accordance with the applicable requirements, is not feasible.                                                                                                                                                                                 | Due to the cumulative effect of the 20 percent developable area limitation, required setbacks, and existing site conditions, development of a conforming residential swimming pool is not feasible without variance relief. Without approval, the applicants would be deprived of a customary residential accessory improvement that is otherwise permitted within the zoning district and commonly found throughout the surrounding neighborhood                                                                                                                                                    | The construction of a pool is not feasible in compliance with the fill limitation requirement of the Interior Wetlands Conservation District.                                                                                                                                                                                                       | Yes                              |
| (6) That the requested variance will not be adverse to the developed neighborhood scheme and will not adversely affect the plan and scheme set forth in this Land Development Code and will not cause the proposed development to be inconsistent with the Sanibel Plan nor adverse to the health, safety and general welfare of the community. | Granting the variance will not adversely affect the character of the neighborhood or conflict with the intent of the Land Development Code or the Sanibel Plan. Residential swimming pools are customary accessory uses within this zoning district. The proposed pool will remain entirely within property boundaries, comply with all safety, barrier, and drainage requirements, and will not impact neighboring properties or public areas. The limited setback adjustment will not be visible from the public right-of-way and will preserve the established residential character of the area. | The neighborhood consists of single-family houses and some houses with swimming pools. The variance is not adverse to the neighborhood scheme. Staff recommends conditions of approval to ensure the project meets the intent of the Interior Wetlands Conservation District as set forth in the Sanibel Plan and Sanibel Code.                     | Yes, with conditions of approval |

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| <p>(7) That the variance granted is the minimum necessary to mitigate the hardship demonstrated.</p> | <p>The requested variance represents the minimum necessary to address the documented hardship and allow for reasonable residential use of the property. Approval will support the health, safety, and general welfare of the occupants while remaining consistent with surrounding development patterns and regulatory objectives. No greater relief is requested than is necessary to permit installation of a reasonably sized residential pool and associated deck in the plans provided in the official variance request.</p> | <p>Granting this variance with recommended conditions of approval will ensure the minimum necessary variance to mitigate the hardship demonstrated.</p> | <p>Yes, with conditions of approval</p> |
|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|

## **PUBLIC COMMENT**

No public comments have been received

## **RECOMMENDATIONS AND CONDITIONS**

Staff has made the following findings in support of its recommendations:

- The city issued the building permit for the single-family house and a building permit for an alteration/addition based upon D-2 Upland Wetlands Zone impermeable coverage and vegetation removal/developed area.
- The parcel is located in the Interior Wetlands Conservation District, which was established in 1984 prior to the issuance of the building permits noted above.
- The current owner purchased the parcel based upon the 2021 site plan and e-mail verification from the city that there was available impermeable coverage and developed area to add a pool to the property.
- The proposed pool area is directly adjacent to the house providing the least amount of impact to the natural functions of the Interior Wetlands Conservation District consistent with the Sanibel Plan and Sanibel Code.

Staff, therefore, recommends approval of application PL20260018 subject to the following conditions:

1. The property is allowed a maximum impermeable coverage of 21 percent of the gross parcel area and maximum vegetation removal/developed area of 26 percent of the gross parcel area to accommodate a 901-square foot pool/pool deck designed with stem wall construction and 32-sf pool equipment pad as depicted on the site plan in Attachment E.
2. A building permit for a pool/pool deck with pool equipment pad must be obtained that verifies the maximum allowed impermeable coverage and vegetation removal/developed area noted in condition 1 of this resolution. Existing shell paths shall be removed and planted with 100 percent native ground cover vegetation (i.e., minimum 1-gallon container size installed 3-foot on center, or equivalent planting) to meet the maximum allowed developed area.
3. A revised stormwater management plan must be included with the building permit application for a pool/pool deck that utilizes the existing topography to the extent feasible to meet the on-site retention requirements of Sanibel Code Sec. 118-282(a).

Conditions contained herein are in addition to the requirements of the Sanibel Code. The applicant is required to comply with all regulations of the City of Sanibel. Some conditions stated herein reflect the current code requirements applicable at the time of approval of this permit. After the issuance of the completion certificate for this development or upon expiration of the development permit, any subsequent development or change of use for the parcel must comply with the regulations in effect at that time.