



Planning, Environmental &
Development Services
Department

Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

October 6, 2022

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)
ORANGE COUNTY GOVERNMENT

<u>Board Member</u>	<u>District</u>
Thomas Moses	1
John Drago (Vice Chair)	2
Juan Velez	3
Deborah Moskowitz (Chair)	4
Joel Morales	5
Charles J. Hawkins, II	6
Roberta Walton Johnson	At Large

BZA Staff

Ted Kozak, AICP	Chief Planner
Nick Balevich	Planner II
Laekin O'Hara	Planner I
Jenale Garnett	Planner I
Michael Rosso	Planner II
Tiffany Chen	Planer II

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
OCTOBER 6, 2022**

Case #	Applicant	Commission District	Staff Recommendation	BZA	Page #
VA-22-06-030	Jeremy Kibler	4	Denial	Approval w/Conditions	1
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Please note that approvals granted by the BZA are not final unless no appeals are filed within 15 calendar days of the BZA's recommendation and until the Board of County Commissioner (BCC) confirms the recommendation of the BZA on Oct 25, 2022.

ORANGE COUNTY ZONING DISTRICTS

Agricultural Districts

- A-1** Citrus Rural
- A-2** Farmland Rural
- A-R** Agricultural-Residential District

Residential Districts

- R-CE** Country Estate District
- R-CE-2** Rural Residential District
- R-CE-5** Rural Country Estate Residential District
- R-1, R-1A & R-1AA** Single-Family Dwelling District
- R-1AAA & R-1AAAA** Residential Urban Districts
- R-2** Residential District
- R-3** Multiple-Family Dwelling District
- X-C** Cluster Districts (where X is the base zoning district)
- R-T** Mobile Home Park District
- R-T-1** Mobile Home Subdivision District
- R-T-2** Combination Mobile Home and Single-Family Dwelling District
- R-L-D** Residential -Low-Density District
- N-R** Neighborhood Residential

Non-Residential Districts

- P-O** Professional Office District
- C-1** Retail Commercial District
- C-2** General Commercial District
- C-3** Wholesale Commercial District
- I-1A** Restricted Industrial District
- I-1/I-5** Restricted Industrial District
- I-2/I-3** Industrial Park District
- I-4** Industrial District

Other District

- P-D** Planned Development District
- U-V** Urban Village District
- N-C** Neighborhood Center
- N-A-C** Neighborhood Activity Center

SITE & BUILDING REQUIREMENTS

Orange County Code Section 38-1501. Basic Requirements

<i>District</i>	<i>Min. lot area (sq. ft.)^m</i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.)^a</i>	<i>Min. rear yard (ft.)^a</i>	<i>Min. side yard (ft.)</i>	<i>Max. building height (ft.)</i>	<i>Lake setback (ft.)</i>
A-1	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-2	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-R	108,900 (2½ acres)	1,000	270	35	50	25	35	<i>a</i>
R-CE	43,560 (1 acre)	1,500	130	35	50	10	35	<i>a</i>
R-CE-2	2 acres	1,200	250	45	50	30	35	<i>a</i>
R-CE-5	5 acres	1,200	185	50	50	45	35	<i>a</i>
R-1AAAA	21,780 (1/2 acre)	1,500	110	30	35	10	35	<i>a</i>
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	35	<i>a</i>
R-1AA	10,000	1,200	85	25 <i>h</i>	30 <i>h</i>	7.5	35	<i>a</i>
R-1A	7,500	1,200	75	20 <i>h</i>	25 <i>h</i>	7.5	35	<i>a</i>
R-1	5,000	1,000	50	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
R-2	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Two dwelling units (DUs), 8,000/9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	30	5 <i>h</i>	35	<i>a</i>
	Three DUs, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-3	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5	35	<i>a</i>
	Two DUs, 8,000/ 9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Three dwelling units, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10	35	<i>a</i>
R-T	7 spaces per gross acre	Park size min. 5 acres	Min. mobile home size 8 ft. x 35 ft.	7.5	7.5	7.5	35	<i>a</i>
R-T-1								
SFR	4,500 <i>c</i>	1,000	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
Mobile home	4,500 <i>c</i>	Min. mobile home size 8 ft. x 35 ft.	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
R-T-2	6,000	SFR 500	60	25	25	6	35	<i>a</i>
(prior to 1/29/73)		Min. mobile home size 8 ft. x 35 ft.						
R-T-2 (after 1/29/73)	21,780 ½ acre	SFR 600						
		Min. mobile home size 8 ft. x 35 ft.						

<i>District</i>	<i>Min. lot area (sq. ft.)^m</i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.)^a</i>	<i>Min. rear yard (ft.)^a</i>	<i>Min. side yard (ft.)</i>	<i>Max. building height (ft.)</i>	<i>Lake setback (ft.)</i>
NR	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80/90 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50/4 stories <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NAC	Non-residential and mixed use development, 6,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	50 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 11,250	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50 feet/4 stories, 65 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NC	Non-residential and mixed use development, 8,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	65 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	65 feet, 80 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 for each add. story	35	<i>a</i>
C-1	6,000	500	80 on major streets (see Art. XV); 60 for all other streets <i>e</i> ; 100 ft. for corner lots on major streets (see Art. XV)	25	20	0; or 15 ft. when abutting residential district; side street, 15 ft.	50; or 35 within 100 ft. of all residential districts	<i>a</i>

<i>District</i>	<i>Min. lot area (sq. ft.)^m</i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.)^a</i>	<i>Min. rear yard (ft.)^a</i>	<i>Min. side yard (ft.)</i>	<i>Max. building height (ft.)</i>	<i>Lake setback (ft.)</i>
C-2	8,000	500	100 on major streets (see Art. XV); 80 for all other streets <i>f</i>	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	50; or 35 within 100 feet of all residential districts	<i>a</i>
C-3	12,000	500	125 on major streets (see Art. XV); 100 for all other streets <i>g</i>	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	75; or 35 within 100 feet of all residential districts	<i>a</i>

District	Min. front yard (feet)	Min. rear yard (feet)	Min. side yard (feet)	Max. building height (feet)
I-1A	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-1 / I-5	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-2 / I-3	25	10	15	50, or 35 within 100 ft. of any residential use or district
I-4	35	10	25	50, or 35 within 100 ft. of any residential use or district

NOTE: These requirements pertain to zoning regulations only. The lot areas and lot widths noted are based on connection to central water and wastewater. If septic tanks and/or wells are used, greater lot areas may be required. Contact the Health Department at 407-836-2600 for lot size and area requirements for use of septic tanks and/or wells.

FOOTNOTES

<i>a</i>	Setbacks shall be a minimum of 50 feet from the normal high water elevation contour on any adjacent natural surface water body and any natural or artificial extension of such water body, for any building or other principal structure. Subject to the lakeshore protection ordinance and the conservation ordinance, the minimum setbacks from the normal high water elevation contour on any adjacent natural surface water body, and any natural or artificial extension of such water body, for an accessory building, a swimming pool, swimming pool deck, a covered patio, a wood deck attached to the principal structure or accessory structure, a parking lot, or any other accessory use, shall be the same distance as the setbacks which are used per the respective zoning district requirements as measured from the normal high water elevation contour.
<i>b</i>	Side setback is 30 feet where adjacent to single-family district.
<i>c</i>	For lots platted between 4/27/93 and 3/3/97 that are less than 45 feet wide or contain less than 4,500 sq. ft. of lot area, or contain less than 1,000 square feet of living area shall be vested pursuant to Article III of this chapter and shall be considered to be conforming lots for width and/or size and/or living area.
<i>d</i>	For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet and the duplex lot size is 8,000 square feet. For detached units the minimum duplex lot width is 90 feet and the duplex lot size is 9,000 square feet with a minimum separation between units of 10 feet. Fee simple interest in each half of a duplex lot may be sold, devised or transferred independently from the other half. For duplex lots that: <ul style="list-style-type: none"> (i) are either platted or lots of record existing prior to 3/3/97, and (ii) are 75 feet in width or greater, but are less than 90 feet, and (iii) have a lot size of 7,500 square feet or greater, but less than 9,000 square feet are deemed to be vested and shall be considered as conforming lots for width and/or size.
<i>e</i>	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
<i>f</i>	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
<i>g</i>	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
<i>h</i>	For lots platted on or after 3/3/97, or unplatted parcels. For lots platted prior to 3/3/97, the following setbacks shall apply: R-1AA, 30 feet, front, 35 feet rear, R-1A, 25 feet, front, 30 feet rear, R-1, 25 feet, front, 25 feet rear, 6 feet side; R-2, 25 feet, front, 25 feet rear, 6 feet side for one (1) and two (2) dwelling units; R-3, 25 feet, front, 25 feet, rear, 6 feet side for two (2) dwelling units. Setbacks not listed in this footnote shall apply as listed in the main text of this section.
<i>j</i>	Attached units only. If units are detached, each unit shall be placed on the equivalent of a lot 45 feet in width and each unit must contain at least 1,000 square feet of living area. Each detached unit must have a separation from any other unit on site of at least 10 feet.
<i>k</i>	Maximum impervious surface ratio shall be 70%, except for townhouses, nonresidential, and mixed use development, which shall have a maximum impervious surface ratio of 80%.
<i>m</i>	Based on gross square feet.

These requirements are intended for reference only; actual requirements should be verified in the Zoning Division prior to design or construction.

VARIANCE CRITERIA:

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for a zoning variance shall be approved unless the Board of Zoning Adjustment finds that all of the following standards are met:

1. **Special Conditions and Circumstances** – Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed zoning variance.
2. **Not Self-Created** – The special conditions and circumstances do not result from the actions of the applicant. A self-created hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.
3. **No Special Privilege Conferred** – Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by the Chapter to other lands, buildings, or structures in the same zoning district.
4. **Deprivation of Rights** – Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of the property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval.
5. **Minimum Possible Variance** – The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. **Purpose and Intent** – Approval of the zoning variance will be in harmony with the purpose and intent of this Chapter and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

SPECIAL EXCEPTION CRITERIA:

Subject to Section 38-78, in reviewing any request for a Special Exception, the following criteria shall be met:

1. The use shall be consistent with the Comprehensive Policy Plan.
2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.
3. The use shall not act as a detrimental intrusion into a surrounding area.
4. The use shall meet the performance standards of the district in which the use is permitted.
5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.
6. Landscape buffer yards shall be in accordance with Section 24-5, Orange County Code. Buffer yard types shall track the district in which the use is permitted.

In addition to demonstrating compliance with the above criteria, any applicable conditions set forth in Section 38-79 shall be met.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#4**

Case #: **VA-22-06-030**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JEREMY KIBLER

OWNER(s): NOEL MALCOLM, SARAH MALCOLM

REQUEST: Variance in the A-2 zoning district to allow the conversion of an existing residence to an accessory dwelling unit (ADU) with 2,240 sq. ft. of living area in lieu of a maximum of 1,500 sq. ft.

PROPERTY LOCATION: 10528 Kirby Smith Rd., Orlando, FL 32832, south side of Kirby Smith Rd., north side of Lake Whippoorwill, east of Narcoossee Rd., south of SR 417.

PARCEL ID: 17-24-31-0000-00-016

LOT SIZE: +/- 7.3 acres (+/- 2.7 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 39

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by Juan Velez; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan and elevations received August 26, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the conversion of the principal structure into an ADU shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void.

The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. Prior to the issuance of the permit for the principal residence, a permit for the shed shall be obtained or the shed shall be removed.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial since there are other options available to meet code requirements for the proposal. Staff noted that no comment was received in favor of the application and three (3) comments were received in opposition.

The applicant discussed the staff recommendation, agreed with the proposed conditions, and noted that the proposal meets all required setbacks and stated that the existing residence will remain as-is, and only will be converted to an ADU with no modifications.

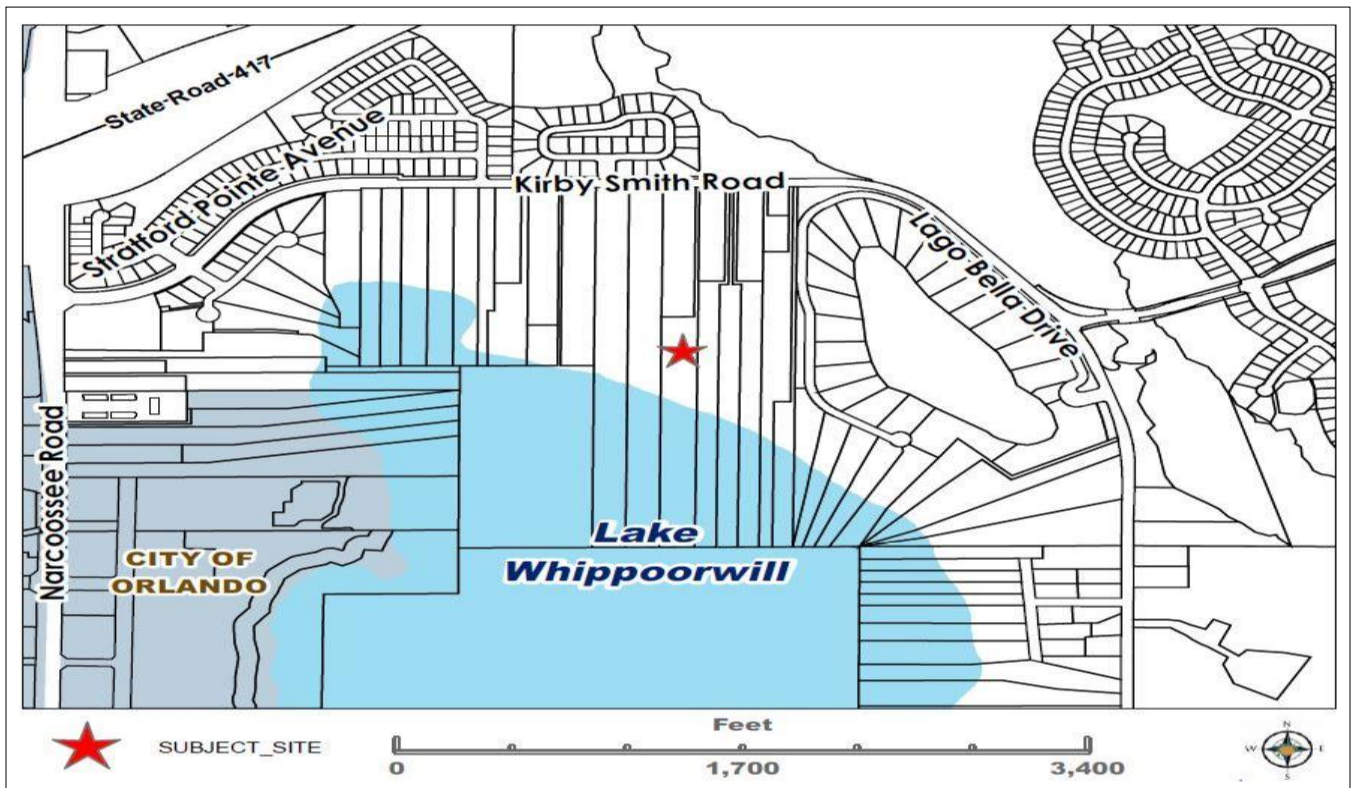
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the comparatively large size of the property, the lack of impact of the proposal to the surrounding area, and unanimously recommended approval of the Variance by a 6-0 vote, with one absent, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-2	P-D	Lake Whippoorwill	A-2	A-2
Future Land Use	Lake Hart/Lake Whippoorwill Rural Settlement RS 1/2	P-D	Lake Whippoorwill	Lake Hart/Lake Whippoorwill Rural Settlement RS 1/2	Lake Hart/Lake Whippoorwill Rural Settlement RS 1/2
Current Use	Single-family residential	Single-family residential	Lake Whippoorwill	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-2, Farmland Rural zoning district, which allows agricultural uses, mobile homes, and single-family homes with accessory structures on larger lots. The Future Land Use is Rural Settlement 1/2 (RS 1/2) and it is located in the Lake Hart/Lake Whippoorwill Rural Settlement. Rural settlements are established through the Comprehensive Plan, and are intended to identify areas with unique traits and characteristics which the residents of those area wish to preserve. The rural settlement designation typically impacts such development factors as residential density, location and intensity of commercial and other nonresidential uses, and with the exception of density, have no impact on single-family development. In the Lake Hart/Lake Whippoorwill Rural Settlement, the maximum density is one (1) unit per two (2) acres for new development. The A-2 district is consistent with the Future Land Use designation.

This subject property is a lakefront flag lot, located on Lake Whippoorwill, with a 20 ft. wide access from Kirby Smith Road. Lot width and setbacks are measured from the wide portion of the lot, such that north/front yard setback is measured from the property line where the lot widens to 180.14 ft. (or the flag portion of the lot). It is a +/- 7.31 acre unplatted parcel of land, of which +/- 2.7 acres is upland, and was created by a lot split in August 2021 (LS-21-08-052). The remainder of the parcel is either wetland or submerged property under Lake Whippoorwill. It is currently developed with a 3,329 gross sq. ft. one story single-family home with 2,240 sq. ft. of living area constructed in 1954. There is also a boat dock (B01003633) and a 600 sq. ft. shed, installed without permits. The current location of the shed does not meet code requirements and will need to be removed or relocated prior to issuance of permit for the future primary residence. The property was purchased by the current owners in October 2021.

The proposal is to construct a two story 6,934 gross sq. ft. single-family home on the property with 4,816 sq. ft. of living area and to convert the existing 2-bedroom residence to a detached Accessory Dwelling Unit (ADU) that contains 2,240 sq. ft. of living area. Per Sec. 38-1426 (b) (3) (d) of the Orange County Code, "For lots/parcels equal to or greater than two (2) developable acres, the maximum living area of an ADU shall not exceed fifty percent (50%) of the primary dwelling unit living area or 1,500 sq. ft., whichever is less". The proposed ADU conversion meets the maximum two (2) bedroom requirement, however, the 2,240 sq. ft. of living area exceeds the maximum 1,500 sq. ft. of living area, requiring a Variance. The proposed detached ADU will be located in front of the primary residence, but a variance is not required as the proposed residence will be in the rear half of the lot. Per Sec.38-1426 (b) (3) (f) (2) of the Orange County Code, an ADU shall not

be located in front of the primary dwelling unit unless the primary dwelling unit is located in the rear half of the lot.

Staff is recommending denial of this request. Based on staff analysis, a smaller, code compliant ADU could be designed and the existing single-family home could be renovated or redesigned. Another alternative is to build an addition to the existing house that could also include a new attached ADU that meets the maximum living area allowed. The intent and purpose of the ADU code is to support greater infill development and affordable housing opportunities, while maintaining the character of existing neighborhoods. As such, Accessory Dwelling Units do not count towards the maximum density and are charged impact fees at a lower rate than 2 single-family homes, and are therefore intentionally meant to be small in relation to the home and property, thus the limitation on maximum square footage and number of bedrooms.

A Conservation Area Determination (CAD) has been completed (CAD-22-03-067), and the Orange County Environmental Protection Division has no objection to the request.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	16 ft.
Min. Lot Width:	100 ft.	180.14 ft.
Min. Lot Size:	21,780 sq. ft. (1/2 acre)	7.3 acres (2.7 acres upland)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	35 ft.	35.3 ft. (North)
Rear:	5 ft.	531.8 ft. (South)
Side:	10 ft.	40.2 ft. (East) 55.2 ft. (West)
NWHE:	50 ft.	531.8 ft. (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances peculiar to the land or building which are not applicable to other lands in the same zoning district. The owner could construct a code compliant ADU or modify the proposal to integrate the new residence with the existing structure.

Not Self-Created

The request for the variance is self-created, as there are alternatives to construct a code compliant ADU or modify the proposal to integrate the new residence with the existing structure.

No Special Privilege Conferred

Granting the variance as requested will confer special privilege since the an ADU could be designed to meet code.

Deprivation of Rights

There is no deprivation of rights as the existing residence could continue to be enjoyed as originally constructed, and an ADU could be built which complies with code.

Minimum Possible Variance

The request is not the minimum possible as a code compliant ADU could be constructed, either as a detached ADU or as an attached ADU as part of an addition to the existing house.

Purpose and Intent

Approval of these requests will not be in harmony with the purpose and intent of the Code, which is to allow the construction of an ADU as a secondary and accessory structure to the house, with a less predominant size and scale.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received August 26, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the conversion of the principal structure into an ADU shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of the permit for the principal residence, a permit for the shed shall be obtained or the shed shall be removed.

C: Jeremy Kibler
 2017 13th Street
 Saint Cloud, FL 34769

C: Noel Malcolm and Sarah Malcolm
 10528 Kirby Smith Road
 Orlando, FL 32832

10528 Kirby Smith Road

Variance Request

NARRATIVE

The proposed "10528 Kirby Smith Road" Variance Request consists of approximately 2.781 Acres of Upland as confirmed and finalized with the Approved Conservation Area Determination, Application CAD-22-03-067. The site is currently comprised of Orange County Tax Parcel ID Number 17-24-31-0000-00-016. The parcel is generally located on the south side of Kirby Smith Road and approximately 3,444 feet (0.65 miles) east of the Narcoossee Road and Kirby Smith Road intersection in Section 17, Township 24 South, Range 31 East, of Orange County, Florida. The subject Application respectfully requests a Variance to the maximum living area of a Detached Accessory Dwelling Unit (ADU) for a lot/parcel equal to or greater than two (2) developable acres, Section 38-1426(b)(3)(d), of the Orange County Land Development Code (LDC).

Section 38-1426(b)(3)(d) of the LDC provides that the maximum living area of an ADU shall not exceed fifty percent (50%) of the Primary [Principal] Dwelling Unit living area or one thousand five-hundred (1,500) square feet, whichever is less. A calculation of those areas is as follows:

Proposed Detached Accessory Dwelling Unit (ADU)

Existing Two (2) Bedroom Single-Family Home

Living (Conditioned) Area = 2,240 Square Feet

Proposed Primary (Principal) Dwelling Unit

Living (Conditioned) Area = 4,999 Square Feet

50% of the Living (Conditioned) Area = 2,500 Square Feet

Section 38-1426(b)(3)(d) of the LDC = 1,500 Square Feet

While the Proposed Detached Accessory Dwelling Unit (Existing Two (2) Bedroom Single-Family Home) is less than 50% of the Proposed Primary (Principal) Dwelling Unit Living (Conditioned) Area, it is larger than the LDC established maximum of 1,500 square feet.

It is the desire of the Applicant to allow the existing single-family residential home to serve as the Detached ADU. The Applicant is not requesting to enlarge the existing home nor is the Applicant requesting any additional variances or special exceptions to the LDC in order to fulfill this request.

It is further noted for consideration, that the Applicant intends to care for an aging, elderly parent within the subject property by additionally permitting the parent to reside within the Detached ADU.

Responses to Variance Criteria, Section 30-43 (3), of the Orange County Code as follows:

1. Special Conditions and Circumstances - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands,

structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

Response: While the proposed Detached ADU is less than 50% of the proposed Primary (Principal) Dwelling Unit, it exceeds the 1,500 square feet as provided for in the LDC. The subject Lot/Parcel does however far exceed the 2.00 developable acres as designated by the LDC and the proposed Detached ADU is an Existing Single-Family Home constructed in 1954. Additionally, it should be noted that the Primary (Principal) Dwelling Unit as proposed by the Applicant, as well as those immediately adjacent to and surrounding the subject Lot, are much larger than the typical Primary (Principal) Dwelling Units in other areas of the County, and larger than those contemplated within the LDC. The proposed Detached ADU is in fact much smaller (less than 50% at a calculated 45%) in relation to the home and property, with a less predominant size and scale. The LDC does not account for nor consider, Lots or Homes that are larger in size such as this.

2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

Response: The Proposed Detached ADU is an Existing Single-Family Home constructed in 1954. The Applicant purchased the Existing Single-Family Home in its current condition and configuration and would like to preserve and utilize the existing, otherwise sound structure, without the need for demolition in order to reasonably provide a home and care for an aging, elderly parent.

3. No Special Privilege Conferred - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

Response: Both the Proposed Primary (Principal) Structure and the Proposed Detached ADU will be similar in massing and scale to that of the surrounding and neighboring properties and those existing, comparable structures, contained therein. No additional variances, nor special exceptions to the LDC are requested with this application, and no non-conformities exist.

4. Deprivation of Rights - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Response: The only way for the Applicant to comply with the terms of the applicable Chapter, would be to demolish and destroy an existing, otherwise sound structure, that is less than 50% of the Proposed Primary (Principal) Dwelling Unit's Living (Conditioned) Area. Approval of the requested Variance would be consistent with the intent and "spirit" of the code as the proposed Detached ADU is much smaller (less than 50% at a calculated 45%) in relation to the home and property, with a less predominant size, massing, and scale.

5. Minimum Possible Variance - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Response: The Applicant is requesting acceptance of the Living (Conditioned) Area of the currently Existing Single-Family Home constructed in 1954 and proposed to serve as the Detached ADU, without any additions, changes, or requests. As purchased and unaltered by the Applicant, this is the absolute minimum possible variance that can be requested without demolishing an otherwise sound structure.

6. Purpose and Intent - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Response: The intended use is consistent with that of the Detached ADU criteria set forth in the Orange County LDC and would allow consistent and compatible structures, similar in massing and scale, to that of the surrounding and neighboring structures already in existence. Furthermore, said use will be in compliance with all remaining and applicable aspects of the LDC.

It should further be noted that no additional access point or driveway connection, is necessary nor proposed with this request. Both the Primary (Principal) Dwelling Unit and the Detached ADU, will utilize the same driveway and access point.

Structure Summary:

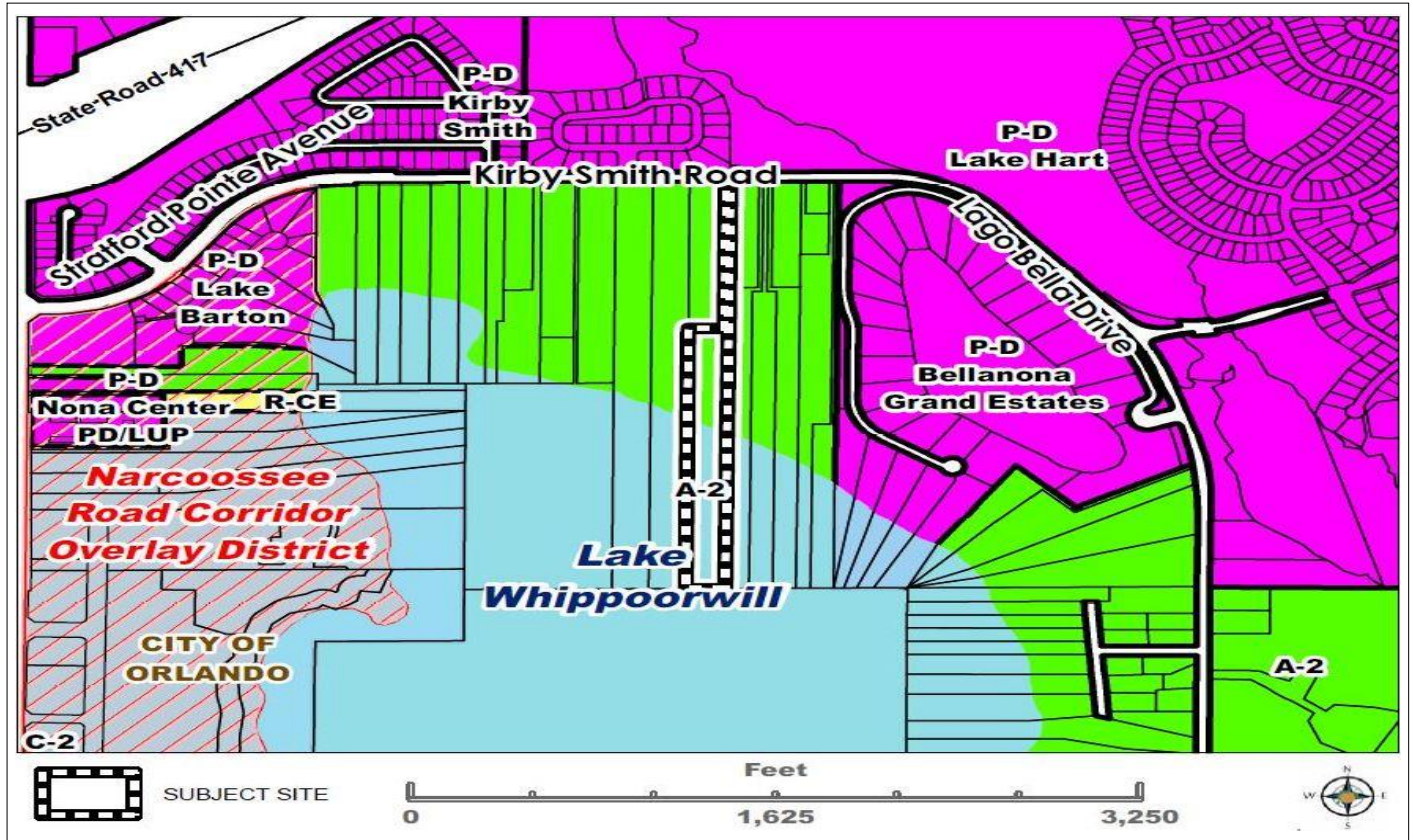
Proposed Detached Accessory Dwelling Unit (ADU)
[Existing Single-Family Home constructed in 1954]

Use:	Single-Family Residential
Number of Stories:	One
Total Conditioned Area:	2,240 Square Feet Living (Conditioned)
Area Percentage of Principal DU:	45%
Area above LDC 38-1426(b)(3)(d):	740 Square Feet
Area Percentage above LDC 38-1426(b)(3)(d):	49%

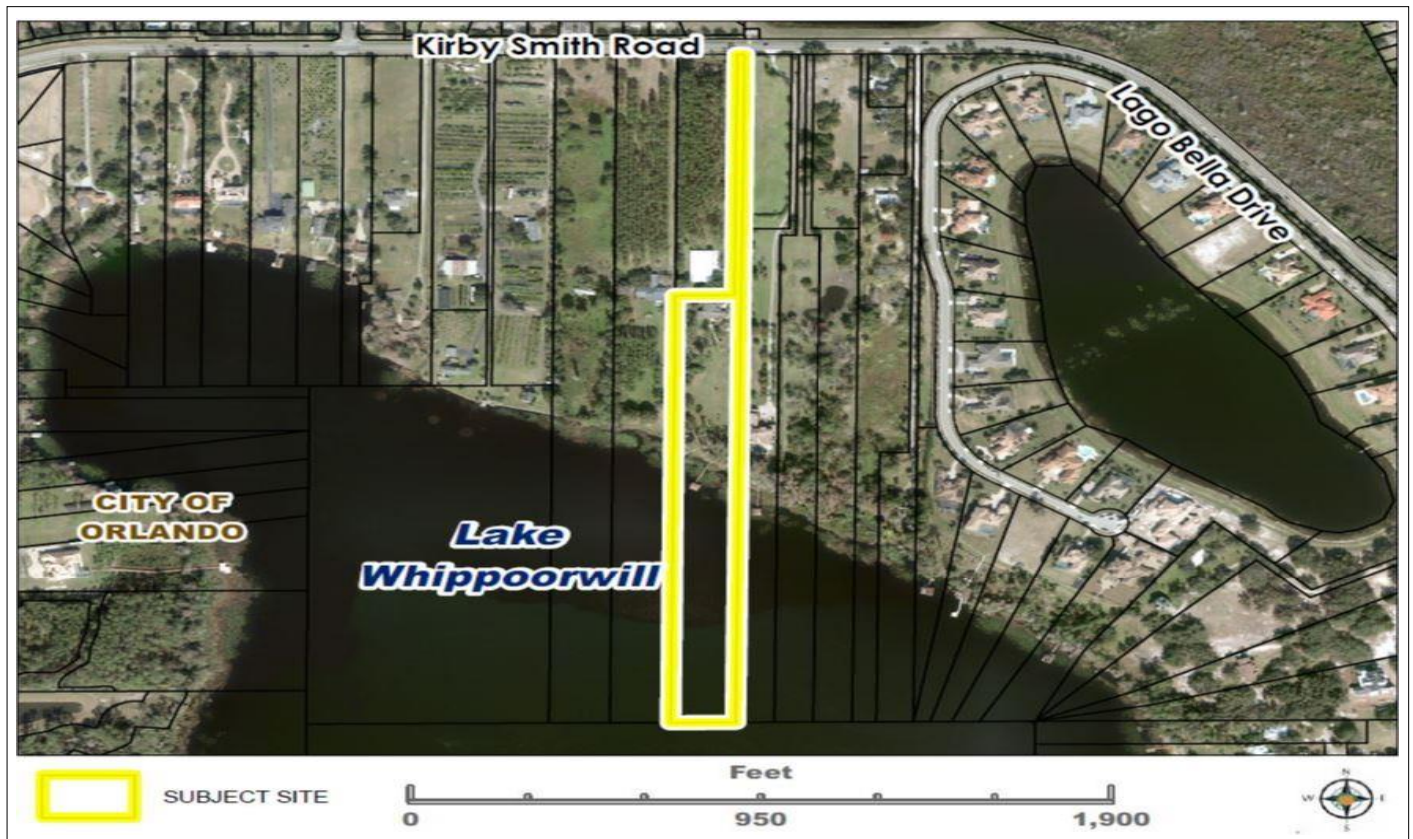
Proposed Primary (Principal) Dwelling Unit

Use:	Single-Family Residential
Number of Stories:	Two (Loft)
Total Conditioned Area:	4,999 Square Feet Living (Conditioned)
Gross Floor Area:	6,857 Square Feet Gross
Height:	28 Feet, 11 Inches

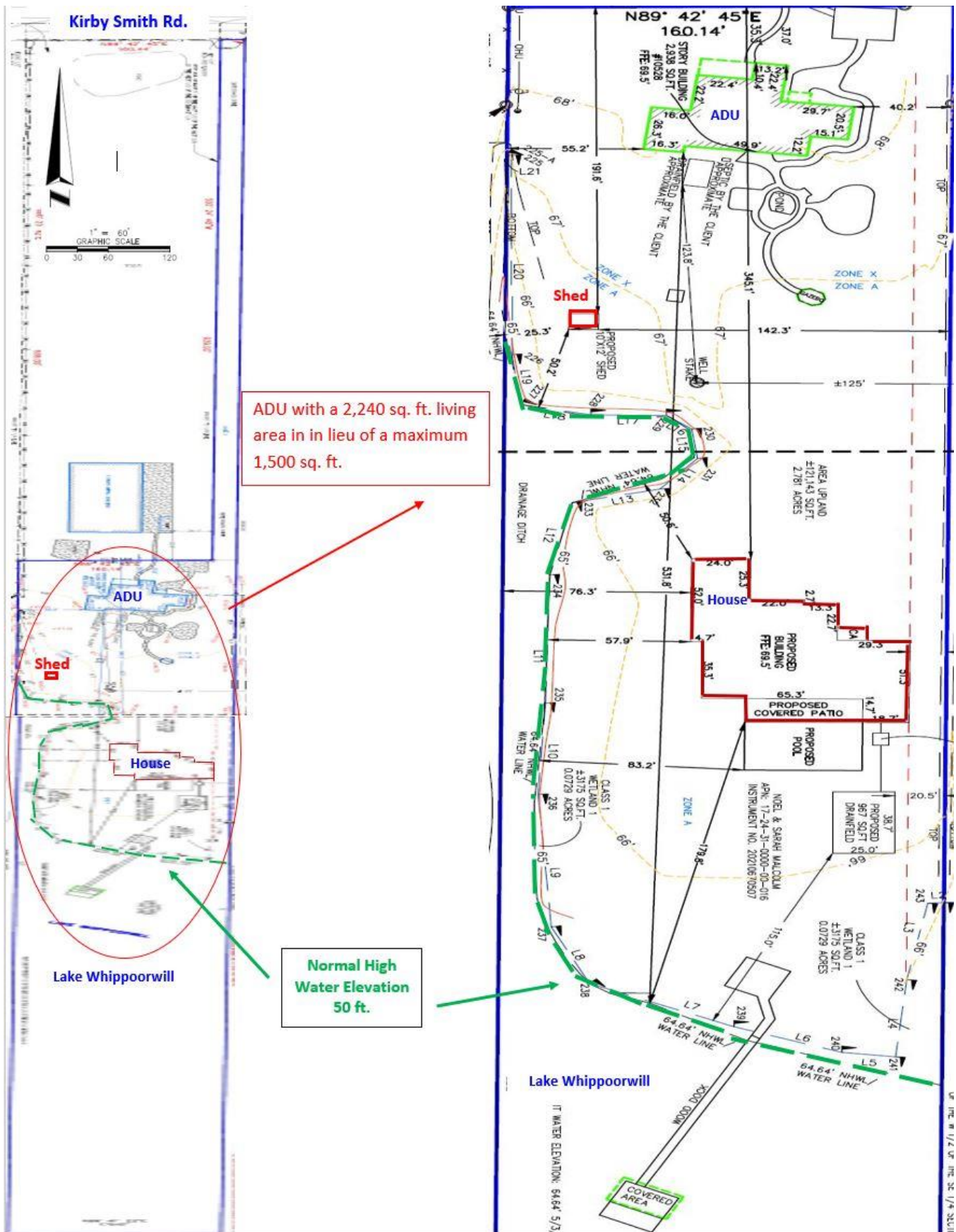
ZONING MAP



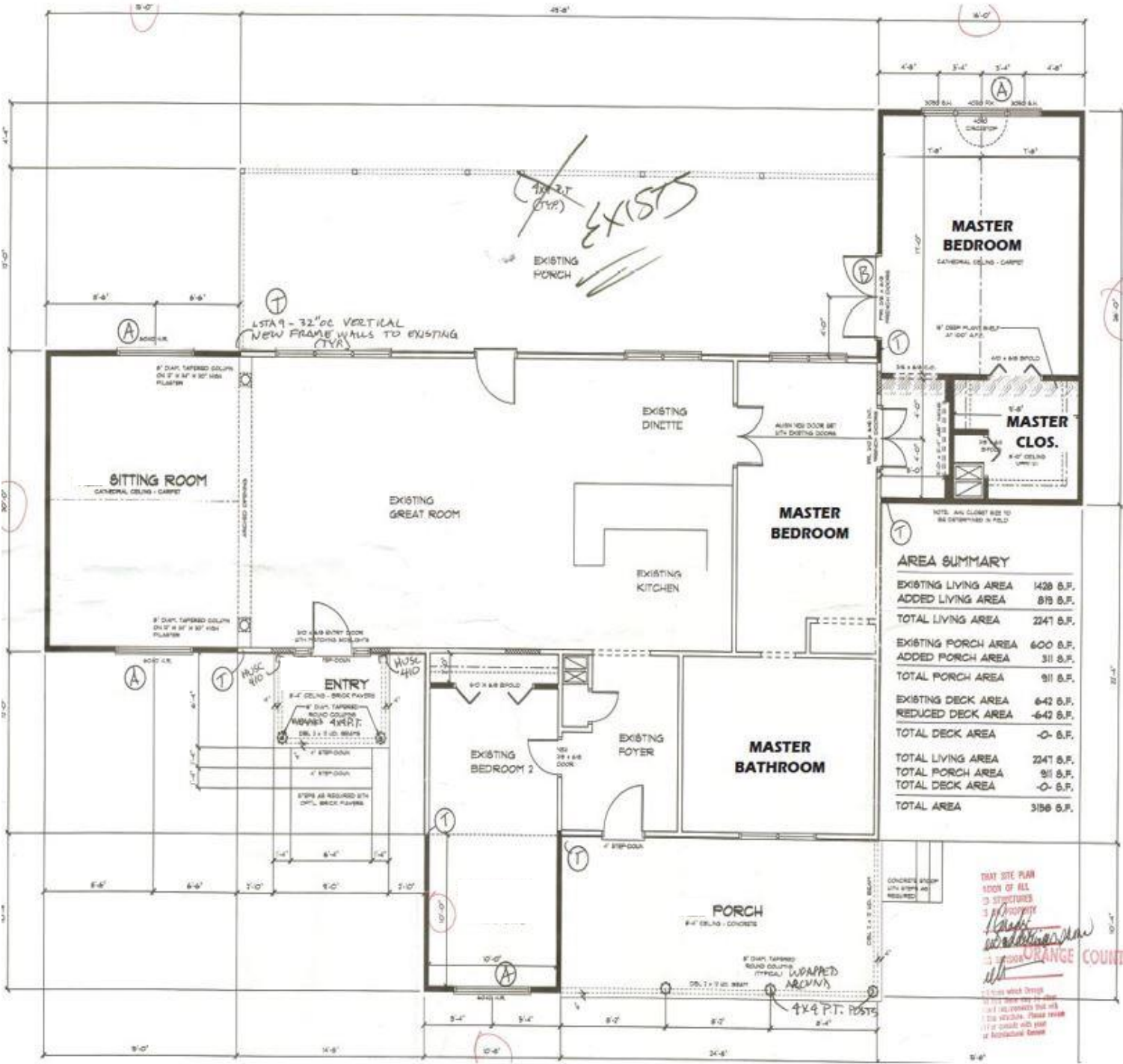
AERIAL MAP



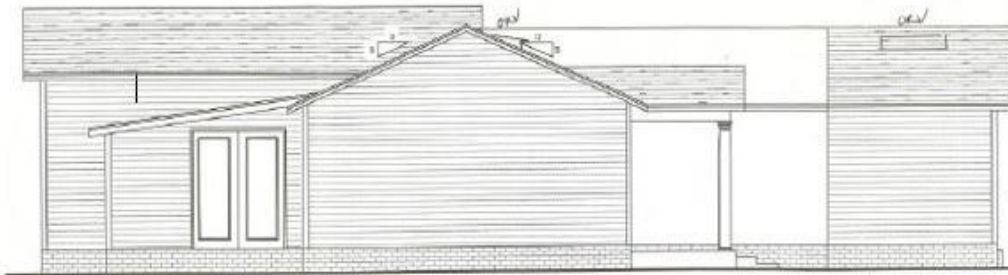
SITE PLAN



FLOOR PLAN OF EXISTING HOUSE/PROPOSED ADU

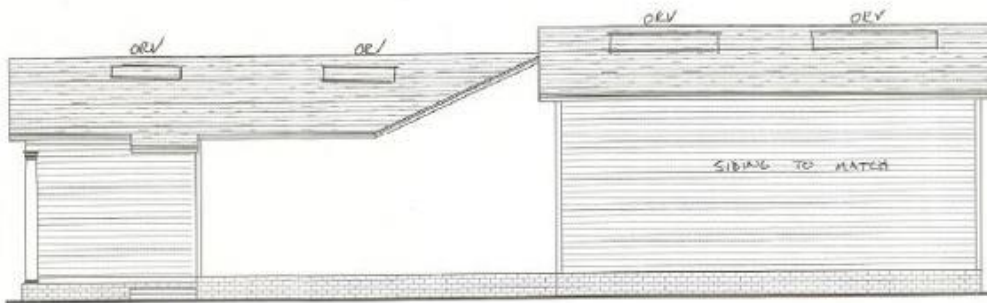


ELEVATIONS OF EXISTING HOUSE/PROPOSED ADU



EAST ELEVATION

SCALE: 1/4" = 1'-0"



WEST ELEVATION

SCALE: 1/4" = 1'-0"



NORTH ELEVATION

SCALE: 1/4" = 1'-0"



SOUTH ELEVATION

SCALE: 1/4" = 1'-0"

SITE PHOTOS



Facing south from Kirby Smith Rd. towards driveway



Facing south towards entrance of subject property

SITE PHOTOS



Facing southwest towards front of proposed ADU



Rear yard, facing north towards rear of proposed ADU

SITE PHOTOS



Side yard, facing east towards side of proposed ADU



Facing south towards side of proposed ADU

SITE PHOTOS



Facing west towards front of property line



Rear porch, facing south towards proposed new residence

SITE PHOTOS



Rear yard, facing southwest towards unpermitted shed



Rear yard, facing north from boat dock towards proposed new residence

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#6**

Case #: **VA-22-08-059**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): FLORENCE TAUZE

OWNER(s): FLORENCE TAUZE, CAMY LOUIS

REQUEST: Variance in the R-2 zoning district to allow a conversion of an existing screen room to an addition with an ~~north~~ east* rear setback of 21.5 ft. in lieu of 25 ft.

*North direction was advertised; actual direction is east.

PROPERTY LOCATION: 5303 Ansonia Ct., Orlando, FL 32839, east side of Ansonia Ct., south of Americana Blvd., west of S. Texas Ave., east of S. John Young Pkwy.

PARCEL ID: 16-23-29-8178-00-290

LOT SIZE: +/- 0.19 acres (8,681 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 132

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Charles Hawkins, II, Second by John Drago; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan and elevations received May 12, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the addition shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. Prior to the issuance of the permit for the addition, a permit shall be obtained for the shed or it shall be removed.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in favor or in opposition to the request.

The applicant agreed with the staff presentation and had nothing further to add.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Variance by a 6-0 vote, with one absent, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-2	R-2	R-2	R-2	R-2
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-2, Residential district, which allows single-family homes, duplexes, and multi-family development as well as accessory dwelling units. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-2 zoning district.

The subject property is a 0.19 acre lot, platted in 1983 as Lot 29 of the South Pointe Unit 1 Plat, and is a conforming lot of record. The property is developed with a 1-story, 2,184 gross sq. ft. single-family home with an attached 2-car garage constructed in 1984, a 312 sq. ft. screen room and an unpermitted 142.4 sq. ft., 9 ft. high shed that meets required setbacks and appears via aerial photography in 1994. There is a 10 ft. utility easement along the east and west of the property, and a 5 ft. utility easement along the north and south sides of the property. None of these easements are affected by the variance requested. The property was purchased by the current owner in 2019.

The request is to demolish the existing 312 sq. ft. (26 ft. by 12 ft.), screen room and replace it with a 393.7 sq. ft. (31 ft. by 12.7 ft.) addition, which will include a foyer, bedroom and bathroom. The addition is proposed to be setback 21.5 ft. from the east rear property line. While the screen room is generally at the same setback as the proposed addition, code allows screen rooms to encroach into the required rear yard up to 13 ft. which makes the existing improvements conforming. However, living area is required to meet the principal structure setbacks, which is 25 ft. in the rear yard, requiring a variance for a 21.5 ft. east rear setback in lieu of 25 ft.

A permit (B21022483) was submitted to enclose the existing screen room, but expired as of April 2022.

In comparison, many of the homes in the surrounding area, including the adjacent properties to the north, south and east, have similar sized rear yard improvements albeit they appear to meet rear setbacks. Therefore, the request is in harmony with the surrounding neighborhood since the footprint is not increasing towards the rear property line and it is compatible with the architectural design of the existing house.

The Orange County Environmental Protection Division has no objection to the request.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	14 ft., addition
Min. Lot Width:	45 ft.	61 ft. at front setback line
Min. Lot Size:	4,500 sq. ft.	8,681 sq. ft.

Building Setbacks

	Code Requirement	Proposed
Front:	25 ft.	25.7 ft. (West)
Rear:	25 ft.	21.5 ft. (East - Variance)
Side:	6 ft.	13.2 ft. (North) 9.1 ft. (South)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special condition and circumstance particular to the subject property is the angle at which the house was constructed in relation to the rear property line, which limits the ability to construct an addition that will meet code.

Not Self-Created

The need for the variance is not self-created, as the current owners are not responsible for the existing location of the home and the viable location for an addition.

No Special Privilege Conferred

Due to the location of the home, a variance would be required for a reasonable addition, granting the requested variances will not confer any special privilege conferred to others under the same circumstances.

Deprivation of Rights

Denial of this variance would deprive the owners of the right to utilize and enjoy improvements to the property that would allow for the construction of additional living area to the house.

Minimum Possible Variance

The request is the minimum possible as the design of the addition as proposed is consistent with the architectural design of the existing residence and not extending the existing setback of the screen enclosure towards the rear property line.

Purpose and Intent

Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The proposed request will not be detrimental to the neighborhood since the design of the addition as proposed is consistent with the architectural design of the existing house and would be compatible with other residences in the surrounding area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received May 12, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
 2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
 3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
 4. A permit for the addition shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
 5. Prior to the issuance of the permit for the addition, a permit shall be obtained for the shed or it shall be removed.
- C: Florence B. Tauze and Camy Louis
5303 Ansonia Court
Orlando, FL 32839

August 26, 2022

Tauze Florence B

5303 Ansonia Ct

Orlando, FL 32839

Project Parcel ID: 16-23-29-8178-00-290

To: ORANGE COUNTY ZONING DIVISION

201 South Rosalind Avenue, 1st Floor, Orlando, Florida 32801

Phone: (407) 836-3111; Email: BZA@ocfl.net

www.orangecountyfl.net

Re: Variance Application

Variance in the R-2 zoning district to allow a 394 sq. ft. living space addition to a residence with a 21.5ft. rear setback in lieu of 25ft. The addition dimensions are 31ftx12.7ft. Living area of existing residence is 1599 sq. ft, gross area is 2184 sq. ft; existing shed area is 141 sq. ft. I believe this request meets the six standards for variance approval outlined below:

1.- SPECIAL CONDITIONS AND CIRCUMSTANCES.

I have recently applied for a building permit to enclose the rear porch at my property and convert it into a master bedroom and a foyer, but unfortunately have not been approved by Zoning because R-2 Zoning platted prior to 1997 require a 25 ft setback for primary structure setbacks. The proposed floor plan has a 21.5ft rear setback. The required setback for R-2 zoning district for primary residence platted after 1997 is 20ft, but unfortunately our residence does not belong to this category. My parents are in the process to move up to the States and they will need a place to stay. They will need some time to accommodate here, and they will need guidance when they get here; reasons why it'll be ideal if they can stay with my family so we can help them with everything they need. Hence, I am requesting a variance to build the addition with the 21.5ft rear setback in lieu of 25 ft.

2.- Not self-created.

This residence falls into the R-2 zoning district category, with a 25 ft rear setback for lots platted prior to 3/3/97. The space we're intended to use for this project is an existing enclosed screened porch. We have purchased the house with the screened porch as is, we just want to convert it into a full bedroom and foyer, by also adding a bathroom on the left side as shown on the proposed floor plan. Hence, it is not self-created. The addition will be consistent with the pattern of the surrounding development and will be compatible with the surrounding area.

3.- No Special privilege conferred.

Granting the variance as requested would not confer special privilege as several other properties in the area appear to have additions with rear setbacks similar to the request. The surrounding area falls typically into the same zoning district category, with similar requirements in size and shape. Hence, the use will not act a detrimental intrusion into the surrounding area.

4.- Deprivation of Rights.

The addition will have the same use as the existing residence. There is no intention to build to develop or violate any restrictions. It will not be used as other than the permitted uses.

5.- Minimum Possible Variance.

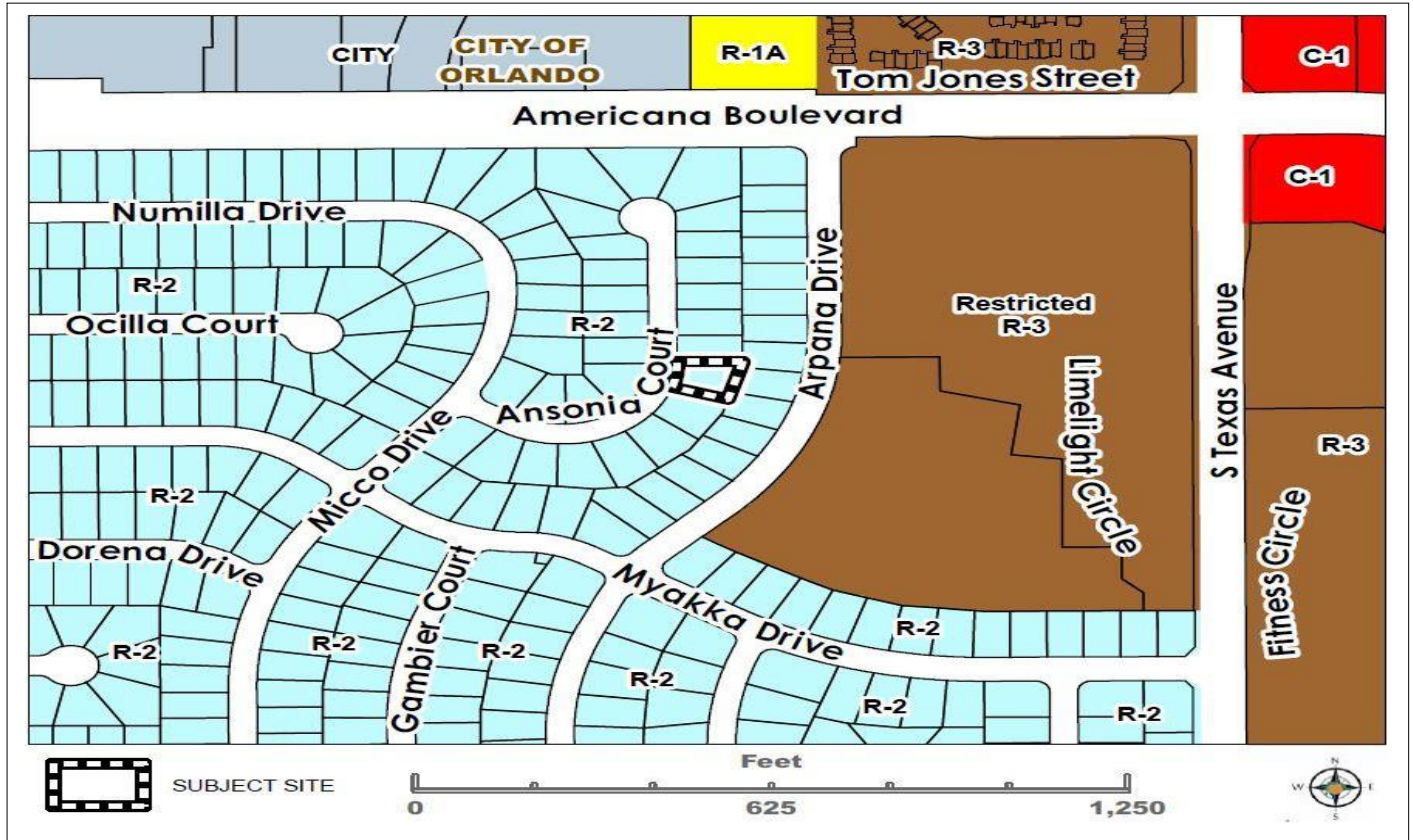
We do believe a 21.5ft setback should not be a concern with any negative features of the surrounding uses of the zoning district. As stated earlier, the required setback is 25ft, we are just 3.5ft short to be in compliance with the Zoning district Requirements. Plus, there is 6 ft high opaque fence surrounding the property from our neighbors. Approval of this request would not be detrimental to our neighborhood or public welfare.

6.- Purpose and Intent.

The intent and purpose of this application is to convert the existing porch and convert it into a full master bedroom and a foyer so we can accommodate my aging parents. The impact on surrounding properties shall be significantly minimal due the 6ft tall opaque fence surrounding the property; the project will not be visible from any of our neighbors. There should be no concern with any quantifiable negative impact to the surrounding property owners. Hence, approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations.

The County has approved similar variance requests in the past in established residential areas, and neighborhoods. We are hoping this request can be approved. Please see the documentation attached to this request.

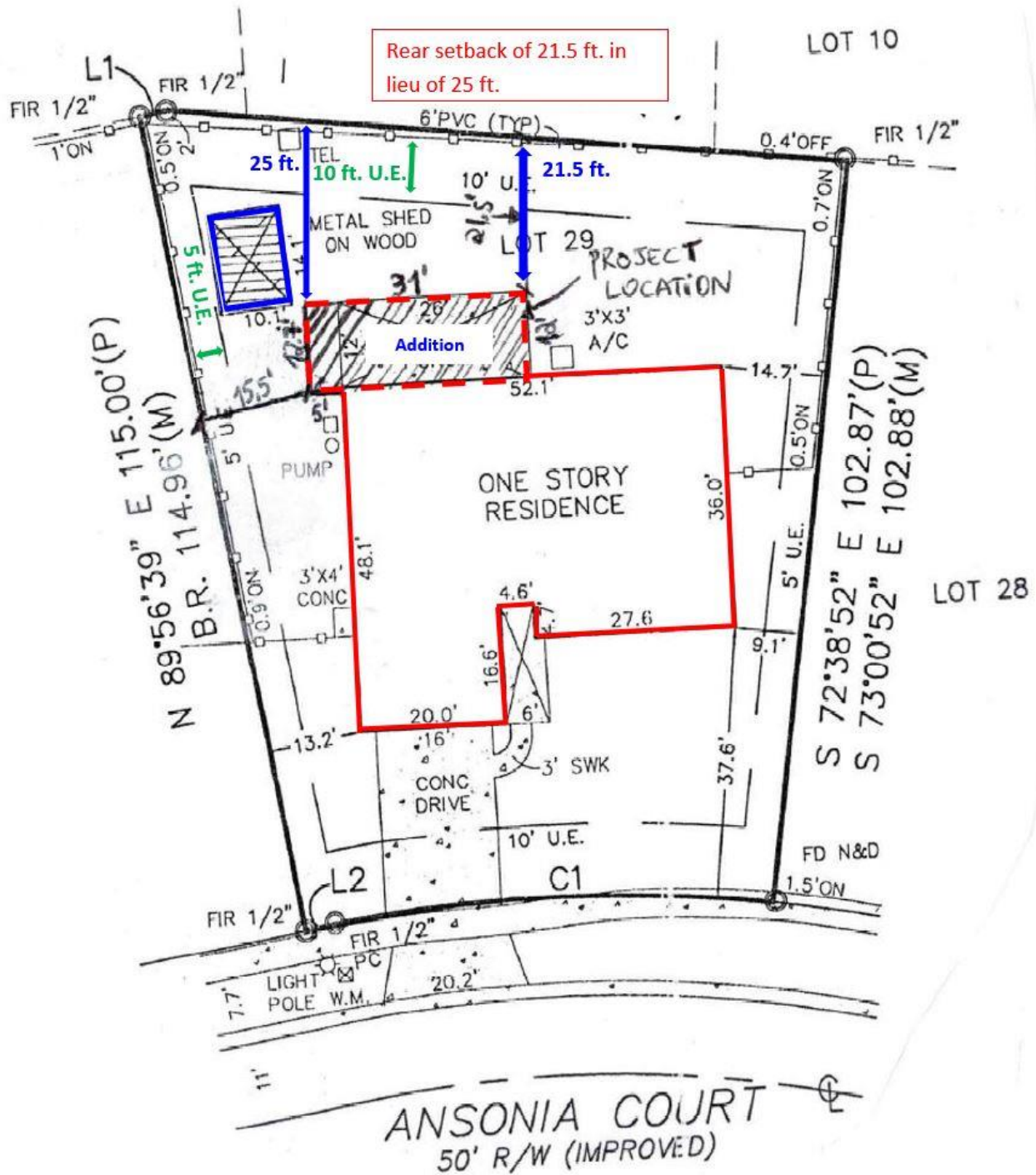
ZONING MAP



AERIAL MAP



SITE PLAN

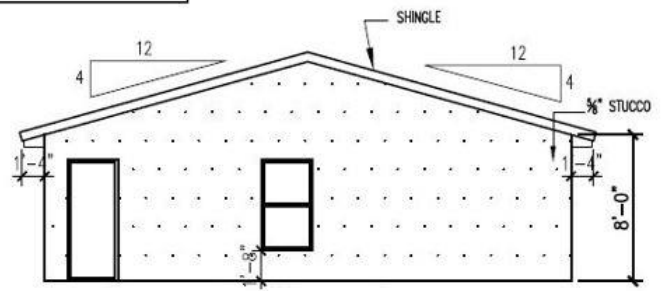
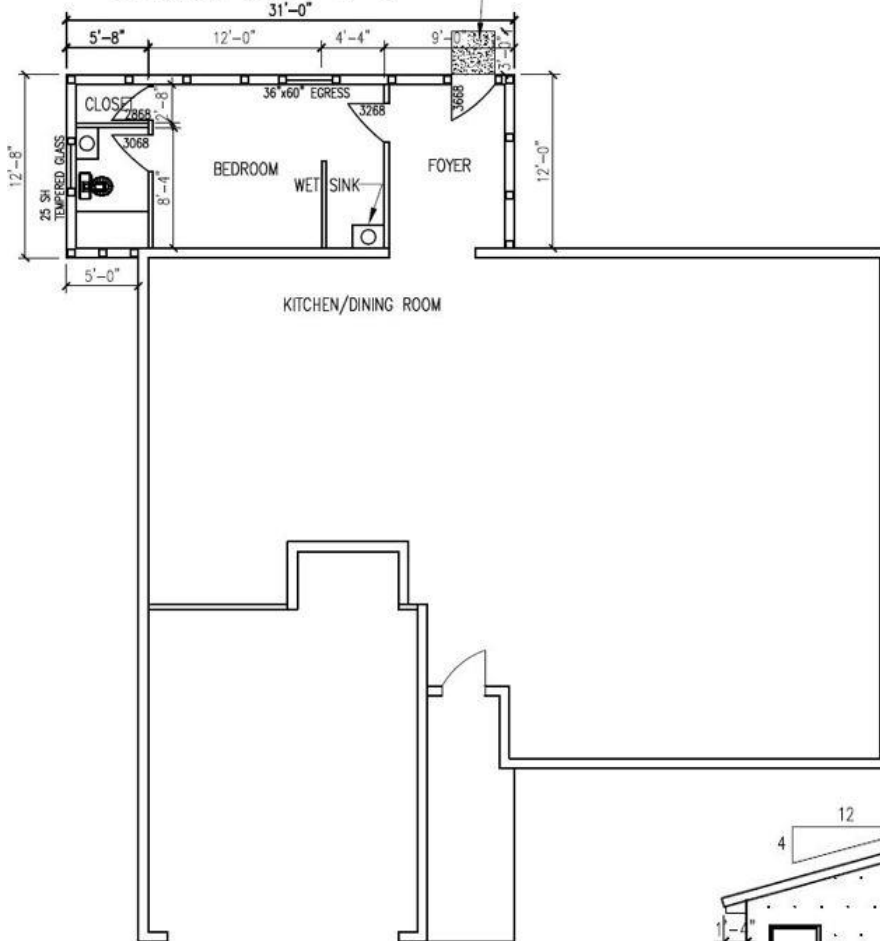


FLOOR PLAN & ELEVATIONS OF PROPOSED ADDITION

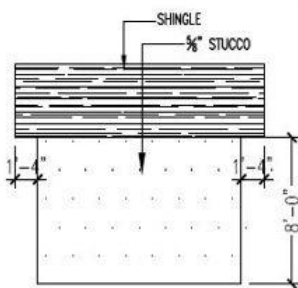
Floor Plan

Scale: 1/8"=1'-0"

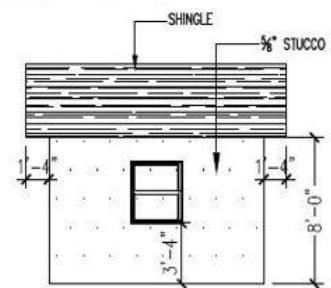
The slope at exterior landings shall not exceed 1/4 unit vertical in 12 units horizontal. (2 percent). FBC R311.3



East Elevation



South Elevation



North Elevation

SITE PHOTOS



Facing east from Ansonia Ct. towards front of subject property



Rear yard, facing southwest towards proposed conversion

SITE PHOTOS



Rear yard, facing northeast towards proposed conversion requiring rear yard Variance



Rear yard, facing north towards proposed conversion

SITE PHOTOS



Rear yard, facing west towards side of proposed conversion



Rear yard, north towards front of unpermitted shed

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#3**

Case #: **VA-22-08-062**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): NEHEMIAS RIVERA

OWNER(s): NEHEMIAS RIVERA

REQUEST: Variance in the R-1A zoning district to allow the construction of a stairway with a south side setback of 4 ft. in lieu of 7.5 ft.

PROPERTY LOCATION: 799 S. Chickasaw Trl., Orlando, FL 32825, east side of S. Chickasaw Trl., south of Lake Underhill Rd., east of S. Goldenrod Rd.

PARCEL ID: 36-22-30-0000-00-034

LOT SIZE: +/- 0.49 acres (21,230 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 107

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Juan Velez, Second by John Drago; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan and elevations received August 23, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. A permit shall be obtained for the existing storage building prior to obtaining a permit for the addition to the carport.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that one (1) comment was received in favor of the application, and no comments were received in opposition.

The applicant discussed the staff recommendation and described the need for the request since if the request was modified and the proposed staircase was moved to the east side of the building it would be too close to the pool under construction, and if moved to the north side it would block the pool access to the storage area.

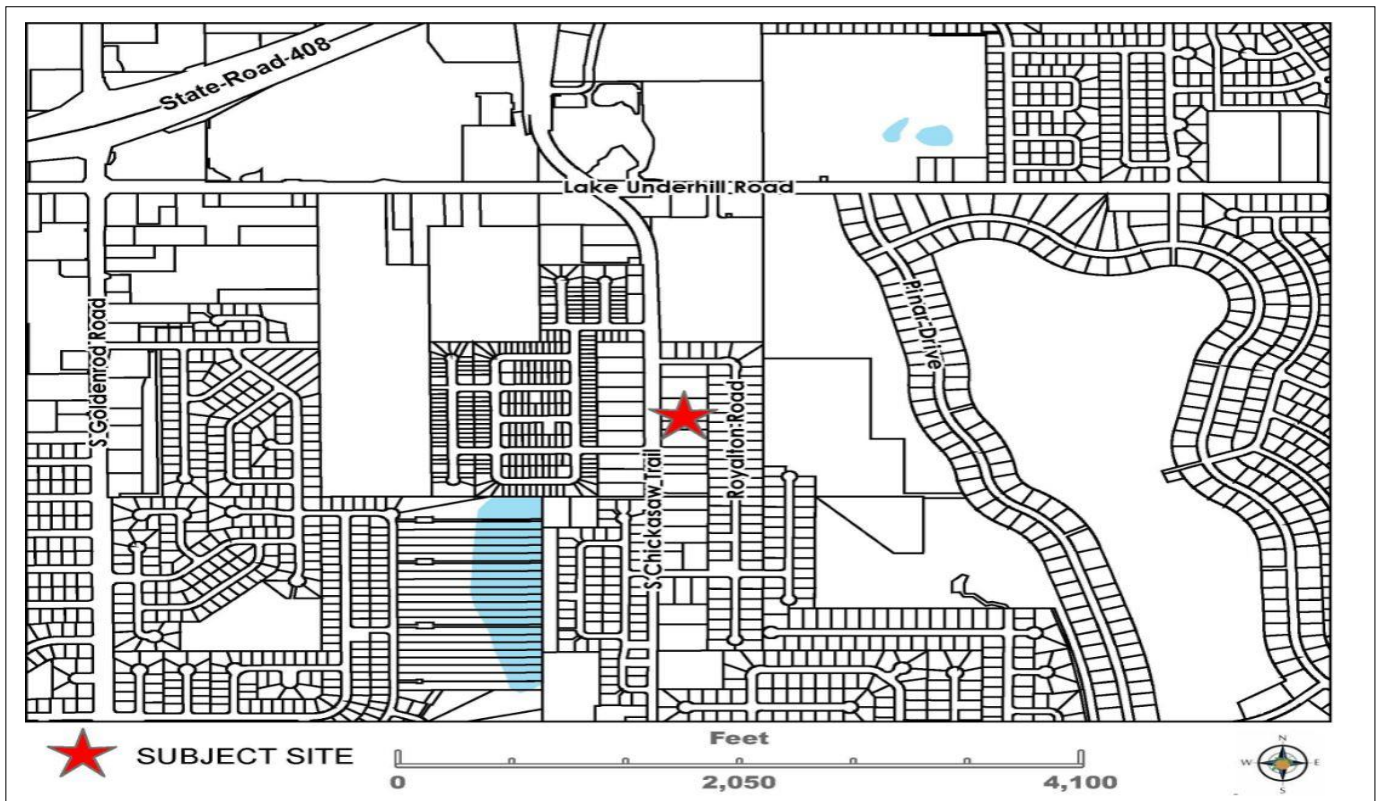
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the options available that would meet code, including the relocation of the external staircase to the other side, determined that there are no other available options since the pool construction is underway and that the lot is one of the narrowest in the neighborhood, and unanimously recommended approval of the Variance by a 6-0 vote, with one absent, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	R-2
Future Land Use	LMDR	LMDR	LMDR	LMDR	MDR
Current Use	Single-family residential	Vacant	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The subject property is an unplatted +/- 0.49 acre lot that was created by a Lot Split on August 27, 1999 (LS #99-100) and is considered to be a conforming lot of record. It is currently developed with a 3,290 gross sq. ft. two story single-family home built in 2000 (B00013210), 528 sq. ft. detached 2-car carport and porch constructed in 2005 (B05005559), and an unpermitted 192 sq. ft. detached storage building. The storage building is at the rear of the existing carport, and is visible via aerials in 2014. It appears to meet code for a detached accessory structure, however a permit is required. The property was acquired by the current owner in April 2001, who is in the process of installing a 449 sq. ft. pool, spa and deck (B22011310).

The proposal is to construct a second floor above the existing 24 ft. by 22 ft. carport, with a 3.67 ft. wide (4 ft. wide as shown on the Site Plan), 19 ft. high external staircase on the south side of the structure for second floor access. After the addition, the new height of the detached accessory structure will be 28.2 ft. high and the external staircase will have a south side setback of 4 ft. in lieu of 7.5 ft. for the detached accessory structure, requiring the Variance.

Based on staff analysis, the design of the pool, spa and deck could have been modified or relocated further into the rear of the property, which would have allowed room for the external staircase to be designed on the north side of the proposed 2-story accessory structure. Also, the staircase could be relocated to the east/rear of the proposed 2-story accessory structure, eliminating the need for a variance.

As of the date of this report, one comment has been received in favor of this request and no comments have been received in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	19 ft. staircase 28.2 ft. (2-story carport and storage)
Min. Lot Width:	75 ft.	75 ft.
Min. Lot Size:	7,500 sq. ft.	21,230 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	N/A detached accessory structure	N/A detached accessory structure
Rear:	10 ft. detached accessory structure over 15 ft. height	58 ft.
Side:	7.5 ft. detached accessory structure over 15 ft. height	4 ft. (South - Variance)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

There are no special conditions or circumstances as the external staircase could be modified to meet the required side setback by relocating it to the east or north side of the detached accessory structure.

Not Self-Created

The requested variance is self-created since the external staircase could be modified to meet the required side setback if the partially constructed pool, spa, and deck was modified or relocated further into the rear of the property, or the stairway could be relocated to the east.

No Special Privilege Conferred

Granting this variance would confer special privilege as it does not appear that any other properties in the surrounding area have similar side setbacks.

Deprivation of Rights

Denial of this variance would not deprive the owners of any rights as the owner is not denied the right to have an external staircase, since it could be relocated to the east or north side of the 2-story detached accessory structure.

Minimum Possible Variance

The requested variance is not the minimum possible for the external staircase as it can be relocated to eliminate the need for a variance.

Purpose and Intent

Approval of the requested variance would not be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties, and will be detrimental to the adjacent properties. This does not meet the purpose and intent of the code as the fact that the external staircase can be relocated to the north of detached accessory structure to eliminate the need for the variance.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received August 23, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. A permit shall be obtained for the existing storage building prior to obtaining a permit for the addition to the carport.

C: Nehemias Rivera
799 S Chickasaw Trail
Orlando, FL 32825

Request for Variance Cover Page

Proposed Stairwell Extends One Foot Passed Easement Norms

This Pressure Treated Wood stairwell is proposed for a storage to be built over an existing carport.

The storage is to be accessed from the direction of the front of the property, but to place the stairwell on the North side of the building (the left side as you approach) would mean blocking traffic/access/view of the rest of the property once inside the current carport/covered area. Also, the length of the stairwell would block some of path span between the home and carport. It would extend 7 feet passed the front of the current carport/covered area. This can be better understood by referring to the plans provided in this request.

To place the proposed stairwell on the South side (right side as you approach the building), would not block traffic flow/view. In this scenario, the stairs would run along parallel to the South property line, leaving the rest of the property without obstacle. A 4 ft wide stairwell would overlap easement norms by 1 ft. A “NO OBJECTION” letter has been provided by the neighbor/property owner on the affected side.

This current carport is to be transformed into a covered area for the family’s activities in the yard. To build the stairwell on the North side of the building would cut off access to the covered area. The new carport would be attached to the home, closer to the front of the property.

COVER LETTER

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

Special conditions here consists in that the stairwell should be placed on the left or right of the building. To be built on the left side would mean to block of access, use, and view from the property side of the building (as seen on drawings and survey provided).

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

No self imposed hardship present. More of pragmatic preference of placement for the stairs. The alternative would hinder access, view, and use of what is to be a covered family area.

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

Agreed. My request is for this property only.

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Agreed. The request has no bearing on business ventures, loss of income, etc. Just personal betterment of family space with a more practical, safer placement of proposed stairwell.

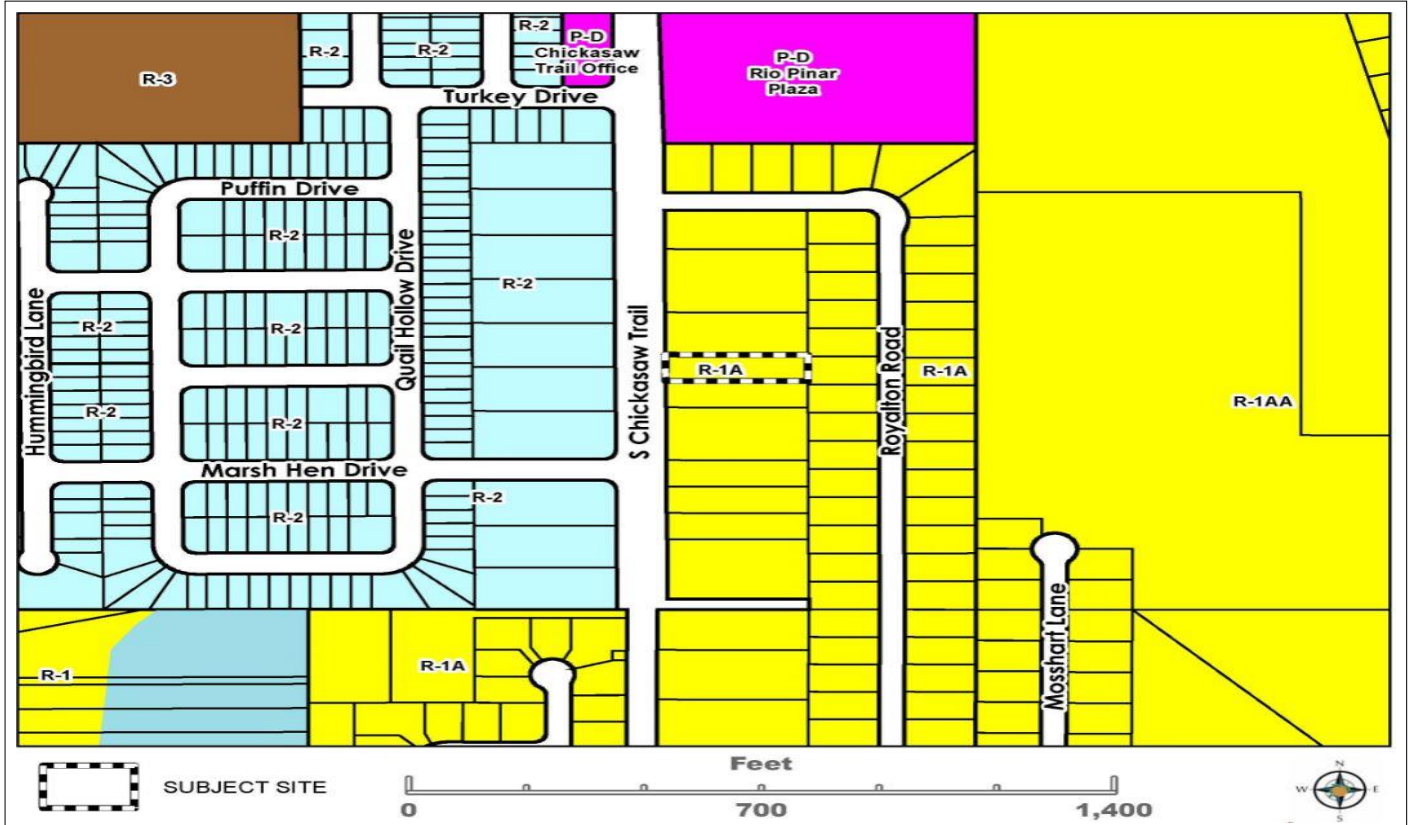
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Agreed. The request is the only variance and most minimal scenario. The stairwell could be requested wider or with more spacing from the existing structure, but instead is proposed as being built as far away from the property line as possible.

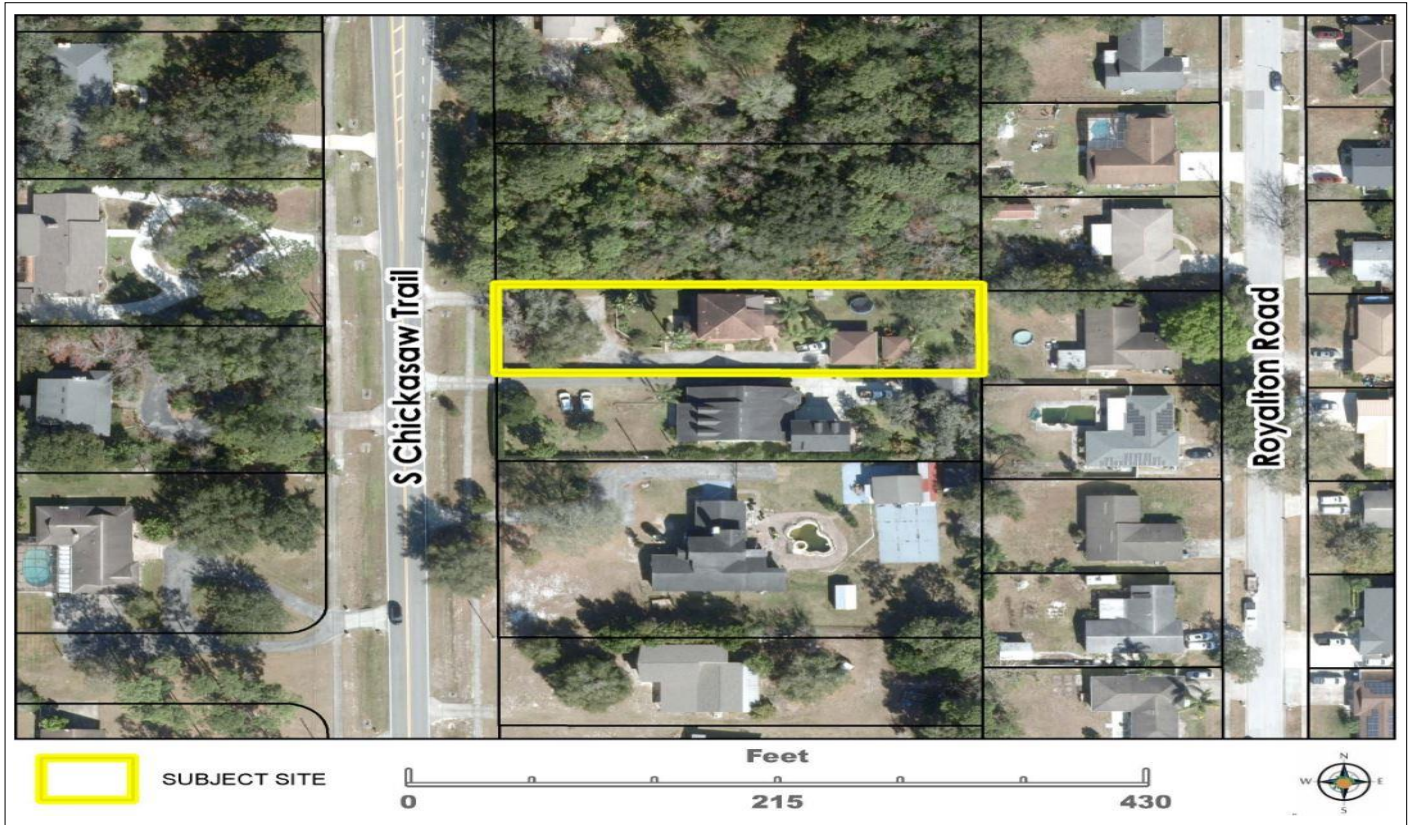
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Agreed. Request is not harmful or detrimental to the public. It would actually be more practical and esthetically pleasing.

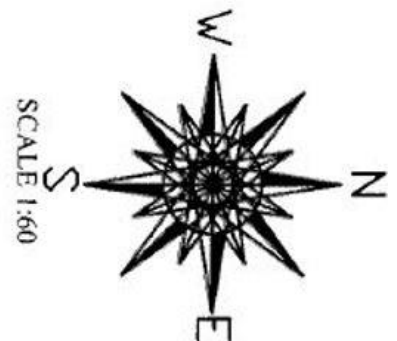
ZONING MAP



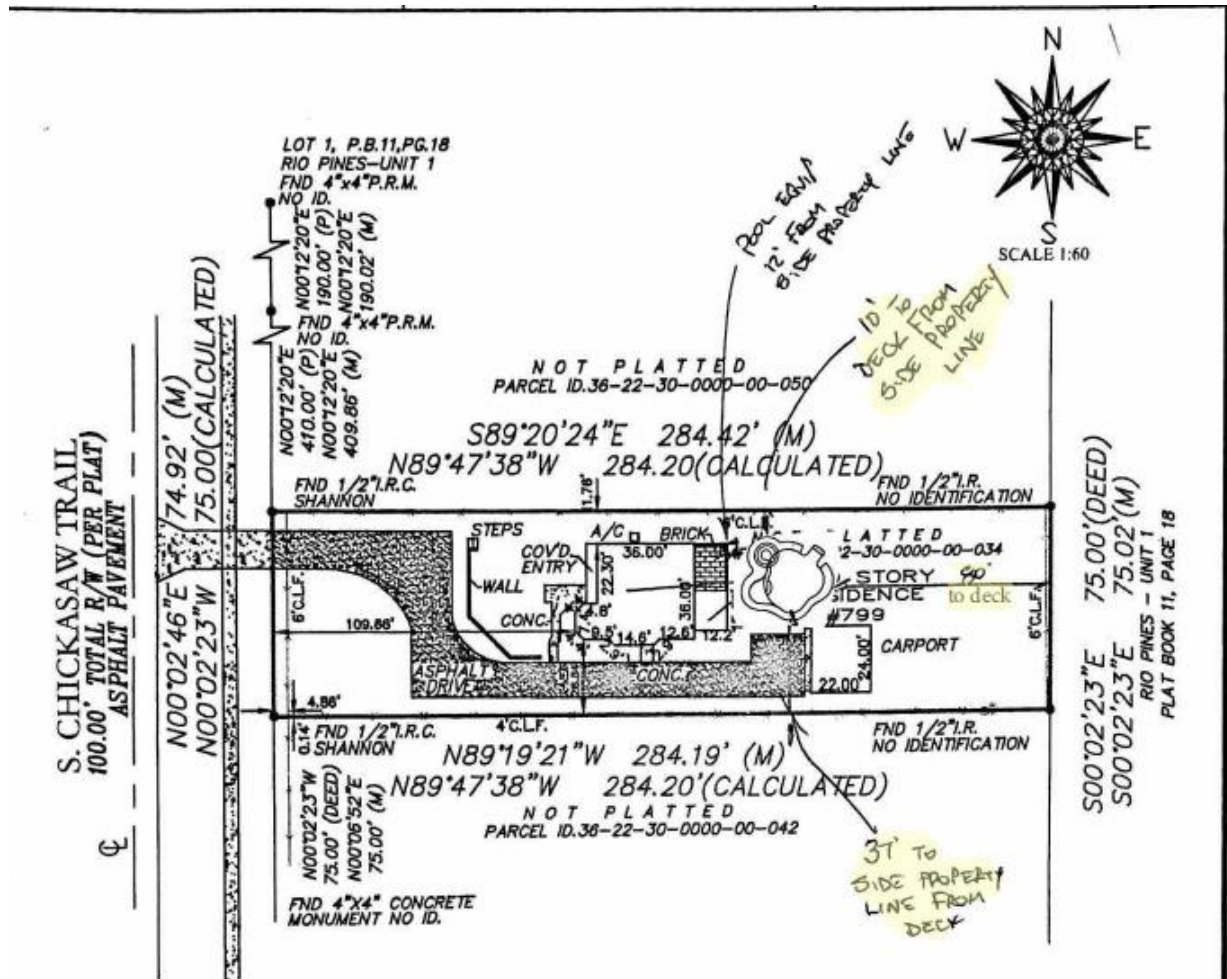
AERIAL MAP



S. CHICKASAW TRAIL
100.00' TOTAL R/W (PER PLAT)
ASPHALT PAVEMENT



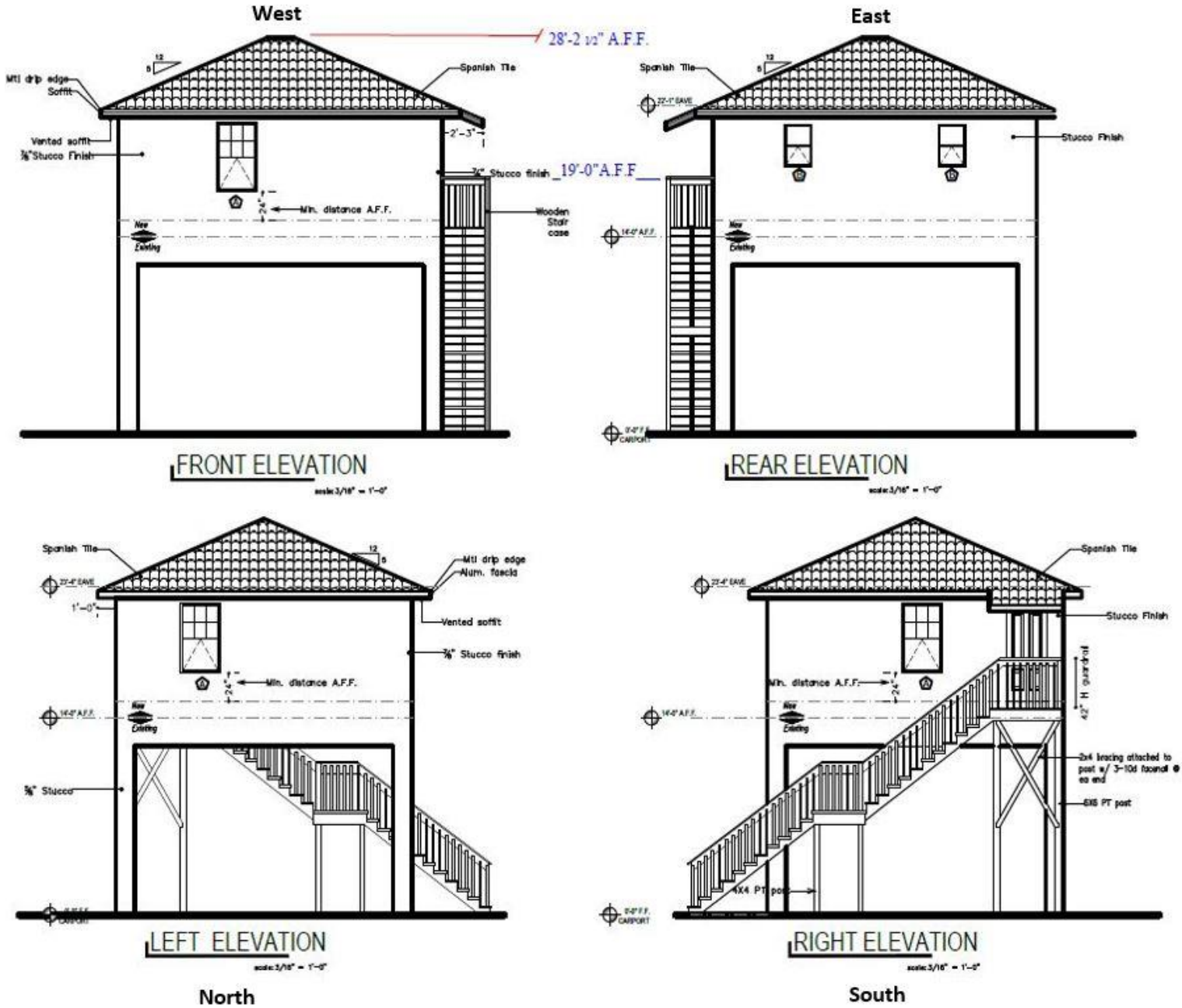
SITE PLAN SHOWING POOL AND SPA (B22011310)



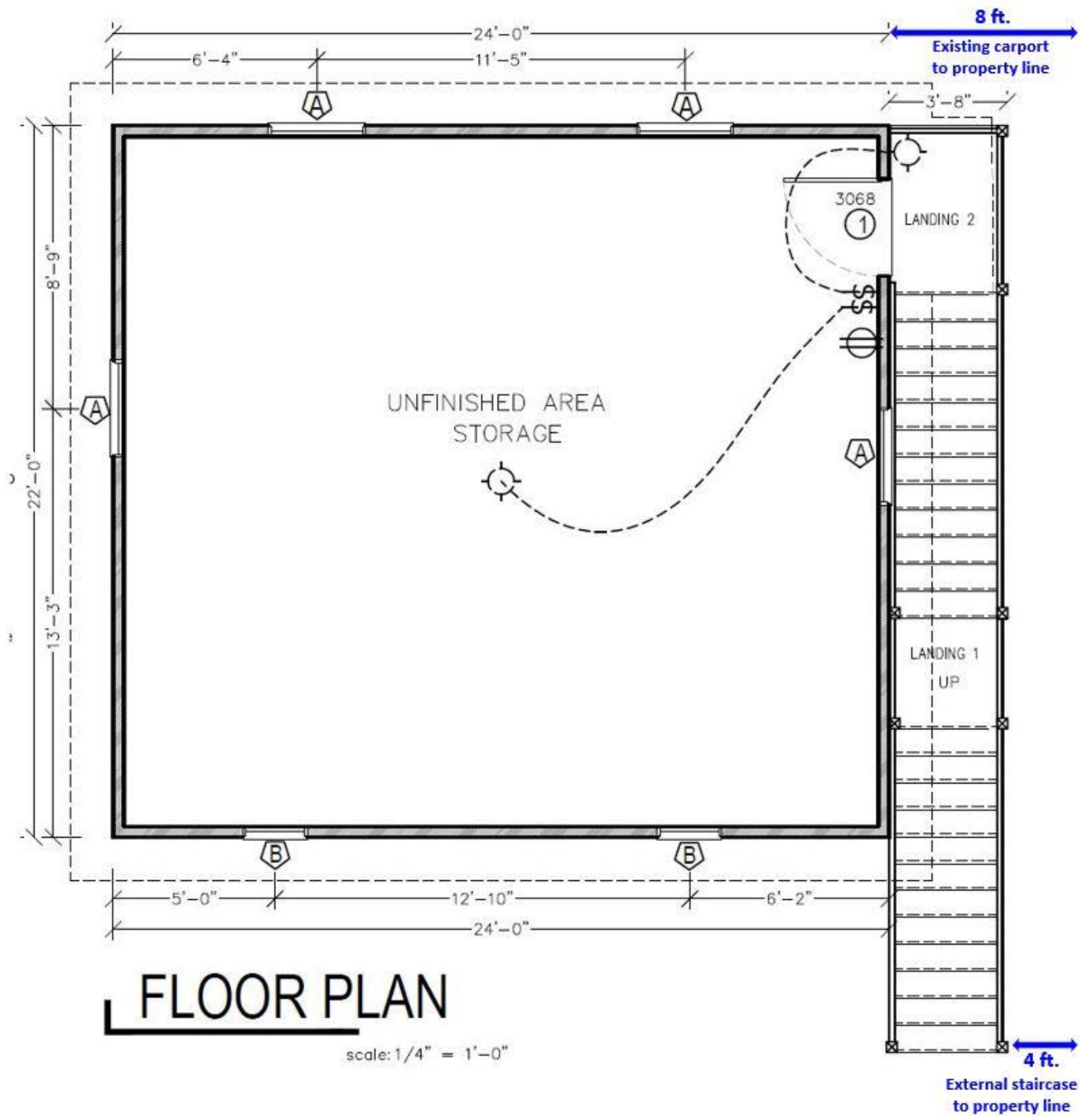
Address: 799 S. Chickasaw Trail, Orlando, FL 32825

LEBRON GROUP LAND SURVEYING AND MAPPING CORP. 1055 Palos Verde Dr. Orlando, Florida 32825 Phone (407) 781-9129 Fax (407) 517-4393 Website: WWW.LEBRONGROUP.COM Email: info@lebrongroup.com		Legend: 6\"/>		Surveyor's Notes: 1. Legal Description provided by others. 2. The lands shown hereon were not obstructed for assessments or other recorded encumbrances not shown on the Plat. 3. Underground portions of footings, foundations or other improvements were not located. 4. Wall ties are to the face of the wall and are not to be used used to reconstruct boundary lines. 5. Only visible encroachments located. 6. No identification found on property corners unless otherwise shown. 7. Dimensions shown are Plat and Measured unless otherwise shown. 8. Fence ownership not determined. 9. This survey depicted here forms a closed geometric figure. 10. No underground improvements or visible installations have been located other than shown. 11. This survey is prepared for the exclusive use and benefit of the parties listed hereon liability to third parties may not be transferred or assigned. 12. Notice this drawing may not be scale due to electronic transfer. 13. This survey does not reflect or determine ownership. 14. Fence corner and building corners are witness monuments to obstructed corner, dimensions are as shown. 15. Subject to any dedication, limitations, restrictions reservations, and/or easement of record no examination of Title made by this Surveyor. 16. This Survey is in accordance with F.S. 827.7842, for a period of 90 days from the date of certification. This Survey is not to be used for construction, permitting, design, or any other use without the written consent of LEBRON GROUP SURVEYING AND MAPPING CORP. PHOTOCOPYING FORBIDDEN. COPYRIGHTED MATERIAL © 17. This Survey was prepared without the benefit of a title search.			
Abbreviations: P = PLAT F = FIELD B/LK = BLOCK L.P. = IRON PIPE L.R. = IRON ROD U = MEASURE COVD = COVERED O.H.L. = OVERHEAD LINES CATV = CABLE TV RAISER C.L.W. = CENTER LINE H&D = HAIL AND DIBK R.O.W. = RIGHT OF WAY R/W = RIGHT OF WAY ESUT = EASEMENT DRAIN = DRAINAGE UTL = UTILITY D/W = DRIVEWAY FO = FORD FMSD = FMSD PD = PAGES P.B. = PLAT BOOK R = RADIUS L = ARC LENGTH A = CENTRAL ANGLE C.D. = CHORD DISTANCE C.B. = CHORD BEARING P.O.L. = POINT ON LINE D.U.E. = DRAINAGE AND UTILITY EASEMENT P.R.C. = POINT OF REVERSE CURVATURE P.C.C. = POINT OF COMPOUND CURVATURE A/C = AIR CONDITIONER W.P. = WITNESS POINT CONVC. = CONCRETE DISC. = DESCRIPTION CK = CONCRETE CORNER W.O.F. = WOOD FENCE LB = LICENSEE BUSINESS B.S. = BEARING BASE P.T. = POINT OF TANGENCY O.R. = OFFICIAL RECORD ENDR = ENDROADMENT FC = FENCE CORNER P.C. = POINT OF CURVATURE IRC = IRON ROD AND CAP C.L.F. = CHAIN LINK FENCE C.L.F.C. = CHAIN LINK FENCE C.U. = CONCRETE CURB P.C.P. = PERMANENT CONTROL POINT P.O.B. = POINT OF BEGINNING P.O.C. = POINT OF COMMENCEMENT P.R.M. = PERMANENT REFERENCE MONUMENT C.B. = CONCRETE BLOCK U.E. = UTILITY EASEMENT		Basis of Bearing: 1. Bearings shown hereon are based on the EAST right of way line of SOUTH CHICKASAW TRAIL, being N00°02'46\"/>		THE FLOOD DATA PROVIDED IS FOR INFORMATIONAL PURPOSES ONLY. THE SURVEYOR MAKES NO GUARANTEES AS TO THE ACCURACY OF THE INFORMATION PROVIDED. THE LOCAL F.E.M.A. AGENCY SHOULD BE CONTACTED FOR VERIFICATION.		APPROVED PLANS Orange County Division of Building Safety Permit B22011310 08/19/22 CODE 77085 CHICKASAW TRAIL B112 HECTOR LEBRON, P.S. 13414, ROSE RAUL, P.S. 13450 Florida Professional Surveyor and Florida Professional Engineer NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND AUTHENTICATED ELECTRONIC SEAL AND FOR THIS MAP IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.	
Survey No.: 815-2012 Field Date: 12/17/2012 Reviewed By: H.L.A. Surveyed By: J.R.N. Drawn By: S.D.B.		Sheet No.: 1		This Approval does not grant permission to violate any applicable code.			

ELEVATIONS



FLOOR PLAN FOR SECOND FLOOR STORAGE ROOM



SITE PHOTOS



Facing east towards front of subject property



Front yard, facing east towards front of residence

SITE PHOTOS



Side driveway, facing east towards front of existing carport



Rear yard, facing east towards front of proposed second floor storage and existing storage

SITE PHOTOS



Rear yard, facing east towards proposed external staircase



Rear yard, facing west towards rear of proposed external staircase location

SITE PHOTOS



Rear yard, facing west towards proposed pool, spa, and deck



Rear yard, facing south towards side proposed second floor storage

SITE PHOTOS



Rear yard , facing east from patio towards rear property line



Rear yard, facing south towards rear of unpermitted storage building

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#5**

Case #: **VA-22-00-078**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): MARIA RICAURTE

OWNER(s): MARIA RICAURTE

REQUEST: Variances in the R-T-2 zoning district as follows:

1) To allow an addition to a residence with a south front setback of 15.9 ft. in lieu of 35 ft.

2) To allow an addition to a residence with a north rear setback of 22.6 ft. in lieu of 50 ft.

3) To allow a 6 ft. high fence in the front yard in lieu of 4 ft. high.

4) To allow a 6 ft. high fence with 6 ft. high gates within the clear view triangle.

Note: This is the result of Code Enforcement.

PROPERTY LOCATION: 18421 Everett Rd., Orlando, FL 32820, north side of Everett Rd., east of N. County Rd. 13, north of E. Colonial Dr.

PARCEL ID: 22-22-32-0712-07-065

LOT SIZE: +/- 0.17 acres (7,499 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 17

DECISION: Recommended **APPROVAL** of the Variance requests **#1, #2 and #3**, in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended; and, **DENIAL** of the Variance request **#4**, in that there was no unnecessary hardship shown on the land; and further, it does not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3). (Motion by Roberta Walton Johnson, Second by John Drago; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan received August 26, 2022 and elevations received July 23, 2022, as modified to meet the clear view triangle for the fence and gates, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the

obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the additions, wooden deck, trellis, pavers and fence shall be obtained within 180 days of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Within 180 days the shed shall be relocated to meet code requirements and permitted or it shall be removed.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial of the Variances. Staff noted that no comments were received in favor or in opposition to the request.

The owner and representative discussed the staff recommendation and the need for the requests and agreed with the conditions of approval. Furthermore, the owner agreed to modify the fence and gates to comply with the clear view triangle.

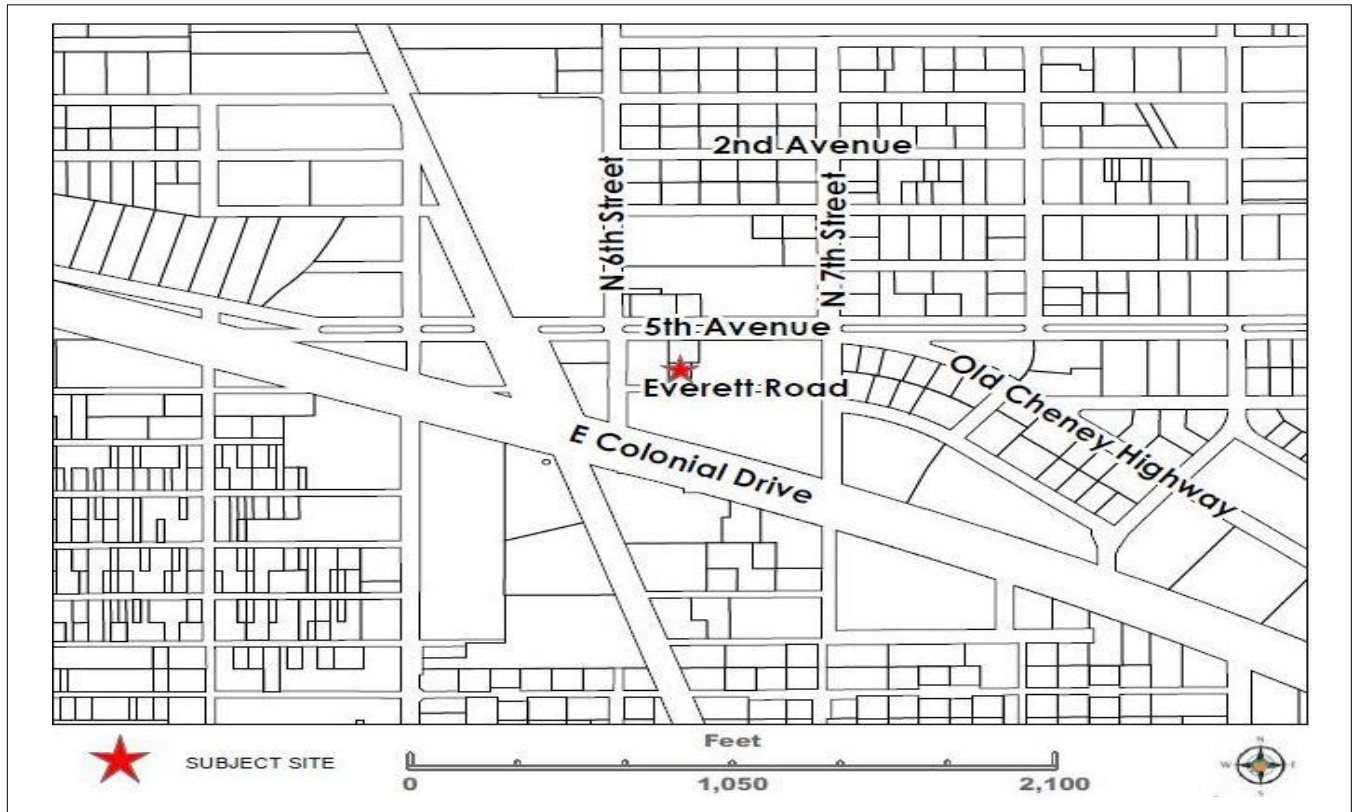
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the fence and gate in the clear view triangle, the owner's offer to comply with clear view triangle for the fence and gates and unanimously recommended approval of the Variances #1, #2, #3 and denial of Variance #4 by a 6-0 vote, with one absent, subject to the five (5) conditions in the staff report, an amended Condition #1, which states "Development shall be in accordance with the site plan received August 26, 2022 and elevations received July 23, 2022, as modified to meet the clear view triangle for the fence and gates, subject to the conditions of approval, and all applicable laws, ordinances, and regulations" and deleted Condition #6.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-T-2	R-T-2	C-2	R-T-2	R-T-2 C-1
Future Land Use	LDR	LDR	C	LDR	LDR
Current Use	Single-family residential	Single-family residential	Warehouse	Vacant/Retention	Vacant

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-T-2, Combination Mobile Home and Single-Family Dwelling district, which allows a mix of mobile homes and single-family homes on single lots under individual ownership. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-T-2 zoning district.

The property is located in the Bithlo Rural Settlement. Rural settlements are areas of the County identified in the Comprehensive Plan, where a particular rural character is desired to be preserved by its residents. Rural settlements typically limit certain uses, such as institutional uses, or commercial development, and control densities. However, they typically have little impact on the development of individual residential properties, as is the case for this request, which is not impacted by the Bithlo Rural Settlement.

The area around the subject site consists of a single-family home to the north, vacant properties to the east and west, and a warehouse to the south. The subject property is a +/- 0.17 acre lot, platted in 1924 as Lots 65 thru 67 in Block G of the Bithlo Replat, and is a nonconforming lot of record. In 1977, this property became

part of Orange County and the R-T-2 zoning was assigned. The standards for the R-T-2 district were increased in 1973 such that the minimum lot area and setback requirements increased. Prior to 1973 the R-T-2 district required a lot size of 6,000 sq. ft. with the setback standards as 25 ft. front, 25 ft. rear, and 6 ft. on the sides. Whereas, after 1973 the required lot size is 1/2 acre with the setback standards as 35 ft. front, 50 ft. rear, and 10 ft. on the sides. The property is developed with a 1-story, 2,415 gross sq. ft. single-family home constructed in 1980, an unpermitted shed, and 6 ft. high wooden fence and 6 ft. high gate. Based on aerials, the shed appears to have been installed in 2007 and the fence appears in 2015. The property was purchased by the current owners in 2016.

In November 1978, a variance (Case #26) was approved to allow the construction of the single-family residence with a south front setback of 24 ft. in lieu of the required 35 ft. on the vacant property.

Beginning in 2019, several improvements were made to the property without permits, including a 528 sq. ft. attached covered porch addition on the south front side of the home, and a 15 ft. by 12 ft., 180 sq. ft. room addition at the north rear of the home. The covered porch is located 15.9 ft. from the south front property line, in lieu of 35 ft., requiring Variance #1. The room addition is located 22.6 from the north rear property line, in lieu of 50 ft., requiring Variance #2. Currently there is a shed in the side yard, which encroaches into the adjacent property located to the east, which shall be removed or relocated to meet setback requirements. Furthermore, there is a wooden deck on the east side of the property, a trellis on wood posts in the south front, and pavers on the west side and north rear of the house.

On May 04, 2022 (CE#: 607925) a Code Enforcement citation was issued for unpermitted additions and alterations to the residence in 2019 and 2021. There are no permits under review or submitted for the additions and alterations under violation.

The additions and alterations required a permit prior to construction and no permits were obtained. The improvements could have potentially been designed to meet front and rear setback requirements, as there is sizeable available yard area where the additions could have been constructed in compliance with code. The existing south façade is located approximately 16 ft. from the south property line, but a 24 ft. front setback was approved in the 1978 variance case. It is difficult to determine from the aerials whether the original construction did not meet this approved setback, or that another unpermitted addition was constructed between 1980 and the time the current owner purchased the property in 2016.

In 2015, the applicant installed without permits a 6 ft. high opaque wooden fence along the front of the property, in lieu of 4 ft. high, requiring Variance #3, and a 6 ft. high gate within the clear view triangle, requiring Variance #4 to encroach into the clear view triangle. Code Sec. 38-1408(g)(1) allows fences to be a maximum of 4 ft. high within the front setback, and Sec. 38-1408(b) prohibits fences within the clear view triangle area, which is an area on each side of the driveway that is formed by measuring 15 ft. along the right-of-way and 15 ft. along the edge of the driveway.

While the request for the fence and gate does not meet the 6 standards for Variance approval, it should be noted that Everett Road is a non-maintained public right-of-way with no sidewalks on either side and is across the street from commercial property to the south. The 6 ft. high opaque wooden fence and 6 ft. high gate at the closest point is 10 ft. from the edge of pavement along Everett Road. The opaque wooden fence does not allow for visibility, especially when backing out of the driveway which is a safety concern, and there are no other properties in the vicinity that have been granted similar variances.

The Orange County Environmental Protection Division has no objection to the request.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	18.5 ft. 14.5 ft. additions
Min. Lot Width:	60 ft.	75 ft.
Min. Lot Size:	1/2 acre	7,499 sq. ft.

Building Setbacks

	Code Requirement	Proposed
Front:	35 ft.	15.9 ft. (South – Variance #1)
Rear:	50 ft.	22.6 ft. (North – Variance #2)
Side:	10 ft.	18.5 ft. (East) 14.4 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1, #2: There are no special conditions and circumstances, as the additions could have been constructed to meet code prior to the improvements made without permits.

Variances #3, #4: The special condition and circumstances is that Everett Road is currently unimproved which consists of no sidewalks, and there is no access driveways to the adjacent commercial property because it is the rear of a warehouse.

Not Self-Created

Variance #1, #2: The need for the variances is self-created and result from the applicant constructing the improvements without a permit, as the additions could have been built to meet code requirements.

Variance #3, #4: The requests are not self-created since the owner is not responsible for the location of the fence and gate that was installed in 2015, which is prior to the purchase of the property in 2016.

No Special Privilege Conferred

Granting the variances as requested will confer special privilege that is denied to other properties in the same area and zoning district for the additions and improvements which are unpermitted, and appears to have no neighboring properties with similar approved requests. Furthermore, the applicant could relocate or modify the fence and gate to a conforming height and location.

Deprivation of Rights

The applicant is not being deprived the right to continue to enjoy the use of the property as a single-family residence with the original design of the home, prior to the unpermitted additions and improvements, and a fence could be installed in a location and manner compliant with code.

Minimum Possible Variance

The requested variances are not the minimum possible, as the applicant has built additions and alterations that required a permit prior to construction, and they could have potentially been designed to meet front and rear setback requirements, as there was a sizeable vacant yard where all or a portion of the additions and alterations could have been placed in compliance with code. Additionally, the owner can reduce the height of the fence and gate or relocate or modify them to a conforming height and location.

Purpose and Intent

Variance #1, #2: Approval of the requested variances would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The proposed request will not be detrimental to the neighborhood since the design of the addition as proposed is consistent with the architectural design of the existing house and the neighboring property to the south is a warehouse, and to the immediate east and west are vacant and owned by a construction company.

Variance #3, #4: Approval of the variance will not be in harmony with the purpose and intent of the zoning regulations. The fence will be detrimental to the neighborhood due to the height and opacity, which can have a negative impact on the safety of pedestrian and motorists. Further, the fence within the clear view triangle could significantly block the view of pedestrian and motorists.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received August 26, 2022 and elevations received July 23, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the additions, wooden deck, trellis, pavers and fence shall be obtained within 180 days of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Within 180 days the shed shall be relocated to meet code requirements and permitted or it shall be removed.
6. Prior to the issuance of a building permit, the property owner shall record in the Official Records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies and holds harmless Orange County from any claims, lawsuits, and any other damage caused by the locating of the fence in the clear view triangles adjacent to Everett Road as requested by the property owner, and shall inform all interested parties, including any future purchasers of the property, that the fence is located within the clear view triangles and that the property owner, and the property owner's heirs, successors, and assigns shall be responsible for any claims, lawsuits, and other damage caused by installing the fence in that location.

C: Maria Ricaurte
18421 Everett Rd.
Orlando, FL 32820



rafael a. bassi, pe

July 29, 2022

Orange County Zoning Division
Board of Zoning Appeals
201 S. Rosalind Avenue
Orlando, FL 32801

Re: Application for a Variance
18421 Everett Road, Orlando, FL 32820

To Whom It May Concern,

We hereby submit, for your consideration, our application for a Zoning Variance for the referenced property, in particular, a setback variance. Attached please find the application form (pages 1-10) and the required supporting narrative and documents.

The subject property is zoned R-T-2 and is currently used as a single-family residence. The lot was created prior to Jan 1973, when the zoning district required a 6,000 minimum square foot lot. The subject lot is 7,500 SF. After 1973, the same zoning district required a ½ acre lot, creating dimensional hardships for this lot. The dwelling was built in 1980. The current owner purchased the house in 2016 and the building already had front and rear setback encroachments.

Additions were performed in 2019, which further encroached on the required 50-foot rear setback and the 35 foot front setback, see tabulation below. Side setbacks were not encroached by the building additions.

Before Jan 1973, required setbacks for R-T-2 zoned properties were:

Front = 25 feet
Rear = 25 feet
Side = 6 feet
Min. lot size = 6,000 SF

After Jan 1973, required setbacks for R-T-2 zoned properties are:

Front = 35 feet
Rear = 50 feet
Side = 10 feet
Min. lot size = ½ acre

1314 stetson street orlando, fl 32804 tel. 407.506.6551

Variances are sought for the following:

1. A further reduction of the front setback from the required 35 feet to 15.9 feet. This is a covered addition to the house. The original portion of the house had a front setback of 16.4 feet.
2. A further reduction of the rear setback from the required 50 foot setback to 22.6 feet to accommodate the construction of a house addition. The original building provided a rear setback of 34.3 feet.

An Architect is preparing building plans and a civil engineer has been engaged to provide any engineered plans and calculations required by Orange County for a Site Plan submittal to permit these additions. Our goal is to bring the property as close to compliance with current regulations as possible, considering the limiting nature of the current zoning district rules for such a small lot.

Architectural elevations, a site plan and site photographs are enclosed with this submittal.

Sincerely,



Rafael A. Bassi, PE
cc: Maria Rosa Ricaurte

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.
 - The subject property is zoned R-T-2. Its dimensions predate the new zoning dimensions set forth in 1973. The house was originally built in 1980, and expansions were built in 2019 by the current owner. Adjacent lots with the same zoning classification are also smaller than the 1/2 acre lot size now required. Adjacent properties are not affected by the work performed.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.
 - The subject property is zoned R-T-2. the original house was built in 1980, after the zoning requirements were changed. Thus any nonconforming dimensions were present prior to the additions performed. the hardship was existent since 1980.

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.
 - The subject property is similar in size to adjacent properties within the R-T-2 zoning district, nonconforming by current standards. No special privilege is requested by this application.
 -
 -
4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.
 - The proposed setback variance is consistent with what is enjoyed by surrounding properties within the same zoning district. The remodeling of the house has been completed and denying this application would provide a hardship to the applicant.

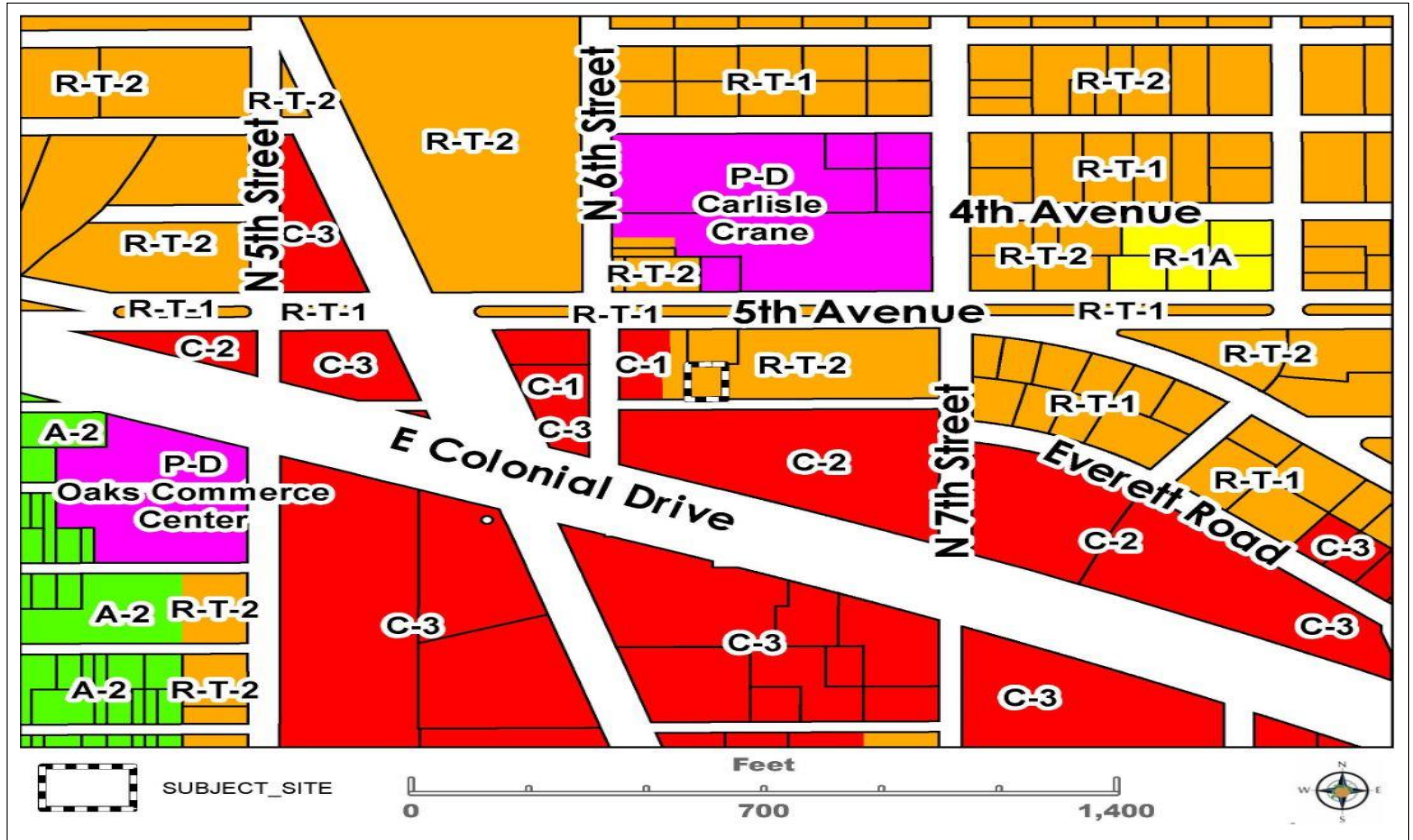
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - We believe that the request is the minimum that would be necessary to make the additions to the house feasible.

6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- The variances are for setbacks, namely side and rear. The front setback is not affected, and by standards is already encroaching.
- Front 35 ft required, 25 ft pre-1973 = 17.7 ft (existing) provided, no bldg. changes proposed, only pavement addition.
- Side 10 ft required, 6 ft pre-1973 = >10 ft (existing), no encroachment proposed
- Rear 50 ft required, 25' pre-1973 = 34.3 ft (existing) 22.5 ft (proposed)

We believe that the proposed setback deviations do not cause any negative impact to the neighborhood, or be detrimental to public welfare. The improvements are within the property, are for the owner's use, and not accessible to the general public.

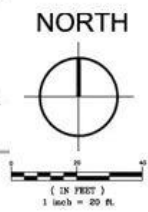
ZONING MAP



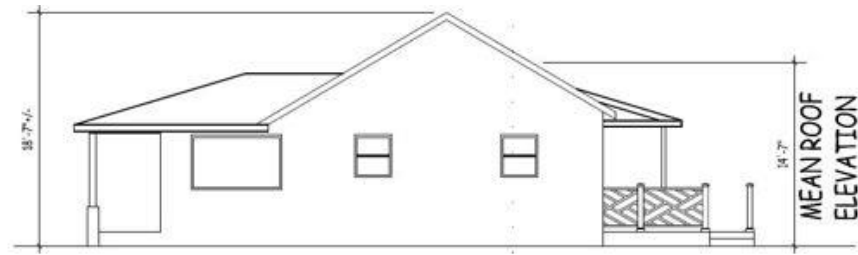
AERIAL MAP



SITE PLAN



ELEVATIONS



1 South Elevation
1/8"=1'-0"

Ref. Dwg: -

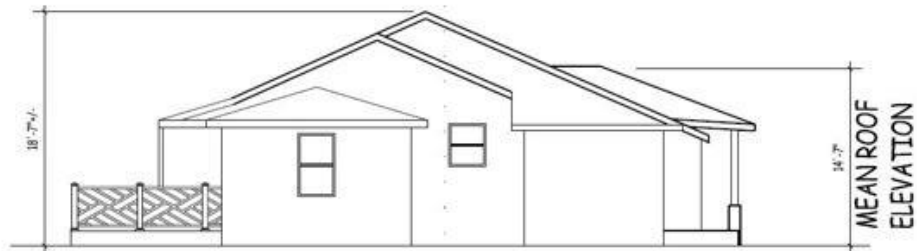
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2 West Elevation
1/8"=1'-0"

Ref. Dwg: -

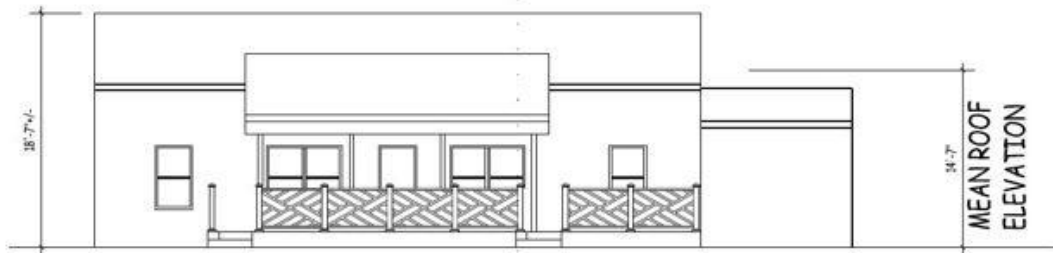
0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100



3 North Elevation
1/8"=1'-0"

Ref. Dwg: -

0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100



4 East Elevation
1/8"=1'-0"

Ref. Dwg: -

SITE PHOTOS



Facing west from Everett Rd. towards 6 ft. front yard fence



Facing north towards covered addition and 6 ft. gate within clear view triangle

SITE PHOTOS



Facing east from entrance towards trellis



Side yard, facing south towards unpermitted wooden deck

SITE PHOTOS



Side yard, facing southeast towards unpermitted shed



Side yard, facing southwest towards rear addition and pavers (unpermitted)

SITE PHOTOS



Rear yard, facing northeast towards rear addition and side addition (unpermitted)

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#2**

Case #: **VA-22-11-111**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): SUSAN COSENS

OWNER(s): SUSAN COSENS

REQUEST: Variance in the R-1A zoning district to allow a carport addition with a north front setback of 8 ft. in lieu of 25 ft.

PROPERTY LOCATION: 6414 Basic Ln., Orlando, FL 32810, south side of Basic Ln., south of Beggs Rd., east of N. Hiawassee Rd., west of N. Pine Hills Rd.

PARCEL ID: 36-21-28-5203-02-040

LOT SIZE: +/- 0.19 acres (8,612 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 93

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by Roberta Walton Johnson; 4 in favor: Deborah Moskowitz, Juan Velez, Roberta Walton Johnson, Charles Hawkins, II; 2 opposed: Thomas Moses, John Drago; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan and elevations received August 8, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the carport shall be obtained of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. Prior to the issuance of the permit for the carport, a permit shall be obtained for the shed or the shed shall be removed.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial since there are other options for a lesser Variance that would be more consistent with front setbacks of the surrounding properties. Staff noted that five (5) comments were received in favor of the application, and one (1) comment was received in opposition to the application.

The applicant discussed the staff recommendation and described the need to install a carport in the proposed location.

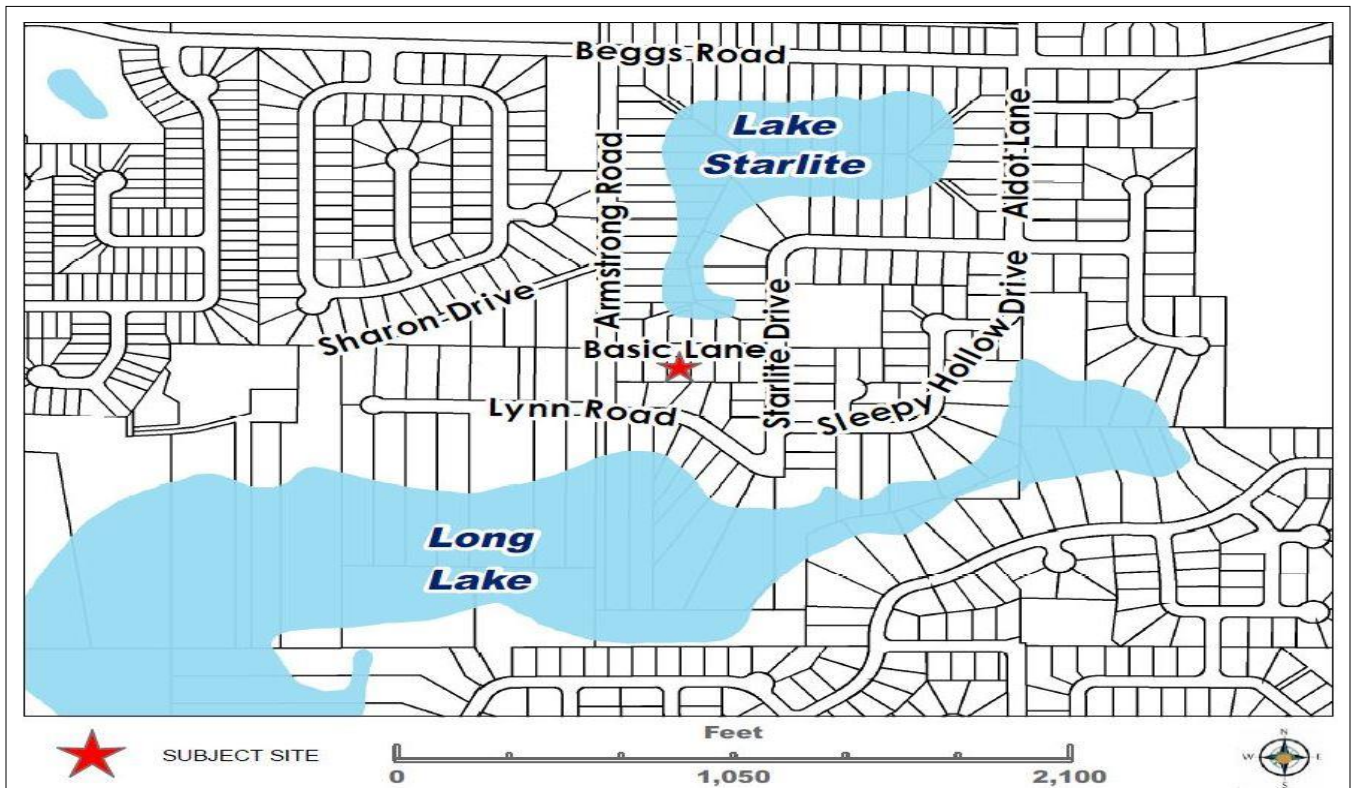
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the applicant having other options and the proposed location of the carport within the front yard. The BZA made a motion to deny the application, which failed by a 2-4 vote, with one absent. The BZA recommended approval of the Variance by a 4-2 vote, with one absent, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The subject property is a 0.19 acre lot, platted in 1958 as Lot 4 in Block B of the Long Lake Subdivision, and is a conforming lot of record. The property is developed with a 1-story, 1,400 gross sq. ft. single-family home constructed in 1980 and a 49 sq. ft. unpermitted vinyl shed. The year of installation of the shed cannot be ascertained via aerial photography due to heavy vegetation. There is a 5 ft. drainage easement that runs along the east side of the property, but it is not impacted by the proposal. The property was purchased by the current owner in 1993.

Proposed is the installation of a 26.3 ft. by 18 ft., 9.3 ft. high attached carport at the front of the house. The carport will be open on 3 sides and complies with the required 7.5 ft. side setback, but is proposed to be 8 ft. from the front property line in lieu of the required 25 ft. setback, requiring a Variance. Although many neighboring houses include carports on Basic Lane, they appear to meet setbacks. In the cover letter, the applicant mentions an original carport that was closed in prior to purchasing the property, but there were no alteration permits found in the Orange County records. Furthermore, no images could be ascertained via aerial photography or Google street view to confirm the existence of a carport. A permit, B22013198, to construct the carport is on hold pending the outcome of this request.

Staff is recommending denial of this request as there is an option to lessen the variance request by reducing the size to a 10 ft. by 20 ft. one-car carport and rotating it to allow for side access, which would have a 16 ft. south front setback to the property line.

As of the date of this report, five comments have been received in favor of this request and no comments have been received in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	9.3 ft.
Min. Lot Width:	75 ft.	75 ft.
Min. Lot Size:	7,500 sq. ft.	8,612 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	25 ft.	8 ft. (North – Variance)
Rear:	30 ft.	60.3 ft. (South)
Side:	7.5 ft.	11.25 ft. (West) 38 ft. (East)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

There are no special conditions or circumstances particular to the subject property as the owner may continue to use the existing driveway for parking.

Not Self-Created

The request for the variance is self-created and a self-imposed hardship as there is code compliant parking existing on the property.

No Special Privilege Conferred

Granting the variance as requested would confer special privilege and could set a precedent as several other properties in the area are built with carports that appear to meet required setbacks.

Deprivation of Rights

There is no deprivation of rights as the owner can continue to use the existing parking area.

Minimum Possible Variance

The request is not the minimum possible as proposed as there is an option to lessen the variance request by modifying the design of the carport.

Purpose and Intent

Approval of the requested variance would not be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. There are options to lessen the impact to the surrounding properties.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received August 8, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
 2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
 3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
 4. A permit for the carport shall be obtained of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
 5. Prior to the issuance of the permit for the carport, a permit shall be obtained for the shed or the shed shall be removed.
- C: Susan A Cosens
6414 Basic Lane
Orlando, FL 32810

COVER LETTER

Susan A Cosens
6414 Basic Lane
Orlando, Florida 32810
321-662-9265

August 3, 2022

Orange County Zoning Division
201 South Rosalind Avenue
Frist Floor
Orlando, Florida 32801

To whom it may concern,

I am requesting a variance of the front set back in order to have a carport constructed. The set back is 25' from the property line. I am requesting a variance of 17'. This would leave a set back from the property line of 8'. This is to allow the contractor, Dulando Screen and Awning to construct a carport that would be 18' by 26' 4" wide and 8' 11" tall sloping to 8' 3". This is for my single story, single family dwelling at 6414 Basic Lane, Orlando Florida 32810. It will be 548 square feet in area.

I am requesting this due to getting older and planning for a healthier future at home. The carport would provide shelter from all weather when coming home and leaving. Also the floor of the carport will provide a solid flat surface to walk on. I have worked in the skilled nursing industry and have seen how one fall can change every aspect of your life. It would also provide protection from all weather for the cars, including hurricanes.

When I bought this house the original carport had been enclosed and made a part of the house. I have no protection from the elements at this time when getting from the car to the door or door to car, making this an unsafe condition. Allowing the variance to build the carport would provide a more secure egress to and from my home.

I look forward to hearing from you regarding this matter.

Sincerely,

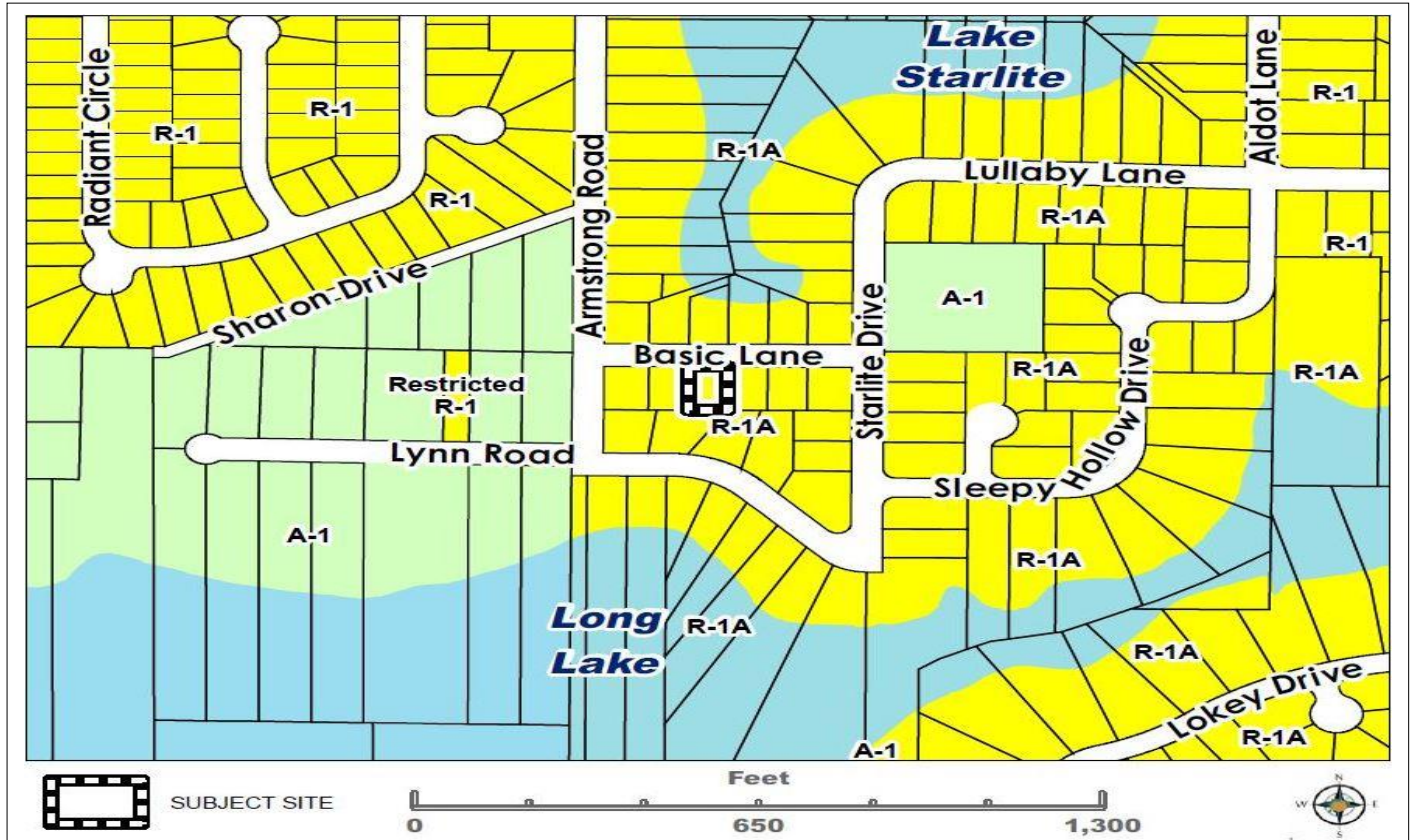


Susan A Cosens

Variance Criteria

1. I do not feel this constitutes "special privilege" as other homes in this neighborhood have covered carports even though they are adjacent to the homes as opposed to closer to the frontage.
2. The original carport was already closed in and made an integral part of the home before I purchased it so this condition is not self-created.
3. I do not feel this constitutes "special privilege" as other homes in this neighborhood have covered carports even though they are adjacent to the homes as opposed to closer to the frontage.
4. I am requesting this due to getting older and planning for a healthier, safer future at my home. I currently have no protection from the elements at this time when getting from the car to the entry door or from the entry door to my car, making this a potentially unsafe condition. The carport would provide shelter from all weather when coming home and leaving. Also the concrete floor of the carport will provide a solid flat surface to walk on. I have worked in the skilled nursing industry and have seen how one fall can change every aspect of your life. It would also provide protection from all weather for the cars, prolonging its life, and including protection from hurricanes and other inclement weather, as the structure would be built to all current Florida Building Codes in relation to high wind protection.
5. Need to be able to fit the vehicles completely under the carport is why I am asking for 17 foot variance.
6. Providing a variance to build this structure would not cause disharmony or result in injurious conditions with the public welfare. I have discussed this matter with all of the nearby and adjacent neighbors and there are no objections. (see attached letters)

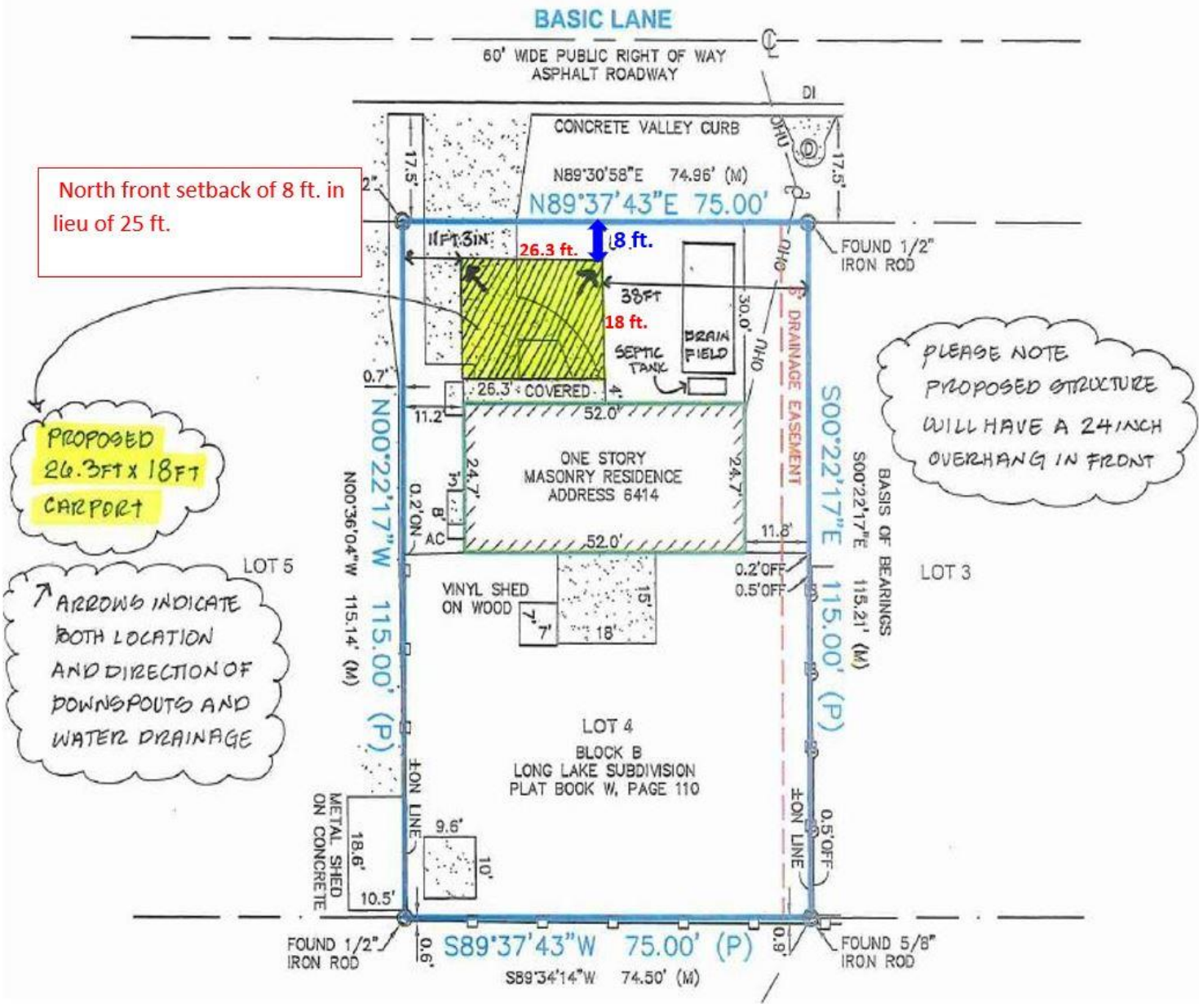
ZONING MAP



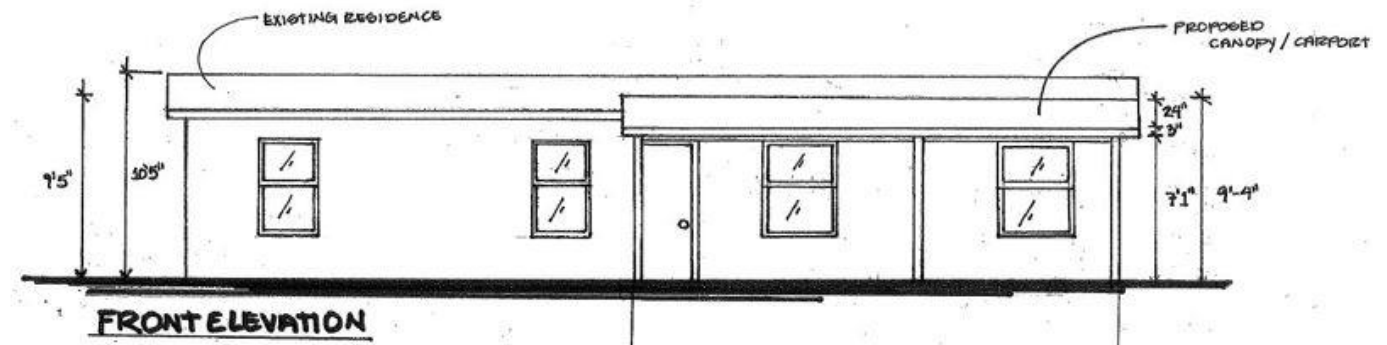
AERIAL MAP



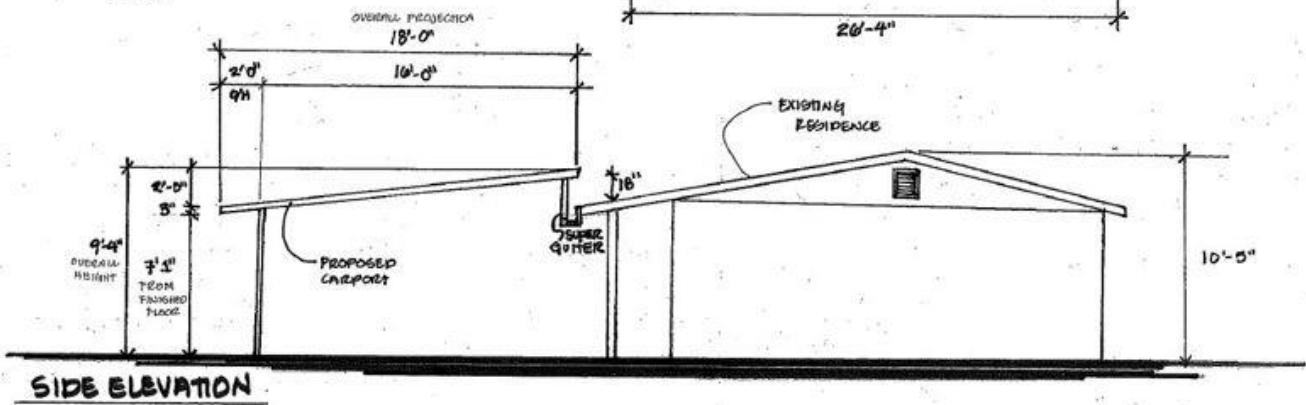
SITE PLAN



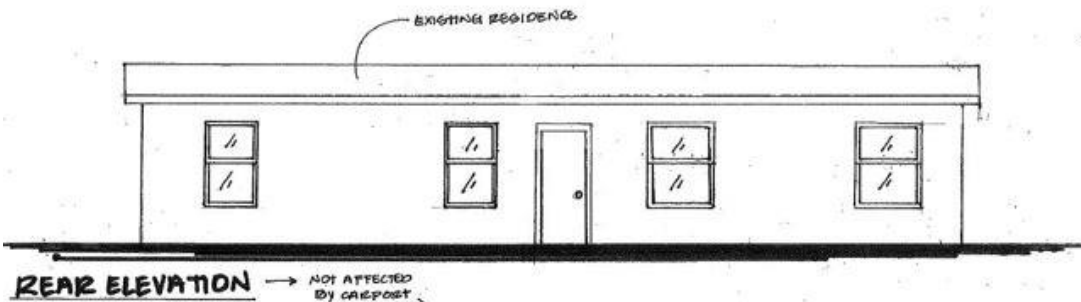
ELEVATIONS



North

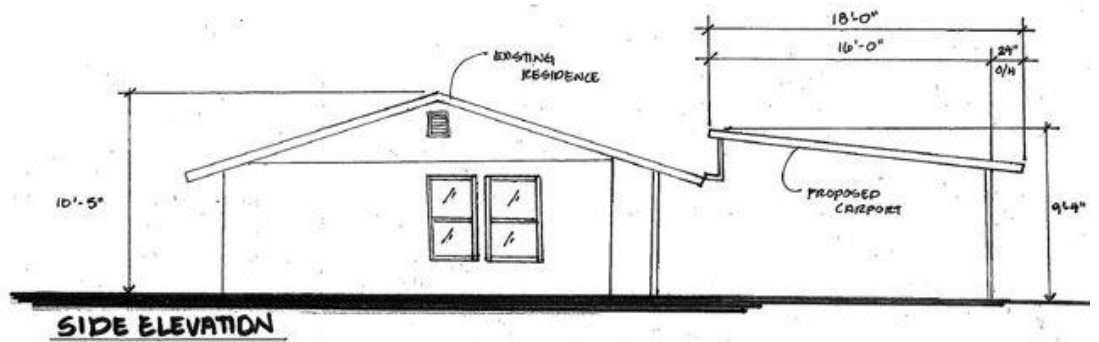


West



South

→ NOT AFFECTED
BY CARPORT
(PROPOSED)



East

SITE PHOTOS



Facing south towards front of subject property and proposed carport location



Rear yard, facing northeast towards rear of residence



Rear yard, facing west towards front of unpermitted shed

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#2**

Case #: **VA-22-10-099**

Case Planner: **Michael Rosso (407) 836-5592**

Michael.Rosso@ocfl.net

GENERAL INFORMATION

APPLICANT(s): PAUL JUDSON

OWNER(s): SHARON COLLINS

REQUEST: Variances in the A-1 zoning district as follows:

1) To allow a lot width of 75 ft. in lieu of a minimum of 100 ft.

2) To allow a lot size of 9,008 sq. ft. in lieu of a minimum of 21,780 sq. ft.

PROPERTY LOCATION: 3449 Fudge Road, Apopka, FL 32712, north side of Fudge Rd., north of W Orange Blossom Trl., east of Hermit Smith Rd.

PARCEL ID: 36-20-27-0000-00-038

LOT SIZE: +/- 0.21 acres (9,008 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 71

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, Second by Juan Velez; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the lot dimensions shown on the site plan received September 12, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in support or in opposition.

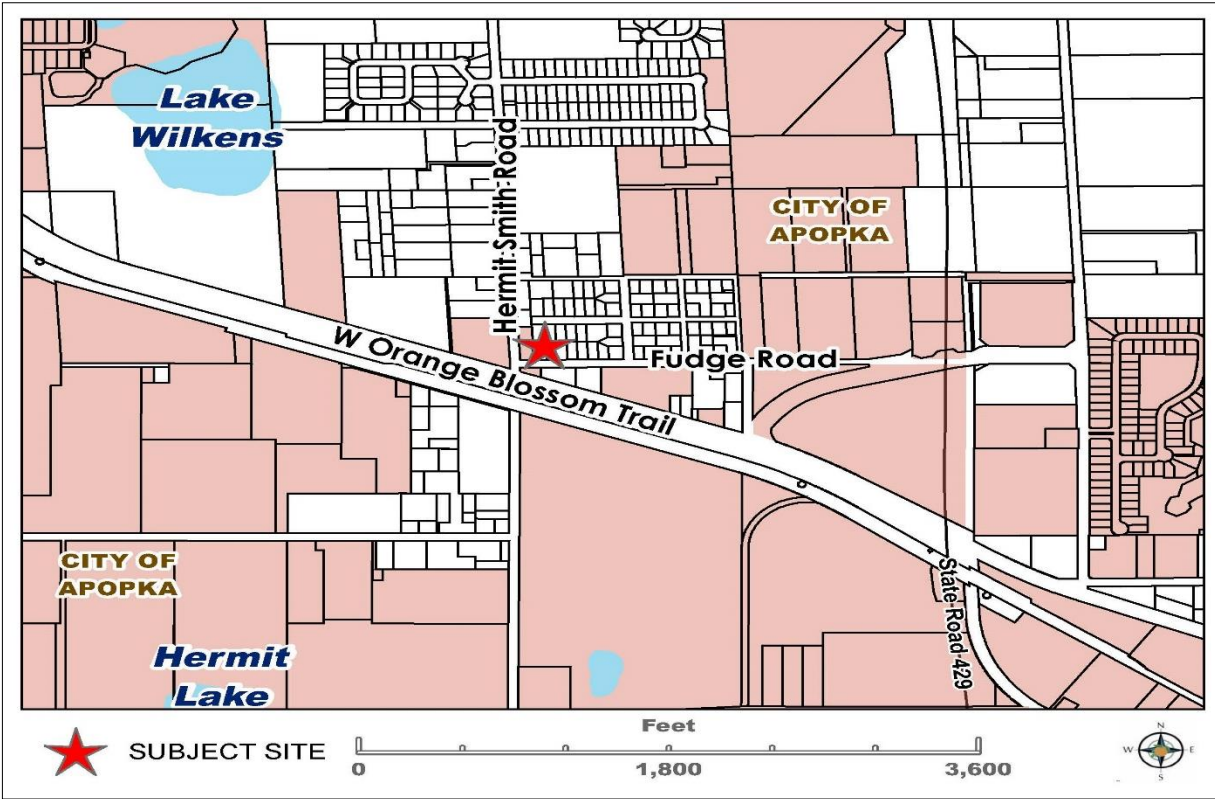
The applicant agreed with the staff presentation. There was no one in attendance to speak in favor or in opposition to the request.

The BZA briefly discussed the Variance and stated justification for the six (6) criteria and unanimously recommended approval of the Variance by a 6-0 vote, with one absent, subject to the three (3) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-1	A-1	City of Apopka, A-1	A-1	City of Apopka
Future Land Use	R	R	City of Apopka, R	R	City of Apopka
Current Use	Single-Family Residence (to be demolished)	Single-Family Residence	Vacant, Single-Family Residence	Single-Family Residence	Vacant

DESCRIPTION AND CONTEXT

The subject property is located in the A-1, Citrus Rural District, which allows agricultural uses, as well as single-family homes and associated accessory structures on a minimum of half-acre lots. The Future Land Use is Rural (R), which is consistent with the zoning.

The subject site is located in a single-family residential neighborhood, with a large gas station less than 150 ft. to the west across Hunt Smith Rd. The subject property is unplatted, 9,008 sq. ft in size, and is a substandard sized parcel. It is unclear when this parcel was created, or if it is a lot of record, as a title search was not submitted by the applicant. However, as the existing 1-story, 1,072 sq. ft., single-family home was built in 1940, it is likely that the parcel was created prior to that year. This parcel, and the rest of the surrounding neighborhood, were all zoned A-1 in 1957 when zoning was instituted in Orange County. Aside from the subject site, and the parcel directly to the north, the rest of the block, and the block to the north, were platted as the Morrison's Subdivision in 1966. None of the 31 lots platted as part of that subdivision met the current A-1 zoning minimum lot size; and only one of the lots met the minimum lot width. The County has granted variances to several of the surrounding properties to allow homes to be constructed on these substandard sized lots.

A permit (B22017546) has been submitted for the demolition of the existing residence. The proposal is for the construction of a new 1-story, residence with 1,171 sq. ft. of living area, a 120 sq. ft. covered front porch, and a 69 sq. ft. covered back porch, which meets all A-1 setback requirements. A permit for the construction of the new residence (B22011885) has been submitted, which is on hold pending the outcome of these Variance requests.

As the existing residence has existed on this lot since 1940, and as it can be reasonably assumed that the lot existed in its current configuration at that time, the lot is currently considered nonconforming. However, once the existing home is demolished, the lot is required to meet code in order to build anything new, and would need to meet all A-1 zoning standards, unless it is determined that the property is a lot of record. Per Orange County Code Sec. 38-1401, if two or more adjoining lots were under single ownership on or after October 7, 1957, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. The applicant has not submitted a title search to determine if the parcel is a lot of record, so it cannot be considered a substandard lot of record, and variances are required for the lot width and lot size. Variance #1 is required as the lot is only 75 ft. wide, and a minimum lot width of 100 ft. is required in the A-1 zoning district. Variance #2 is required as the lot is only 9,008 sq. ft. in size, and a minimum lot area of 21,780 sq. ft. is required in the A-1 zoning district.

As of the date of this report, no comments have been received in favor of or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	15.5 ft.
Min. Lot Width:	100 ft.	75 ft. (Variance #1)
Min. Lot Size:	21,780 sq. ft.	9,008 sq. ft. (Variance #2)

Building Setbacks

	Code Requirement	Proposed
Front:	35 ft.	36.7 ft. (South)
Rear:	50 ft.	50 ft. (North)
Side:	10 ft.	20.6 ft. (West) / 10.2 ft. (East)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special condition and circumstance particular to the subject property is that the existing home was constructed in 1940, prior to the A-1 zoning designation in 1957, with the implementation of the Zoning Code. As it can be reasonably assumed that the lot existed in its current configuration at that time, this would mean that the lot was made nonconforming when the A-1 zoning was assigned. Furthermore, the lots in the surrounding neighborhood as originally platted did not meet A-1 lot width and size standards.

Not Self-Created

The need for the requested variances is not self-created as the current owners are not responsible for the existing lot configuration; and thus, they are not responsible for the substandard lot size and lot width.

No Special Privilege Conferred

Approval of the variances as requested will not confer special privilege as the County has granted several similar variances to allow homes to be constructed on substandard sized lots on the same block. In fact, the majority of properties in this entire neighborhood do not meet the lot size or lot width requirements of A-1 zoning.

Deprivation of Rights

Literal interpretation of the code will deprive this applicant of the right to build a new residence after demolishing the existing residence, which the applicant states was damaged in Hurricane Irma.

Minimum Possible Variance

These are the minimum possible variances to allow a residence to be constructed on the site.

Purpose and Intent

Approval of the requested variances would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. As the proposed residence will be meeting all A-1 setbacks, there will not be any discernable negative impact. Furthermore, this property is similar in lot size and lot width to most of the other lots in this neighborhood. In fact, this property is about 15 ft. wider than the majority of lots on this block and the block to the north.

CONDITIONS OF APPROVAL

- 1) Development shall be in accordance with the with the lot dimensions shown on the site plan received September 12, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
- 2) Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
- 3) Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Paul Judson
1650 Winding Way, Building B
Friendswood, Texas 77546

C: Sharon Collins
3449 Fudge Road
Apopka, Florida 32712



RE: Permit #B22011885 BZA Request

To Whom It May Concern,

We are requesting a zoning variance on behalf of Sharon Collins, the property owner at 3449 Fudge Road, Apopka, FL 32712. We have been commissioned by the State of Florida's CDBG-DEO Rebuild program to demolish Mrs. Collin's existing home and construct a new home due to the damage her existing home sustained during hurricane Irma. Our permit application has been denied because the lot was determined to be too small to be zoned in the A1 zoning district. We are requesting a variance to allow the home to be zoned A1, so we can obtain a building permit to replace Mrs. Collin's home. Per the BZA's requirements, this request is related to an issue that was not self- created, no special privilege will be conferred, there will be no deprivation of rights, and no harm caused.

Thank you for your consideration,

Paul Judson

DSW Homes

COVER LETTER

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

Per building department this lot is not large enough to be deemed A-1 zoning and we cannot produce a chain of recorded deeds from 1957 to present for the property and neighboring lots.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

The variance is being requested to rebuild a home damaged by a natural disaster outside of the property owner's control.

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

There is no special privilege conferred. We are seeking a variance to demolish and replace a damaged home.

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

There is no deprivation of rights involved.

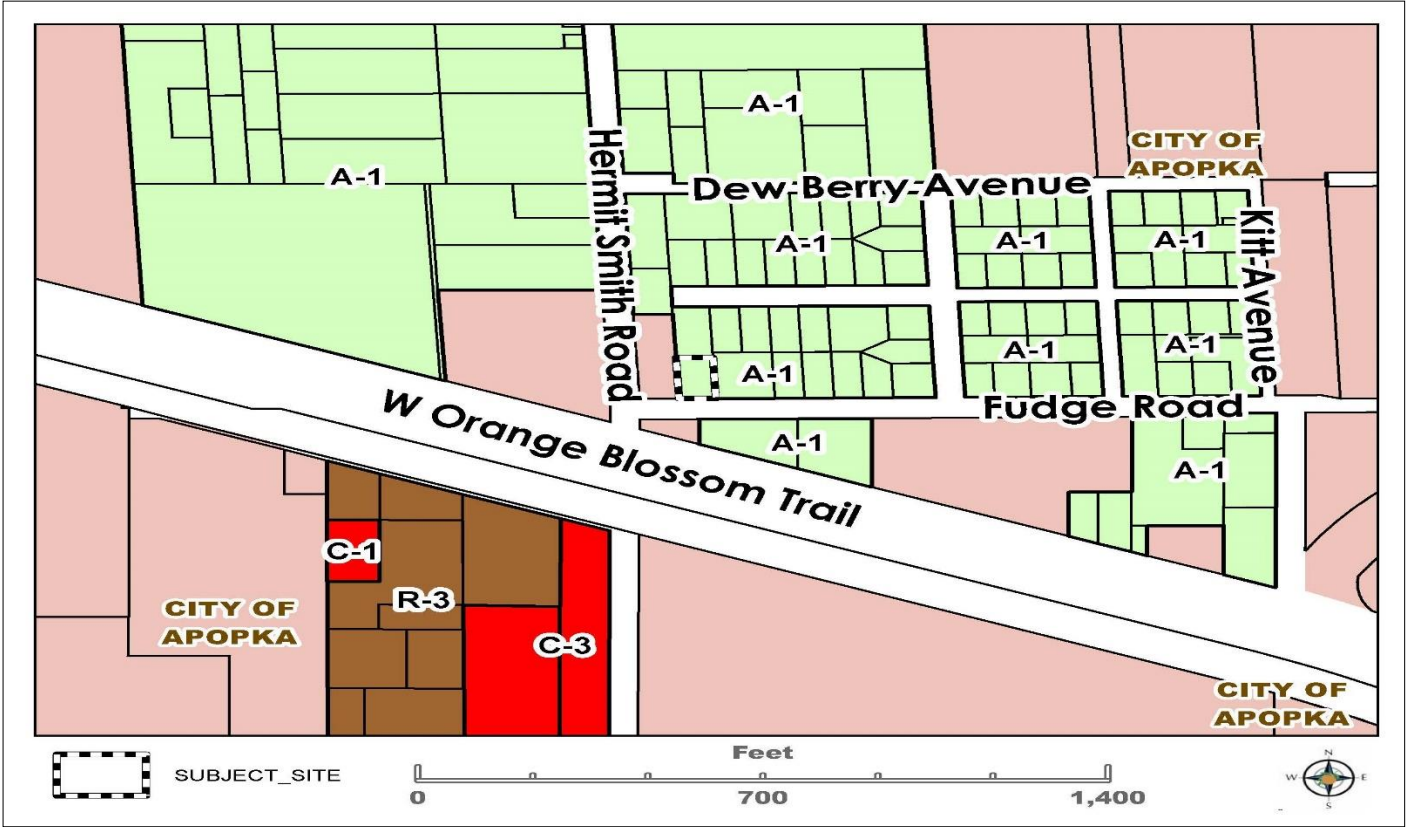
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

We need lot to be granted permission to be considered A-1 zoning.

6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Approval of zoning variance will simply replace a damaged home for Sharon Collins and will not harm any neighboring properties.

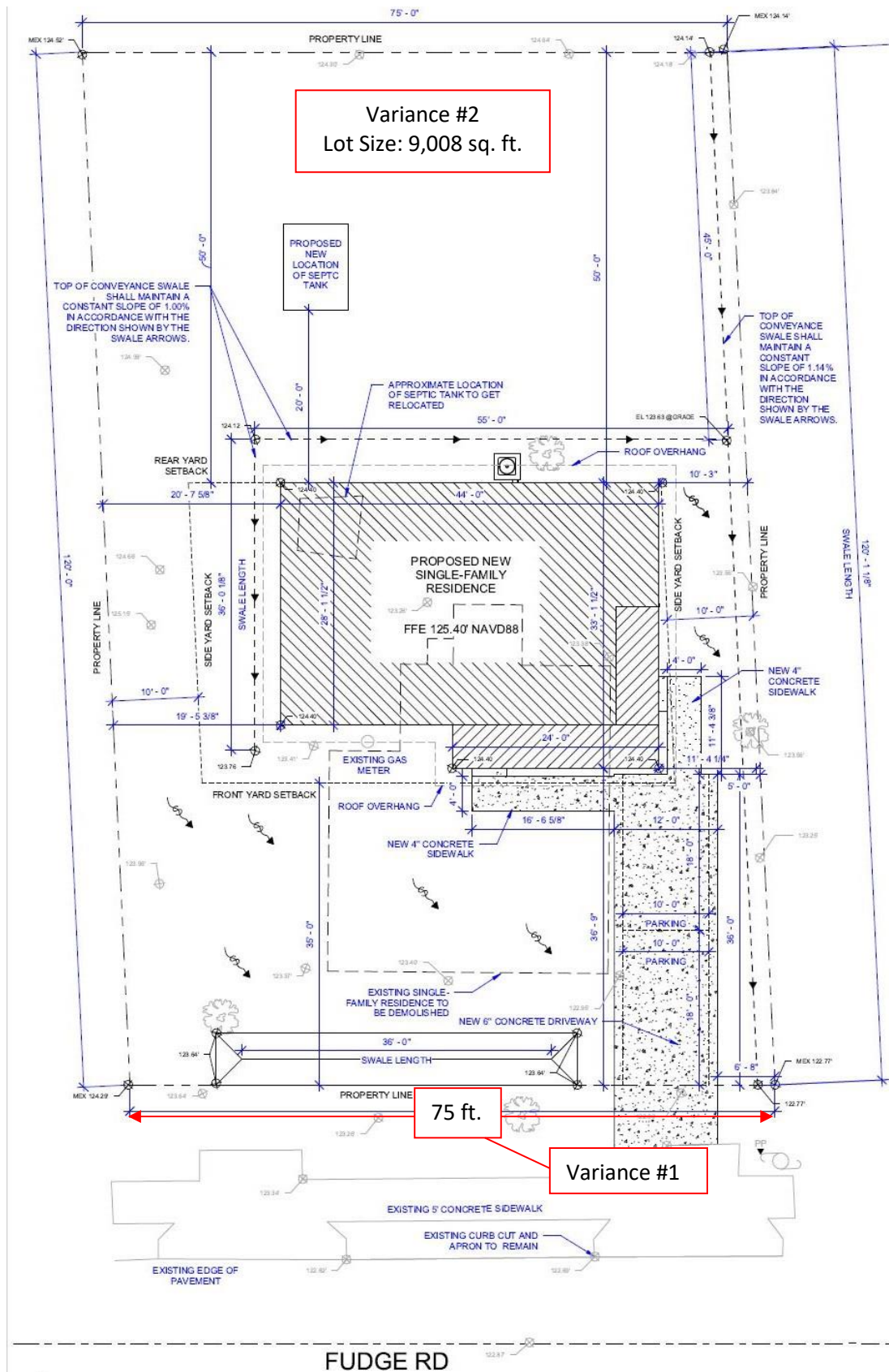
ZONING MAP



AERIAL MAP



SITE PLAN

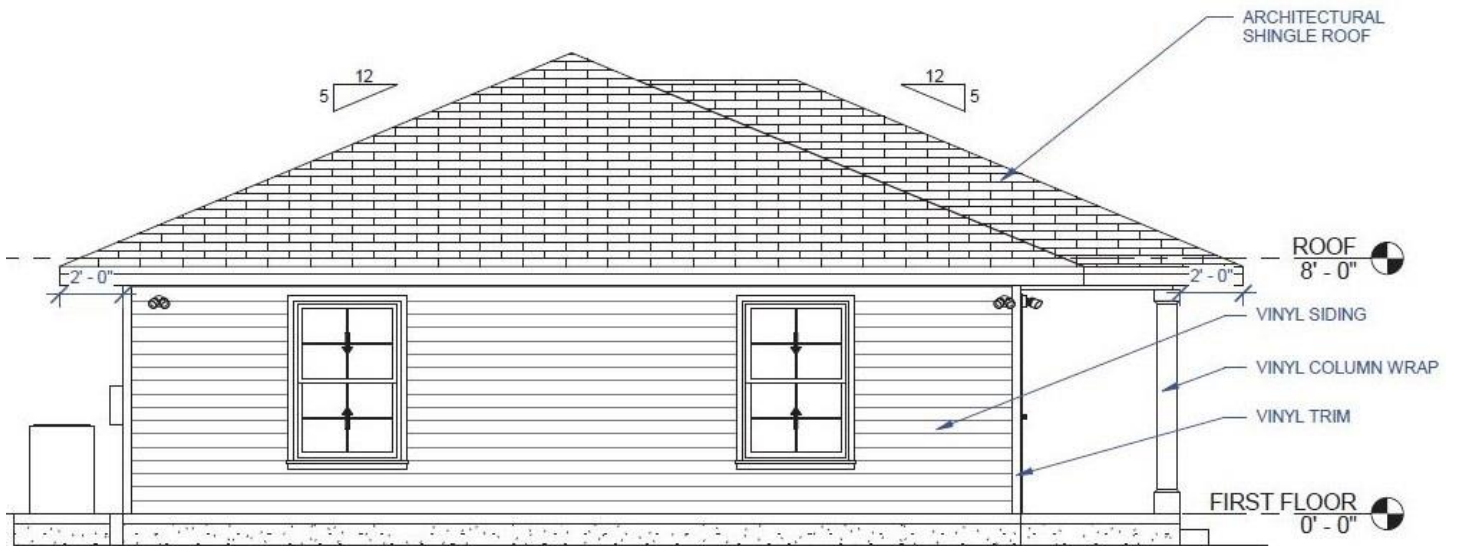


① SITE PLAN
1/8" = 1'-0"

ELEVATIONS



SOUTH



WEST



EAST

ELEVATIONS



① REAR ELEVATION
1/4" = 1'-0"

NORTH

SITE PHOTOS



Facing northwest from Fudge Rd. towards front of subject property and existing home (to be demolished)

SITE PHOTOS



Facing northeast towards west side of subject property and existing home (to be demolished)



Facing northwest towards east side of subject property and existing home (to be demolished)

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#6**

Case #: **VA-22-09-081**

Case Planner: **Laekin O'Hara (407) 836-5943**

Laekin.O'Hara@ocfl.net

GENERAL INFORMATION

APPLICANT(s): ALEX FRANCOIS

OWNER(s): ALEX FRANCOIS, LEONISE ORELUS

REQUEST: Variance in the Restricted R-2 zoning district to allow a second floor addition to a residence with an east rear setback of 17 ft. in lieu of 25 ft.

PROPERTY LOCATION: 6626 Chantry St., Orlando, FL 32835, east side of Chantry St., north of Old Winter Garden Rd., west of N. Powers Dr., east of N. Hiawasse Rd.

PARCEL ID: 25-22-28-8189-00-531

LOT SIZE: +/- 0.16 acres (6,922 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 172

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Charles Hawkins, II, Second by Thomas Moses; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan June 29, 2022 and elevations dated August 11, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. The addition shall match the existing home in material and color.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that no comments were received in support, one (1) comment was received in opposition, and one (1) neutral comment was received.

The applicant stated the need for Variance was to provide additional space for his family.

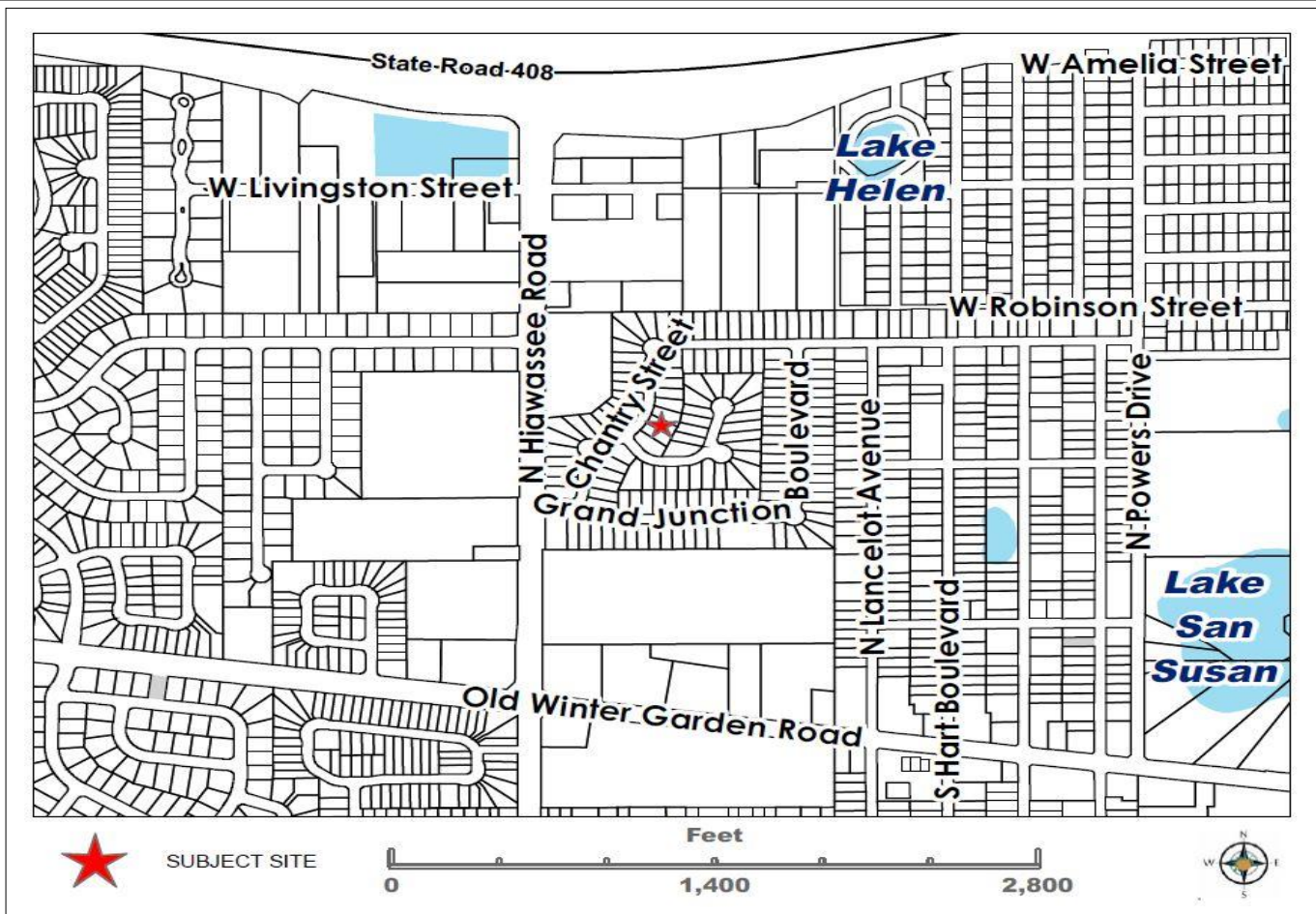
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the Variance and noted that the one-story addition was already approved, and it is easier to build a new two story addition than to add a second story addition over an existing one-story structure. The BZA stated the justification for the six (6) criteria and unanimously recommended approval of the Variance by a 6-0 vote, with one absent, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	Restricted R-2	Restricted R-2	Restricted R-2	Restricted R-2	Restricted R-2
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Restricted R-2, Residential district, which allows single-family homes, duplexes, and multi-family development. This property, along with the area surrounding the property (a 40-acre tract), was rezoned in March of 1985 from R-1AA to Restricted R-2, specifically, “restricted to a 50 foot buffer along the north, abutting residential; further, required a 6 foot high fence within the required buffer area”. The buffer does not apply to this individual parcel. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-2 zoning district.

The area around the subject site consists of single-family homes. The subject property is an approximately 0.16 acre lot, located in the Southridge Plat, recorded in 1987, and is considered to be a conforming lot of record. It is developed with a 2 story 1,988 gross sq. ft. single-family home constructed in 1988, with a 5 ft. utility easement running along the perimeter of the property. The applicant purchased the property in 2019.

On December 2, 2021, the Board of Zoning Adjustment recommended approval of a Variance to allow a one-story addition with an east rear setback of 17 ft. in lieu of 25 ft. A building permit (B21019947) for the one-story addition was issued and the addition is currently under construction.

The proposal is to add a second floor addition to the previously approved 1 story (14.5 ft. high, 15 ft. x 43 ft.) addition at the rear of the existing dwelling. The second floor will provide two additional bedrooms, a bathroom, a foyer and a study. The addition is proposed to be 17 ft. from the east rear property line in lieu of 25 ft., requiring a Variance. The 25 ft. rear setback is met on the southern corner of the addition, however due to the angled property line the setback is not met on the northerly portion of the addition. The existing single-family home was constructed with a 4.9 ft. south side setback, in lieu of the required 5 ft., however an administrative waiver has been granted for that setback, per County Code Sec 38-1508 which allows for an administrative waiver of up to 3 percent of the required side yard for existing development.

The existing home is two-story, with a one-story portion at the front and rear. The applicant could propose a second story addition on the existing one-story portion that would meet the setback requirements.

As of the date of this report, no comments have been received in favor and no comments have been received in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	28.69 ft. (addition)
Min. Lot Width:	45 ft.	49.1 ft.
Min. Lot Size:	4,500 sq. ft.	+/- 6,922 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	25 ft.	51.8 ft. existing home (West) 93.8 ft. addition (West)
Rear:	25 ft.	32 ft. existing home (East) 17 ft. addition (East – Variance)
Side:	5 ft., per plat document	8.6 ft. existing home (North) 6 ft. addition (North) 4.9 ft. existing home (South) 5 ft. addition (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The location of existing dwelling is a special condition and circumstance particular to the subject property, and in combination with the angled rear property line, makes it difficult to add any new structures within the rear yard.

Not Self-Created

The request is self-created since a code compliant addition could be constructed.

No Special Privilege Conferred

Granting the variance as requested would confer special privilege as an addition could be constructed that complies with code setback requirements.

Deprivation of Rights

There is no deprivation of rights as the existing residence and approved 1 story addition could continue to be enjoyed as originally constructed, and a second story addition could be built which complies with code setback requirements.

Minimum Possible Variance

The request is not the minimum possible as a code compliant addition could be constructed.

Purpose and Intent

Approval of the requested variance would not be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The addition is two-story, and therefore will be more visible from any the surrounding properties.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated June 29, 2022 and elevations dated August 11, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
 2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
 3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
 4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
 5. The addition shall match the existing home in material and color.
- C: Alex Francois
6626 Chantry St.
Orlando, FL 32835

June 27, 2022

Alex Francois
6626 Chantry St
Orlando, Florida 32835

To the Board of Zoning Adjustment

Re: Variance request

Variance in the R-2 zoning district to add a 2nd floor to the approved variance VA-21-12-126. The residential addition has an approved east rear setback of 17 ft. in lieu of 25 ft.

1. Special Conditions and circumstances:

After granted variance to add 2 bedrooms in the rear side of our house, we were able to obtain the building permit B21019947 to start the construction. Some unexpected life situations occurred during the process, and we realize we need more spaces. My sister who lives abroad is about to get into the US, and she'll need a place to live with her husband and kid. She will be able to take care of our aging mom while taking care of her own family. Our house is already a 2-story residence, it makes complete sense to just add a 2nd story with the same layout as the 1st floor plan. Hence, we are requesting a variance to add a 2nd floor with the same layout, same configuration of the approved addition that is already under construction.

2. Not self-created:

Our residence is already a 2-story building, same as many others in our neighborhood, the addition on the 1st floor has already been approved, we are just adding a 2nd floor which will be the same as the 1st floor. The proposed addition will be consistent with the pattern of surrounding development and will be compatible with the surrounding area.

3. No special privilege conferred:

The 2nd floor will have the same configuration as the first floor and will align with the structure of the existing house and the surrounding residences. There is no reason to believe this project will act as a detrimental intrusion into a surrounding area.

4. Deprivation of rights:

The idea is to have more spaces to welcome my sister and her family. We are just adding a 2nd floor to the approved setback for the first floor. Additionally, we will be able to comply with the maximum building height for a R-2 Zoning district (less than 35ft). We have no intention to build to develop or violate any restrictions. Upon approval of this request, the proposed addition shall function according to the permitted uses.

5. Minimum possible variance:

Adding a 2nd floor should be no concern with noise, activity, vibration, dust, odor, heat producing and other characteristics that are not consistent with the surrounding uses of the zoning district.

6. Propose and intent:

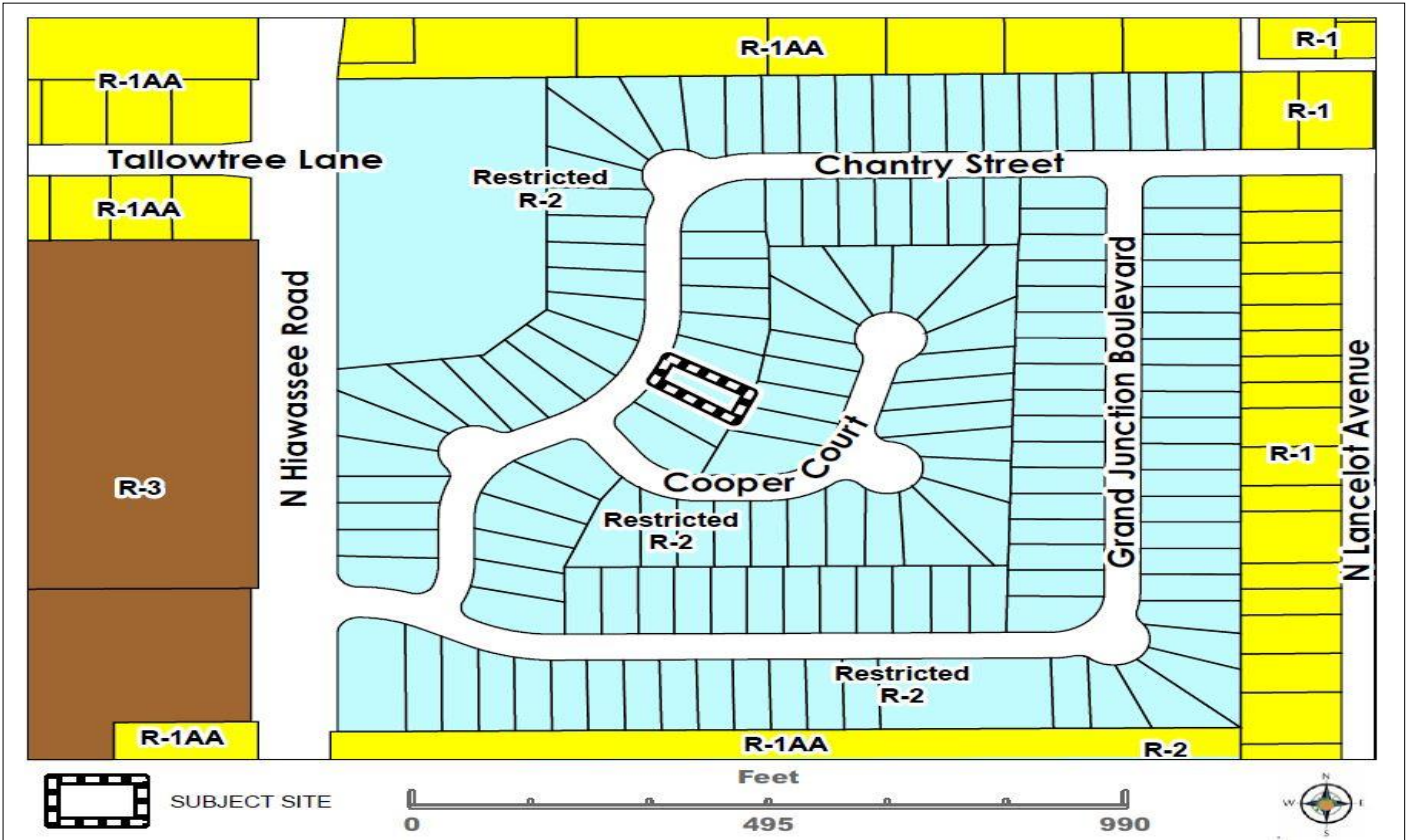
The original house is already a 2 story and variance has already been approved to add square footage in the rear side. Our intention is to keep the same setback, and to add a 2nd floor which will have the same configuration as the first floor. There's no reason to believe this project would be injurious or detrimental to our neighborhood or public welfare.

In conclusion, we are hoping that we can be approved to build the proposed 2nd floor following the guidelines of the established constructions law. The maximum building height for a R-2 zoning district is 35 ft and we are far from it. The County has, in the past, approved similar variances in established neighborhoods and residential areas. We would like to keep our family as closed and united as possible. Please see the attached site plan and the drawings of the proposed addition.

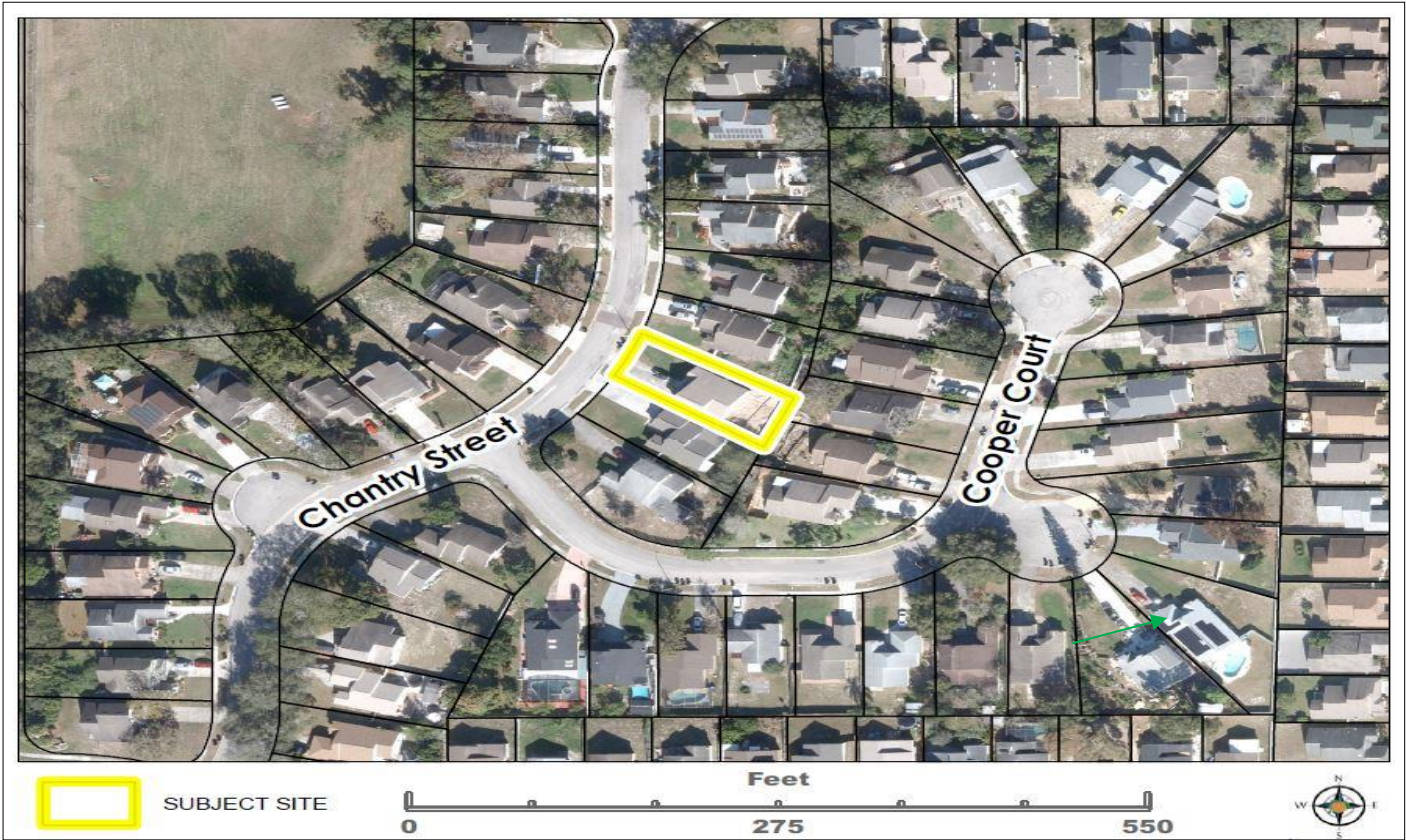
Regards,

Alex François

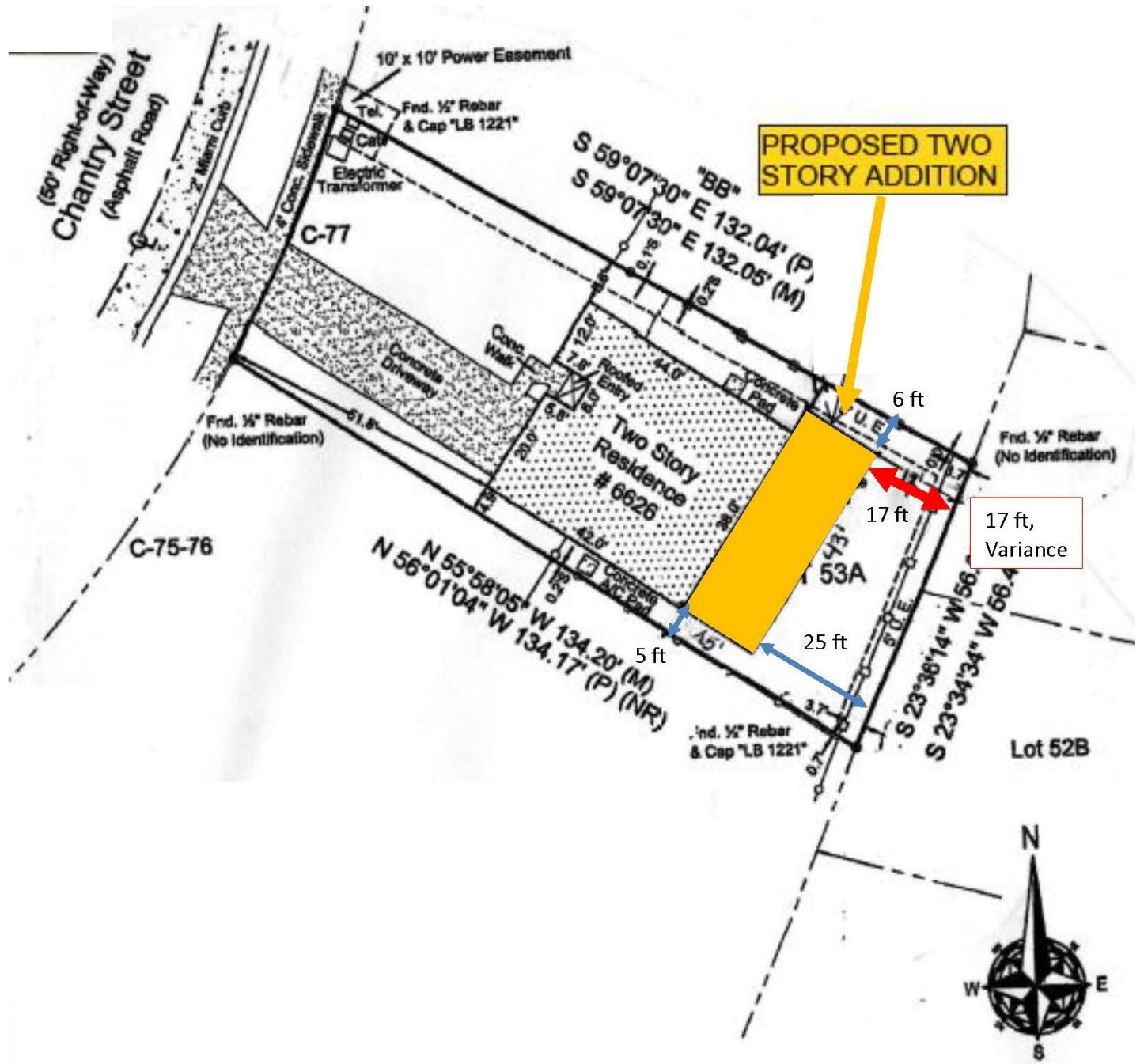
ZONING MAP

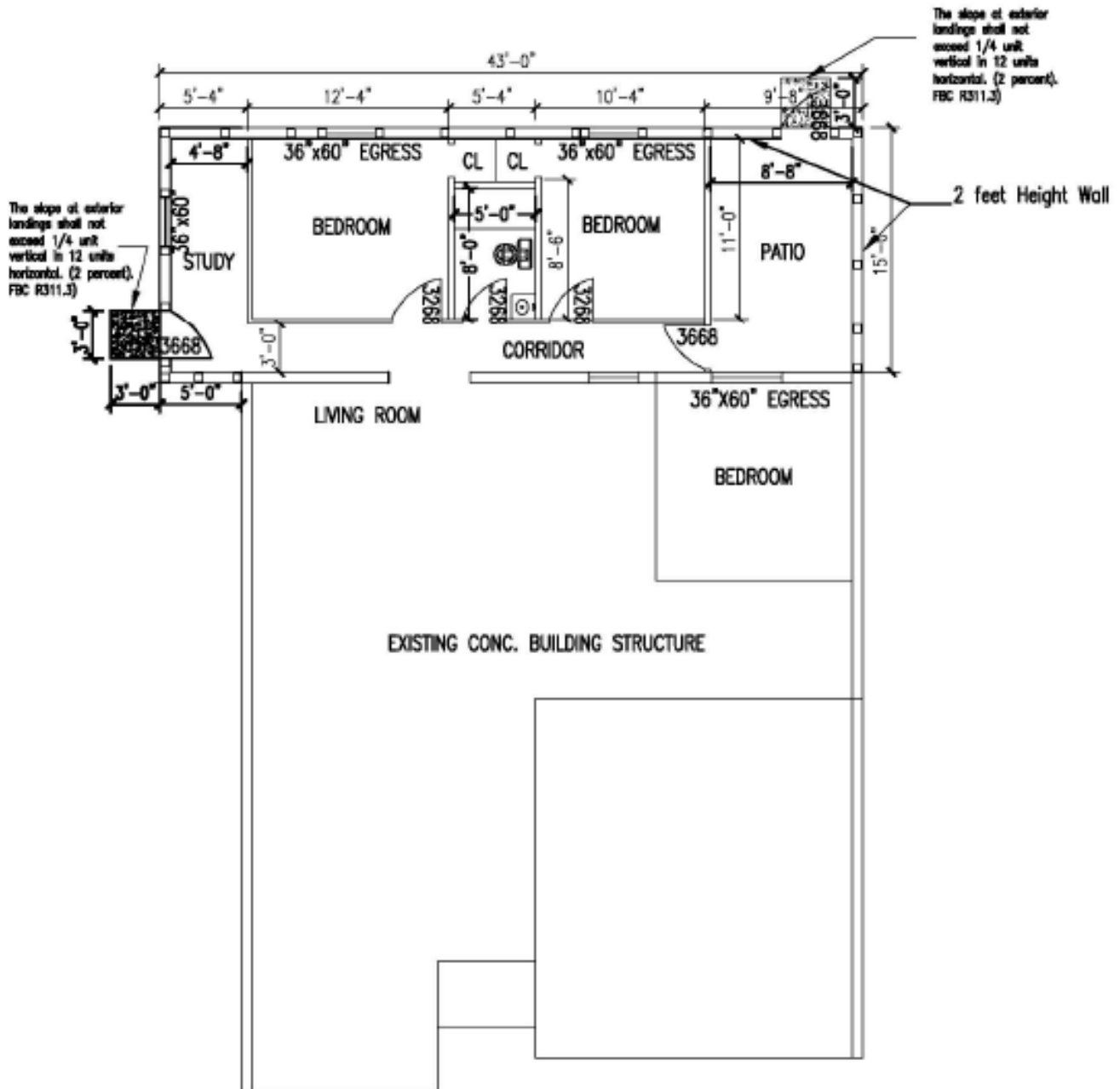


AERIAL MAP



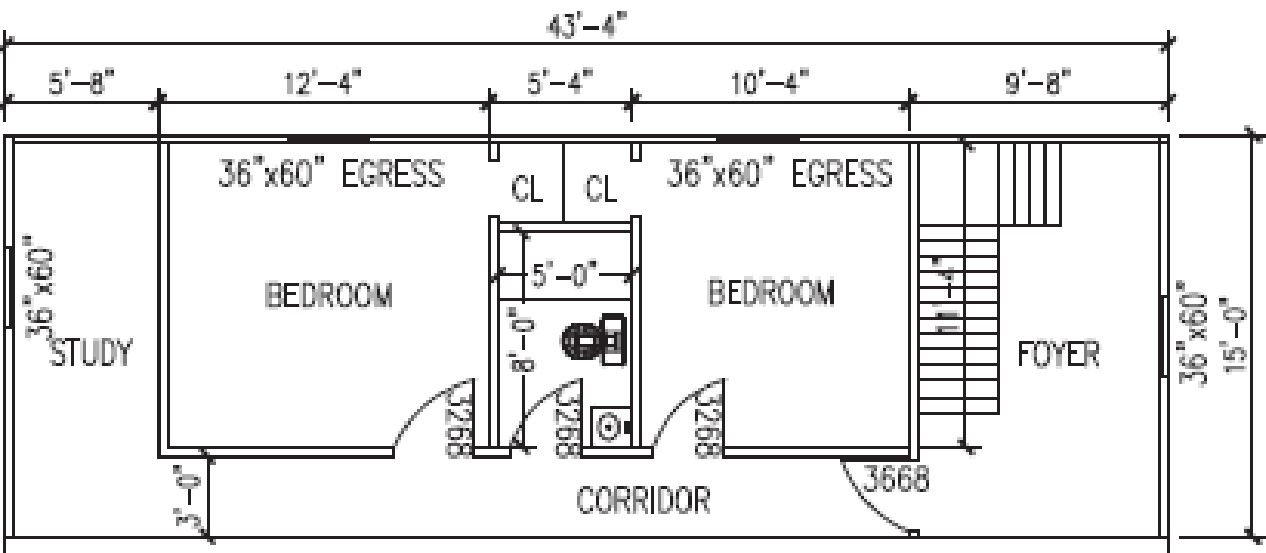
SITE PLAN





Floor Plan
Scale: 1/8"=1'-0"

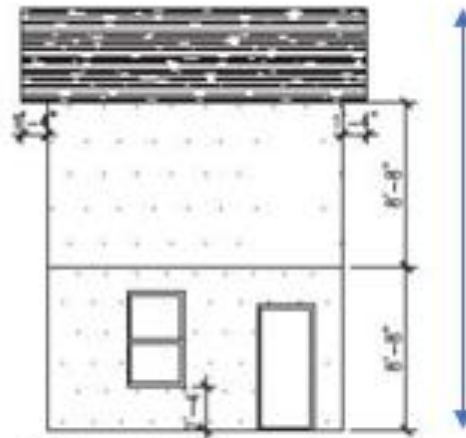
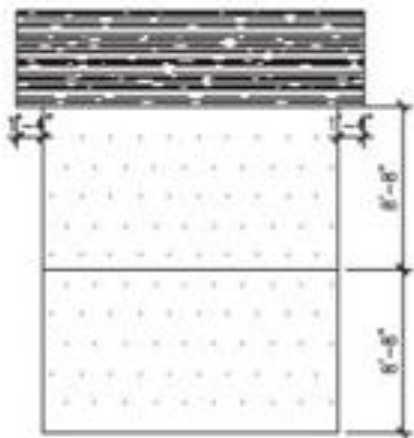
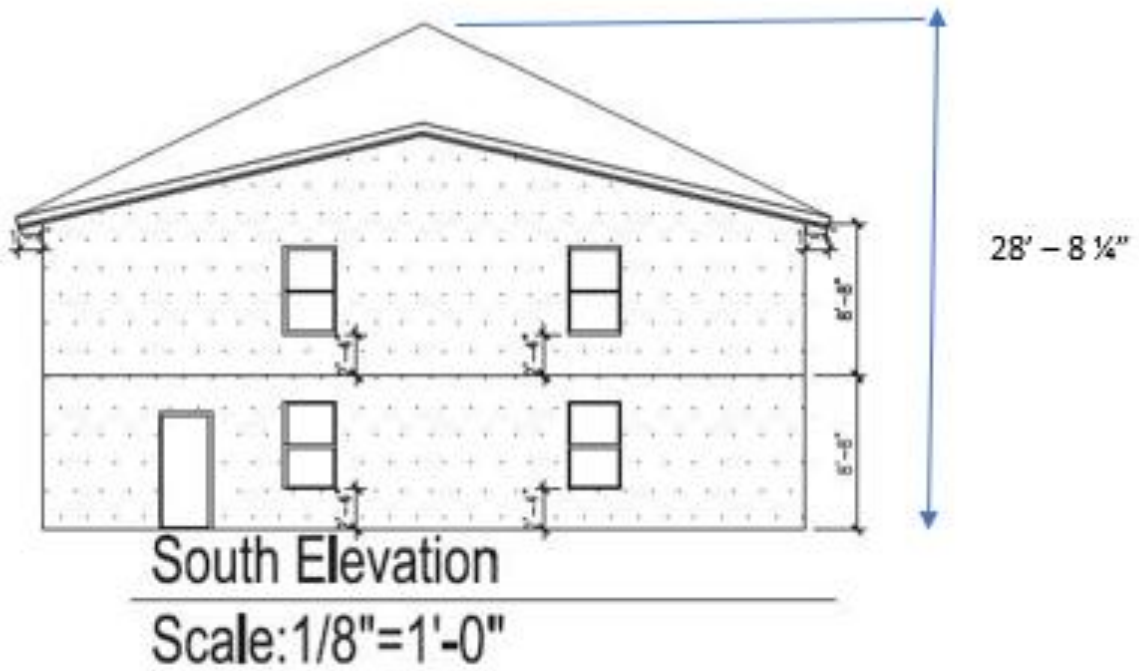
FLOOR PLAN – SECOND FLOOR



2ND Floor Plan

Scale: 1/8"=1'-0"

ELEVATIONS



SITE PHOTOS



Front of property, facing east



North side yard facing the rear of the property, proposed addition to right

SITE PHOTOS



Rear yard of subject property facing south



Rear yard facing existing home and proposed addition

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#6**

Case #: **SE-22-09-094**

Case Planner: **Laekin O'Hara (407) 836-5943**

Laekin.O'Hara@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JULIAN COTO FOR B2MAX LLC

OWNER(s): B2MAX LLC

REQUEST: Special Exception and Variance in the R-2 zoning district as follows:

1) Special Exception to allow a 2-story multi-family development to be located 68 ft. from the east property line of a single-family dwelling district in lieu of 100 ft. from the property line of a single-family dwelling district and use.

2) Variance to allow structures containing three (3) or more dwelling units to maintain a building separation of 15 ft. separation between any other structure on the same lot or parcel in lieu of 20 ft.

PROPERTY LOCATION: 7540 Silver Star Rd., Orlando, FL 32818, southeast corner of Silver Star Rd. and Summer Glen Dr., east of N. Apopka Vineland Dr., west of N. Hiawassee Rd.

PARCEL ID: 14-22-28-0000-00-035

LOT SIZE: +/- 1 acre (43,504 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 124

DECISION: Recommended **DENIAL** of the Special Exception request in that the Board finds it does not meet the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does adversely affect general public interest; and, **DENIAL** of the Variance request in that there was no unnecessary hardship shown on the land; and further, it does not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3). (Motion by Charles Hawkins, II, Second by Roberta Walton Johnson; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Joel Morales):

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval of the Special Exception and denial of the Variance. Staff noted that no comments were received in support, forty-nine (49) comments were received in opposition, and one (1) neutral comment was received.

The applicant noted the requested Variance only impacts the subject property and the code requirement does not match any building or fire code requirements. The applicant also noted that the Special Exception requested for distance is from a church use, not a residence, which is located in a residential district.

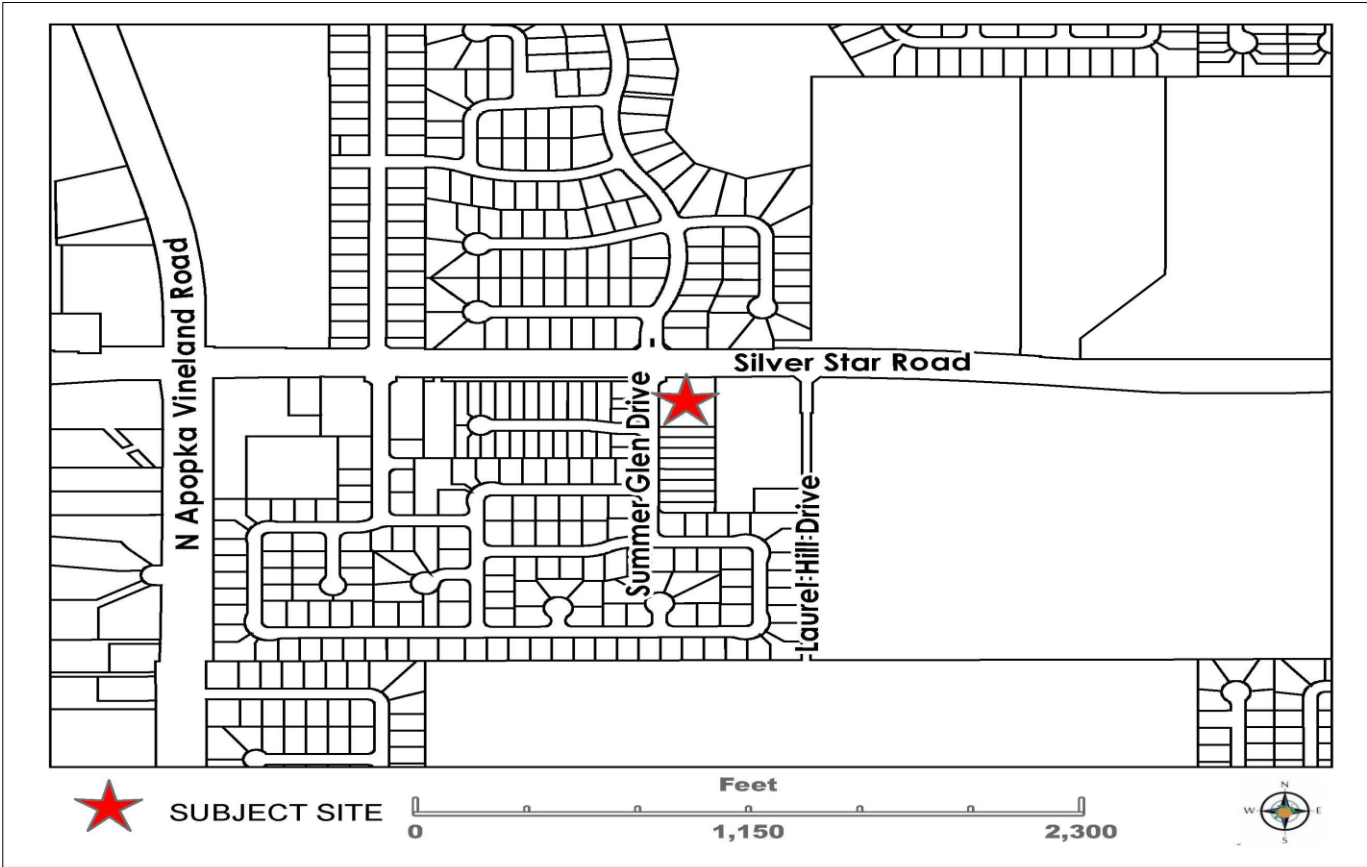
There was no one in attendance to speak in favor of the request. There were 13 speakers in attendance in opposition of the request.

The BZA discussed the Special Exception and Variance, stated the negative impacts to the surrounding area, inconsistency with the six (6) criteria and unanimously recommended denial of the Special Exception and Variance by a 6-0 vote, with one absent.

STAFF RECOMMENDATIONS

Approval of the Special Exception, subject to the conditions in this report and denial of the Variance. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of both the Special Exception and Variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-2	R-2	R-2	R-1A	R-2
Future Land Use	LMDR	LDR	LMDR	LMDR	MDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Church	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-2, Residential district, which allows single-family homes, duplexes, and multi-family development. The future land use is Low-Medium Density Residential, which is consistent with the zoning district.

The subject property is 43,504 sq. ft. in size, and is currently vacant. It is a corner lot, with right-of-way frontage on both Silver Star Road and Summer Glen Drive. Silver Star Road is considered the front, and Summer Glen Drive is the side street, as frontage for residential property is determined by the property with the narrowest width of a lot abutting a street right-of-way. The area consists of one-story and two-story single-family homes in the immediate vicinity, and a church directly to the east. The property was purchased by the current owner in 2017.

Proposed is a 10-unit, one and two-story multi-family development, consisting of 2, two-story multi-family buildings with 4 units in each building, 1 one-story multi-family building with 2 units, and a total of 20 parking spaces. All units are proposed to be 900 sq. ft. in size, and will contain 2 bedrooms and 2 bathrooms. Vehicular access to the site will be provided from Summer Glen Drive to the west, and a sidewalk connection to the north is being proposed to Silver Star Road. The proposed landscaping plan for the project will provide a landscape buffer with canopy trees and shrubs along the perimeter, meeting code. There are several trees existing on site, which are proposed to be removed, subject to Chapter 15 of the Orange County Code.

The buildings are proposed to be a minimum of 74 ft. from the west property line, 35 ft. from the south property line, 68 ft. from the east property line, and 27 ft. from the north property line, meeting the setback requirements. Orange County Code requires Special Exception approval for multi-family residential buildings in excess of one-story less than 100 ft. from any single-family district and use. The zoning to the north, west, and south is R-2, which is not a single-family district, so the 100 ft. separation does not apply to the district boundary, but does apply to the actual buildings/use. There are one-story single-family dwellings located to the north and west, however, these uses are over 100 feet away, across Silver Star Road and Summer Glen Drive from the proposed multi-family buildings. The multi-family building proposed closest to the one-story single-family use to the south is one-story, and the two-story buildings comply with the required 100-foot separation to the single-family use. Though the use to the east is a non-residential church use, the property is zoned single-family, requiring a Special Exception. The proposed separations are provided in the following table.

Multi-Family building distances from single family district or use:

	Zoning District Type	Current Use	Distance from Zoning District Boundary	Distance from Use
North	R-2 (Residential District)	Single-Family	N/A	+/- 170 feet
South	R-2 (Residential District)	Single-Family	N/A	+/- 100 feet
East	R-1A (Single-Family Dwelling District)	Church	68 feet	N/A
West	R-2 (Residential District)	Single-Family	N/A	+/- 154 feet

The parking requirements for the development:

Unit Type	Parking Requirement	Number of Units Provided	Required # of Spaces	Provided # of Spaces
3 units or more with 2 and 3 bedrooms	2 spaces/unit	10	20	20

Based upon the above unit count, the total parking spaces required is 20 parking spaces. The applicant is proposing a parking lot with a total of 20 spaces, which meets the requirement.

Transportation Planning indicated that a parking or traffic study is not required for this case.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft., limited to 1-story within 100 ft. of single-family zoned property or use	19 ft. (1-story) 29 ft. (2-story/Special Exception)
Min. Lot Width:	85 ft.	170.09 ft.
Min. Lot Size:	15,000 sq. ft.	43,504 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front (Silver Star Rd.):	20 ft.	27 ft. (north)
Rear:	30 ft.	35 ft. (south)
Side:	30 ft.	68 ft. (east- Special Exception)
Side Street (Summer Glen Dr.):	15 ft.	74 ft. (west)
Major Street (Silver Star Rd.):	60 ft. building (from street centerline) 55 ft. parking area (from street centerline)	67 ft. 69 ft.

The County Code Sec. 38-1502(a) requires a minimum building separation of 20 ft. between any other structure on the same lot or parcel for structures containing three (3) or more dwelling units. The proposal provides 15 ft. of separation in lieu of 20 ft. between the buildings, requiring the Variance. While the zoning regulations require a minimum building separation of 20 ft., Florida Building Code allows for structures to decrease this separation consistent with the appropriate fire rating. However, the buildings are not pulled up to the setback line on Silver Star Rd. or on Summer Glen Dr., and therefore alternate layouts could be proposed in order to meet the minimum building separation. Alternatively, the building size could be decreased to meet the minimum 20 ft. separation. As a result, staff is recommending denial of the variance.

The applicant has submitted one comment in favor of the request from the church to the east. As of the date of this report, no additional comments have been received in favor and 17 comments have been received in opposition to this request.

SPECIAL EXCEPTION CRITERIA**Consistent with the Comprehensive Plan**

The Future Land Use is Low Medium Density Residential and with approval of the Special Exception, the project will be consistent with the Comprehensive Plan. The Future Land Use allows for a density of 10 dwelling units per acre and the Orange County Comprehensive Plan encourages infill development. The applicant is proposing 10 units on a 1 acre site, which is a compliant density.

Similar and Compatible with the Surrounding Area

The scale and massing of the proposed buildings are designed to be similar to the scale and massing of a single-family home. The abutting properties are a mix of one- and two-story single-family dwellings, and the proposed multi-family structures are one-story adjacent to the one-story single-family.

Shall Not Act as a Detrimental Intrusion into a Surrounding Area

The development as proposed will not act as a detrimental intrusion into the surrounding area. The site plan and multi-family buildings was designed in a way that the two-story structures are located further away from the one-story single-family dwellings. The Special Exception is only necessary from the single-family dwelling district to the east, which is not a single-family use, but a church. Furthermore, the church has provided a letter of support.

Meet the performance standards of the district

The development as proposed will meet the performance standards of the district.

Similar in Noise, Vibration, Dust, Odor, Glare, Heat Producing

The characteristics and impacts of the multi-family residential development, as designed is consistent with the surrounding uses in the area.

Landscape Buffer Yards Shall be in Accordance With Section 24-5 of the Orange County Code

The applicant has provided a landscaping plan which addresses perimeter landscaping in compliance with Section 24-5 of Orange County Code.

VARIANCE CRITERIA**Special Conditions and Circumstances**

The locations of adjacent one-story single-family residences limit the allowable location for two-story multi-family structures on site, and the reduction of building separation allows for the buildings to be located further from the single-family residences.

Not Self-Created

The request is self-created as this is new construction and could be designed in a way to provide the minimum separation.

No Special Privilege Conferred

Granting the Variance as requested would not confer special privilege as the building separation for multi-family structures in other districts is lesser, and the Florida Building Code allows for a lesser building separation.

Deprivation of Rights

Literal interpretation of the Code would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. The applicant could still propose multi-family buildings on this site in compliance with the minimum 20 ft. separation.

Minimum Possible Variance

The request is the minimum possible to maximize the number of units on site, while still providing the necessary parking and providing separation from the single-family uses.

Purpose and Intent

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The structure will still comply with building and fire requirements, and the impact is only to the subject property.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received August 12, 2022 as modified to provide the minimum building separation requirements and elevations received July 29, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Julian Coto
303 Avila Court
Winter Springs, Florida, 32708



Land Development Consultants

303 Avila Court
Winter S, FL 32708
Telephone: (407) 260-2292
www.Excelengineers.com

August 30, 2022

Orange County Board of Zoning Adjustments
201 S. Rosalind Avenue
Orlando, Florida 32801

Subject: Special Exception for Property located at 7540 Silver Star Road, Orlando, FL.

Dear Board;

On behalf of B2MAX, LLC, property owner, we are requesting a Special Exception from the 100-foot setback to residential zoned property to the east (Church Property) for a two story 4-plex in R-2 zoning.

The property to the east is zoned residential, however, it is a large parcel where a church is located. The property in essence has a commercial land use. The buildings are 67-feet away from the property line with a large stormwater retention pond in between with a landscape buffer and opaque fence. We have met with the Pastor of the church, and he has no objection to the project. We have a letter of support from the Pastor.

This special exception would allow us to build two 4-plexes and one duplex. This will serve the community because it will provide critically needed housing which is affordable to working families. The buildings will be attractive buildings which will blend in with existing single-family residences and will enhance the character of the community.

We believe that the request for Special Exception meets the Criteria of Section 38-78 of the Orange County Code as follows:

1. **Consistency with Comprehensive Policy Plan** – The proposed use is consistent with the comprehensive policy plan as it meets current zoning of R-2 and future land uses consistent with the comprehensive policy plan.
2. **Compatibility with Surrounding Area** – The proposed use will be compatible with the surrounding area and will be consistent with the pattern of surrounding development. The buildings will look like two-story and one-story single-family residences from the outside. This will blend with the surrounding single family residential uses.
3. **Detrimental Intrusion**- The proposed use will not be detrimental to the surrounding area as it meets the land uses proposed by existing zoning and future land use. The buildings will look like single family residential buildings that will blend with the existing surrounding single family residential buildings.
4. **Performance Standards**- The proposed use meets the performance standards set forth by the R-2 zoning code which is compatible with the future land use of the property.
5. **Characteristics of Land Use** - The proposed use is residential in nature and will have similar characteristics regarding noise, vibration, dust, odor, glare, and heat to the majority of uses currently permitted in the zoning district. It will most likely act as a noise, vibration, and dust buffer from Silver Star Road to the residential properties to the south.
6. **Landscape Buffers** – All landscape buffers will be in accordance with section 24-5 of the Orange County Code. The landscape buffer to the east and the south are exceeded which are the two areas of greatest concern.

We appreciate your consideration in this matter.

A handwritten signature in black ink, appearing to read "Julian R. Coto".

Julian R. Coto, P.E.
President for the Firm on behalf of B2MAX, LLC

VARIANCE COVER LETTER



Land Development Consultants

303 Avila Court
Winter S, FL 32708
Telephone: (407) 260-2292
www.Excelengineers.com

August 30, 2022

Orange County Board of Zoning Adjustments
201 S. Rosalind Avenue
Orlando, Florida 32801

Subject: Variance Request for Property located at 7540 Silver Star Road, Orlando, FL.

Dear Board:

On behalf of B2MAX, LLC, property owner, we are requesting a variance from the 20-foot separation between buildings to 15-feet between buildings. The property is zoned R-2 zoning and we are proposing two 2-story 4-plex buildings and one 1-story duplex building.

We are requesting that building separations be reduced from 20-feet to 15-feet in order to meet the 60-foot setback from the centerline of Silver Star Road. We are currently, 55-feet from the Silver Star Road centerline.

This variance would allow us to build two 4-plexes and one duplex. This will serve the community because it will provide housing which is affordable to working families. The buildings will be attractive buildings which will enhance the character of the community.

We believe that the request for a variance meets the Criteria of Section 30-43 of the Orange County Code as follows:

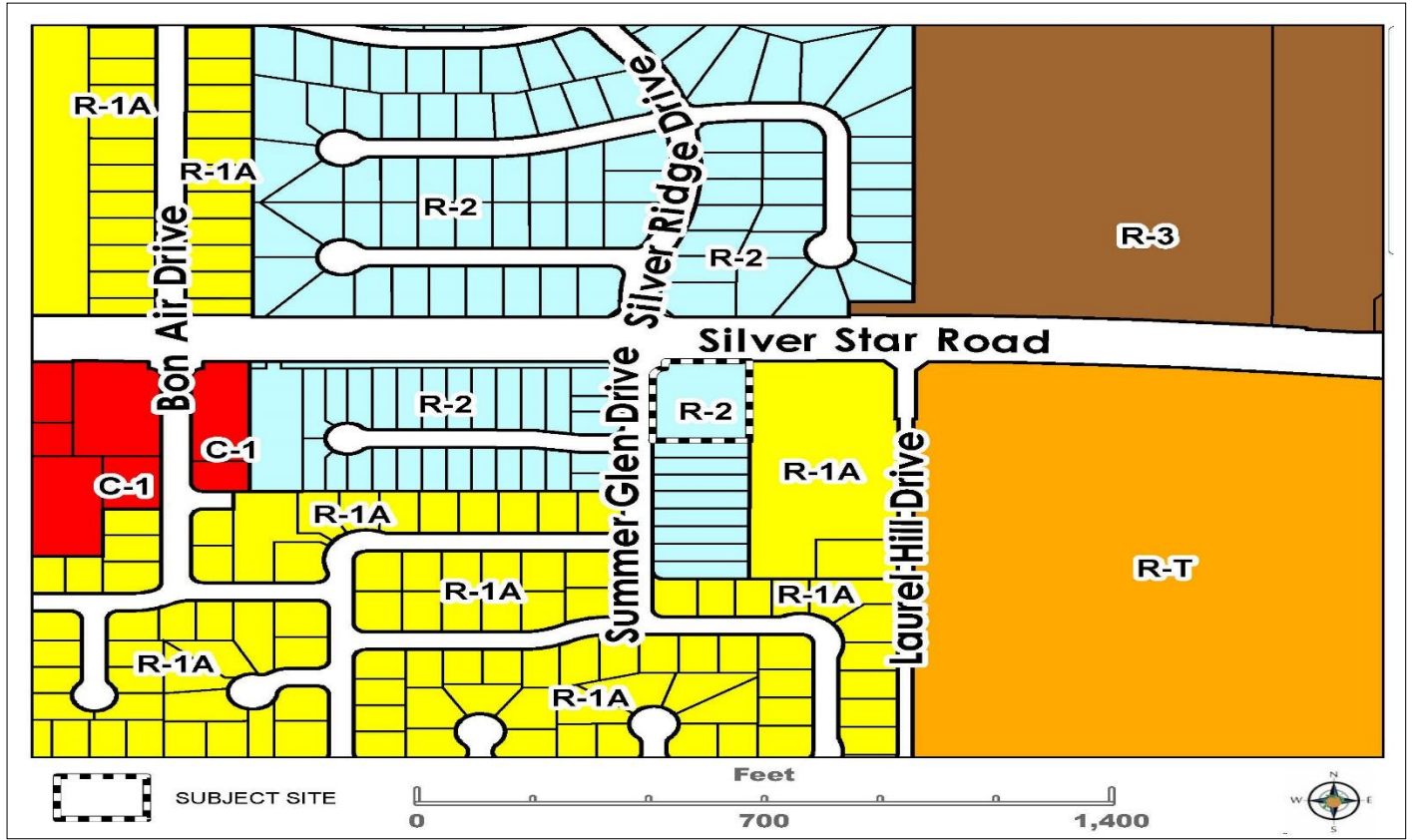
1. **Special Conditions and Circumstances** – Special conditions and circumstances exist which are peculiar to the land. The land is adjacent to a residential property to the south which requires a 30-foot setback and an additional setback from Silver Star Road to the north which requires a 60-foot setback from the CL of the street. The required 20-foot building separation is not related to a health and safety matter per se as the fire department doesn't have this restriction.
2. **Not Self-Created** – The property is zoned R-2 which allows for the construction of the buildings. Due to the geometry of the property buildings cannot be placed farther part due to fire department accessibility requirements and driveway location requirements.
3. **No Special Privilege Conferred**- Approval of the zoning variance will not confer on the applicant any special privilege because of the circumstances previously mentioned and previous properties with similar circumstances which have been approved.
4. **Deprivation of Rights**- Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship to the applicant. The separation requirement is not based on health and safety requirement of the fire department.
5. **Minimum Possible Variance**- The zoning variance approved is the minimum variance that will make possible the reasonable use of the land. We have worked with staff to explore other options and due to the geometry of the land the proposed use of the property provides the minimum variance possible.
6. **Purpose and Intent** – Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposed buildings will be the same size and look like single family residential buildings which will be in harmony with the architectural character of the surrounding residential community. The building separation variance being requested will not diminish the aesthetic value of the project.

We appreciate your consideration in this matter.

A handwritten signature in black ink, appearing to read "Julian R. Coto".

Julian R. Coto, P.E.
President for the Firm on behalf of B2MAX, LLC

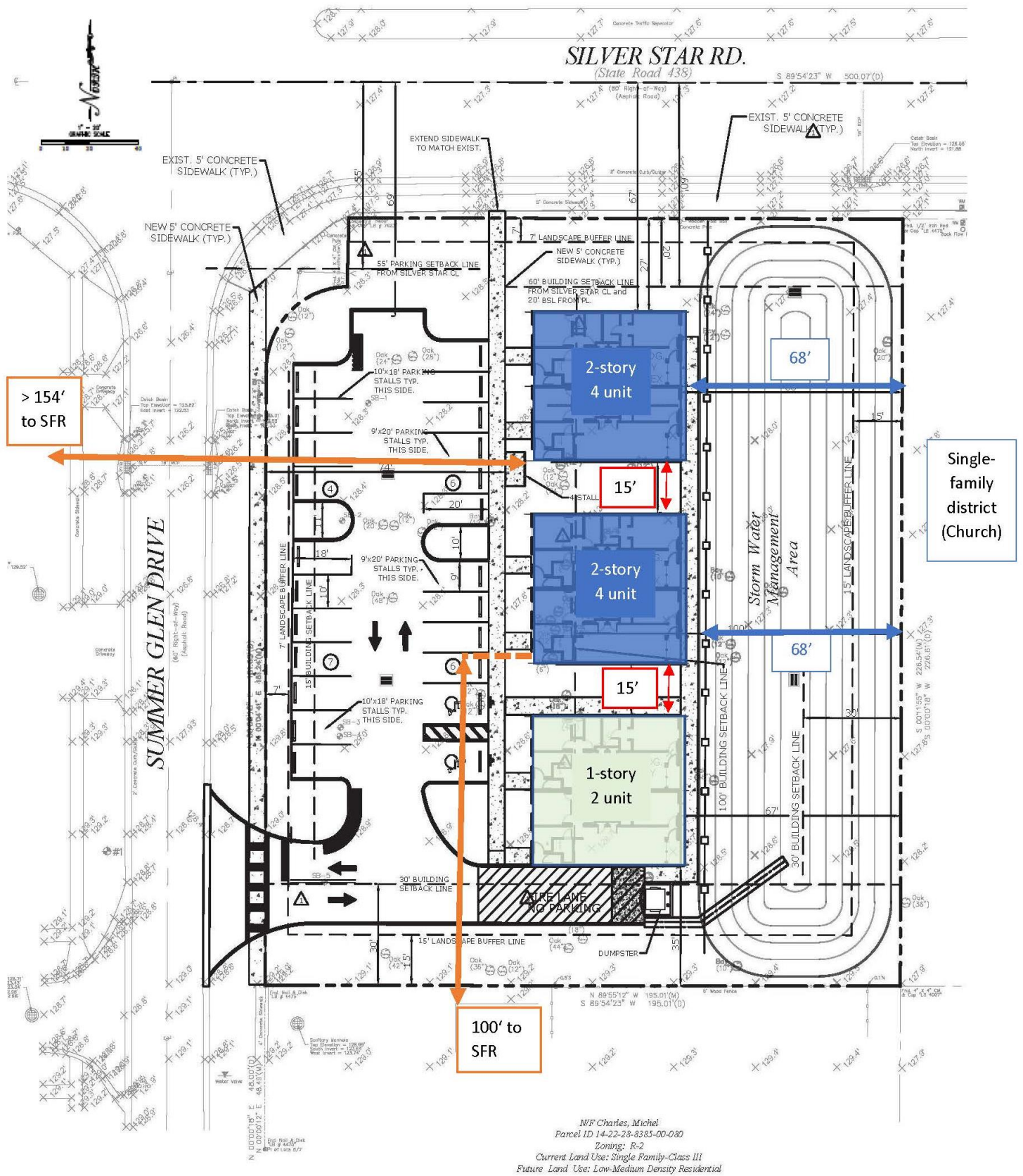
ZONING MAP



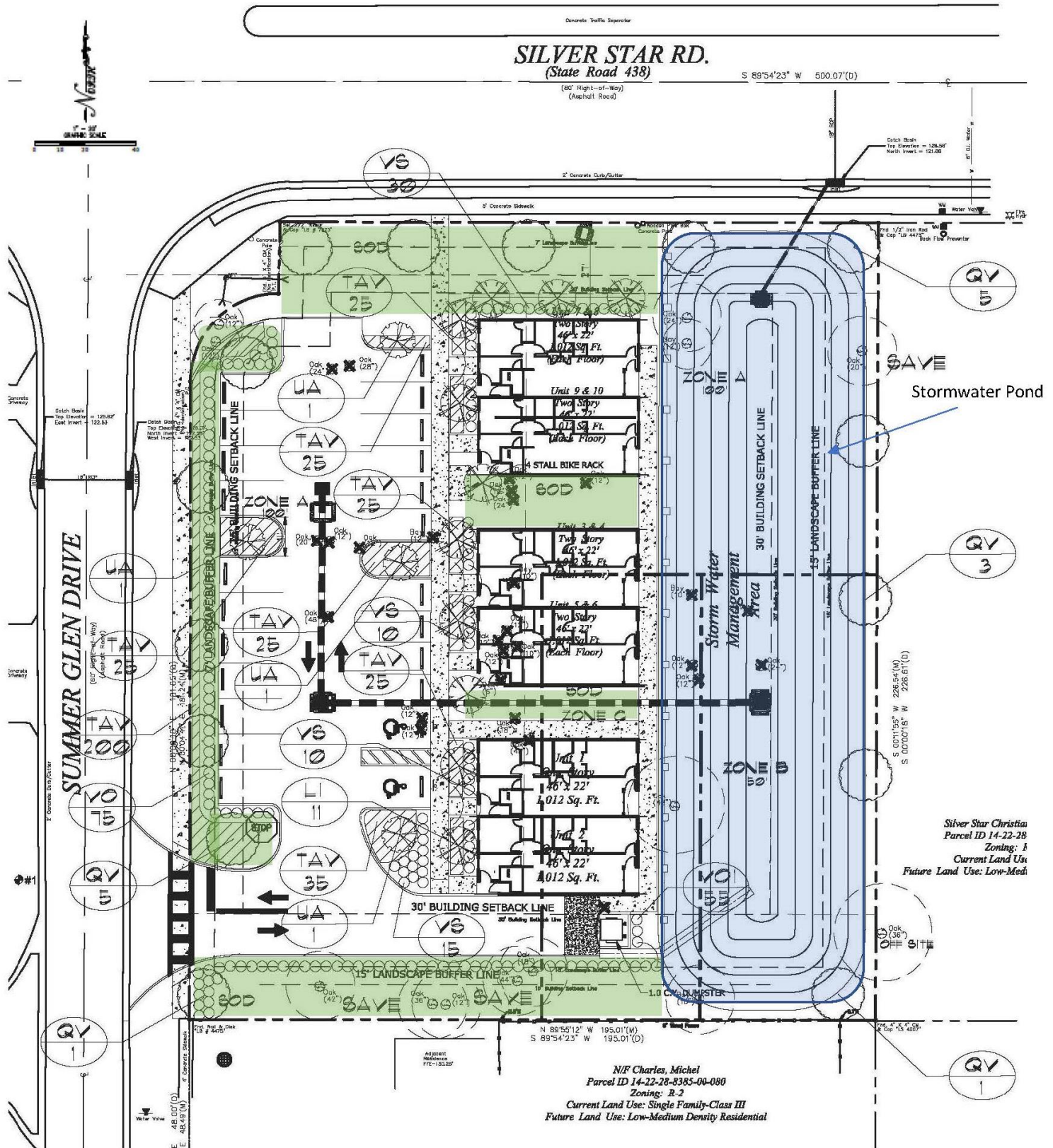
AERIAL MAP



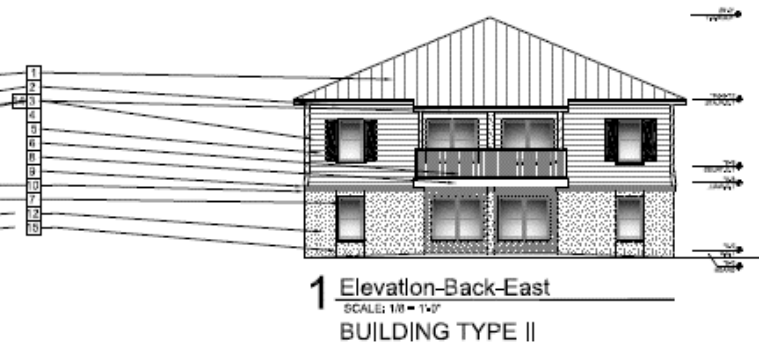
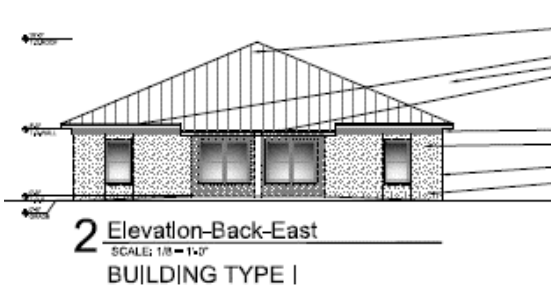
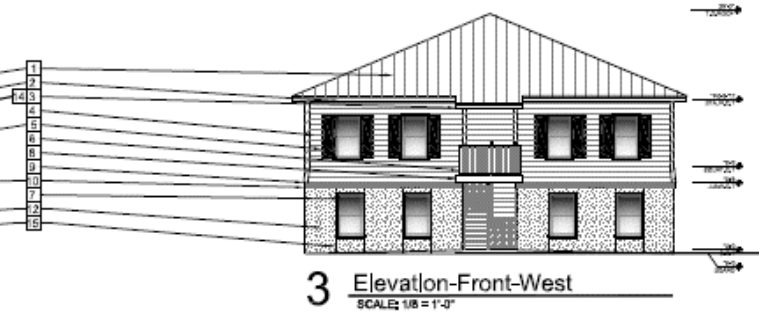
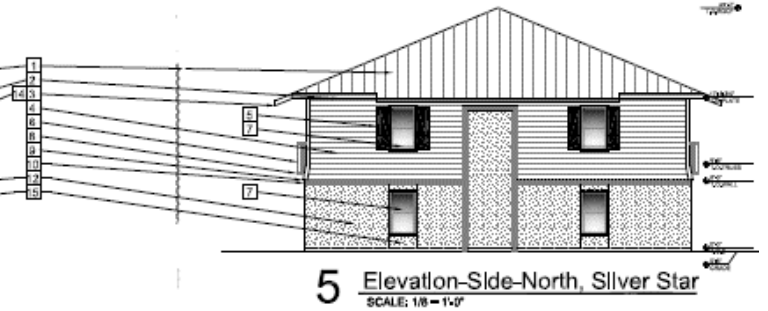
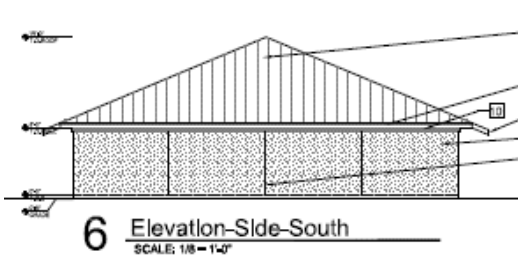
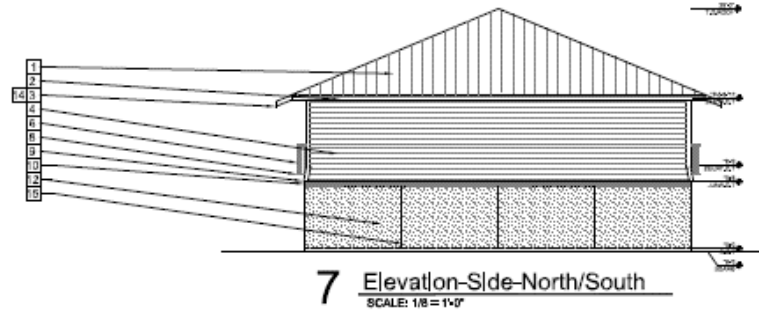
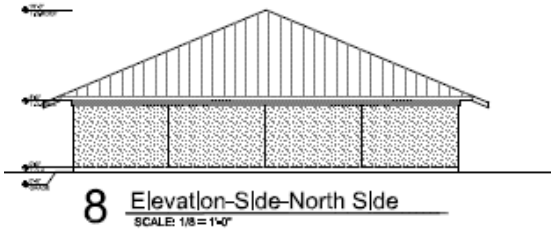
SITE PLAN



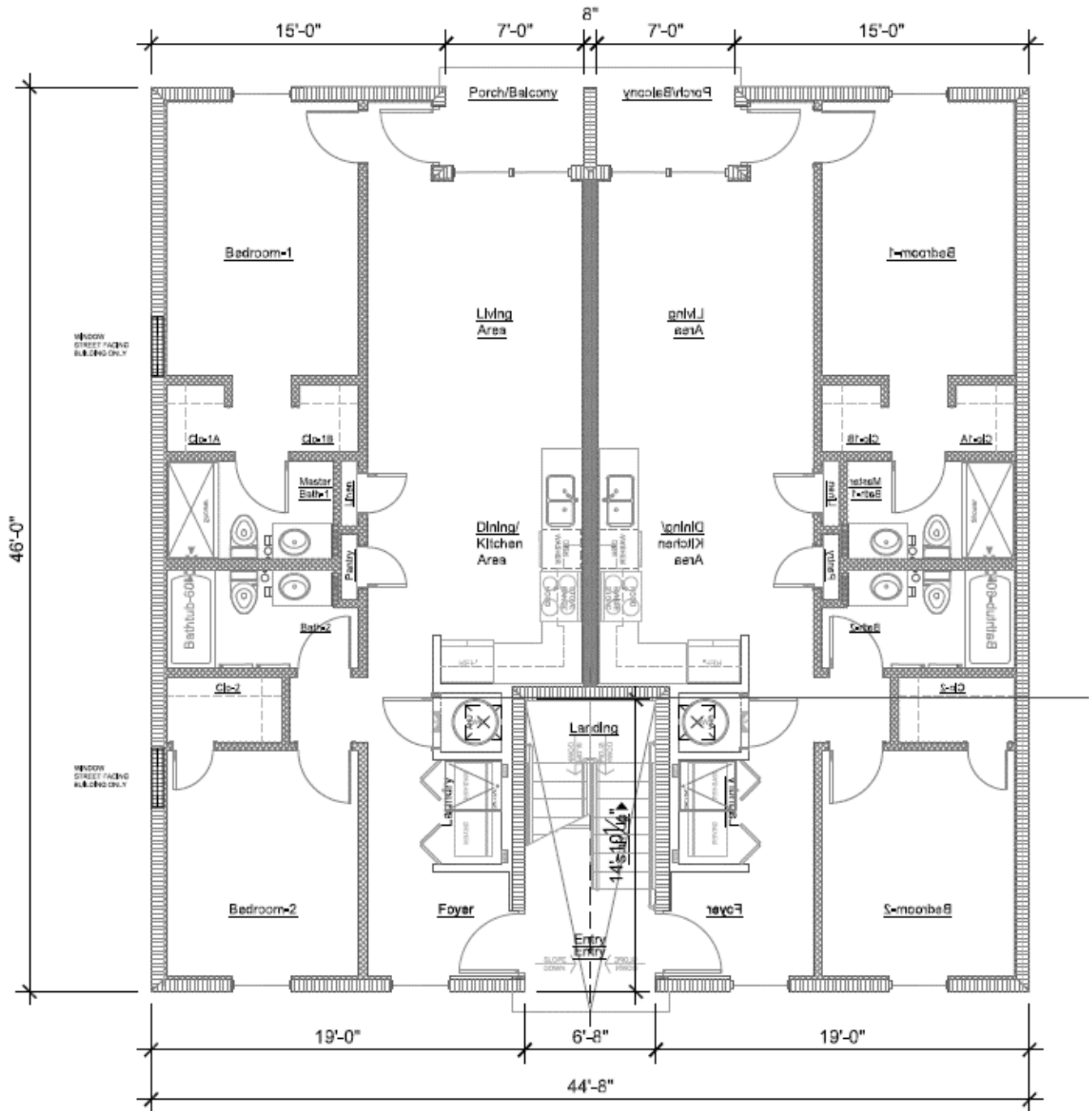
LANDSCAPE PLAN



ELEVATIONS



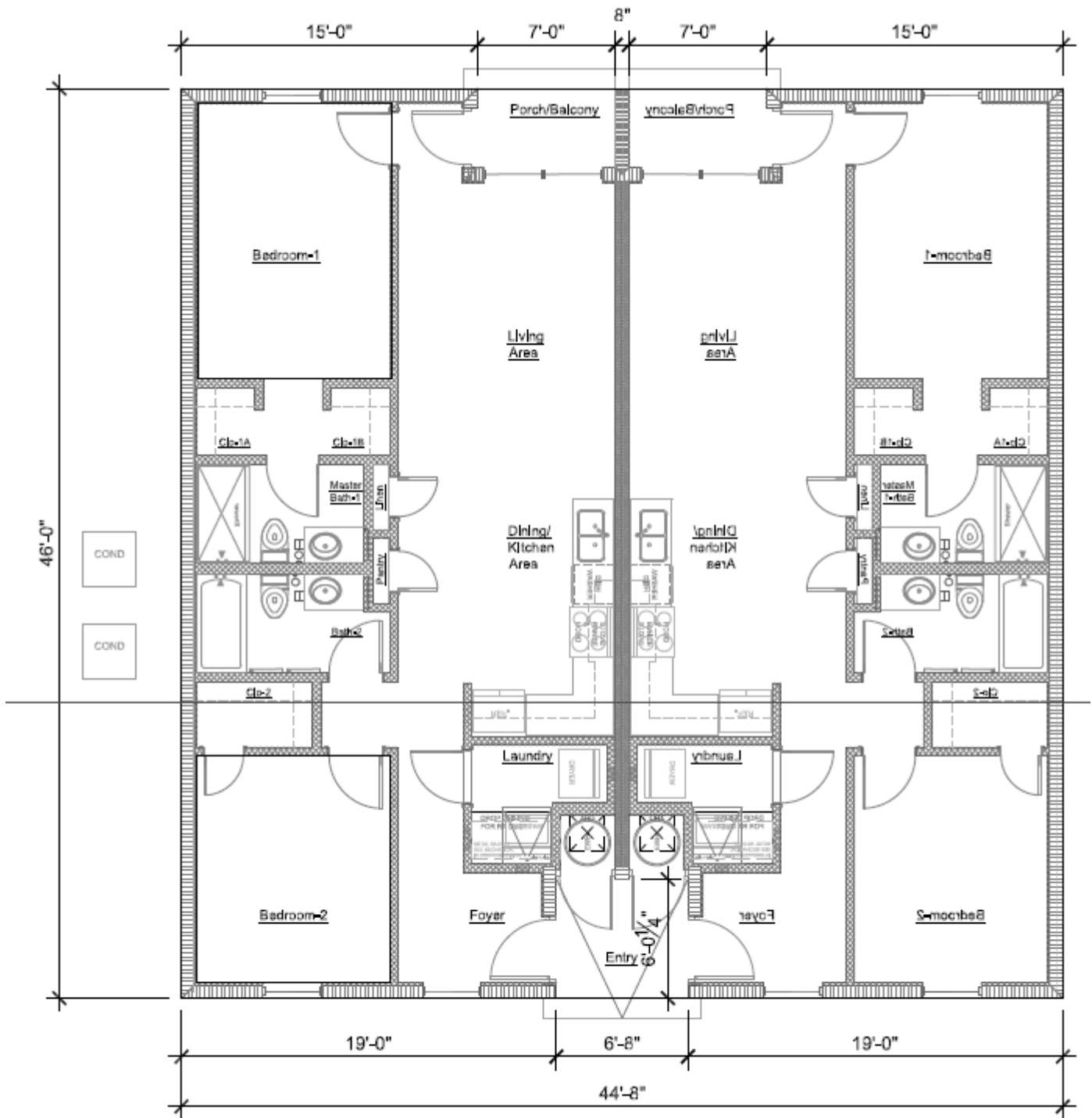
FLOOR PLAN – TWO-STORY UNITS (TYPICAL)



2 Two Story Unit
Floor Plan - Dimensions
SCALE: 1/4" = 1'-0"



FLOOR PLAN – ONE-STORY UNIT



1 One Story Unit
Floor Plan - Dimensions

SCALE: 1/4" = 1'-0"



SITE PHOTOS



Facing east from Summer Glen Dr., towards subject property



From Silver Star Rd. facing southeast

SITE PHOTOS



From Summer Glen Dr. facing one-story SFR, subject property to left



Across Summer Glen Dr. from subject property, facing SFRs

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#2**

Case #: **VA-22-10-110**

Case Planner: **Laekin O'Hara (407) 836-5943**

Laekin.O'Hara@ocfl.net

GENERAL INFORMATION

APPLICANT(s): CONFIDENTIAL

OWNER(s): CONFIDENTIAL

REQUEST: Variance in the R-1A zoning district to allow a detached accessory structure with a north side setback of 2.9 ft. in lieu of 5 ft.

PROPERTY LOCATION: 5426 Lee Ann Dr., Orlando, FL 32808, west side of Lee Ann Dr., south of Clarcona Ocoee Rd., east of N. Pine Hills Rd.

PARCEL ID: 06-22-29-7004-00-140

LOT SIZE: +/- 0.731 acres (31,842.36 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 118

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, Second by Thomas Moses; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan dated August 12, 2022 and elevations dated July 29, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the shed and enclosure of the roofed area within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. A permit shall be obtained for the chicken coop, chickens, and metal shed, or the structures shall be removed prior to the issuance of a permit for the detached accessory structure (Shed #1).

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in support and no comments were received in opposition.

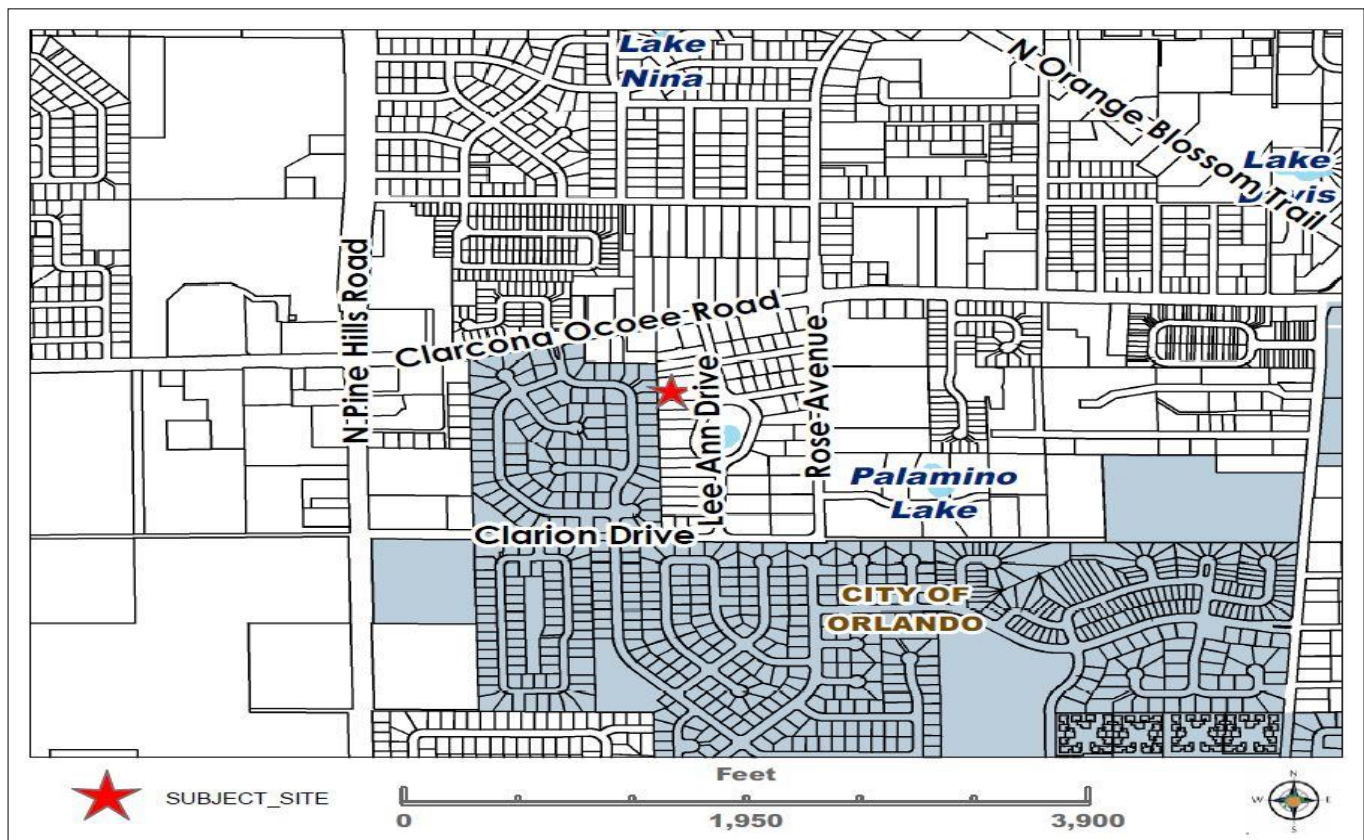
The applicant chose not to speak. There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the variance and stated justification for the six (6) criteria and unanimously recommended approval of the variance by a 6-0 vote, with one absent, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	City of Orlando
Future Land Use	LDR	LDR	LDR	LDR	City of Orlando
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling District, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 square feet. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district. The property was platted in 1947 as part of the Pine Hills Park Subdivision. The owner purchased the property in 2018.

The property contains a one-story single-family residence and several detached accessory structures including a 139.59 sq. ft. block shed with an attached 10 ft. x 12.67 ft. covered roof area (Shed #1), a 202 sq. ft. metal shed (Shed #2), and a 21 sq. ft. chicken coop. A future gazebo and grill pavilion are also proposed and identified on the site plan, which comply with all code requirements, but will require permits. None of the existing accessory structures have permits, however with the exception of Shed #1, these structures comply with the setback requirements. Though there were no permits, Shed #1 is visible on aerial images as early as 2007, before which the tree cover is too heavy for this area to be visible.

The proposal is to enclose the existing attached roofed area on Shed #1 at the rear of the property, with a north side setback of 2.9 ft. in lieu of 5 ft. requiring a Variance. The existing enclosed and attached roofed area both have a north side setback of 2.9 ft., which will be the same setback as after enclosing the roofed portion. The enclosing of the roofed portion will not create a greater impact, as the unenclosed portion is currently being used for storage.

As of the date of this report, no comments have been received in favor and no comments have been received in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	25 ft. (accessory structure)	11.83 ft. (accessory structure)
Min. Lot Width:	75 ft.	88 ft.
Min. Lot Size:	7,500 sq. ft.	+/- 31,842.36sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	Not permitted (accessory structure)	N/A
Rear:	5 ft. (Less than 15 ft. high accessory structure)	123.1 ft. accessory structure (West)
Side:	5 ft. (Less than 15 ft. high accessory structure)	2.9 ft. accessory structure (North -Variance) 82.12 ft. accessory structure (South)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The shed is existing and due to the size and material would not be able to be relocated. The structure has existed since at least the early 2000s and has similar material to the primary dwelling and was likely constructed at the same time.

Not Self-Created

The request is not self-created since the owner is not responsible for the existing location of the structure, and the proposed modification is for usability.

No Special Privilege Conferred

Granting the variance as requested would not confer special privilege as the structure proposed to be enclosed is existing and it appears there are several other similar detached accessory structures in the area.

Deprivation of Rights

Not granting the variance would deprive the owner of the right to utilize and enclose the existing structure, that has been in its same location since prior to 2007.

Minimum Possible Variance

The request is the minimum possible to allow the shed to remain in its current location and to enclose the remaining roofed area.

Purpose and Intent

Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The structure is existing and the request is simply enclosing a portion of the existing structure. The structure will remain the same size and height, and therefore is not significantly visible from any of the surrounding properties, thereby limiting any quantifiable negative impact to surrounding property owners.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated August 12, 2022 and elevations dated July 29, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the shed and enclosure of the roofed area within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. A permit shall be obtained for the chicken coop, chickens, and metal shed, or the structures shall be removed prior to the issuance of a permit for the detached accessory structure (Shed #1).

C: Kimberly Morgan
5426 Lee Ann Drive,
Orlando, Florida, 32808

COVER LETTER

August 10, 2022

Orange County Zoning Division, BZA

201 South Rosalind Avenue, 1st Floor, Orlando, FL 32801

BZA@ocfl.net

RE: Variance request to modify an existing structure at 5426 Lee Ann Dr, Orlando, FL 32808

To Whom It May Concern:

As the property owner of subject property, I request to be allowed to enclose a current roofed overhang WHICH IS PART OF AN EXISTING BLUICK BUILDING STRUCTURE BEHIND OUR HOUSE. This structure was existing to the property when we purchased it in 2018 and was placed 2.9' from the side yard property line. During the purchase of the home it was communicated that the building was original to the property, but county records do not show a permit for this structure. I am seeking to permit this building in its entirety and further seek approval to modify the building so that it is fully enclosed to use for storage.

The building as it is placed does not affect the neighbor on that side of the property and enclosing that existing structure would make no material change that would even be noticed or affect our neighbors. The benefits of having additional storage close to our house assures ease of accessibility to everyday items and tools which we commonly use and also contributes to the beautification of our yard space by organizing items that are currently stored outside.

Thank you for your consideration,


Kimberly S. Morgan

856-796-2994

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

Proposed scope of work is specific to a building structure that is existing on the property

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

The existing structure proposed to be modified was existing to the property when purchased in 2018 and described as a structure original to the 1983 home manufacture.

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

The building is existing and modifying that existing structure does not create any further privilege not already inherent to the structure being established and already existing in place.

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Finished outbuildings that match in material and finishes to the residence are common in the neighborhood. If unable to finish the building for near to home storage, a hardship would be created in necessitating a brand new structure further from the home rendering effective use of a storage structure for small tools etc extremely difficult to access as we age and would be inconveniently placed in relation to trees, garden space etc.

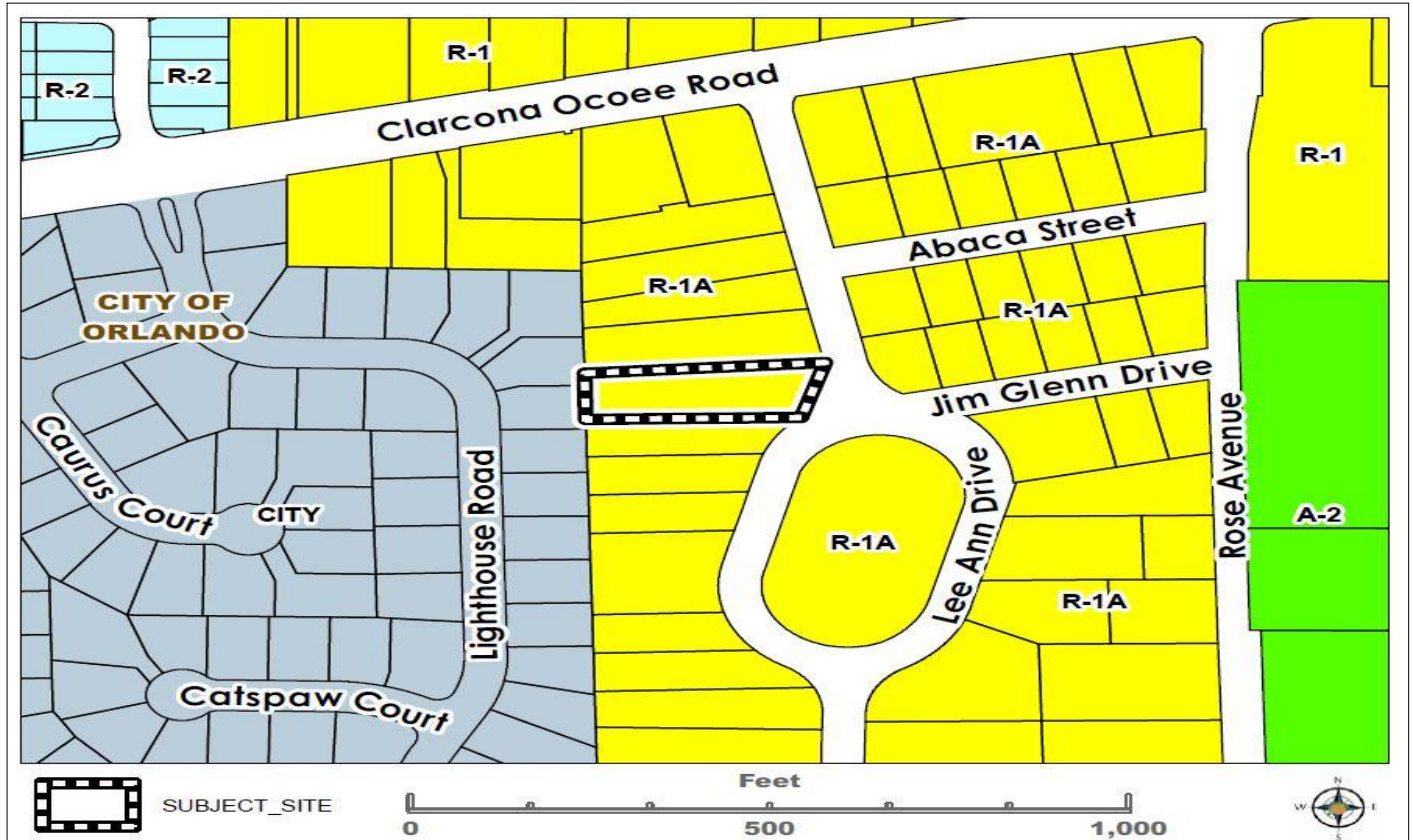
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Allowing modification to the building in its current location is the minimum we can ask for to allow for the full intended use of the structure.

6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

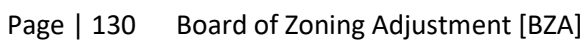
The building placement although 2.1' short of the 5' side yard setback, in no way creates a hardship for any neighboring persons and proposed modifications do not increase the presence of the building from the perspective of our neighbor.

ZONING MAP

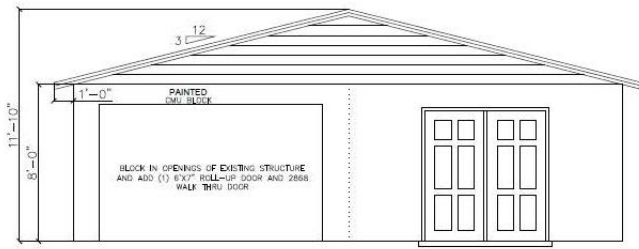


AERIAL MAP

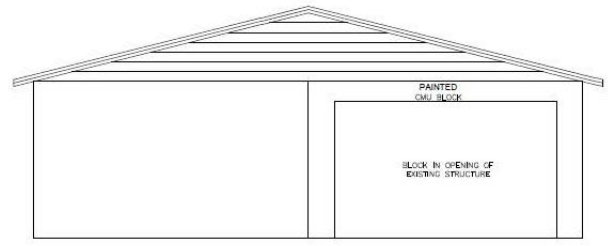




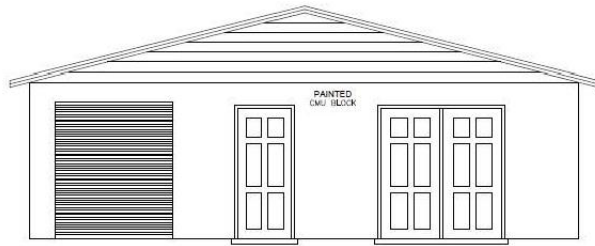
SHED #1 ELEVATIONS



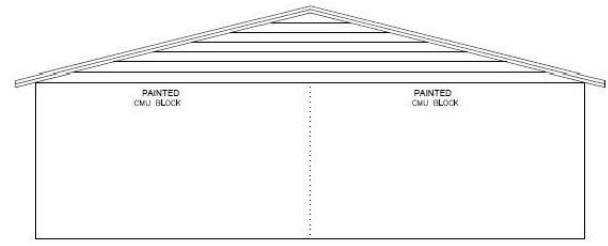
Existing Front Elevation



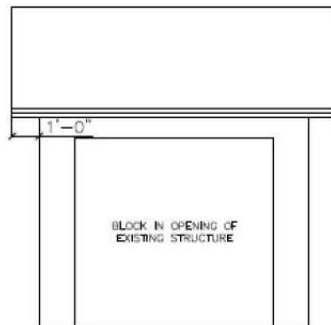
Existing Rear Elevation



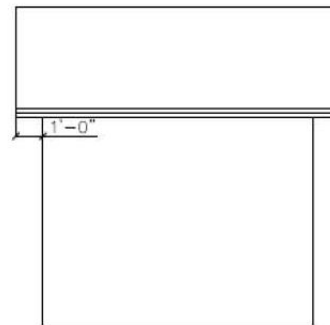
Proposed South Elevation



Proposed North Elevation



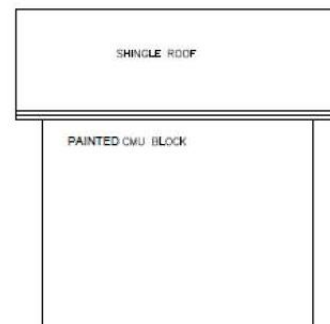
Existing Elevation



Existing Elevation



Proposed West Elevation



No Change East Elevation

SITE PHOTOS



Existing shed #1, facing north in the rear yard



Portion of shed #1 to be enclosed, facing east.

SITE PHOTOS



Existing shed #1, facing north west



Existing shed #1, facing west

SITE PHOTOS



Existing shed #2, facing west



Existing chicken coop, to be permitted or removed

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#1**

Case #: **VA-22-09-077**

Case Planner: **Tiffany Chen (407) 836-5549**

Tiffany.Chen@ocfl.net

GENERAL INFORMATION

APPLICANT(s): RYAN THOMPSON

OWNER(s): FRED AND LEONIE BELTZER FAMILY REVOCABLE TRUST

REQUEST: Variance in the PD zoning district to allow a generator with a north setback of 1.6 ft. in lieu of 10 ft.

PROPERTY LOCATION: 10808 Citron Oaks Drive, Orlando, FL 32836, west side of Citron Oaks Dr., north of Palm Pkwy, west of Daryl Carter Pkwy, east of S. Apopka Vineland Rd.

PARCEL ID: 15-24-28-7776-00-350

LOT SIZE: +/- 0.15 acres (6,612 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 94

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (Motion by Thomas Moses, Second by John Drago; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan and elevations received August 22, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The generator shall be screened from view by landscaping, such as shrubs. If the existing shrubs in front of the A/C equipment are damaged or removed, they shall be replaced by similar landscaping and adequately screen the equipment from view from the street.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in support or in opposition.

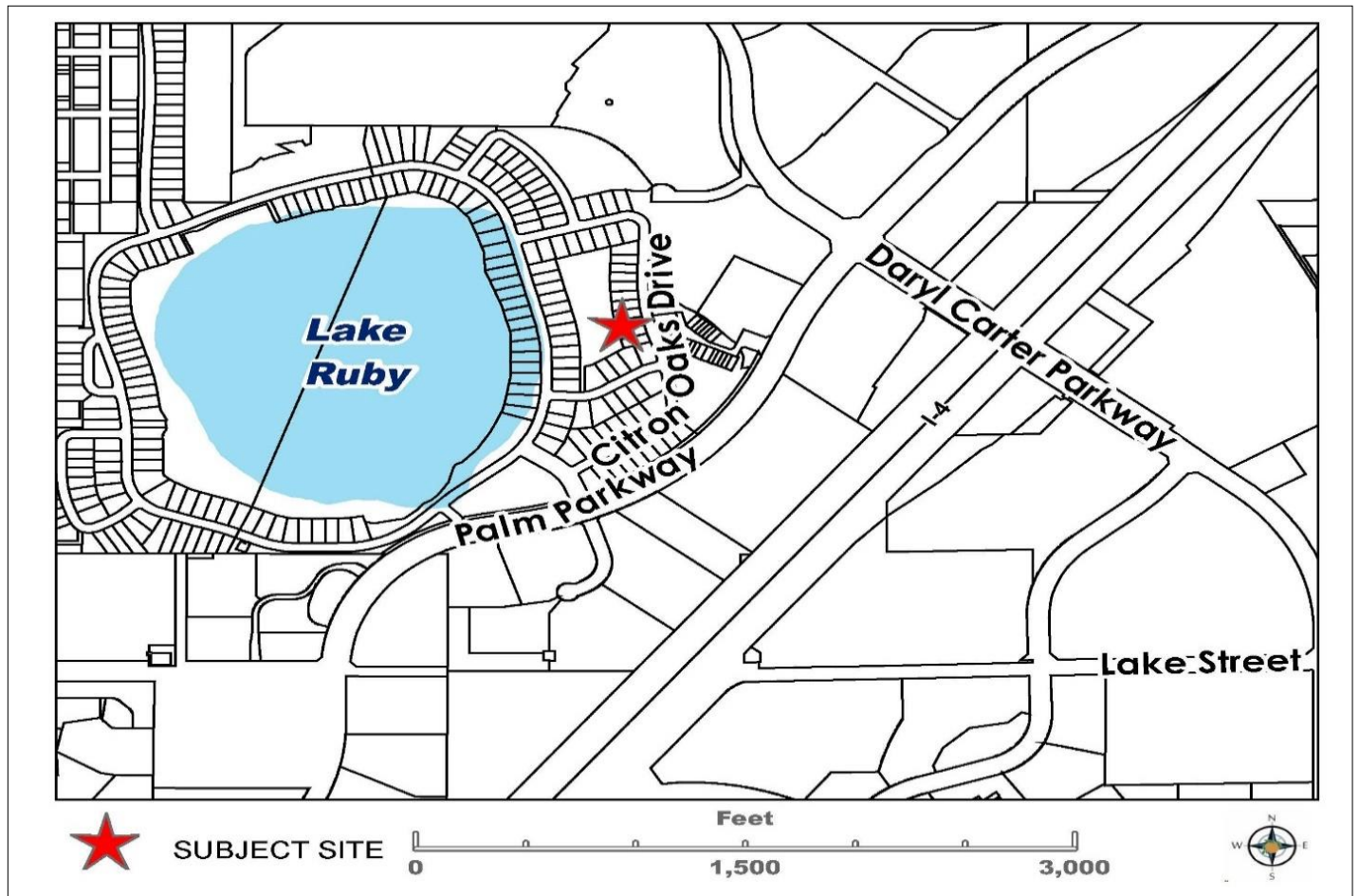
The applicant agreed with the staff presentation. There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the request and stated justification for the six (6) criteria and unanimously recommended approval of the Variance by a 6-0 vote, with one absent, subject to the four (4) conditions in the staff report, with an amended Condition #1, which states "Development shall be in accordance with the site plan and elevations received August 22, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations..."

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	Ruby Lake Ranch PD	Ruby Lake Ranch PD	Ruby Lake Ranch PD	Ruby Lake Ranch PD	Ruby Lake Ranch PD
Future Land Use	PD-LMDR	PD-LMDR	PD-LMDR	PD-C/LMDR	PD-LMDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Townhomes	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Ruby Lake Ranch PD, which allows single-family homes on small lots with reduced building setbacks. The property is also located in the Buena Vista North (BVN) Overlay District, which is a special design overlay district in southwest Orange County that promotes a diverse mix of uses and aims to foster higher quality developments that serve as transitional areas between more intense uses and low density residential. The BVN Overlay District does not have restrictions regarding residential generators.

The neighborhood is a gated community of single-family homes around Lake Ruby. The subject property is approximately 0.15 acres in size, located in the Ruby Lake - Phase 1 plat, recorded in 2016. It is considered to be a conforming lot of record. It is developed with a 6,612 sq. ft. single-family home with a swimming pool/spa and screen enclosure completed in December 2016. The current owners purchased the property in December 2016.

The applicant is proposing to install a 48" x 25", 29"-high permanent generator on a 54" x 32" concrete pad adjacent to the existing house, 1.6 ft. from the north side property line. County Code Sec. 38-79(16)g.2. requires that generators be installed with a minimum 10 ft. setback when installed in the side yard of a lot and located along the side of the principal residence. A variance is required for a reduced setback of 1.6 ft. in lieu of 10 ft. The generator will operate at 68 decibels dB(A) from a distance of 23 ft. during normal operating load (i.e. in the event of a power outage). The generator will operate at 59 dB(A) during low-speed exercise mode, which occurs weekly for a period of five to seven minutes. Normal conversation is about 60-70 dB(A).

The applicant is proposing to install the generator on the same side of the property as the A/C equipment and the meter panel. The pool equipment is located on the opposite side of the home (south side). The property is an interior lot that fronts on Citron Oaks Drive, with a pool/spa, deck and screen enclosure in the rear yard. Since the house is already built to within 5.3 ft. from the north side property line, there is no other location in the side yard that a generator may be installed without the need for a variance. There is existing landscaping in front of the A/C equipment which mostly screens the equipment from the street.

As of the date of this report, a letter of no objection was received from the owner of the property to the south of the subject property. No letters of opposition were received.

District Development Standards

	Code Requirement (Ruby Lake Ranch PD)	Existing
Min. Lot Width:	40 ft.	49.5 ft.
Min. Lot Size:	6,000 sq. ft.	6,612 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement (Ruby Lake Ranch PD)	Proposed
Front:	10 ft. (Citron Oaks Drive)	60 ft. (East)
Rear:	15 ft. (primary structure) 5 ft. (pool)	61 ft. - generator (West) 18.4 ft. -pool deck/screen enclosure (West)
Side:	5 ft. house 10 ft. generator (when adjacent to house)	5.3 ft. house (North) 1.6 ft. generator (North-Variance)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The location of the existing home with a 5.3' setback from the north side property line and the location of the of the pool and screen enclosure in the majority of the rear yard limit the area where the generator could be installed on the property, and are considered special conditions and circumstances. The placement of the generator within any portion of the side yard along the house, in line with and near existing A/C equipment and the meter panel, would require a variance.

Not Self-Created

The applicant is not responsible for the existing configuration of the lot, setback dimensions and location of the house, pool/spa and screen enclosure.

No Special Privilege Conferred

The existing side setbacks of the house and the location of the pool screen enclosure renders the installation of a generator with the side yard impossible without a variance. Further, a variance for a similar generator located within the side yard of a property within the same gated community was approved in July 2021 (VA-21-08-058).

Deprivation of Rights

Without the requested variance, the applicant would not be able to place a permanent generator within the side yard near existing mechanical equipment and the main panel.

Minimum Possible Variance

Due to the existing side setbacks, the location of existing improvements on the lot, and the standard separation distance between the exterior wall of the house and the edge of the proposed generator, the requested variance is the minimum possible.

Purpose and Intent

Approval of this request would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood. The proposed generator location in the side yard is beside the existing A/C units. The edge of the generator would be located approximately 7.5 ft. from the edge of the

neighboring house to the north. When in operation, the generator would emit similar noise levels as currently experienced and screened by landscaping, and therefore would not create adverse impacts.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received August 22, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
 2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
 3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
 4. The generator shall be screened from view by landscaping, such as shrubs. If the existing shrubs in front of the A/C equipment are damaged or removed, they shall be replaced by similar landscaping and adequately screen the equipment from view from the street.
-
- C: Ryan Thompson
804 E. Altamonte Drive
Altamonte Springs, FL 32701
- C: Fred and Leonie Beltzer
10808 Citron Oaks Drive
Orlando, FL 32836



THE STANDBY POWER PEOPLE

July 28, 2022

Orange County Zoning Division

201 South Rosalind Avenue, 1st Floor

Orlando, FL 32801

Reference: 10808 Citron Oaks Drive Orlando, FL 32836

We are requesting a setback variance be granted relating to a residential standby generator to be installed on the side of the residence. We have 5' property line all around the house. The generator would like to be 18" off the house and then is 2' itself. Therefore, we would need a variance for the 8.5' that we are short. For us to install the generator anywhere on the property, we will have the same issue with setback anywhere.

There is nowhere else it can be located as there is a pool that takes the back yard space and the other side of the house along a street.

We thank you in advance for your consideration to this matter.

Sincerely,

Ryan Thompson

General Manager



THE STANDBY POWER PEOPLE

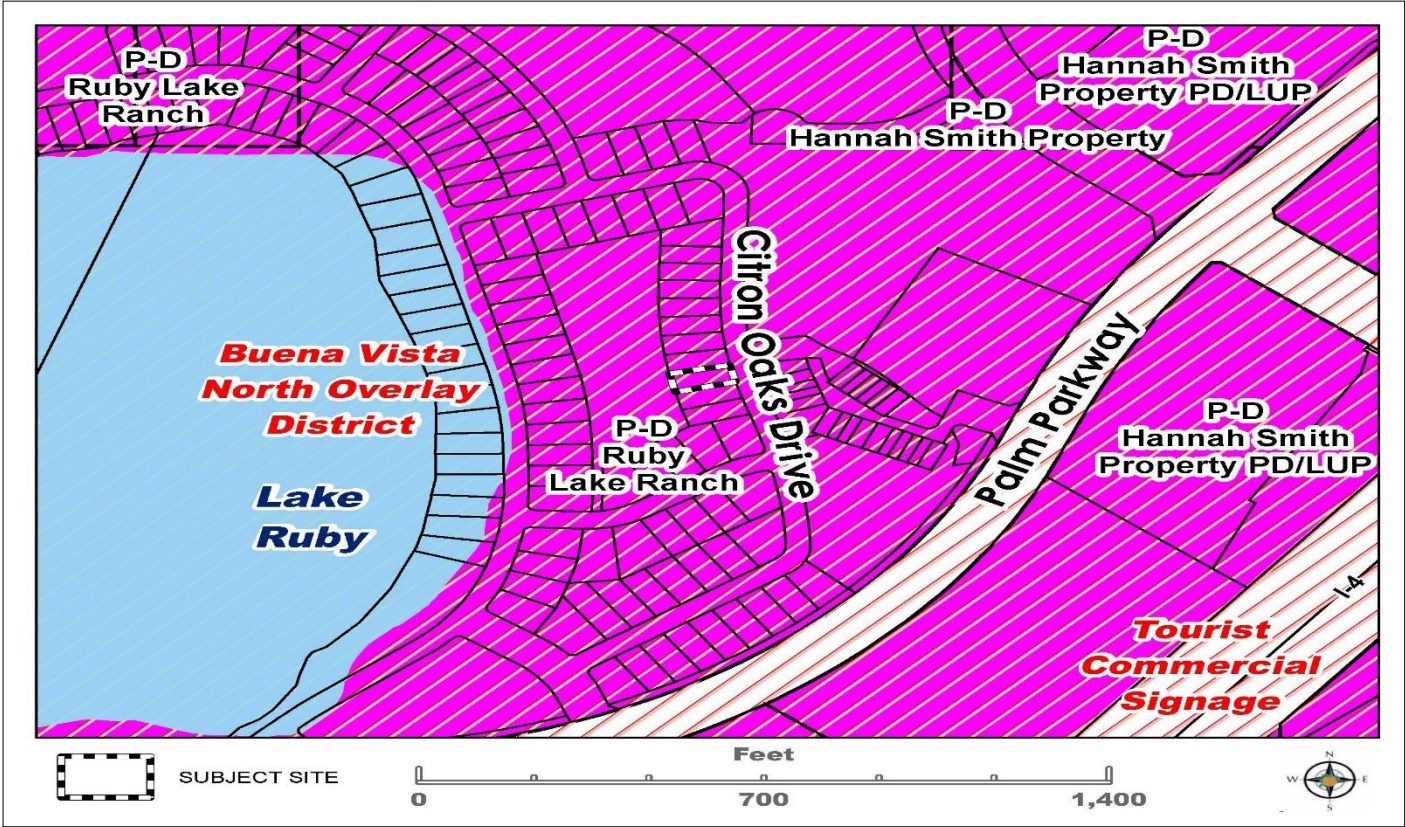
Fred & Leonie Beltzer

10808 Cintron Oaks

Orlando, FL 32836

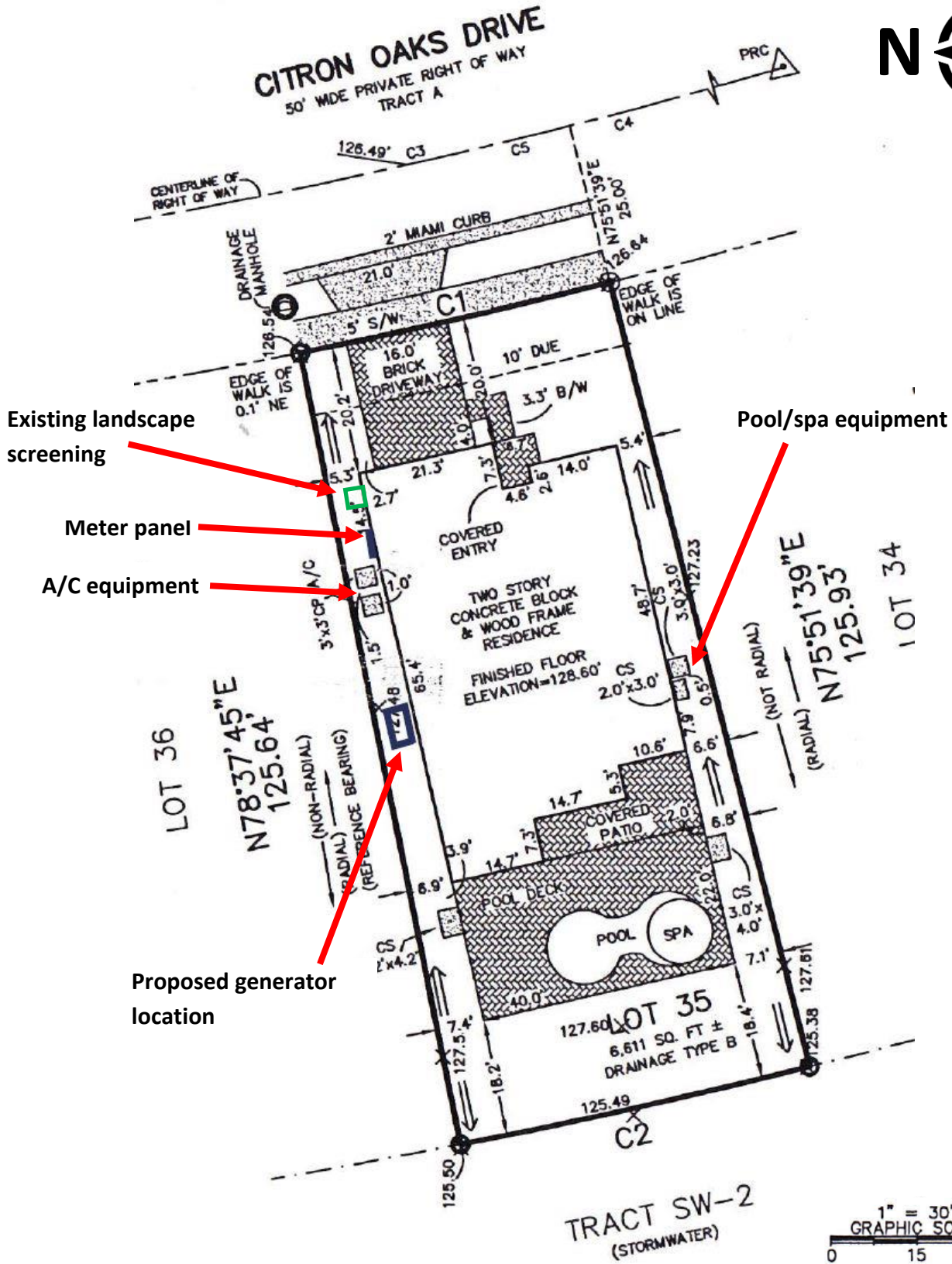
1. Special Conditions and Circumstances:
Generator cannot be located on any other location of the property due to a pool in the back yard and a street along the other side of the home.
2. No Self-Created:
All Conditions notated under "special conditions and circumstances" are pre-existing.
3. No Special Privilege Conferred:
Variance being requested will not result in any special privilege being conferred to the homeowner.
4. Deprivation of Rights:
Homeowner should not be denied the use of a generator due to the occurrence of special event (i.e hurricane, extended power outage).
5. Minimum Possible Variance
8.5 feet
6. Purpose and Intent:
All necessary steps will be taken to make sure the generator is visually aesthetic.

ZONING MAP

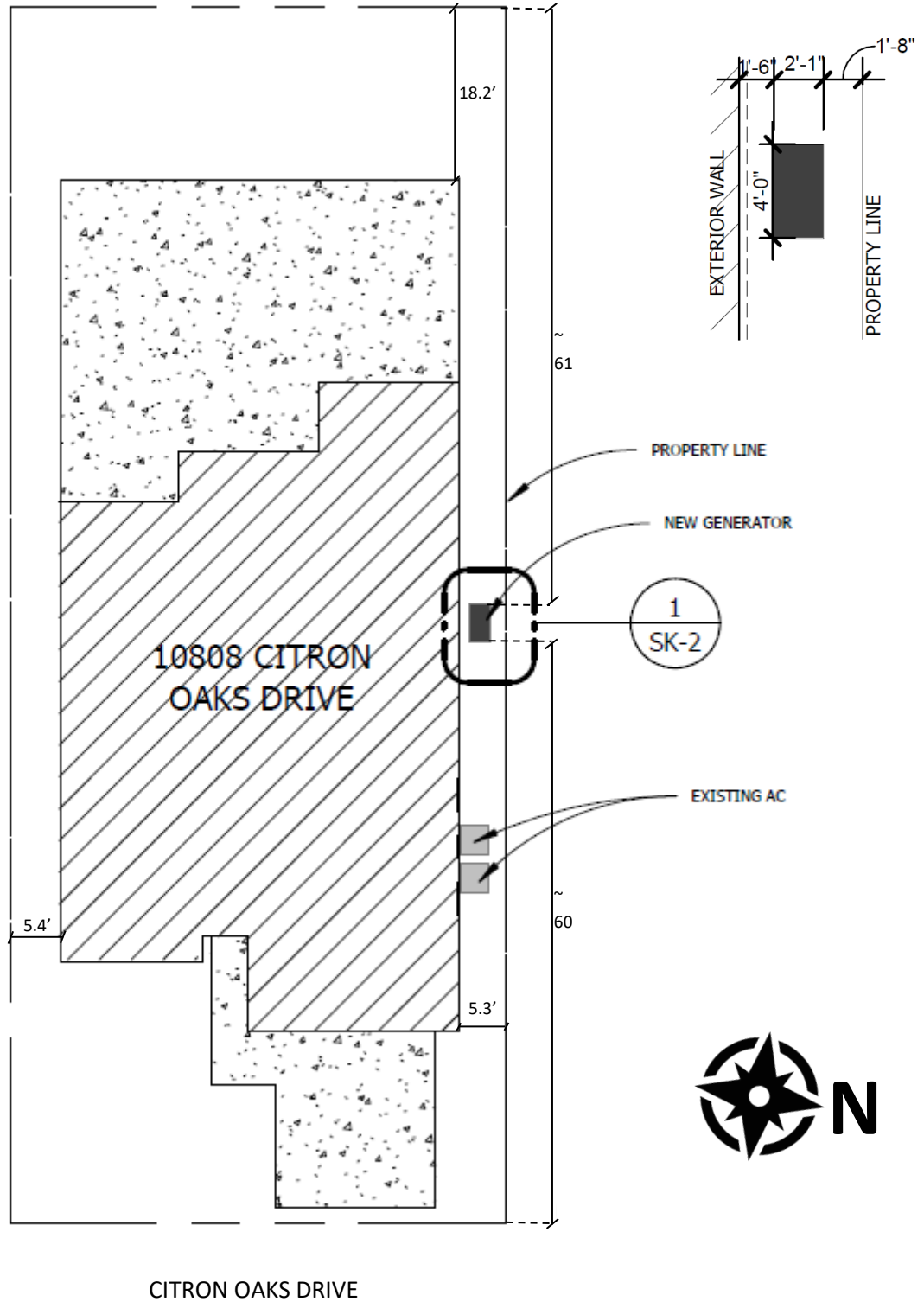


AERIAL MAP



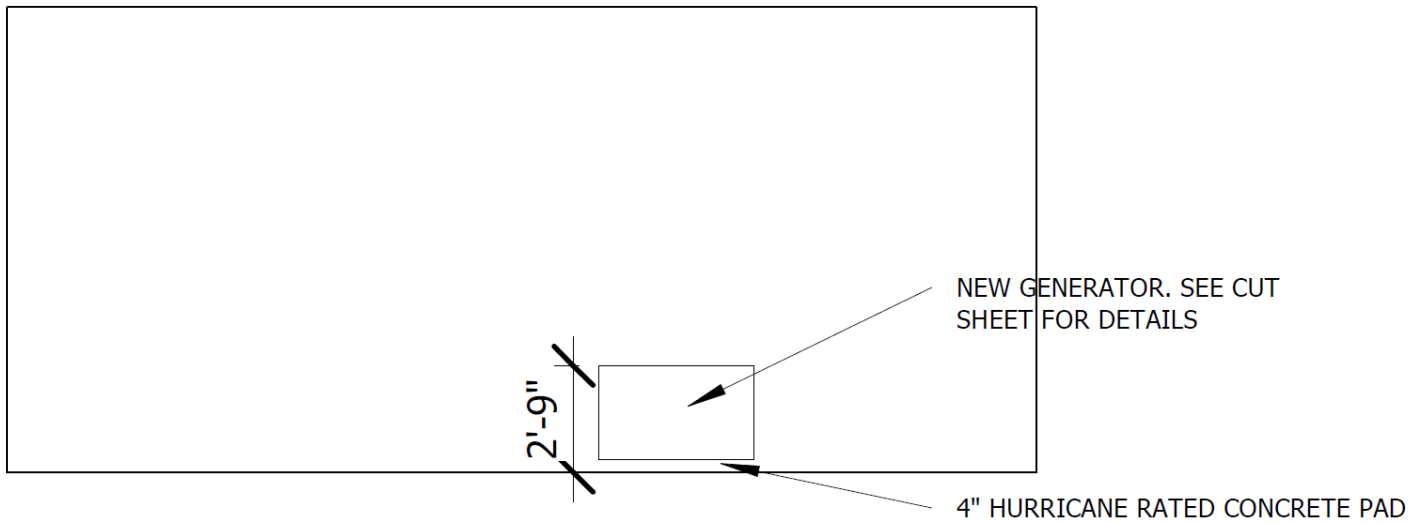


SITE PLAN





Generator Model 22/19.5 kW
48" x 25" x 29" (L x W x H)



Partial North Elevation

SITE PHOTOS



Facing west towards front of subject property, from Citron Oaks Drive



North Side – Proposed generator location, facing west

SITE PHOTOS



North side- Close up of generator location, facing southwest



North side- Proposed generator location, facing east

SITE PHOTOS



South side- Existing pool equipment, facing east



West side- Rear yard with pool/spa and screen enclosure, facing east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#3**

Case #: **VA-22-10-100**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): ROBERT DUCHARME

OWNER(s): KIM DUCHARME, ROBERT DUCHARME

REQUEST: Variances in the R-T-2 zoning district as follows:

- 1) To allow an existing detached accessory structure to be converted into a* detached accessory dwelling unit (ADU) with a living area of 284 sq. ft. in lieu of a maximum 270 sq. ft.
- 2) To allow an existing detached accessory structure (shed) with a west side street setback of 13.4 ft. in lieu of 15 ft.
- 3) To allow an existing detached accessory structure (shed) to be located in front of the principal structure.

Note: This is the result of Code Enforcement.

*Additional description added for clarity.

PROPERTY LOCATION: 402 1st St., Orlando, Florida, 32824, southeast corner of 1st St. and Avenue C, west of S. Orange Ave., south of E. Landstreet Rd., north of Taft Vineland Rd.

PARCEL ID: 01-24-29-8516-10-405

LOT SIZE: +/- 0.19 acres (8,352 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 72

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Juan Velez, Second by John Drago; unanimous; 5 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Charles Hawkins, II; 0 opposed; 2 absent: Roberta Walton Johnson and Joel Morales):

1. Development shall be in accordance with the site plan and elevations received September 15, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a

violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of the permit for the ADU, a permit shall be obtained for all unpermitted structures on the property, or they shall be removed.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that one (1) comment was received in support and no comments were received in opposition.

The owners described the need for the Variances, and especially the need for the ADU.

Code Enforcement discussed the initial complaint pertaining to an RV, that has since been satisfied, and the new citation pertaining to the subject requests.

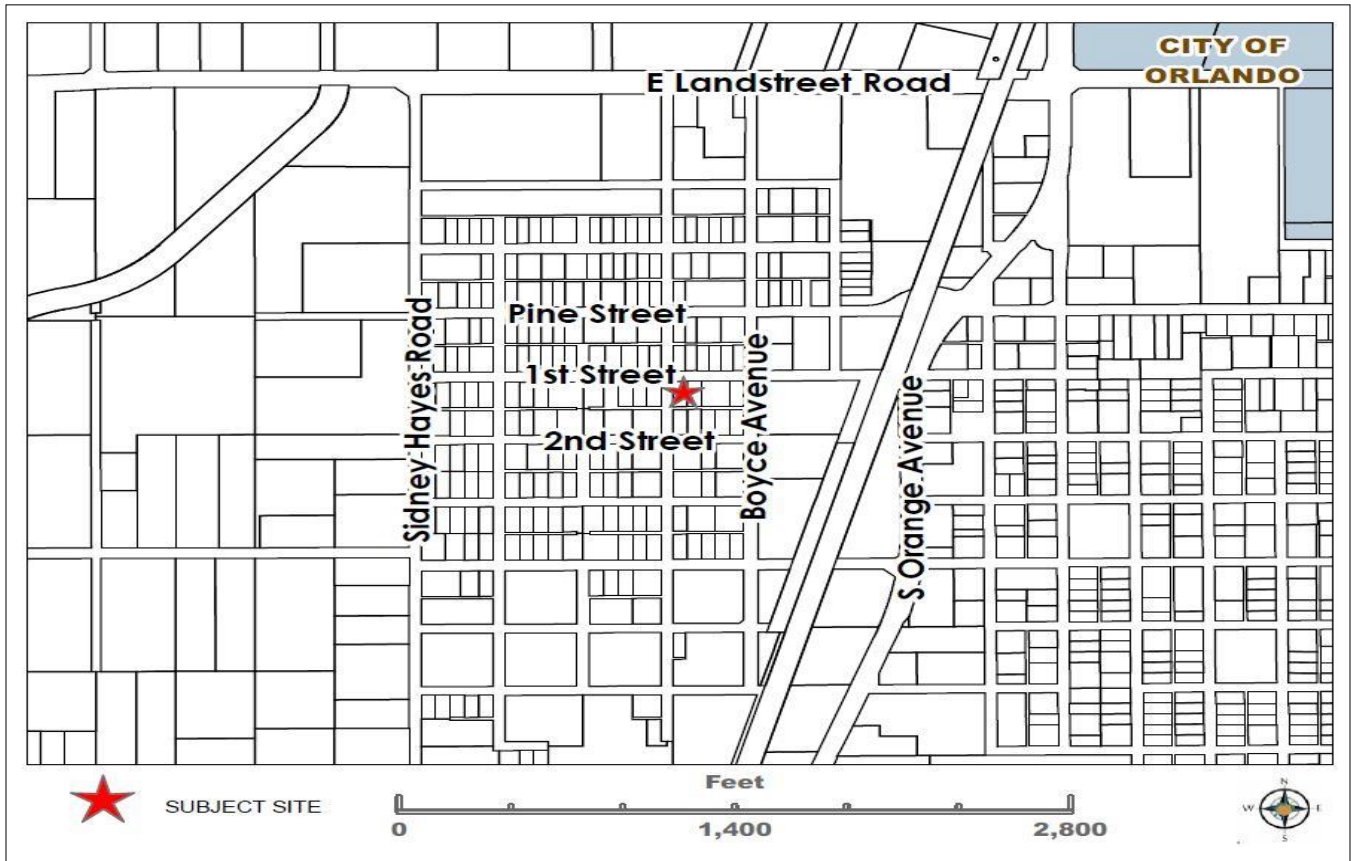
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the Variances, noted that the requests were minimal, that Avenue C is not paved, that other similar variances were approved in the area, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 5-0 vote, with two absent, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria for the granting of all variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-T-2	R-2	R-T-2	R-T-2	R-T-2
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-T-2, Combination Mobile Home and Single-Family Dwelling district, which allows a mix of mobile homes and single-family homes provided at a low density on single lots under individual ownership. The future land use is Low- Medium Density Residential (LMDR), which is inconsistent with the zoning district. Per Comprehensive Plan Policy FLU8.2.5.1, a rezoning may not be required for properties with inconsistent zoning and Future Land Use Map (FLUM) designations for residential uses when the proposed use is single-family detached residential and the Zoning and Future Land Use are both residential.

The area around the subject site consists of single-family homes and vacant lots. The subject property is an approximately 0.19 acre lot, platted in 1910 as Lot 5, Block 4, of the Taft Plat, and is considered to be a conforming lot of record. It is a corner lot with frontage on both 1st St. and Avenue C, with the front yard

measured from 1st St., and the side street is Avenue C, which is an unopened unmaintained right-of-way. It is developed with a 1 story 666 gross sq. ft. manufactured home (with 540 sq. ft. of living area) that was constructed in 1970. The site also contains 4 detached accessory structures: a 284 sq. ft. shed, labeled as Building #1 on the Site Plan, a 171 sq. ft. shed, labeled as Building #2, a 75 sq. ft. shed, labeled as Building #3, and a 285 sq. ft. shed, labeled as Building 4, that were all built without permits in 1995 according to the owner. The applicant purchased the property in 1988.

The proposal includes the conversion of the existing building, a detached accessory structure, Building #1, located at the rear of the property into an accessory dwelling unit (ADU). The existing primary residence has 540 sq. ft. of living area and the detached accessory structure, Building #1, proposed to be converted to an accessory dwelling unit (ADU) is 284 sq. ft. in size. Per Sec. 38-1426 (b) (3) (d) of the Orange County Code, "The maximum living area of an accessory dwelling unit shall not exceed fifty percent (50%) of the primary dwelling unit living area or one thousand (1,000) sq. ft., whichever is less". The proposed 284 sq. ft. of living area exceeds the maximum 270 sq. ft. of living area allowed per code, requiring Variance #1. The applicant has requested a variance for the rear setback of 14.3 ft. for the ADU, but this is not necessary as the required rear setback for the ADU is 5 ft.

The proposal also includes the recognition of the other existing unpermitted detached accessory structures on the property. There is an existing wood shed on the west side of the property, Building #2, located 13.4 ft. from the side street, Avenue C, in lieu of 15 ft. requiring Variance #2. Although Avenue C is a 50 ft. wide unimproved public right-of-way, side street setback requirements apply. Also, the existing aluminum shed on the north side of the property, Building #3, is located in front of the principal structure, requiring Variance #3.

Although the requests meet some of the Variance criteria, they do not meet all six. Therefore, staff recommends denial of the requested Variances.

As of the date of this report, no comments have been received in opposition to this request and a letter of support has been received from the owners of the property across the street to the north.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	10 ft. (ADU, shed)
Min. Lot Width:	60 ft.	60 ft.
Min. Lot Size:	6,000 sq. ft.	8,352 sq. ft.

Building Setbacks (that apply to the structures in question)

	Code Requirement	Proposed
Front:	35 ft.	43 ft. (North – Building 3)
Rear:	5 ft. (ADU)	14.3 ft. (South – Building 1)
Side:	6 ft.	12.6 ft. (East– Manufactured home)
Side street:	15 ft.	13.4 ft. Wood shed/ Building #2 (West – Variance #2)

VARIANCE CRITERIA**Special Conditions and Circumstances**

There are no special conditions or circumstances peculiar to the land or buildings which are not applicable to other lands in the same zoning district. The size of the proposed ADU could be reduced and there are other options to shift the detached accessory structures to a location that will meet code requirements.

Not Self-Created

The requests for the variances are self-created, as the structures were built without permits, there are alternatives to modify the size of the proposed ADU, and there are other options available to shift the detached accessory structures to locations that will meet code.

No Special Privilege Conferred

Granting these requests would not confer special privilege since there are other properties in the area that have been granted variances for structure size and for setbacks.

Deprivation of Rights

There is no deprivation of rights as the owner has the ability to construct an ADU that complies with the County Code, and code compliant options are available to shift shed #2 and shed #3.

Minimum Possible Variance

The request is not the minimum possible as a code compliant ADU could be constructed, and shed #2 and shed #3 can be relocated to meet code requirements.

Purpose and Intent

Approval of these requests will be in harmony with the purpose and intent of the Code, and will allow improvements to remain on the site, and will not be detrimental to adjacent properties as the amount of the variances requested are minimal for the ADU and sheds, and will not be discernable from any of the surrounding properties.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received September 15, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of the permit for the ADU, a permit shall be obtained for all unpermitted structures on the property, or they shall be removed.

C: Robert Ducharme
402 1st Street
Orlando, Florida 32824

COVER LETTER

Robert R Ducharme
Kim Ducharme
402 1st Street
Orlando
32824

August 1, 2022

To whom it may concern,

This application is for Robert and Kim Ducharme. The request is for variances in the R-T-2 Zoning District and they are as follows:

- 1) To allow an existing accessory structure (shed) with an East side set back of 3.4 feet in lieu of 15 feet.
- 2) To allow an existing accessory structure (shed) with a North rear set back of 14.3 feet in lieu of 15 feet
- 3) To allow an existing (ADU) with a living area of 284 square feet in lieu of 271 square feet.

Our motivations for seeking the approval for these slight variances are:

These structures have all been on the property since 1995, and none of neighbors have ever complained about the structures being there or disturbing them.

With regard to the size and need of the (ADU):

If this variance approval is not granted, my wife would not be able to live with me and would have to return to South Africa. She requires this accommodation as my dwelling unit is too hot for her (she has a bad reaction to extreme heat and humidity and needs to be in a small air-conditioned area which is dry), and also, my dwelling unit is full of my own possessions and there is not enough space for her own possessions.

I would gratefully appreciate your kind consideration and approval of our small variance requests.

Sincerely,


Robert Ducharme


Kim Ducharme

COVER LETTER

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

THESE STRUCTURES HAVE BEEN ON THE PROPERTY
SINCE 1995.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

MY DAUGHTER SURPRISED ME WITH THE SHEDS
FOR MY BIRTHDAY AND AT THE TIME I DID NOT
REALISE I NEEDED A PERMIT TO KEEP THEM.

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

MY OTHER NEIGHBORS ALSO HAVE SHEDS
WHICH IS ALSO TYPICAL FOR THIS NEIGHBORHOOD.

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

IF THE VARIANCE IS NOT APPROVED MY WIFE
WOULD LEAVE ME AND RETURN TO HOME COUNTRY
OF SOUTH AFRICA DUE TO NOT HAVING A PLACE TO LIVE.

5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

THE STRUCTURES HAVE BEEN ON THE PROPERTY SINCE
1995 AND ARE SLIGHTLY OVER THE ALLOWED
LIMIT

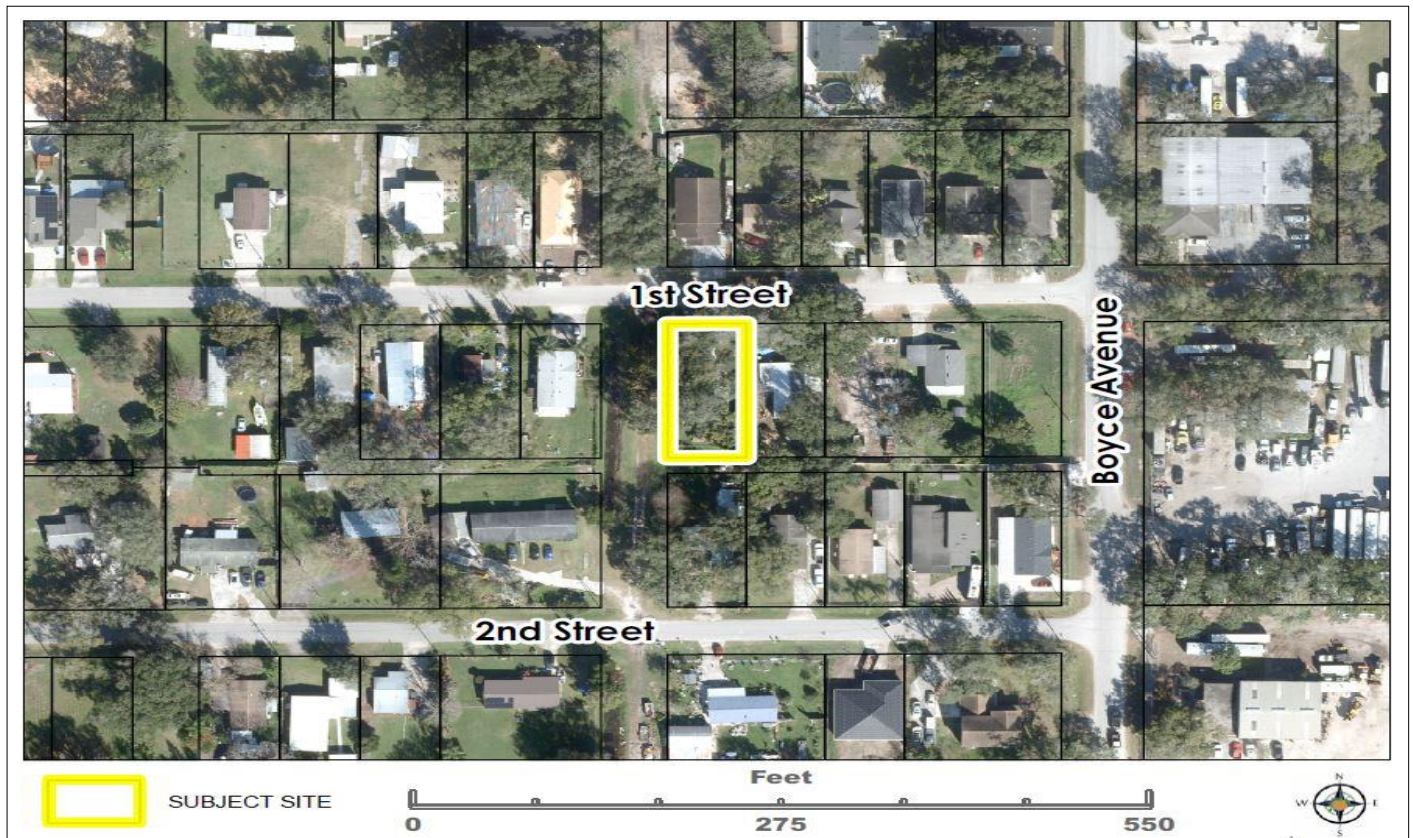
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

THE STRUCTURES HAVE BEEN ON THE PROPERTY SINCE 1995,
IS COMMON IN THE NEIGHBORHOOD AND HAVE NO COMPLAINTS
FROM THE NEIGHBORS.

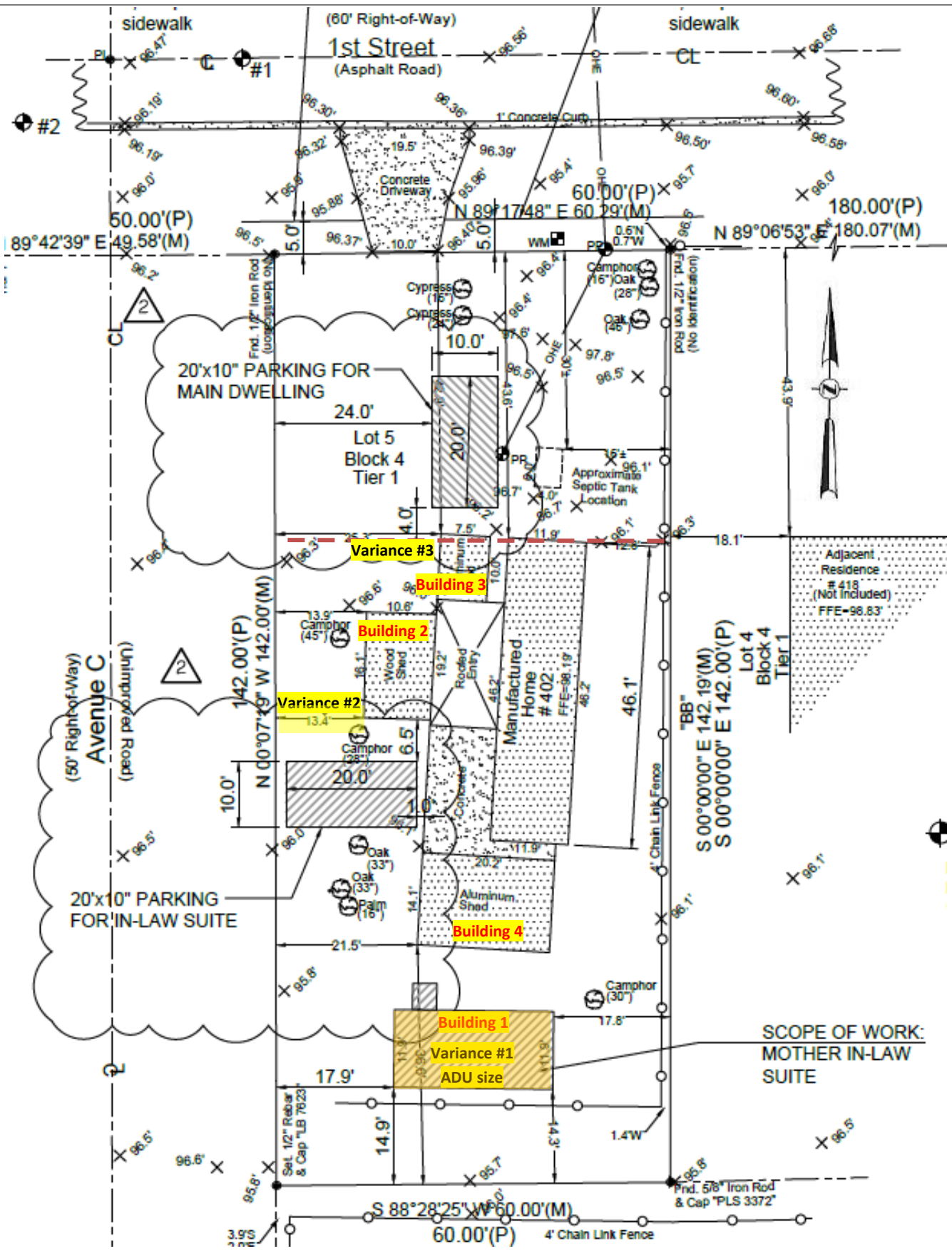
ZONING MAP



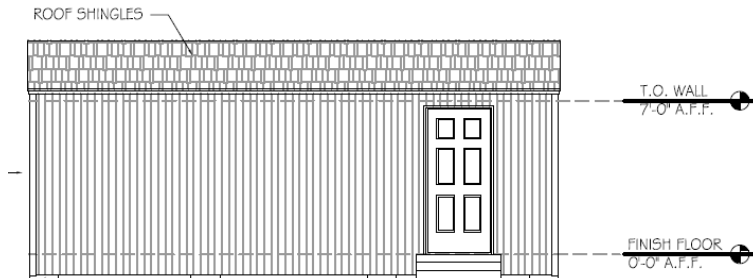
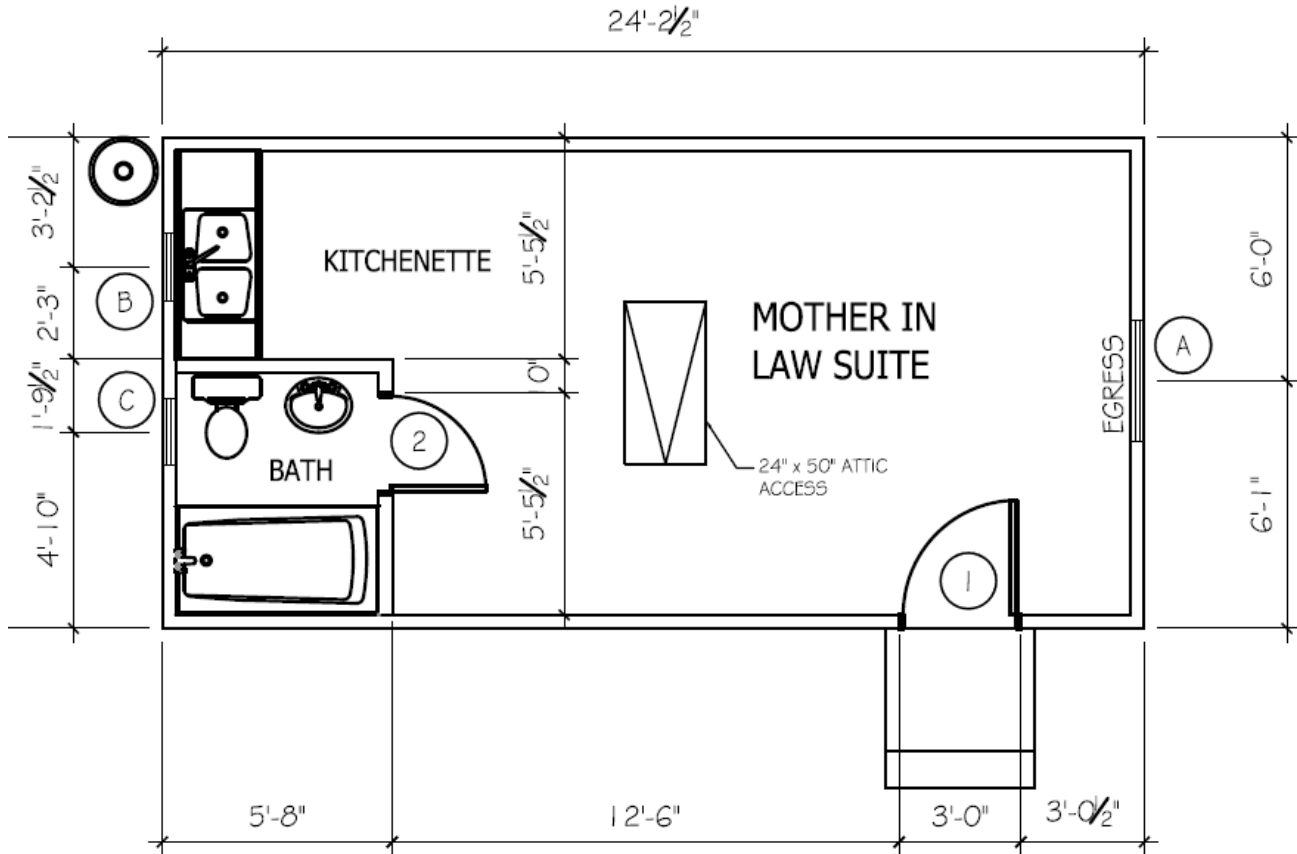
AERIAL MAP



SITE PLAN

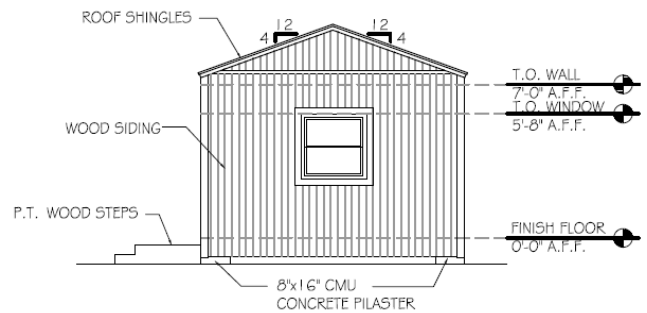


ADU FLOOR PLAN/ELEVATIONS



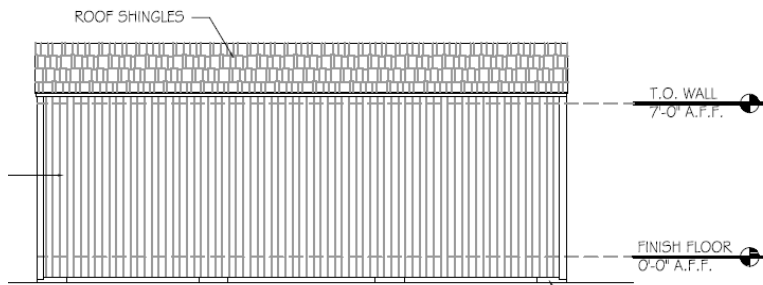
FRONT ELEVATION(NORTH)

1/8"=1'-0"



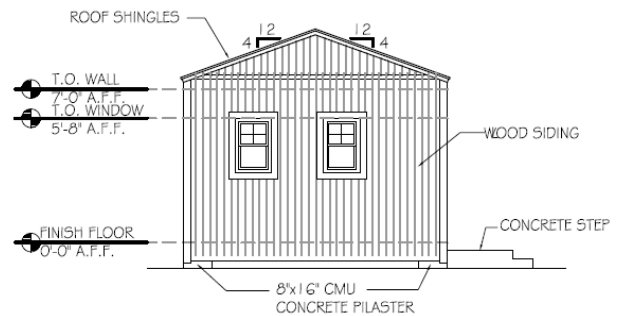
RIGHT ELEVATION(WEST)

1/8"=1'-0"



REAR ELEVATION(SOUTH)

1/8"=1'-0"



LEFT ELEVATION(EAST)

1/8"=1'-0"

SITE PHOTOS



Front from 1st St. facing south towards principal structure



Shed (Building #3) located in front of the principal structure facing south

SITE PHOTOS



Street side from Avenue C facing east



Proposed ADU (Building #1) facing east. Building #4 is to the left

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#2**

Case #: **VA-22-09-092**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): BARBARA GRITTER FOR SOLARIUM SOLAR LLC

OWNER(s): JAMES LOVETT, ELIZABETH MCCORMICK

REQUEST: Variances in the R-2 zoning district to allow a ground mounted solar system as follows:

- 1) In front of the principal structure in lieu of the side or rear yard.
- 2) Total square footage of solar panels of 1,154 sq. ft. in lieu of 209 sq. ft. (25% of the living area of the principal structure.)

PROPERTY LOCATION: 7918 Albania Ave., Orlando, FL 32810, southwest corner of Albania Ave. and Brownell St., east of N. Orange Blossom Trl., north of Edgewater Dr.

PARCEL ID: 29-21-29-0356-02-210

LOT SIZE: +/- 0.32 acres (13,886 sq. ft.)

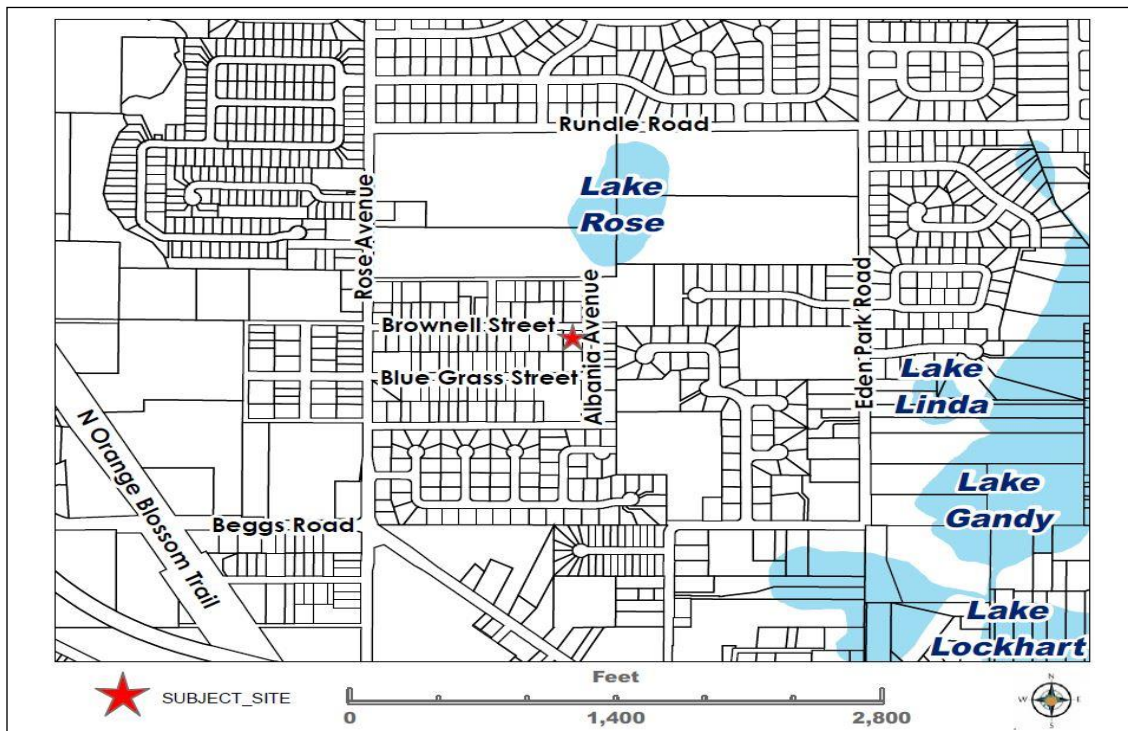
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 91

STAFF RECOMMENDATIONS

CONTINUED BY APPLICANT TO THE NOVEMBER 3, 2022 BZA HEARING

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#3**

Case #: **VA-22-10-105**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): NATHANIEL MITCHELL

OWNER(s): SHARON MITCHELL, NATHANIEL MITCHELL

REQUEST: Variances in the R-1AA zoning district as follows:

- 1) To allow an existing 6.6 ft. high wall in the front yard in lieu of 4 ft. high.
- 2) To allow a 6.6 ft. high wall with 6.6 ft. high gates within the clear view triangle.
- 3) To allow existing columns to extend up to 6.3 ft. in lieu of 6 ft. (24 inches above the height limitation of 4 ft).
- 4) To allow existing columns to be 5.4 feet apart in lieu of 10 feet apart.

Note: This is the result of Code Enforcement.

PROPERTY LOCATION: 5343 Lake Jessamine Drive, Orlando, FL 32839, east side of Lake Jessamine Dr., east of S. Orange Blossom Trl., west side of Lake Jessamine, north of W. Oak Ridge Rd., south of Holden Ave.

PARCEL ID: 14-23-29-4528-01-040

LOT SIZE: +/- 2.05 acres (+/-0.75 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 82

DECISION: Recommended **DENIAL** of the Variance requests in that there was no unnecessary hardship shown on the land; and further, they do not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3) (Motion by Juan Velez, Second by Thomas Moses; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Charles Hawkins, II; Roberta Walton Johnson; 0 opposed; 1 absent: Joel Morales):

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that four (4) comments were received in support, and no comments were received in opposition.

The owner stated the need for the requests and the desire to improve the property.

Code Enforcement discussed the history of the code violations.

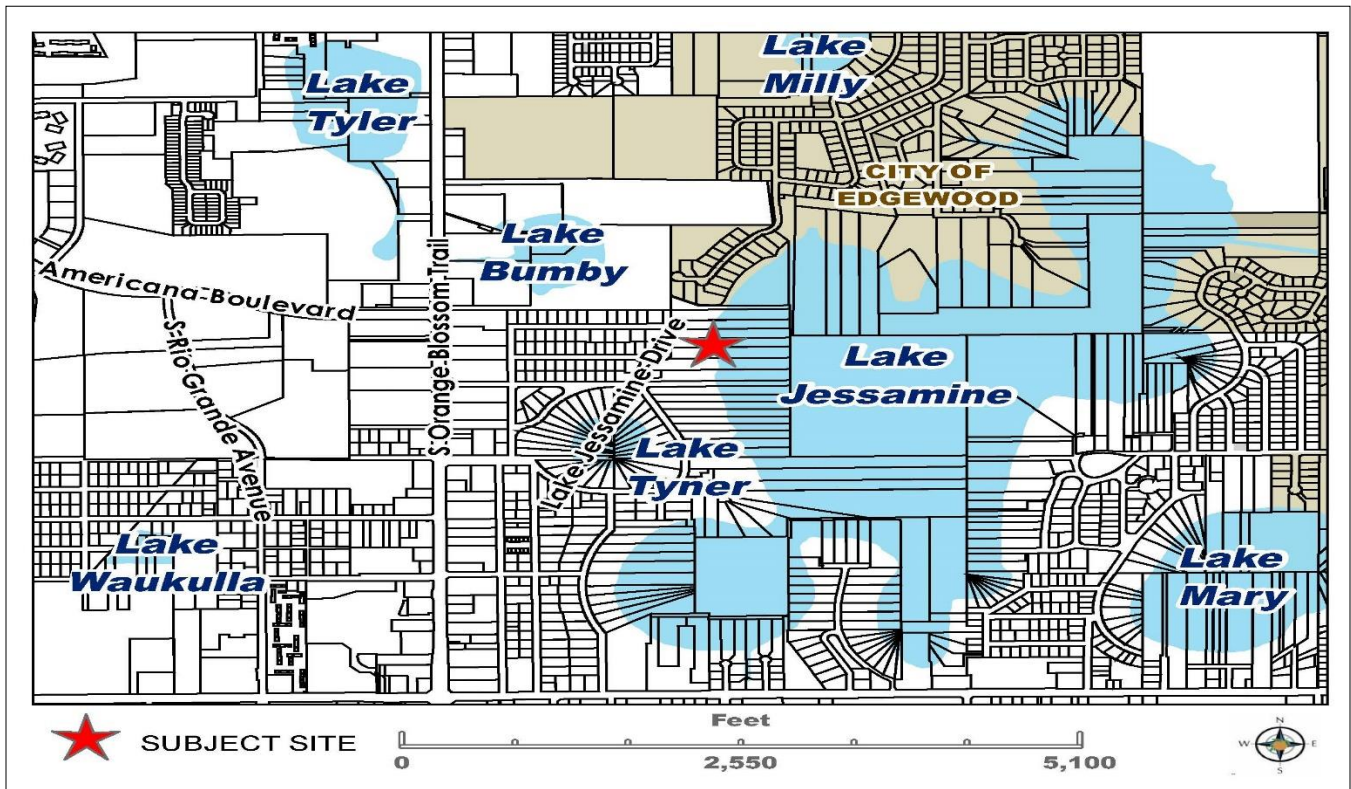
There was no one in attendance to speak in favor or in opposition to the request.

The BZA noted that the existing height of the wall, the presence of the circular driveway, observed that the work was completed without a permit, discussed the variance and stated the lack of justification for the six (6) criteria and unanimously recommended denial of the variances by a 6-0 vote, with one absent.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1AA	R-1AA	R-1AA	Lake Jessamine	R-1A
Future Land Use	LDR	LDR	LDR	Lake Jessamine	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Lake Jessamine	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1AA, Single Family Dwelling District, which allows for single family uses. The Future Land Use is Low Density Residential (LDR), which is consistent with the zoning district.

The area around the subject site consists of single-family homes. The subject property is a 2.05 acre lakefront lot located on Lake Jessamine (0.75 acres upland), in the Lake Jessamine Shores Plat, recorded in 1948, and is

considered to be a conforming lot of record. It is developed with a 3,889 gross sq. ft. single-family home, constructed in 2007. The owner purchased the property in 2009.

In 2010, the owner installed a wrought iron fence along the front of the property that was permitted and met code. In 2020, the owner replaced the wrought iron fence with a 6.6 ft. high wall/fence of which is a 3 ft. wall with an additional 3.3 feet of decorative metal fencing, along the front of the property, in lieu of 4 ft. high, requiring Variance #1; with 6.3 ft. high columns and a 6.6 ft. high gate within the clear view triangle, requiring Variance #2 to encroach into the clear view triangle; and 6.3 ft. high columns in lieu of 6 ft. high, requiring Variance #3; and columns 5.4 ft. apart in lieu of 10 ft. apart, requiring Variance #4. County Code Sec. 38-1408(g)(1) allows fences to be a maximum of 4 ft. high within the front setback within the R-1AA district, and Sec. 38-1408(c) allows pillars and posts to extend an additional 24 inches, provided they are no less than 10 ft. apart. However, County Code Sec. 38-1408(b) prohibits fences to be within the clear view triangle area, which is an area on each side of the driveway that is formed by measuring 15 ft. along the road and 15 ft. along the edge of the driveway.

A Code Enforcement citation was issued in July, 2020 for the installation of a fence without a permit (Incident 567605). The applicant subsequently applied for a permit (F20006511), but the permit was voided because the permit was not issued before the expiration date, and a new Code Enforcement case was opened in February, 2022 (Incident 604852). Since then, the applicant has applied for a new permit (B22009327), which is on hold pending the outcome of the request.

The request to encroach into the clear view triangle raises safety considerations regarding pedestrian safety when using the adjacent sidewalk, but it also should be noted that the property has a semicircular driveway which would likely limit the need to backing out into the public right-of-way. While the fence is more than 50% transparent, allowing for some visibility, staff recommends denial, as the request does not meet the 6 standards for variance criteria. Furthermore, there are no other properties in the immediate vicinity that have been granted similar variances. The applicant has referenced fences that are over the allowed height, but these properties are over 0.5 miles away from the subject property

The Orange County Environmental Protection Division has reviewed the variances and has no objection to the requests.

As of the date of this report, 4 comments have been received in favor, which include the adjacent neighbors to the north and south, and 2 neighbors across the street to the west. No comments have been received in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	4 ft. fence within front setback	6.6 ft. fence (Variance #1), 6.6 ft. fence/gate within the clear view/ site distance triangle (Variance #2)
Min. Lot Width:	85 ft.	100 ft.
Min. Lot Size:	10,000 sq. ft.	2.05 acres

VARIANCE CRITERIA**Special Conditions and Circumstances**

There are no special conditions and circumstances, as the fence/wall, columns and gate could have been installed in compliance with the requirements of the code.

Not Self-Created

The need for the variances is self-created and result from the applicant constructing the improvements without a permit.

No Special Privilege Conferred

Granting the variances as requested will confer special privilege that is denied to other properties in the same area and zoning district, as the applicant could relocate or modify the improvements requested to a conforming height and location.

Deprivation of Rights

There is no deprivation of rights as a fence/wall, columns and gate could be installed in a location and manner compliant with code, as was the previous permitted fence.

Minimum Possible Variance

The requested variances are not the minimum possible, as the applicant could reduce the height or relocate or modify the fence/wall, columns and gate to a conforming location.

Purpose and Intent

Variances #1, 3 and 4: Approval of the variance will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding area since the fence is located 18 feet from the edge of the road, and is more than 50 % transparent.

Variance #2: Encroachment into the clear view triangle is a safety issue, and such a request does not meet the standards for purpose and intent and could be detrimental to the surrounding area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and fence and gate details received September 15, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Permits shall be obtained within 180 days of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the Official Records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies and holds harmless Orange County from any claims, lawsuits, and any other damage caused by the locating of the fence and gates in the clear view triangles adjacent to Lake Jessamine Drive as requested by the property owner, and shall inform all interested parties, including any future purchasers of the property, that the fence and gates are located within the clear view triangles and that the property owner, and the property owner's heirs, successors, and assigns shall be responsible for any claims, lawsuits, and other damage caused by installing the fence and gates in that location.

C: Nathaniel Mitchell
5343 Lake Jessamine Drive,
Orlando, FL 32839

COVER LETTER

FROM: NATHANIEL MITCHELL
5343 LAKE JESSAMINE LAKE
ORLANDO, FL 32839

TO: NICK BALEVCH
PLANNER II

RE: FENCE

I am requesting to keep my fence and wall that has been since 2019. I have a permit on my previous fence in 2010.

1. To allow an existing 6.6 feet high wall in the front yard in lieu of 4 feet high.
2. To allow a 6.6 feet high wall with 6.6 feet high gates with the clear triangle.
3. To allow existing columns to extend up to 6.3 feet in lieu of 6 feet (24 inches above the height limitation of 4 feet)
4. To allow existing columns to be 5.4 feet apart in lieu of 10 feet apart.

NOTE: This is the result of Code Enforcement.

Thanking you in advance, if any further information is required please let me know.

Sincerely,


Nathaniel Mitchell

COVER LETTER

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

This fence is lower than the fence
2 or 3 street over see pictures

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

The only Hardship is Removing or
Reducing the Height - will incur a Greater
cost - Especially in this current Economy cost are
high

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

this will Be NO Special Privilege Due
to the fact that the fence 3 street over
from mine.

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Financial Loss will be Incurred by
ME.

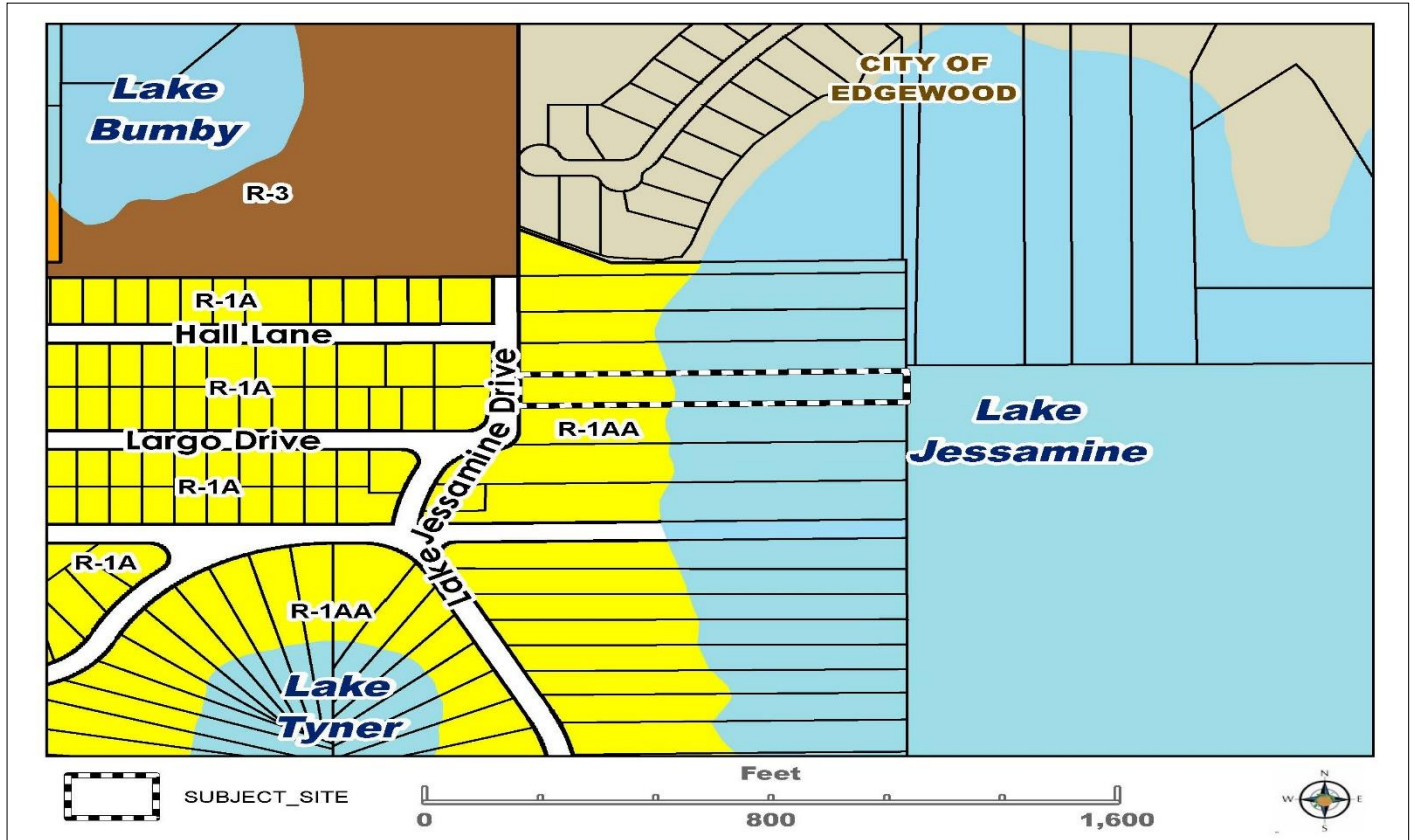
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

My fence is only 4 1/2 ft tall

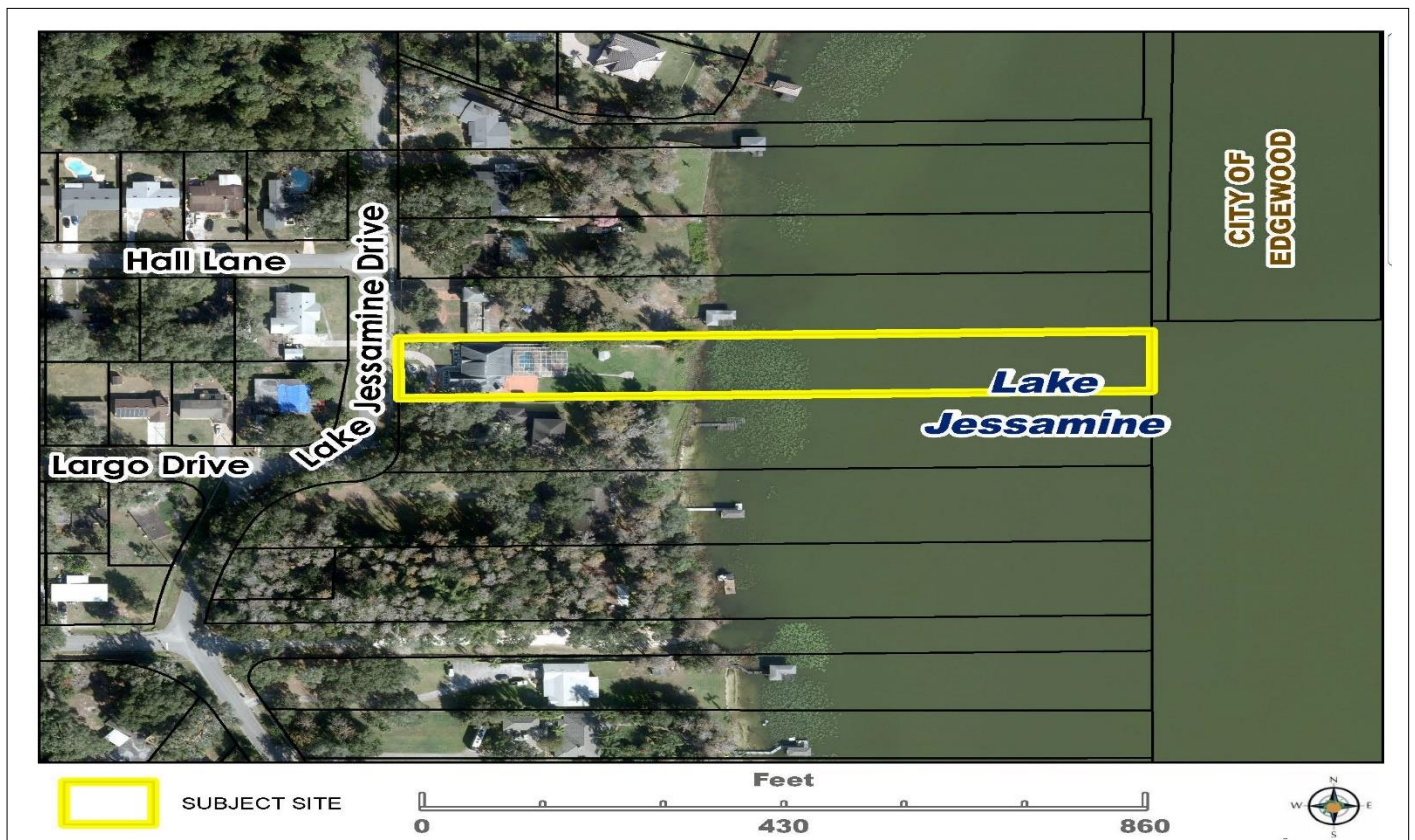
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Approval of this will not Be injurious
to the Neighborhood - Since the fence
3 street down is higher than mine.

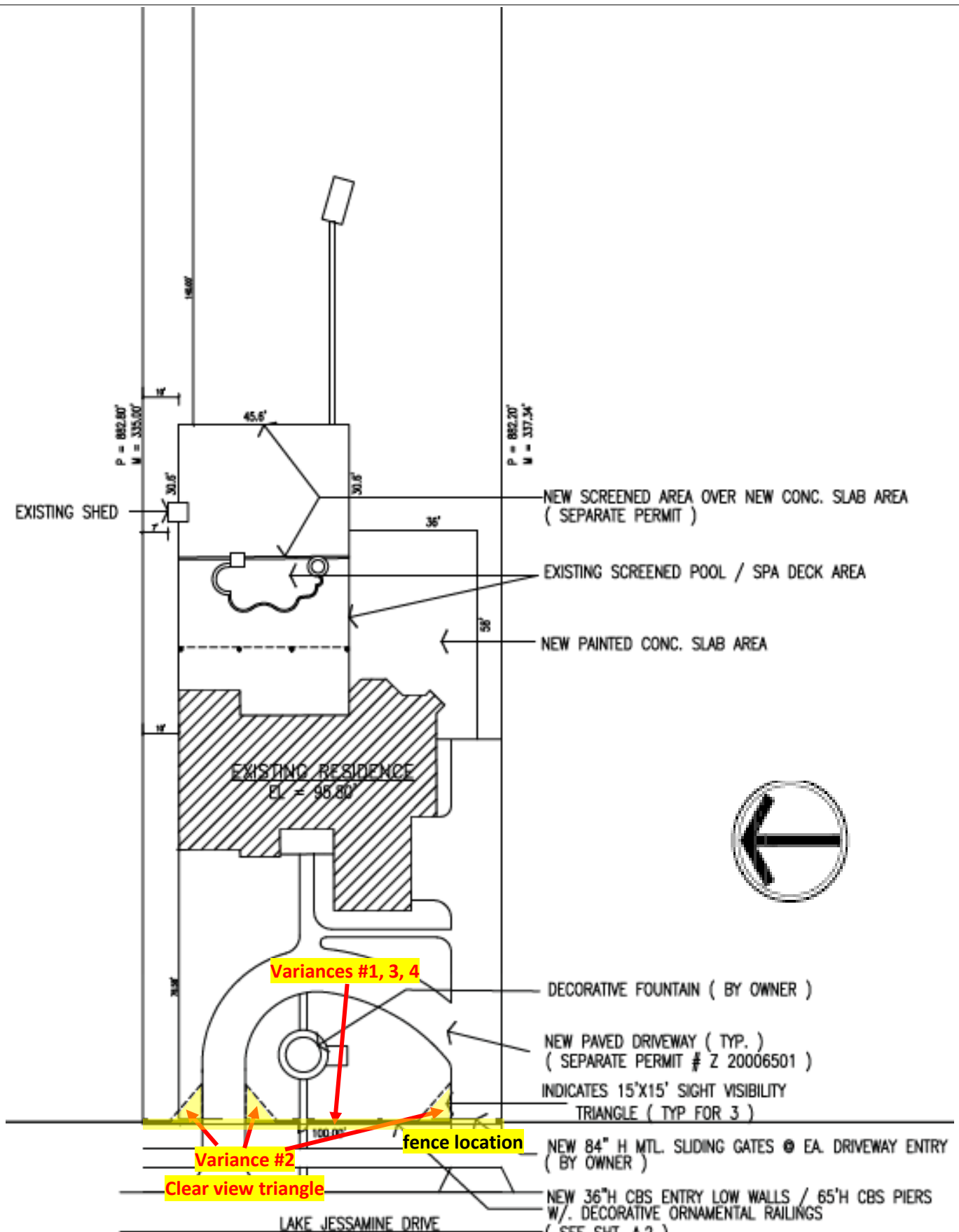
ZONING MAP



AERIAL MAP



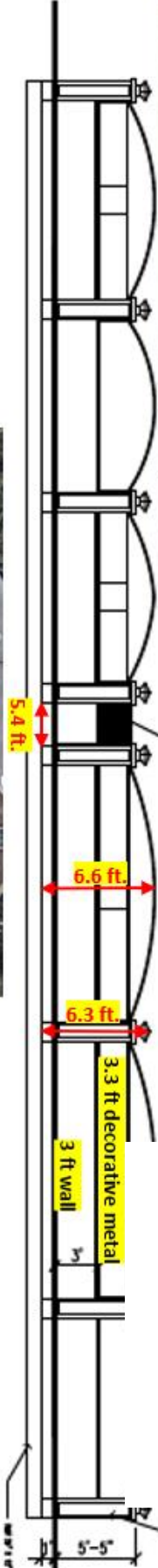
SITE PLAN



FENCE DETAILS



WALL PLAN



WALL ELEVATION



SITE PHOTOS



Front from Lake Jessamine Dr. facing east



6.3 ft. high columns with a 5.4 ft. separation in lieu of 10 ft.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#2**

Case #: **VA-22-11-113**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): SHEENA AND NICHOLAS WINKLEMAN

OWNER(s): SHEENA WINKLEMAN, NICHOLAS WINKLEMAN

REQUEST: Variances in the R-CE zoning district as follows:

1) To allow a lot width of 110 ft. in lieu of a minimum of 130 ft.

2) To allow a lot size of 0.51 acres (upland) in lieu of a minimum of 1 acre.

PROPERTY LOCATION: 3016 Lake Stanley Road, Orlando, Florida, 32818, west side of Lake Stanley Rd., east side of Lake Stanley, north of Silver Star Rd., west of North Apopka Vineland Rd.

PARCEL ID: 10-22-28-9480-03-080

LOT SIZE: +/- 1.21 acres (0.51 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 70

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, Second by Roberta Walton Johnson; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Charles Hawkins, II; Roberta Walton Johnson; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the lot width and dimensions shown on the site plan received September 2, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

- The shed on the rear of the property shall be removed prior to issuance of a permit for the house.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in support or in opposition.

The applicant chose not to speak.

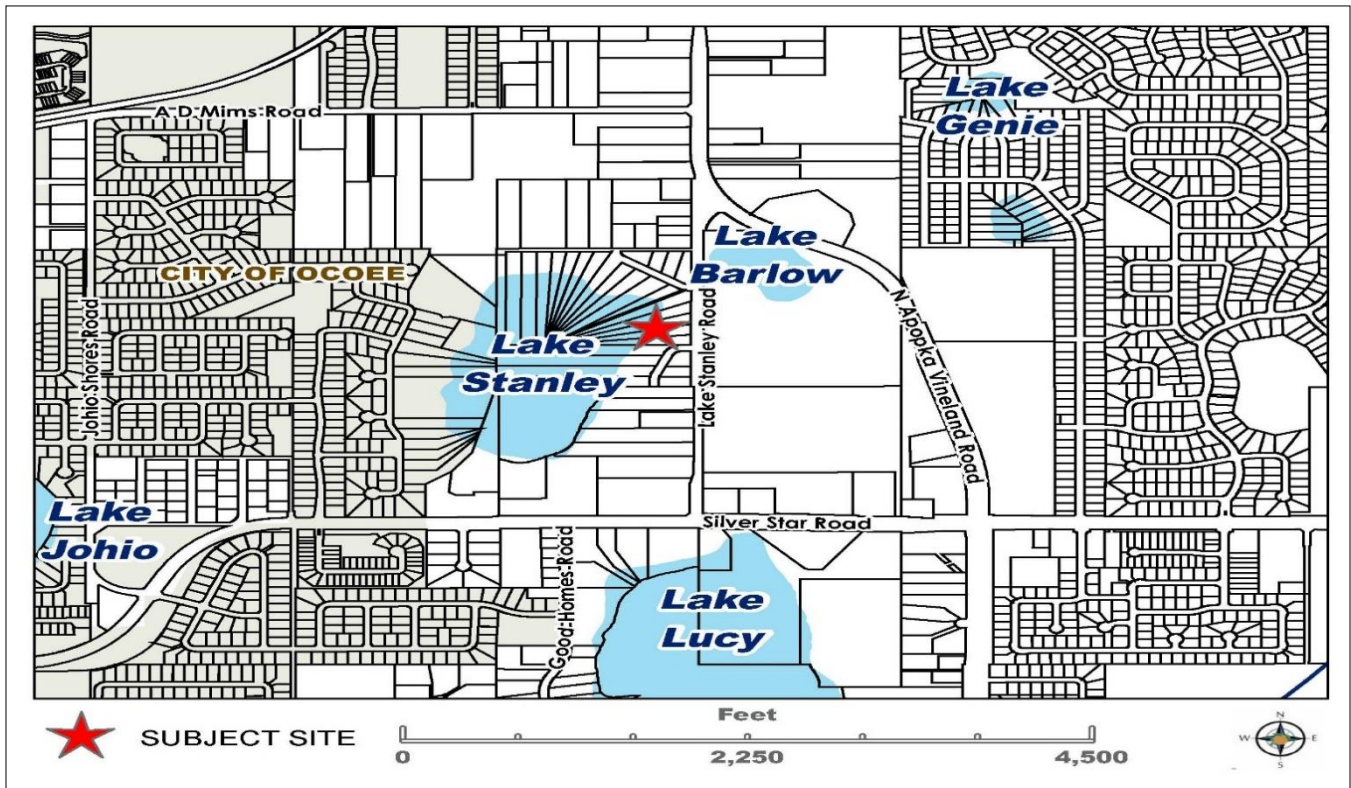
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the Variances and stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 6-0 vote, with one absent, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-CE	R-CE	R-CE	R-CE	Lake Stanley
Future Land Use	LDR	LDR	LDR	RS-1/1	Lake Stanley
Current Use	Vacant	Single-family residential	Single-family residential	County forest/park	Lake Stanley

DESCRIPTION AND CONTEXT

The subject property is located in the R-CE, Rural Country Estate district, which allows primarily single-family uses and certain agricultural uses with a minimum lot area of one (1) acre. The future land use is LDR, which is consistent with the R-CE zoning district, when located in a Rural Settlement.

The property is located in the Clarcona Rural Settlement. Rural settlements are areas of the County identified in the Comprehensive Plan, where a particular rural character is desired to be preserved by its residents. Rural settlements typically limit certain uses, such as institutional uses, or commercial development, and control densities. This request is not impacted by the Clarcona Rural Settlement.

The area around the subject site consists of single-family homes and vacant lots. The subject property is a 1.21 acres gross (0.51 acres upland) lakefront lot, located on Lake Stanley, platted in 1957 as lot 8, block C, located in the Woodsmere Manor Plat, and is a non-conforming lot of record, as it does not meet the minimum lot width or size. The property was administratively rezoned from R-1AA to R-CE in 1981, along with the rest of the lots in the subdivision. The owners purchased the property in 2021. The lot contains an unpermitted shed at the rear, which will be removed prior to construction of the new home.

Per Orange County Code Sec. 38-1401, if two or more adjoining lots were under single ownership on or after October 7, 1957, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. The subject property was purchased on March 23, 1972 by John and Carolyn Underwood, who also owned lot 9 to the south. On December 7, 2011, lots 8 and 9, were sold to SHI Investments. On February 18, 2021, lot 8 was sold to the current owners. Thus, the parcel cannot be considered to be a substandard lot of record, and variances are required for the lot width and lot size in order to build a single-family home on the property.

The parcel is 110 feet wide, but the R-CE zoning district requires a minimum lot width of 130 ft., requiring Variance #1, and is 0.51 acres upland in size but the R-CE zoning district requires a minimum lot area of 1 acre, requiring Variance #2. The applicant is proposing to construct a two story 5,601 gross sq. ft. (3,885 sq. ft. of living area) single-family home on the property which will meet all setback requirements for the district, including the required 50 ft. Normal High Water Elevation setback from Lake Stanley to the west.

Comparatively, all but one of the lots in the same 21 lot Plat are developed in their original platted configurations with a similar lot width and lot size.

The Orange County Environmental Protection Division has reviewed the variance and has no objection to the requested variances.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	22 ft.
Min. Lot Width:	130 ft.	110 ft. Variance #1
Min. Lot Size:	1 acre	0.51 acres (upland) Variance #2

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	35 ft.	35 ft. (East)
Rear:	50 ft.	78 ft. (West)
NHWE	50 ft.	78 ft. (West)
Side:	10 ft.	10 ft. (North) 10 ft. (South)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The existing lot size and configuration are considerations of special conditions and circumstances. The property would be undevelopable without the variances for lot width and area. The lot was platted in this configuration in 1957.

Not Self-Created

The lot was platted in 1957 and therefore the owners are not responsible for the lot configuration.

No Special Privilege Conferred

Granting the variances will not establish special privilege since there are other platted substandard developed lots in the area with single-family homes containing a similar size and width.

Deprivation of Rights

Without the requested width and size variances, the owners will be deprived of the ability to construct a residence on the parcel, as the adjacent parcels to the north and south are developed.

Minimum Possible Variance

The requested variances are the minimum necessary to construct any improvements on the property, due to the lot width and size. Furthermore, a home design that does not require any setback variances has been proposed.

Purpose and Intent

Approval of these requests will be in harmony with the purpose and intent of the Code, which is to allow infill development with lawfully constructed residences. The proposed lot size and width, which will allow for the construction of a new home will not be detrimental to the neighborhood as the proposed lot will be consistent with the similar sized lots in the area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the lot width and dimensions shown on the site plan received September 2, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
 2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
 3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
 4. The shed on the rear of the property shall be removed prior to issuance of a permit for the house.
- C: Nicholas and Sheena Winkleman
12515 Cruxbury Dr.
Windermere, FL 34786

To Whom it may concern:

This cover letter is in request for building our home on vacant land. We currently have no structures on the property. The type of construction that is proposed is for a 3,885 sqft single family residence that will be built out of block, wood, concrete and metal. It was plotted 110' width back in 1957, today's requirement is 130'. The front set back is 30', the setbacks on each side is 10'. The height of our home will be 22' to the top of the roof.

Address: 3016 Lake Stanley Rd. Orlando, FL 32818

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

This property was plotted with 110' width
in 1957. Today's requirement for construction
is 130'

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

This property was plotted with 110' width
in 1957. Today's requirements for construction
is 130'

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

Several homes between our property

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

We need to be allowed to build our
home.

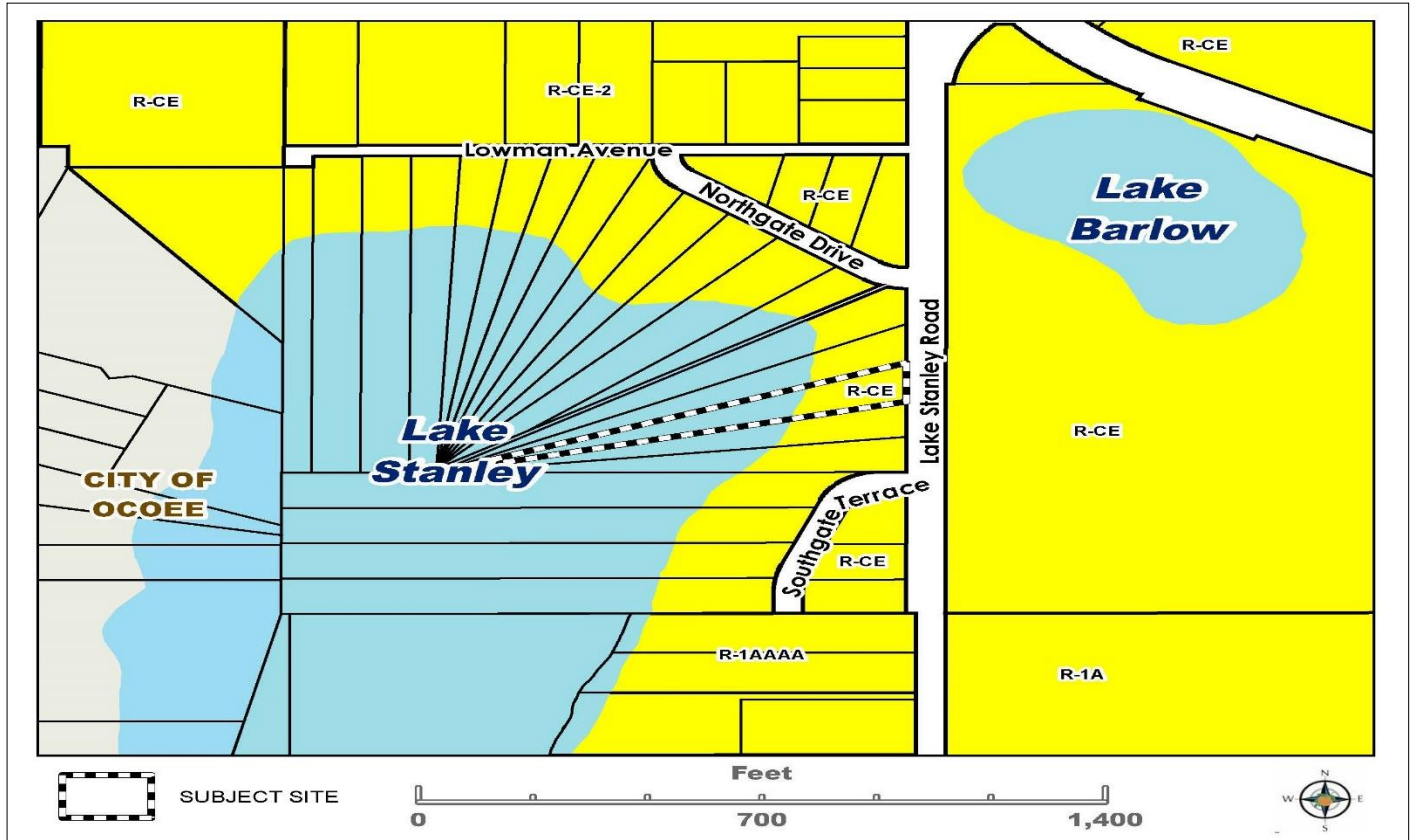
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

We are asking to meet the lot as
it was plotted

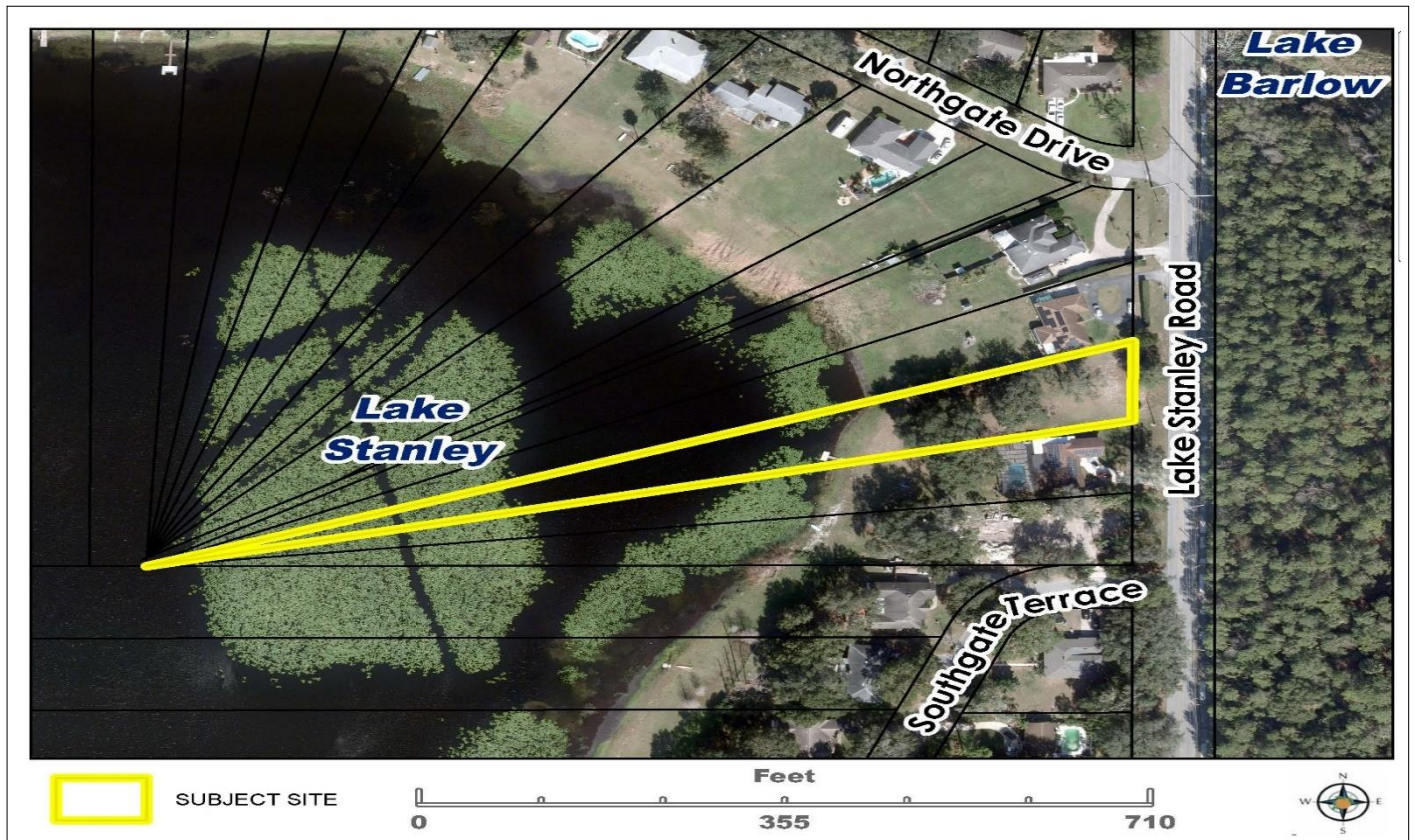
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Meet the lot to be buildable as plotted

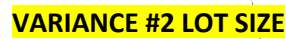
ZONING MAP



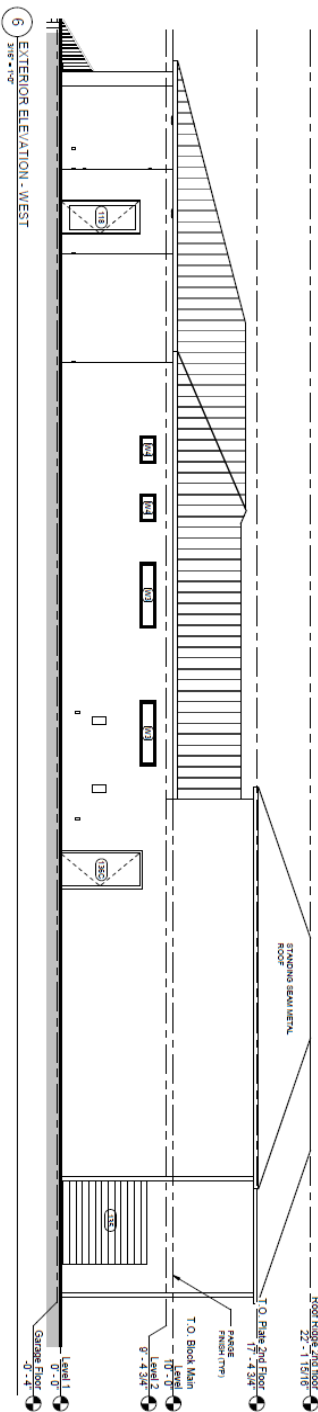
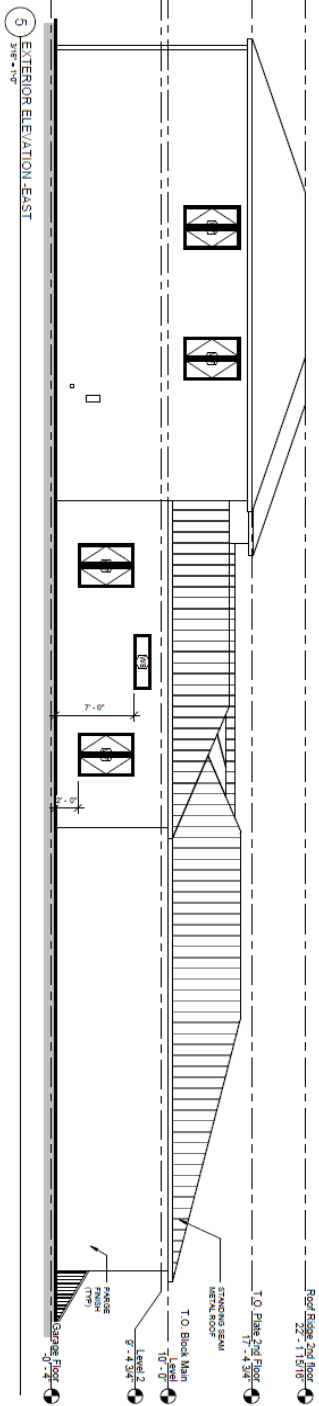
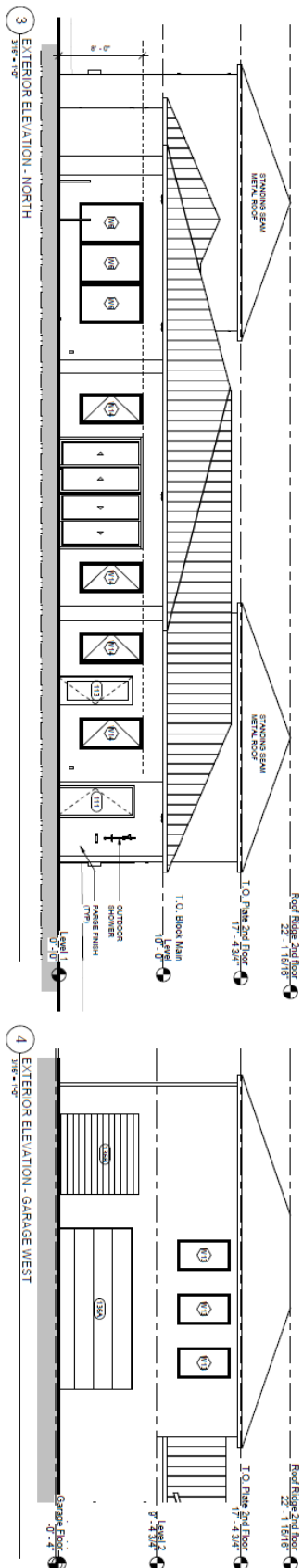
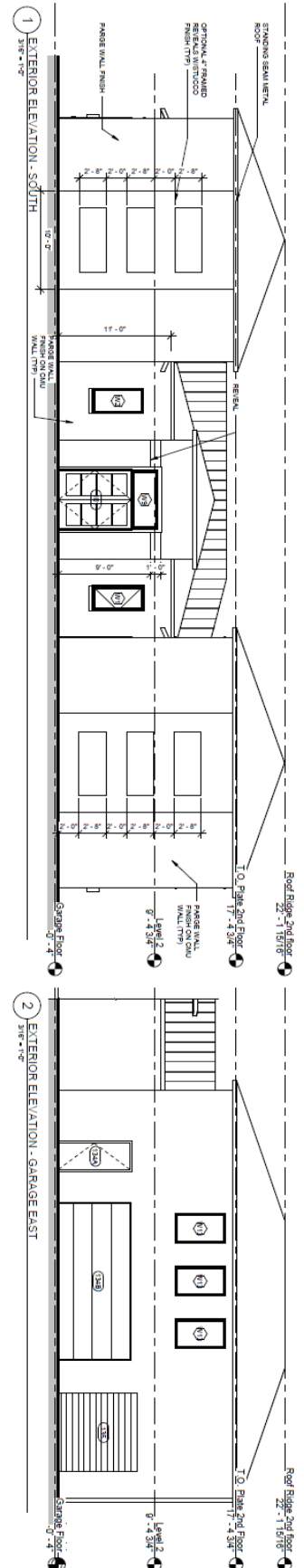
AERIAL MAP



Lake Stanley Rd.



ELEVATIONS



SITE PHOTO



Front from Lake Stanley Rd. facing west

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 06, 2022**

Commission District: **#6**

Case #: **SE-22-08-073**

Case Planner: **Ted Kozak, AICP (407) 836-5537**

Ted.Kozak@ocfl.net

GENERAL INFORMATION

APPLICANT(s): EDWARD WILLIAMS FOR JOHNSON WRECKER SERVICE

OWNER(s): ORNNA PROPERTIES LLC

REQUEST: Special Exception in the C-3 zoning district to allow an automobile towing service.
Note: This is a result of Code Enforcement.

PROPERTY LOCATION: W. South St., Orlando, FL 32808, north side W. South St., at the terminal end of Metcalf Ave., south of Old Winter Garden Rd., east of S. Kirkman Rd.

PARCEL ID: 30-22-29-0000-00-052

LOT SIZE: +/- 1.34 acres

NOTICE AREA: 1,200 ft.

NUMBER OF NOTICES: 143

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions as amended (Motion by Charles Hawkins, II, Second by John Drago; unanimous; 6 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, John Drago, Charles Hawkins, II; Roberta Walton Johnson; 0 opposed; 1 absent: Joel Morales):

1. Development shall be in accordance with the site plan received September 22, 2022, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. Permits shall be obtained within 2 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to site work permit approval, all existing structures and improvements shall be removed from the site, including, but not limited to, the fencing and gates which will be required to be permitted in a conforming location.
6. Canopy trees shall be installed every 40 feet on-center adjacent to all property lines with the exception of canopy trees installed every 50 feet on-center along the north property line, supplemented by minimum 3 foot high shrubs installed every 3 feet on-center on top of a berm. Berms shall be between 2 and 3 feet in height, installed at a ratio no greater than 3:1.
7. The limits of operations shall be protected and shall be defined by a 3 ft. high split rail fence.
8. Hours of operation shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday.
9. Maximum on-site storage of thirty (30) wrecked or inoperable vehicles is permitted.
10. No vehicle may remain on-site for more than fifty (50) days.
11. Vehicle stacking is prohibited.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, survey, landscape plan and photos of the site. Staff provided an analysis of the six (6) criteria for the Special Exception and the reasons for a recommendation for approval since the proposal will be consistent with the majority of the surrounding uses in the area.

Staff noted that no comments were received in support or in opposition.

The applicant agreed with the staff presentation and stated that the proposal will drastically improve the site from current conditions since all performance standards have been met.

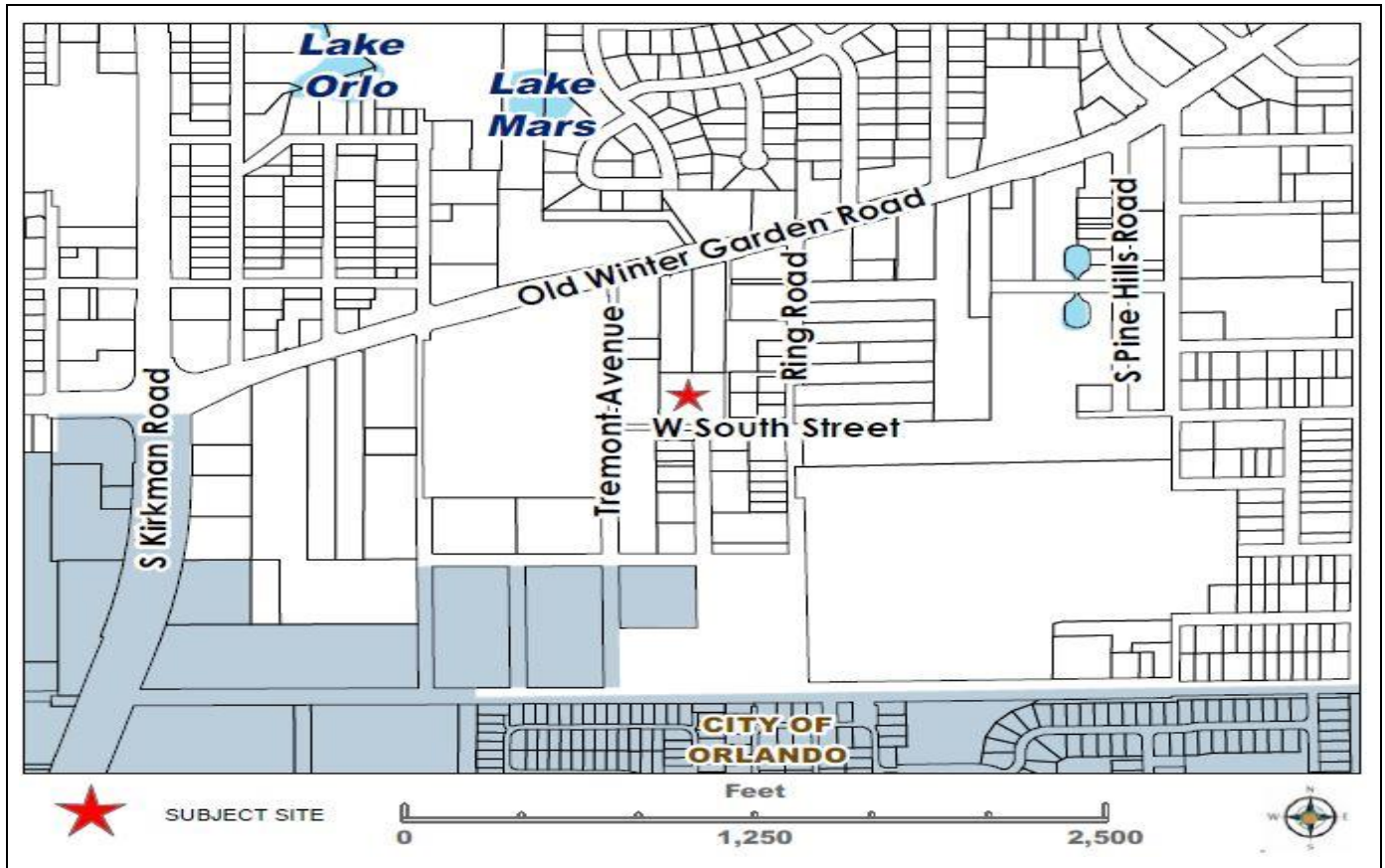
There was no one in attendance to speak in opposition to the request or in favor of the request.

The BZA briefly discussed the proposal and the time limit to complete site work approval, indicated that the request was appropriate, and unanimously recommended approval of the variance by a 6-0 vote, with one absent, subject to the eleven (11) conditions in the staff report, with an amended Condition #4, which states "Permits shall be obtained within 2 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension".

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	C-3	C-3, I-1/ I-5	Restricted I-2/ I-3	R-1	R-1
Future Land Use	IND	IND	IND	LDR	IND
Current Use	Towing Service	Industrial	Industrial (Code Enforcement)	Industrial (Code Enforcement)	Single-Family Residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the C-3, Wholesale Commercial district, which allows for light manufacturing and industry, including the processing of bulk materials, manufacturing and open storage of materials. The Future Land Use is Industrial (IND), which is inconsistent with the C-3 zoning district. The County Planning Division has determined that a rezone is not required since the inconsistency meets the intent of the Comprehensive Plan, FLU 8.2.5.2.

The immediate area consists of industrial uses and residential properties which are in transition to future industrial uses. The subject property consists of 1.34 acres and is considered a conforming parcel. It was rezoned from R-1 to C-3 in 1977, and the current owner purchased the property in 1997.

There is currently one existing extensively decayed structure at the front of the site, as well as many damaged or deteriorated trailers, cars, boats, and other inoperable vehicles. There is also an existing 6 ft. high chain link fence and gates which are partially located within the clear view triangle at the front of the site adjacent to W. South St. There is no record of a permit for any improvements on the site. A permit, B22903590, has been submitted for the replacement of the 6 ft. high chain link fencing, with one 20 ft. wide gate at the entrance, which is on hold pending the outcome of the request to legally establish the towing service on the property.

Proposed is a Special Exception for an Automotive Towing Service, with the storage of automobiles which will be used as a staging area for inoperable vehicles removed from traffic accidents through a contract with State and local police. The proposed operation will be a private operation and the general public will not be allowed to enter the property. There are no proposed structures. A 57-stone entry drive aisle for access to the site and for the parking/ inventory area is also proposed. Prior to site work permit approval, all existing structures and improvements will be removed from the site, including, but not limited to, the fencing and gates which will be relocated to meet clear view visibility requirements.

Code Enforcement cited the property owners on March 11, 2022 (CE# 605101) for the installation of fencing and gates without a permit and the operation of a towing service for the storage of wrecked or inoperable vehicles without Special Exception approval.

While a towing service is a permitted use in the C-3 zoning district, a Special Exception is required since automobiles are proposed to be stored on site. Sec. 38-79 (130) of the County Code requires all the following performance standards for an Automobile Towing Service, all of which are proposed to be met:

- a. Maximum on-site storage of thirty (30) wrecked or inoperable vehicles.
- b. No vehicle may remain on-site for more than fifty (50) days.
- c. Vehicle stacking is prohibited.
- d. A Type B landscape buffer is required if the use is located adjacent to any residential use, residential zoned district or residential future land use designation.

For buffering, minimum 25 ft. Type B landscape buffers will be provided around the perimeter of the site, with the exception of a 15 ft. landscape buffer to the north, adjacent to industrial uses, all of which will consist of newly installed Oak and Maple trees, supplemented along the north property line by existing mature trees, installed on top of a 10 ft. wide, 3 ft. high berm. Although in the Cover letter trees are indicated to be planted 50 ft. on center, all perimeter landscape buffers lines, except to the north adjacent to industrial, require trees to be planted 40 ft. on center. All perimeter property lines will also contain 3 ft. high Ligustrum or anise shrubs, planted 3 ft. on center between the trees on the berm in order to provide protection of the tree/ buffer areas. Furthermore, as indicated on the Site Plan, there are three mature Live Oak trees located in the center of the property which will remain, with tree protection barriers consisting of split rail fencing.

Approximately 4 people are employed by the towing service, however, no employees will remain onsite since vehicles will only be delivered or removed from the site on an as-needed demand basis. The days and hours of operation will be 7:00 a.m. to 7:00 p.m., Monday through Saturday.

The County Environmental Protection Division (EPD) has provided comments that the proposed operation will not impact County air quality or noise standards. County Transportation Planning has reviewed the request and has provided comments that no traffic study is required.

As of the date of the writing of this report, no comments have been received in support or in opposition to the request.

On Monday, August 29, 2022, a Virtual Community Meeting was held to allow for input. The meeting was attended by the District Commissioner, her Aide, County Staff, the applicant and owner and one resident, who is the president of the Orlo Vista United Safe Neighborhood. Positive comments were received about the commitment to improve the property and the neighborhood and about the momentum for compliance of other properties along W. South Street.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft. within 100 ft. of residential districts	N/A – No buildings
Min. Lot Width:	100 ft.	234 ft.
Min. Lot Size:	12,000 sq. ft.	1.34 acres

Landscape Setbacks (No structures)

	Code Requirement	Proposed
Front: (W. South St.)	7 ft. landscape strip	25 ft. landscape strip (South)
Rear:	7 ft. for landscape	15 ft. (North)
Side:	25 ft. Type B landscape buffer	25 ft. (East) 25 ft. (West)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of an automotive towing service as conditioned through the Special Exception process is consistent with the Comprehensive Plan since such a use provides a benefit and service to the region.

Similar and compatible with the surrounding area

The proposed use is compatible with other existing nearby industrial uses to the north. As proposed, it is substantially setback from all property lines and will not impact adjacent properties.

Shall not act as a detrimental intrusion into a surrounding area

The proposed operations on the subject property will not negatively impact the surrounding area. The proposed use meets and exceeds all performance standards for this type of facility.

Meet the performance standards of the district

The use meets all setbacks, height limits, parking requirements, and other performance standards as required for an Automobile Towing Service. With the installation of berms, trees and hedge materials, as proposed, the adjacent properties will be afforded enhanced buffering.

Similar in noise, vibration, dust, odor, glare, heat production

The applicant has not proposed any activity on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the adjacent and nearby uses and will not be impacting the adjacent properties since the property will be landscaped and buffered.

Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code

The proposal includes a landscape plan that shows tree protection for existing mature trees and a continuous hedge and the addition of trees which will be required to be installed with a separation of 40 ft. on center, along the perimeter of all property lines, with the exception of trees to be installed with a separation of 50 ft. on center along the north property line.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received September 22, 2022 subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Permits shall be obtained within 3 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to site work permit approval, all existing structures and improvements shall be removed from the site, including, but not limited to, the fencing and gates which will be required to be permitted in a conforming location.
6. Canopy trees shall be installed every 40 feet on-center adjacent to all property lines with the exception of canopy trees installed every 50 feet on-center along the north property line, supplemented by minimum 3 foot high shrubs installed every 3 feet on-center on top of a berm. Berms shall be between 2 and 3 feet in height, installed at a ratio no greater than 3:1.
7. The limits of operations shall be protected and shall be defined by a 3 ft. high split rail fence.
8. Hours of operation shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday.
9. Maximum on-site storage of thirty (30) wrecked or inoperable vehicles is permitted.
10. No vehicle may remain on-site for more than fifty (50) days.
11. Vehicle stacking is prohibited.

C: Edward Williams
P.O. Box 259
Windermere, FL 34786

PURPOSE OF THE REQUEST (Revised August 22, 2022)

The 1.34-acre parcel that is the subject of this request is owned by Mr. Darrel Johnson Sr. and Mrs. Jacqueline Johnson, the owners of Johnson Wrecker Service. The Johnsons purchased this C-3 zoned property to store vehicles associated with their business and the property was legally storing vehicles at the time of purchase. Johnson Wrecker Service has contracts with the City of Orlando, various law enforcement agencies and shipping companies. The requirements of many of the contracts include provisions to provide safe and secure storage often for extended periods of time, while accident cases are investigated through their conclusion. The county C-3 zoning allows for the storage of **operational vehicles** by right however the storage of **inoperable vehicles** (vehicle totaled in accidents) by special exception. When the property was purchased in 1997 it was fenced, had an office trailer and was being operated as a storage facility for both operable and inoperable vehicles.

A recent inspection by Orange County Code Enforcement identified two issues (Exhibit 3)

- 1) Staff has determined that the existing fence has not been properly permitted
Answer: The owners have removed razor wire and barb wire from the fence and have hired a fencing contractor to obtain the appropriate permits

- 2) Staff has determined that the prior owners had not obtained a special exception for the storage of inoperable vehicles
Answer: The owners have retained WDS INC to apply for the special exception to allow storage of inoperable vehicles.

The property is used in conjunction with a towing business, Johnson Wrecker Inc, established in 1967. This property was purchased in 1997 as a storage yard for the business and is not contiguous with the main facility which is located on Wilmer Ave and the East West Expressway. The property has a future land use designation of Industrial and is zoned C-3. In the county Use Table, Towing Services (does not include the storage, sale or dismantling of wrecked vehicles) has SIC code of 7549.

Special Exception in C-3, comment 130 "An automobile towing service shall be permitted use, provided that it complies with the following standards

- a) Maximum on site storage of 30 wrecked or inoperable vehicles
- b) No vehicle can remain on site for more than 50 days
- c) Vehicle stacking is prohibited
- d) A type B landscape buffer is required if the use is located adjacent to any use, any residential zoned district, or residential land use designation

Johnson Wrecker Inc agrees to abide by the 30 wrecked or inoperable vehicles, will have no stacking, agrees to the 50-day time limit and will construct the type B landscape buffer on the entire boundary of the property even though the north boundary does not require one. The landscape buffer is not required along the north boundary as the property does not abut residential use, zoning or land use along the north. The buffer will be a three-foot-high berm

with hedges along the entire perimeter, (except the entrance). The buffer will be maintained in a manner that insures attaining a height of six feet within three years. Hedge will be natural Ligustrum or native anise. Trees (oaks, maples and crape myrtle) every 50 feet along the perimeter will be planted where existing trees do not meet this standard. Existing trees in or adjacent to parking area will have clear buffer areas ranging from 18-21 feet based on drip edge. Wood rail fence will be installed to separate the driving/parking areas from the tree clear zone. The facility provides storage only, no repair, dismantling, or sale of parts or vehicle to occur on site.

No crushing of vehicles to occur on site.

Project Details:

1. Site will not contain any buildings and all existing structures will be removed
2. Storage of up to 30 inoperable or wrecked vehicles will occur on parking area to be constructed of county approved stone.
3. No employees will be stationed at the facility, employees will deliver vehicles or remove vehicles on an as needed basis or to maintain the facilities
4. Delivery/Removal of vehicles will occur during 7AM to 7PM timeframe
5. Operations: Monday thru Saturday

Existing Conditions

1. Chain link fencing around the perimeter of the property
2. Several temporary building structures that will be removed
3. Numerous inoperable cars, boats and tractor trailers to be relocated to the parking area inside of the perimeter buffer that is to be constructed
4. Vehicle lift
5. Entrance gate
6. Asphalt milling entrance way and a portion of the storage area

1. The use shall be consistent with the Comprehensive Policy Plan.

~~The Johnson property is designated for Industrial Land Use on the adopted orange county Future Land Use Map (Exhibit 1) and is zoned C-3 which is consistent with the Industrial Land Use designation. The proposed use for storage of operable vehicles is allowed and inoperable vehicles by special exception. The property is part of a large area designated for Industrial however many of the properties have developed for commercial and industrial uses in this area on residentially zoned property. The special exception approval with conditions as shown on the site plans will be consistent and compatible with the~~

2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.

~~Exhibit 2 Aerial and Tax Map indicates that the property to the north, east and south have developed with industrial and commercial uses some with and some without the appropriate zoning. The use of this property is similar and less intense than many of the surrounding properties., The Property to the west has Industrial Land Use Designation but is being used for residential use. The required buffer area with berm and landscaping will provide protection for that residence until it develops consistent with the industrial designation.~~

3. The use shall not act as a detrimental intrusion into a surrounding area.

~~Exhibit 2 shows that the property and use are not an intrusion into the surrounding area but are surrounding by other industrial designated uses~~

4. The use shall meet the performance standards of the district in which the use is permitted.

~~The Code enforcement inspection identified two issues of noncompliance, no permit for fence and no special exception for the storage of inoperable vehicles. The owner is obtaining a fence permit and is applying for the special exception. This submittal agrees to comply with the zoning standards for the C-3 zoning and special exception including buffer and landscaping.~~

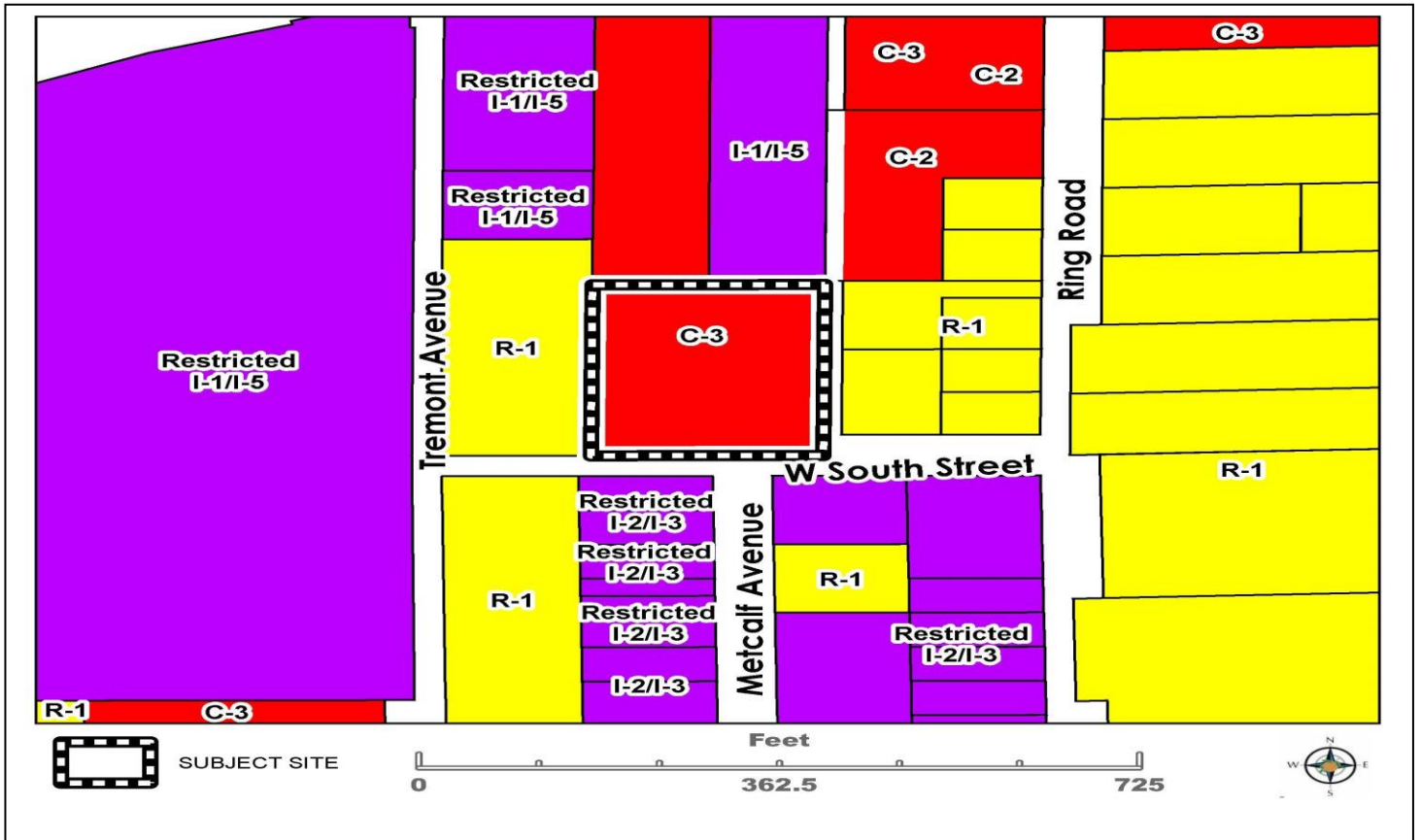
5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.

~~The property is currently used as a storage yard for towed vehicles and only a storage yard. The owners do not repair vehicles, dismantle parts from the vehicles or crush vehicles at the site. Employees on an infrequent basis tow a vehicle to or from the site. Employees will maintain the landscaping and buffer and maintain security on the site. Employees are not present on the site at all times. The customers or the public is not allowed on the site thier business is conducted at the main facilities at Wilmer Road or Narcoossee Road. Noise from the buffer maintaence (mowing and edgeing) and towing activities will be infrequent and for short periods of time. there will not be vibration, dust odor, glare, or heat producing equipment operating on site~~

6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.

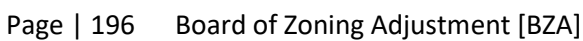
~~The site plan calls for the construction of required buffer area with berm landscaping and trees and will be constructed consistent with 24-5 Orange County Code~~

ZONING MAP



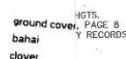
AERIAL MAP





[illegible]

H 250' OF THAT PART OF THE EAST 1/2 OF THE SE 1/4 OF THE SW 1/4,
JTH OF ROAD (LESS WEST 180' AND LESS EAST 248') IN SECTION 30, TOWNSHIP
1, RANGE 29 EAST, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

METCALF AVE.
60" WIDE

Drip Line exceeds existing code

SITE PHOTOS



Facing north from W. South St. towards property entrance



Facing northwest from W. South St. towards property entrance

SITE PHOTOS



Facing north towards interior of property at entrance



Facing north near northeast property line

SITE PHOTOS



Facing east at northwest property line



Facing south towards at northwest property line, existing structure near front of property in background



BOARD OF ZONING ADJUSTMENT
201 S. Rosalind Ave.
Orlando, FL 32801