



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

March 4, 2021

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)

ORANGE COUNTY GOVERNMENT

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

BZA Staff

Ted Kozak, AICP	Chief Planner
Nick Balevich	Planner II
David Nearing, AICP	Planner II

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
MARCH 4, 2021**

<u>PUBLIC HEARING</u>	<u>APPLICANT</u>	<u>DISTRICT</u>	<u>BZA RECOMMENDATIONS</u>	<u>PAGE #</u>
SE-21-04-005	Christopher D Freeman	1	Approved w/Conditions	1
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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

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
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	100	35	50	10	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: **MAR 04, 2021**

Case Planner: **Nick Balevich**

Case #: **SE-21-04-005**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): CHRISTOPHER D. FREEMAN

OWNER(s): CHRISTOPHER D. FREEMAN, EMILY FREEMAN

REQUEST: Special Exception in the A-1 zoning district to allow 4,938 square feet of detached accessory structures in lieu of 3,000 sq. ft.

PROPERTY LOCATION: 17074 Alps St., Winter Garden, FL, 34787, south side of Alps St., west of Avalon Rd., north of New Independence Pkwy.

PARCEL ID: 18-23-27-0000-00-056

LOT SIZE: 337 ft. x 647 ft. / +/- 5 acres

NOTICE AREA: 700 ft.

NUMBER OF NOTICES: 28

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it met 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 (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated February 15, 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. 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.

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 two (2) comments were received in support and no comments were received in opposition.

The applicant agreed with the staff recommendation, and cited reasons for requesting the additional garage area.

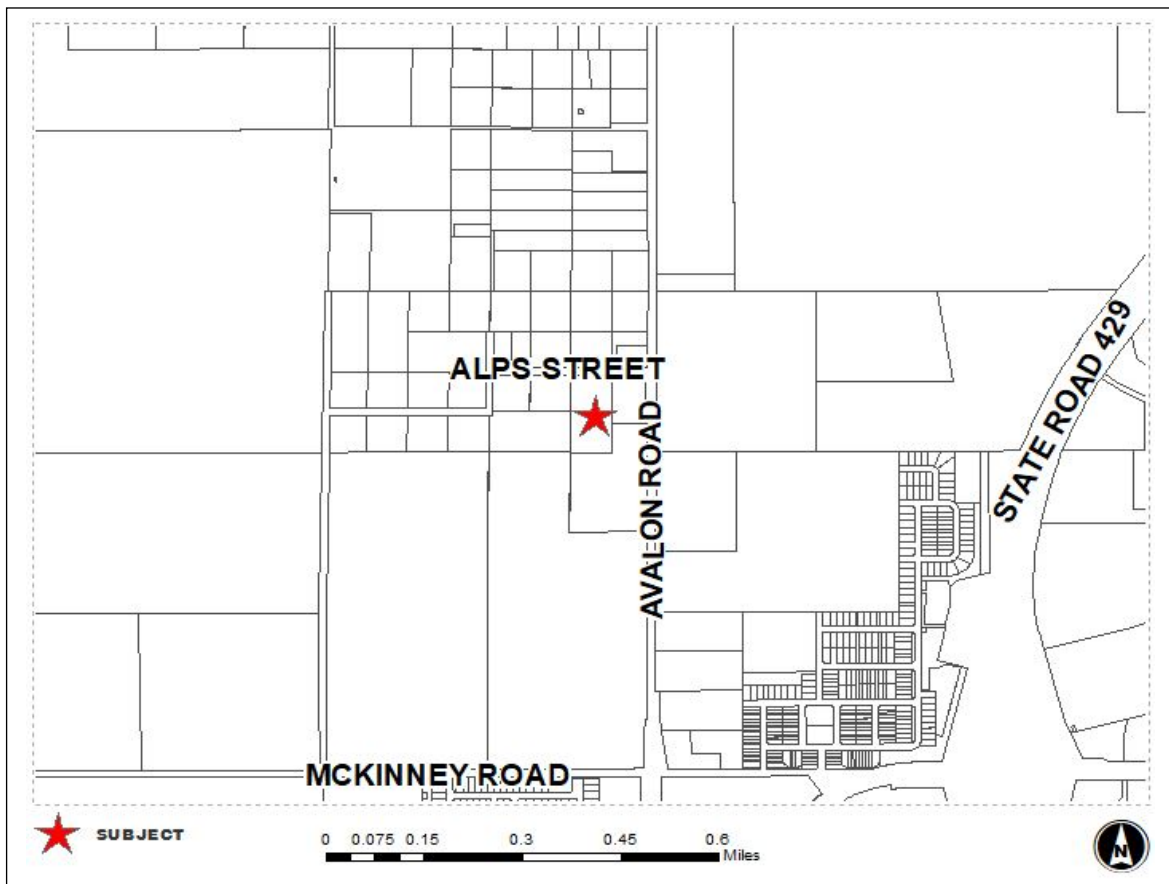
There was no one in attendance to speak in favor or in opposition to the request.

The BZA asked about trees to be removed and concurred with the staff analysis and noted that the setbacks and the six criteria are met. The BZA unanimously recommended approval of the variance by a 6-0 vote, 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	A-1	A-1	A-1	A-1	A-1
Future Land Use	RS 1/5 Lake Avalon Rural Settlement	RS 1/2 Lake Avalon Rural Settlement	RS 1/5 Lake Avalon Rural Settlement	RS 1/2, RS 1/5 Lake Avalon Rural Settlement	RS 1/2, RS 1/5 Lake Avalon Rural Settlement
Current Use	Vacant	Single-family residence	Single-family residence	Single-family residences	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-1 Citrus Rural zoning district, which allows agricultural uses, mobile homes, and single-family residences with associated accessory structures on larger lots. The property is also located in the Lake Avalon Rural Settlement. Rural settlements are rural communities that were established before the enactment of the Comprehensive Plan in 1991 but are located in the rural service area, which typically requires a minimum density of 1du/10 acres. Because these communities were previously established with higher densities, rural settlements were created to recognize and allow the higher densities in the rural service area. The property has a Future Land Use of Rural Settlement 1/5, which allows 1 du/5 acres.

The property is also located within the Lake Avalon Rural Settlement Commercial Design Overlay District, however this overlay is specific to commercial and office uses, therefore the provisions do not apply to the proposed residential use.

The area around the subject site consists of vacant lots, and single-family homes on large lots. The subject property is a 5-acre lot that was created by a lot split (LS-14-01-004) in 2014. The applicant purchased the property in May 2020.

A 12,138 sq. ft. single-family residence (Building #1) is currently under construction on the property (Permit # B20020334). The applicant is proposing to construct 4,938 sq. ft. of cumulative accessory structure area to include: a 2 story detached building with a first-story garage containing 3,260 sq. ft. and a second-story Accessory Dwelling Unit (ADU) containing 1,498 sq. ft. (Building #2), and a 180 sq. ft. detached accessory structure (storage shed) at the rear of the property (Building #3). The 2-story accessory structure will be located behind the house and the garage and will only be partially visible from Alps St. It will be 274 ft. from the front property line (Alps St. to the north), 46 ft. from the east property line, 205 ft. from the west property line, and 334 ft. from the rear (south) property line. It will be designed to match the architectural style of the house.

The maximum total accessory structure square footage permitted by right is 3,000 sq. ft. However, per Sec 38-1426 (b)(6), detached accessory structures located in agricultural zoning districts on a parcel greater than two (2) acres may exceed 3,000 sq. ft. through the Special Exception process subject to any detached accessory structure not exceeding five thousand (5,000) square feet in gross floor area and thirty-five (35) feet in overall height and increased minimum setbacks of 50 ft. front, 25 ft. side/side street, and 35 ft. rear.

Orange County Code limits the cumulative square footage of accessory structures to 10% of the net land area not to exceed 3,000 sq. ft. It is worth noting that the property is 217,843 sq. ft. and 10% of this would allow for 21,748 cumulative accessory structure square footage.

In August, 2016 the BZA approved a Special Exception and Variance (SE-16-08-102) on the property to allow an attached ADU with 1,957 sq. ft. of living area in lieu of 1,500 sq. ft. This was based on prior code requirements. However, the proposed development was never constructed.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	28 ft. 4 in.
Min. Lot Width:	100 ft.	337 ft.
Min. Lot Size:	1/2 ac.	5 ac.

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	30 ft.	North: 187 ft. house (Building #1), 274 ft. accessory structure (Building #2)
Rear:	50 ft.	South: 372 ft. house (Building #1), 334 ft. accessory structure (Building #2)
Side:	10 ft.	West: 63 ft. house (Building #1), 46 ft. accessory structure (Building #2). East: 70 ft. house (Building #1), 205 ft. accessory structure (Building #2)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of detached residential accessory structures exceeding a total of 3,000 sq. ft. as conditioned through the Special Exception process is consistent with the Comprehensive Plan since the size and scale of the proposal is compatible with the surrounding uses.

Similar and compatible with the surrounding area

The proposal is compatible with the surrounding area, as the design is architecturally integrated with the house, and the setbacks meet and exceed code requirements.

Shall not act as a detrimental intrusion into a surrounding area

The primary use for the proposed structure is storage of vehicles on the first floor, and an ADU on the second floor. Since the use of the property is residential and the proposed detached accessory structures will meet the increased required setbacks, they will not act as a detrimental intrusion into the area.

Meet the performance standards of the district

The detached accessory structures will comply with the additional square footage and setback restrictions as required by a Special Exception for cumulative accessory structure sq. ft. greater than 3,000 sq. ft.

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

The owner has not proposed any activity that would generate any noise, vibration, dust, odor glare or heat that is dissimilar with the adjacent properties.

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

The property will be used primarily for single-family residential purposes, therefore landscaping is not required.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated February 15, 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. 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: Christopher D Freeman
729 Main St.
Windermere, FL 34786



SPECIAL EXCEPTION REQUEST NARRATIVE

January 28th 2021
Orange County
Board of Zoning Adjustment

Re: Special Exception Request
Christopher Freeman (Owner)
17074 Alps Street
Winter Garden, FL 34787

Dear Orange County Board of Zoning Adjustment,

This cover letter is to provide written details in conjunction with the architectural drawings in accordance with the requirements of application for the proposed special exception. The property Owner is requesting a special exception to build a single 4,758 square foot accessory structure containing a garage and accessory dwelling unit with a height of 28'-4" on a 5.001 acre parcel within agricultural zoning A-1, pursuant of Orange County Florida - Code of Ordinances Sec. 38-1426, which states the following:

- The cumulative square feet of all detached accessory structures shall be limited to ten (10) percent of the net land area, or five hundred (500) square feet, whichever is greater, and in no case shall the cumulative total exceed three thousand (3,000) square feet; however, detached accessory structures located within agriculturally zoned parcels with greater than two (2) developable acres may exceed three thousand (3,000) cumulative square feet, subject to obtaining a special exception and complying with all of the following standards:
 - i. No detached accessory structure shall exceed five thousand (5,000) square feet in gross floor area and thirty-five (35) feet in overall height; and
 - ii. These detached accessory structures shall be set back as follows:
 - I. Front — Fifty (50) feet.
 - II. Side/side street — Twenty-five (25) feet.
 - III. Rear — Thirty-five (35) feet.
 - IV. Normal high water elevation — Fifty (50) feet.

The property currently has a 180 square foot storage shed and a two-story single-family residence totaling 12,138 square feet under roof, which is currently under construction, Permit No: B20020334. The parcel has a mix of existing chain link and wood fencing around the perimeter including a decorative wood fence and masonry entry with steel gates. The existing landscape is dominated by a mix of medium to large oak trees. The landscaping surrounding the proposed accessory structure will be consistent with the main house and the residential nature of the property.

Section 38-78, Orange County Code stipulates specific criteria to be met for all Special Exception requests.

1. The use shall be consistent with the Comprehensive Policy Plan.
The property has a future land use of Rural Settlement 1/5 (RS 1/5) with a Zoning correlation of R-CE-5, A-1, A-2, PD. The property use will not change from the current Zoning of A-1 making it consistent with the Comprehensive Policy Plan and the Future Land Use and Zoning Correlation. Therefore, the proposed special exception should meet the above criteria.

Balding Design Group, LLC
2717 Rosedale Avenue, Dallas, Texas 75205



2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.
The surrounding properties are the same or similar in zoning and future land use. The use as single family residential is compatible with the surrounding area and is consistent with the pattern of development. The neighbors to the north, south, east, and west, are all single-family residences with a few also having detached accessory structures. Therefore, the proposed special exception should meet the above criteria.
2. The use shall not act as a detrimental intrusion into a surrounding area.
The property use will not change from the current Zoning of A-1, and the proposed detached garage/adu accessory structure is consistent to the surrounding area. The architecture of the accessory structure matches the main residence and meets all zoning and building requirements. Therefore, the proposed special exception should meet the above criteria.
3. The use shall meet the performance standards of the district in which the use is permitted.
The accessory structure meets all performance standards of the district and has been designed to meet all requirements set forth in the Florida Building Code 7th Edition 2020 Residential, and the 2017 National Electrical Code. Therefore, the proposed special exception should meet the above criteria.
4. 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 use as single family residential is similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the A-1 zoning designation. The architecture of the accessory structure matches the main residence and is similar in all the above criteria as the surrounding properties and the greater area. Therefore, the proposed special exception should meet the above criteria...
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 A-1 zoning of the parcel does not require any buffer yards. The accessory structure is sited well with in all applicable setbacks. Required front set back 50'-0" – actual location of accessory structure 274'-0" from front property line; required side/side street set back 25'-0" – actual location of accessory structure 46'-10" from left side property line / 204'-7" from right side property line; required rear set back 35'-0" – actual location of accessory structure 333'-6" from rear property line. The accessory structure is buffered from the street by the main residence as shown in drawing 01/A1 Site Plan. Therefore, the proposed special exception should meet the above criteria.

We appreciate the time and effort the Board of Zoning Adjustment has taken to review this letter and the supporting drawings in reference to this request for a special exception.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy W. Balding', written over a horizontal line.

Timothy W. Balding, Architect
FL License No. AR-98996

Balding Design Group, LLC
2717 Rosedale Avenue, Dallas, Texas 75205

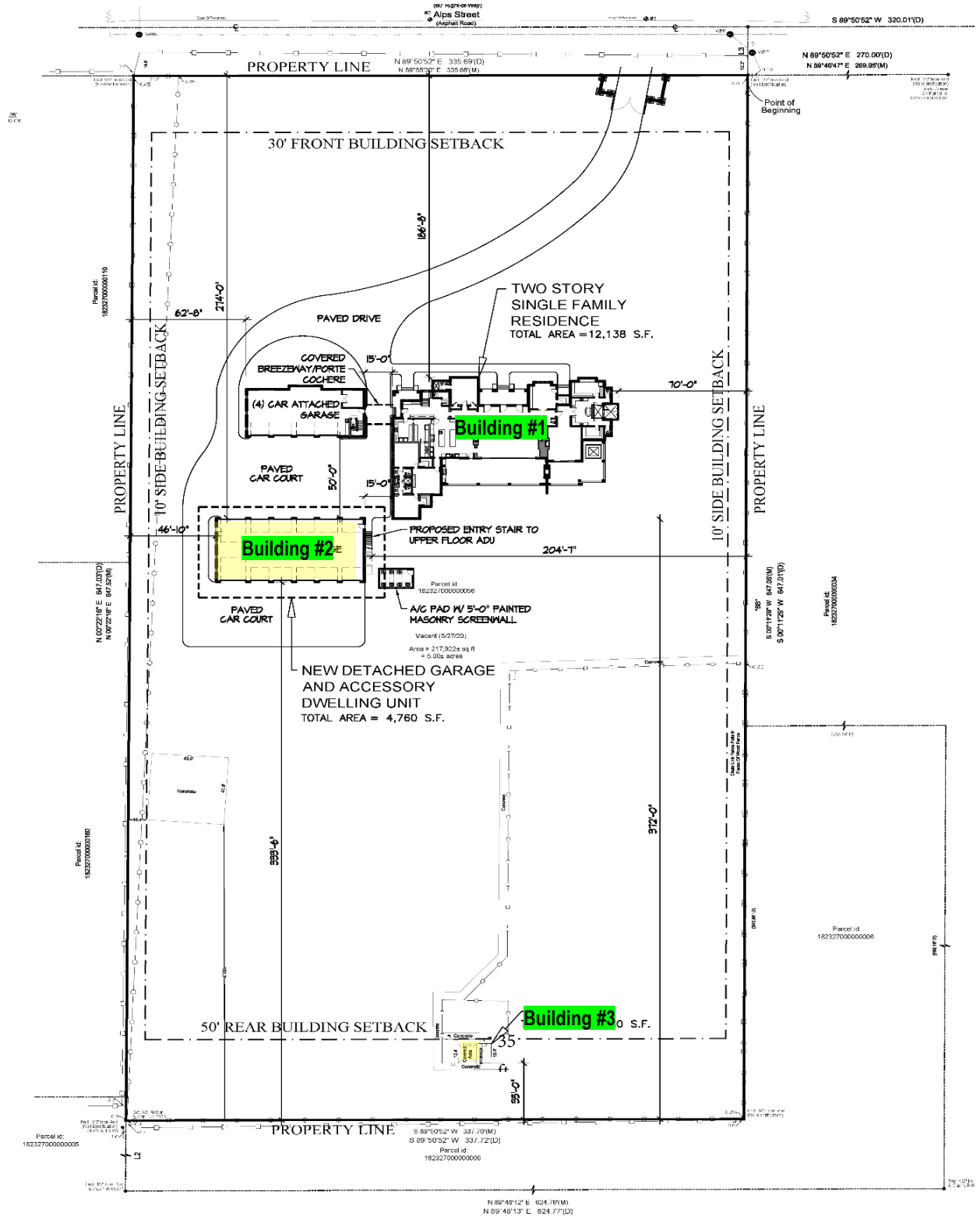
ZONING MAP



AERIAL MAP



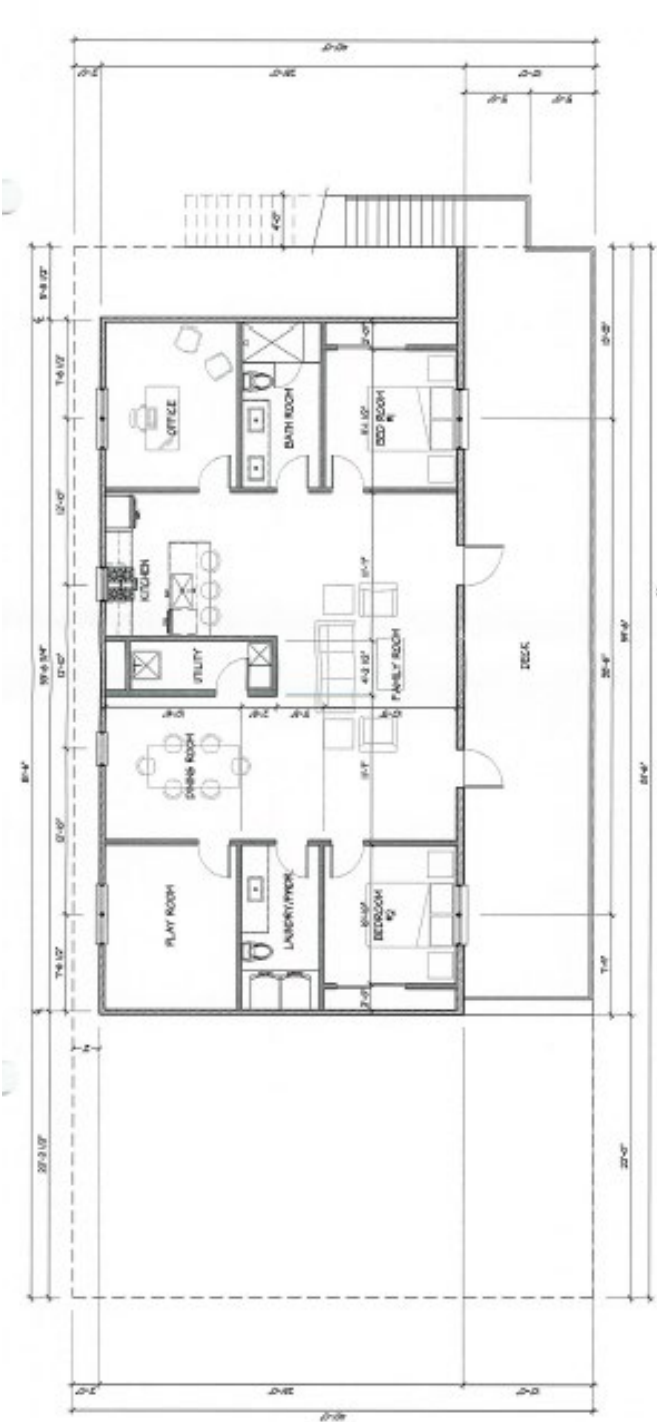
SITE PLAN



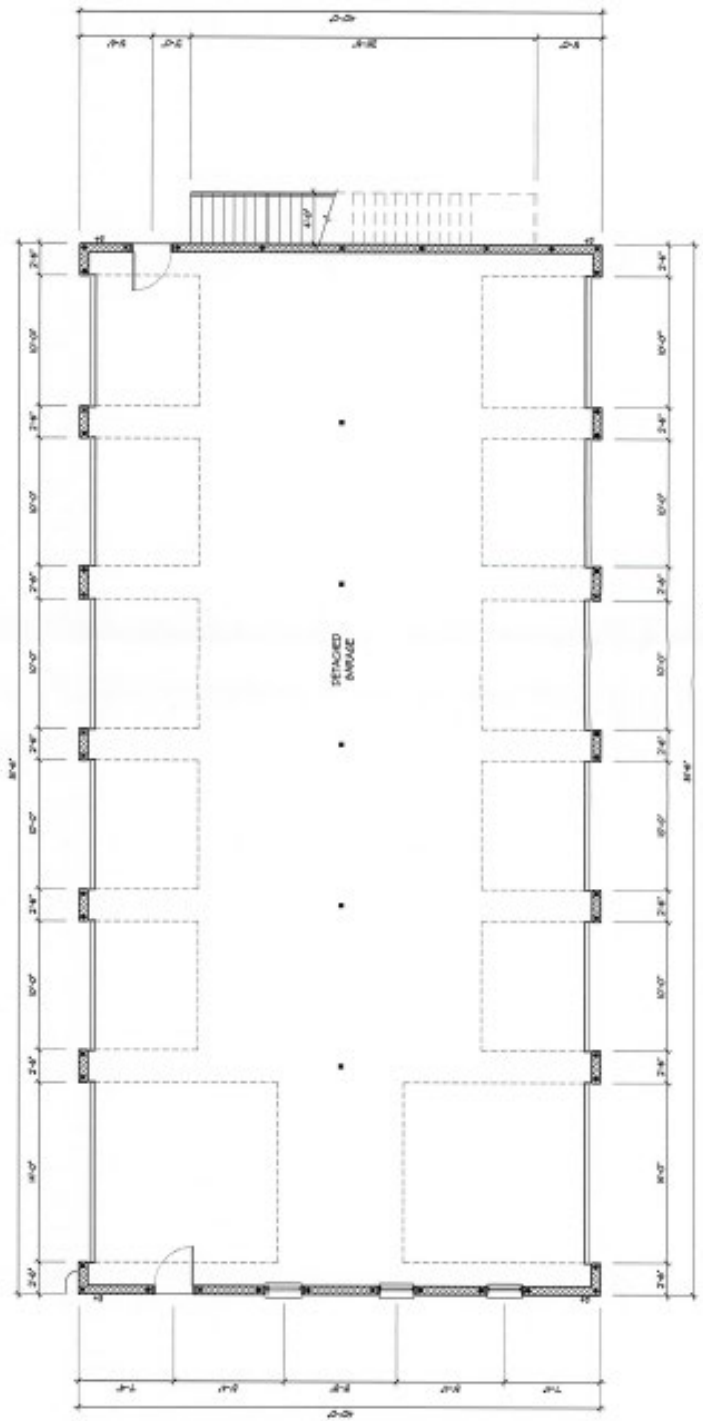
01 SITE PLAN
1/32" = 1'-0"



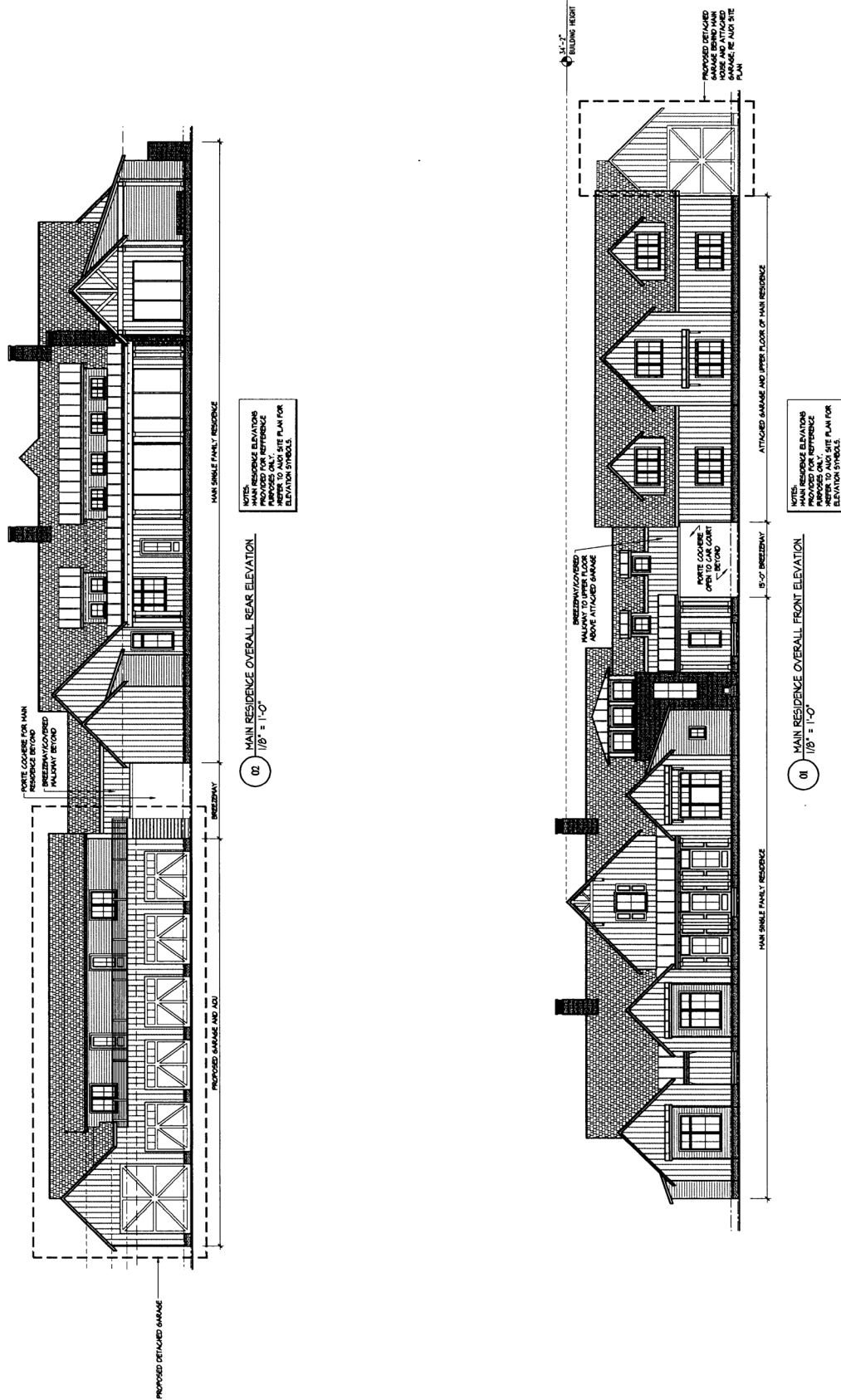
FLOOR PLAN BUILDING #2



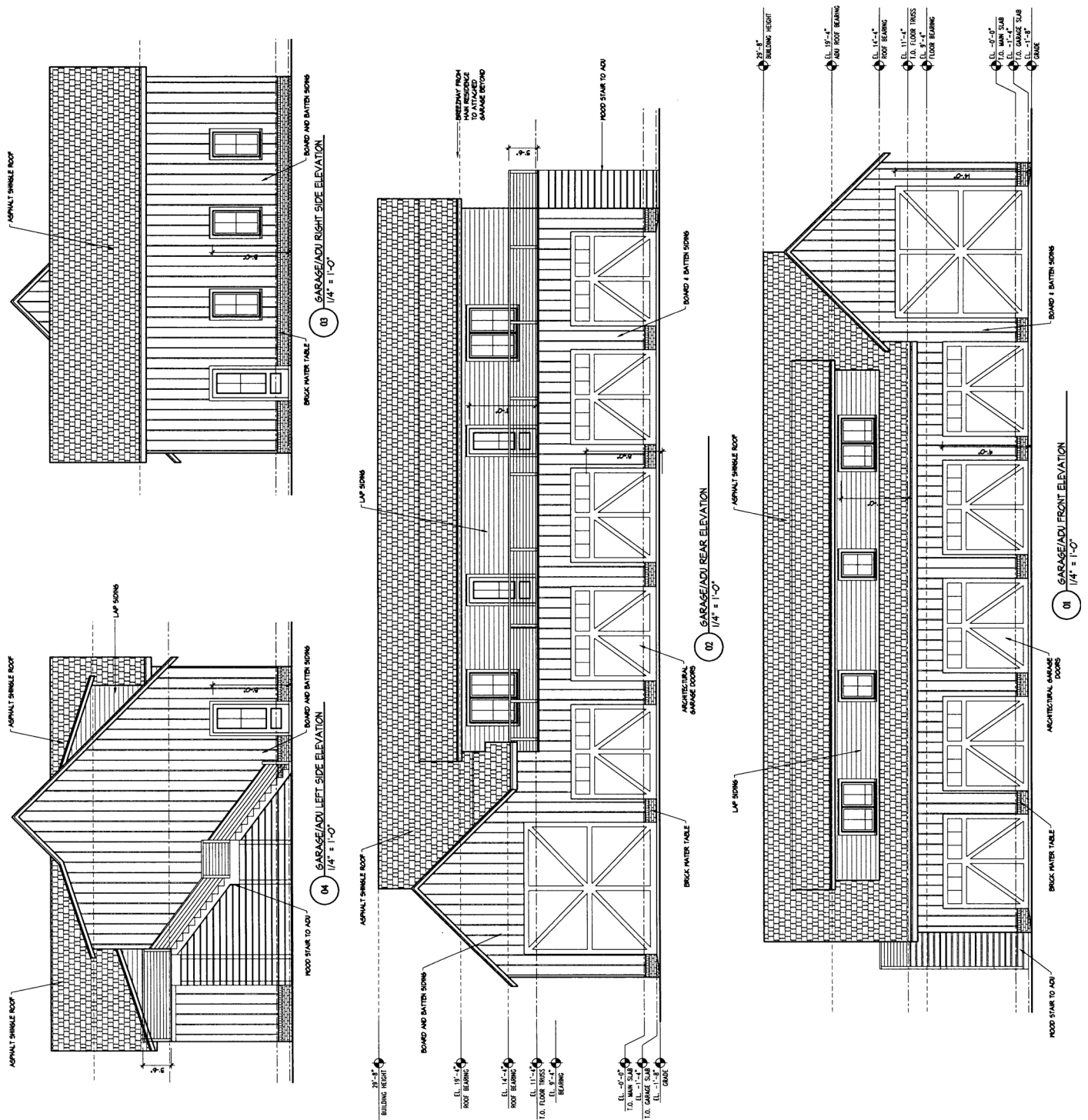
10 UPPER FLOOR PLAN
1/4" = 1'-0"



11 MAIN FLOOR PLAN
1/4" = 1'-0"



Page | 12 Board of Zoning Adjustment [BZA]



SITE PHOTOS



Front from Alps St. looking south

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 04, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-04-007**

Commission District: **#6**

GENERAL INFORMATION

APPLICANT(s): CAPC SFR HOME IMPACT FUND LLC (PATRICE SCOTT)

OWNER(s): CAPC SFR HOME IMPACT FUND LLC

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

- 1) To allow a lot reversion of a platted lot of record with 50 ft. of frontage in lieu of 75 ft.
- 2) To allow the construction of a single-family residence with 6,748 sq. ft. of lot area in lieu of 7,500 sq. ft.

PROPERTY LOCATION: 1416 39th Street, Orlando, Florida, 32839, south side of 39th St., east of S. Rio Grande Ave.

PARCEL ID: 03-23-29-0183-18-070

LOT SIZE: 50 ft. x 135 ft./ +/- 0.15 acres (6,748 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 159

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the lot dimensions shown on the site plan dated January 14, 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.

SYNOPSIS: Staff briefly discussed the proposal, covering the location and history 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 four (4) comments were received in support and no comments were received in opposition.

The applicant had nothing 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, 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	R-1A	R-1A	R-1A	R-1	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Vacant	Vacant, Single-family residence	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1A, Single-family Dwelling district, which allows single-family homes and associated accessory structures on lots a minimum of 7,500 sq. ft. or greater.

The area around the subject site is comprised of single-family homes and vacant properties. The subject property consists of lot 7, and was platted in 1924 as part of the Angebilt Addition No. 2 Plat, prior to the establishment of zoning in 1957. The applicant purchased the property in 2020.

Lot 7 and lot 8 were previously combined through ownership, and conveyed with each sale in this same combination shown on recorded deeds from 1979 to 2005. 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 is proposing to develop lot 7 in the original platted configuration. Because these lots were previously aggregated, variances are required for the lot width and lot size. Lot 7 was platted at 50 feet in width, while R-1A zoning requires a minimum lot width of 75 ft. (variance # 1), and has a lot area of 6,748 sq. ft., while R-1A zoning requires a minimum lot area of 7,500 sq. ft. (variance # 2). A single-family home was built on lot 8 in 1955, and lot 6 to the east has a single-family home that was built in 2006.

The applicant intends to develop the property with a single-story 1,191 sq. ft. single-family home. The proposed site plan for the home meets all Orange County setback requirements.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	25 ft.
Min. Lot Width:	75 ft.	50 ft. (variance # 1)
Min. Lot Size:	7,500 sq. ft.	6,748 sq. ft. (variance # 2)

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	25 ft.	25 ft. North
Rear:	30 ft.	65 ft. South
Side:	7.5 ft.	7.5 ft. East, 15.9 ft. West

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The lot was platted in this configuration in 1924 with a 50 ft. lot width, and a 6,748 sq. ft. lot area, prior to the implementation of Zoning. If the lot had remained separate and had not been aggregated with another lot through ownership, then variances would not be required. The lots on each side are developed with houses, so without the requested variances this lot would remain vacant.

Not Self-Created

The applicant is not responsible for the configuration of the platted lot. The substandard aspects of the lot are not self-created.

No Special Privilege Conferred

The lot was platted in this configuration in 1924, and other lots with similar lot size and width in the area have been developed with single-family residences. Therefore, granting approval of the variances will not grant a special privilege.

Deprivation of Rights

Without the requested variances, it will not be possible to develop lot 7.

Minimum Possible Variance

The lot width and size are established by the plat. Therefore, granting the variances will be the minimum possible variance.

Purpose and Intent

Approval of these requests will be in harmony with the purpose and intent of the Code, which is to allow development of lawfully created lots and parcels, and will not be detrimental to the neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the lot dimensions shown on the site plan, dated January 14, 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.

C: Patrice Scott
1201 W Pine St.
Orlando, FL 32805

Jeffery Crum
108 Church St., Floor 3
New Brunswick, NJ 08901



January 8, 2021

Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor
Orlando, FL 32801
Phone: 407-836-3111 Email: BZA@ocfl.net

Subject: Zoning Variance Application – 1416 39th St Orlando, FL - Permit # B20017689

Community Asset Preservation Corporation ("CAPC") is the non-profit real estate division of New Jersey Community Capital – a Community Development Financial Institution ("CDFI") with a mission to create new affordable home ownership opportunities for moderate income buyers in New Jersey and Florida. CAPC and our affiliated investment funds currently own and manage 83 units of affordable housing in the Orange County, FL area.

Our newest Fund, CAPC SFR Home Impact Fund, was established in June 2020 to build dozens of new homes annually on vacant infill lots in Orange County and surrounding areas. One of the vacant lots we acquired in 2020 is the subject of this variance request:





What is Requested:

We request a variance to this Lots width requirement from 75' to 50' as originally platted. This request will allow us to build a quality affordable single-family home. The building permit is currently under review Permit number B20017689. The Orange County Zoning department staff has indicated that they would be supportive of this request, as the proposed new home is consistent with the other housing already existing on similar sized lots in the neighborhood.

The attached Application and supporting materials are hereby submitted for your review and consideration. We are requesting to be put onto the Public Hearing Agenda for the March 4, 2021 meeting to seek approval for this variance request.

Current Zoning Requirements:

Property's current zoning (as of 3/3/97) is R-1A which requires.

75' - Lot required width, Rule exception is previously developed less than 75' not deeded together.

Also required:

1,200 sqft - minimum living sq ft. (Our proposal will satisfy)

25' - Front yard setback (Our proposal will satisfy)

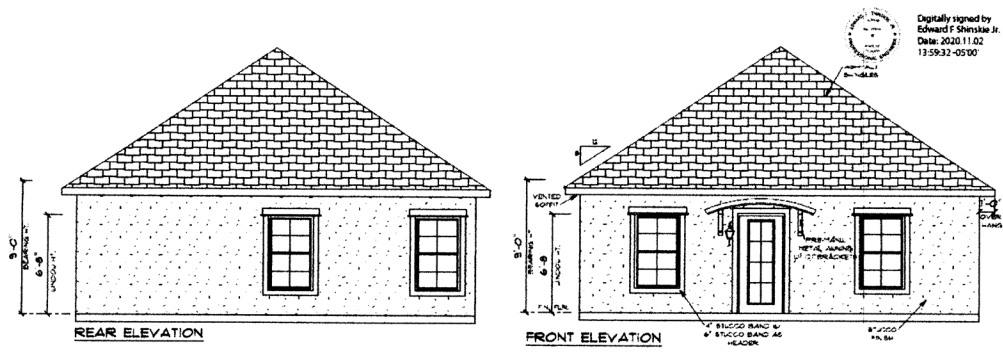
30' - Rear yard setback (Our proposal will satisfy)

7.5' - Side yard setbacks (Our proposal will satisfy)

35' - Structure is not to exceed this height. (Our proposal will satisfy)

Proposed Project:

A new 1,215 sqft Home with 3 Bedrooms and 2 Bathrooms is proposed. The new site-built home will be constructed with concrete exterior walls, wood interior walls and wood roof trusses.





Variance Criteria:

This request meets the six standards for variance approval as follows:

1. **Special Conditions and Circumstances** – according to the Chief Planner of Zoning’s review of our Building Permit Application (Permit # B20017689) reported by Yaribel Garcia to CAPC in an email dated 11/24/20 as follows:

“This permit and email was reviewed with the Chief Planner of Zoning. Since lot 7 and 8 were owned together after 1957, we would not recognize lot 7 or Lot 8 as being a substandard lots of record.

If lot 7 had always been only ever been described as lot 7 in the deeds (and not owned contiguously with lot 8), then Lot 7 would be considered a substandard lot of record, and they could built a new SFR on it, no variances needed, consistent with Sec. 38-1401(b).

Since lot 7 and lot 8 were under single ownership after 1957, and have contiguous frontage, Sec 38-1401(a) would apply. Since they were owned together, we would not recognize each 50 ft. lot as a lot of record (but rather the cumulative of lots 7 and 8). And now that they have been separated (even though not by this customer). Each lot is substandard, and would need a variance or rezoning to be developed.

Even though there was a house on this 50 ft. lot previously (appears to have been demo ‘ed in 2008), the code would still apply, and it would not be considered a substandard lot of record by itself. They would need either a variance, or a rezoning to R-1 (which allows 50 ft wide lots) in order to develop on this parcel.

The staff would support a variance, given it is the infill of the remaining of the block, but it would still be required to obtain the variance or rezoning, and go through the process.”

2. **Not Self-Created** – The conditions described above were not self-created by the current Owner and Applicant.
3. **No Special Privilege Conferred** – approval of this variance will not confer on the applicant any special privilege that is denied by this 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 unnecessary and undue hardship on the applicant.



5. **Minimum Possible Variance** – The zoning variance requested is the minimum variance that will make possible the reasonable use of the land.
6. **Purpose and Intent** – Approval if this variance request 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.

B. The detailed site plan, survey, and house plan documents have been prepared by licensed professionals and are included with the application package.

Please contact any of the undersigned CAPC staff for more information as required.

Submitted by:

Jeff Crum

Jeff Crum, Chief Investment Officer
jcrum@njclf.com

Patrice Scott

Patrice Scott, Operations Manager
pscott@njclf.com

Thom Liggett

Thom Liggett, Senior Advisor
tliggett@njclf.com

ZONING MAP



AERIAL MAP



SITE PHOTOS



02/02/2021 15:04

Lot from 39th St. looking south



02/02/2021 15:06

Adjacent house on similar sized lot to the west

SITE PHOTOS



Adjacent houses on similar sized lots to the east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 04, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-03-002**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): VERONICA ARCHER THORNTON

OWNER(s): KYLE MICHAEL THORNTON, VERONICA ARCHER THORNTON

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

- 1) To allow a 269 sq. ft. addition with an east rear setback of 16 ft. in lieu of 30 ft.
- 2) To allow a 117 sq. ft. addition (covered porch) with an east rear setback of 25 ft. in lieu of 30 ft.

PROPERTY LOCATION: 3105 Margaret Oaks Lane, Orlando, Florida, 32806, southeast corner of Margaret Oaks Ln. and Lake Margaret Dr., east of S. Bumby Ave.

PARCEL ID: 07-23-30-5314-00-010

LOT SIZE: 95 ft. x 115 ft./ +/- 0.25 acres (10,912 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 122

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated January 12, 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 exterior of the additions shall match the exterior of the existing house, including roof color.

5. 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.

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 three (3) comments were received in support and no comments were received in opposition.

The BZA confirmed the type of additions, the existing and proposed rear setback to the neighbor's house and inquired about prior variances in the area.

The applicant stated that the additions will improve the home functionally and aesthetically, as the 1989 variance left a gap in an empty corner. She also stated that the location of the septic tank and drain field restricts the area available for expansion in other directions.

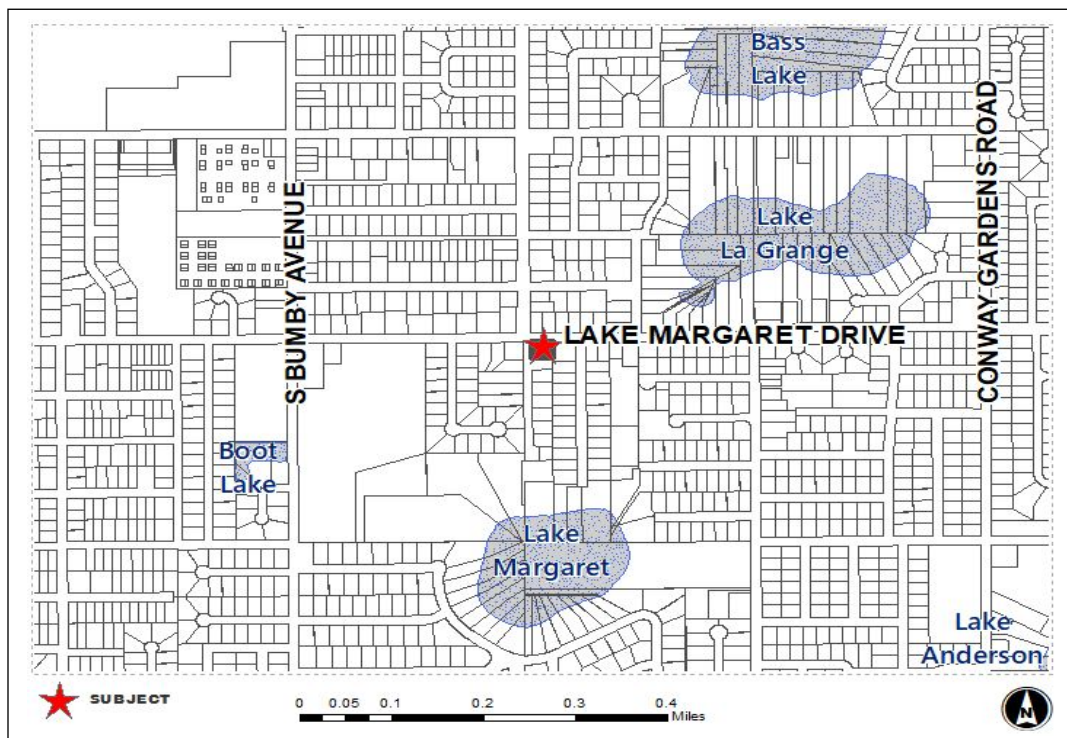
The BZA noted that they were not encroaching further than the existing house, and they had letters of support from the most impacted neighbors. The BZA stated that the applicant was matching the existing rear setback that was granted and acknowledged that the site was constrained by the septic and drain field.

There was no one in attendance to speak in favor or in opposition to the request. The BZA recommended approval of the variance by a 6-0 vote, 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 for the granting of a variance, staff recommends 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 residence	Single-family residence	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures on lots a minimum of 7,500 sq. ft. or greater.

The area around the subject site consists of single-family homes. The subject property is a +/- 0.25 acre lot, located in the McCormack Place Plat, recorded in 1979, and is considered to be a conforming lot of record. It is developed with a 1,792 sq. ft. single family home constructed in 1980. The applicant purchased the property in 2018. The property is a corner lot with frontage on both Lake Margaret Drive and Margaret Oaks Lane. Per code, the front yard is the narrowest portion abutting a street right-of-way, which in this case is Margaret Oaks Lane. As such, Lake Margaret Drive is considered the side street yard, where a minimum 15 ft. setback is required. The house is currently located 27 ft. from this property line.

In October 1989, the owner was granted a variance (Agenda item #36) to allow a 15 ft. rear (east) setback for a 250 sq. ft. addition to the rear of the house in lieu of 30 ft. This rear addition was constructed as a playroom extending out from the middle of the house, with a rear setback of 16 ft. The applicant is proposing to add onto the home to the north and south of this room. The proposed addition to the north (variance #1) is for a 14 ft. x 19 ft., 269 sq. ft. bedroom and bathroom with a rear setback of 16 ft. in lieu of 30 ft. The proposed addition to the south (variance #2) is for a 12 ft. x 10 ft., 117 sq. ft. covered porch (with a shingle roof) with a rear setback of 25 ft. in lieu of 30 ft.

The applicant submitted letters of support from the most impacted property owners located to the south and east of the subject property who share the side and rear property line.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	17 ft.
Min. Lot Width:	75 ft.	95 ft.
Min. Lot Size:	7,500 sq. ft.	10,912 sq. ft.

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	25 ft.	27 ft. (West)
Rear:	30 ft.	16 ft. bedroom addition (East - Variance #1), 25 ft. porch addition (East - Variance #2)
Side:	7.5 ft.	9.8 ft. (South)
Side Street:	15 ft.	27 ft. (North)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

There are no special conditions and circumstances particular to this property. The request could be modified to shift the proposed addition, or reduce the size in a manner to lessen the amount of variances requested, or eliminate the need for variances.

Not Self-Created

The request for the variance is self-created and is a self-imposed hardship. There are other options in order to lessen or negate the need for the variance.

No Special Privilege Conferred

Granting the variance as requested will confer special privilege that is denied to other properties in the area, since the owners have other options to relocate or modify the proposed additions.

Deprivation of Rights

The owners are not being deprived of the right to add onto the home as they could build an addition that meets the setback requirements, and they already have a covered porch.

Minimum Possible Variance

The request is not the minimum, since there are other alternatives to building the additions.

Purpose and Intent

Approval of the variances will be in harmony with the purpose and intent of the zoning regulations, due to the distance from the nearest residences, consistency with other surrounding properties, and it will not be detrimental to the adjacent properties or the overall area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated January 12, 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 exterior of the additions shall match the exterior of the existing house, including roof color.
 5. 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.
- C: Veronica Archer Thornton
3105 Margaret Oaks Ln.
Orlando, FL 32806

December 31, 2020

Orange County Zoning Division Board of Zoning Adjustment
201 South Rosalind Avenue, First Floor
Orlando, Florida 32801

Thornton Family Variance Request Cover Letter

Applicant names: Veronica A. Thornton and Kyle M. Thornton

Address: 3105 Margaret Oaks Ln., Orlando, Florida, 32806

We are requesting a variance allowance for a bed/bath and covered porch extension. In addition to this cover letter, we have also provided signed letters of no objection from both our side neighbor, Jerry Coleman, and our rear neighbor, Vivian Long, as well as a detailed site plan from our architect, Alejandro Munoz (Bumpus and Associates, Inc.).

The purpose of our request: We love our home and our neighborhood, but our expanding family is beginning to outgrow our beloved home. In order to stay in our family home and in our neighborhood, we require additional space. We would like to close off a corner of our existing home structure to create an additional bedroom and bathroom. Also, we have only a small, covered porch in the back for outdoor living and we would like to expand that covered porch a bit to meet the existing end of our house so that we have a slightly larger outdoor living space for our family to enjoy.

The type of construction proposed:

1. Bed/bath materials: painted block to match the existing and a wood roof system with shingles to match the existing
2. Covered porch materials: wood roof system with shingles to match the existing

Square footage, proposed dimensions, and height:

1. Bed/bath: 269 square feet; 14.1' L x 19.1' W x 8'4" H
2. Covered porch: 117 square feet; 11.7' L x 10' W x 8'4" H

How far away from property lines:

1. Bed/bath: 16' from rear and 27' from side (continues adjacent, same distance as existing structure)
2. Covered porch: 25' from rear and 9'8" from side (continues adjacent, same distance as existing structure)

Current setbacks and variance request: The current setbacks per zoning are 30' rear and 7.5' side. We are requesting 16' rear for the bed/bath addition to match existing structure and 25' rear for the covered porch to match existing structure.

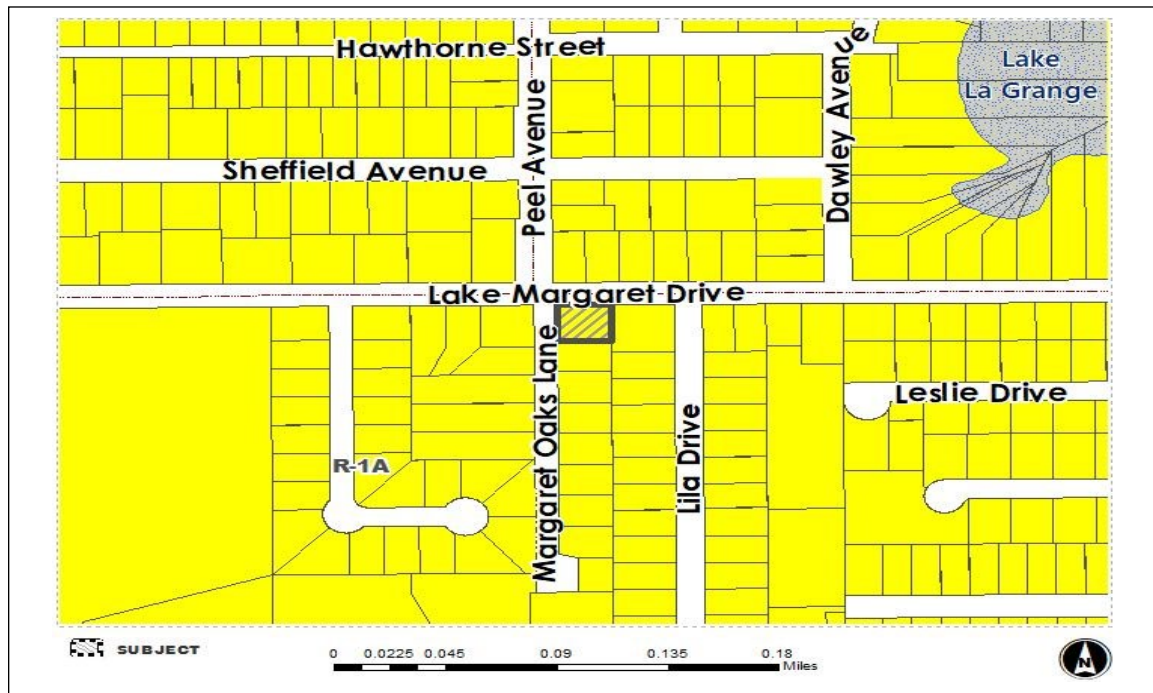
Variance Criteria:

1. **Special conditions and circumstances:** Our house was built as-is before these zoning rules were established. As such, the existing structure extends beyond the current setbacks. We are wanting to close off an existing corner to make our house more functional for our family. We are

not extending beyond any existing walls. There is no other place for this addition to be located, that is functional, that does not extend beyond the setbacks due to the location of our septic drain field.

2. Not self-created: Our actions did not create any special circumstances or conditions. Our drain field was placed in the only possible location, which restricts our ability to build in that direction. The current setback laws also must have been made after our original home structure was built, as the existing house extends beyond the limits.
3. No special privilege conferred: Approval of the zoning variance request will not confer any special privilege to us.
4. Deprivation of rights: These zoning restrictions prohibit us, without a variance approval, from expanding our home in any reasonable way that makes sense, given the restriction of the setbacks and the necessary placement of our drain field. We feel that we have the right to make modifications to this home to meet our family's needs (the same as any homeowner) and that we are deprived of these rights by the restrictions of the current setbacks.
5. Minimum possible variance: The zoning variance requested is the minimum variance that will make possible the reasonable use of the land and proposed structure because it simply closes off the existing structure. It does not extend beyond any existing structure.
6. Purpose and intent: This zoning variance request will allow us to stay in our beloved family home in a neighborhood where we have set roots. We love our home and our neighborhood and do not want to leave. We are committed to the welfare of our home and neighborhood. Our proposed plans do not extend beyond any existing structure, and these changes will allow for our family to stay in our home in a place that we love. We have spoken to our neighbors and they have no objections. We feel that these proposed changes are a benefit to our community, as they allow a responsible and dedicated family to stay in the area. We have attached two signed letters from our neighbors (rear neighbor, Vivian Long, and side neighbor, Jerry Coleman) stating that they have no opposition to our building the proposed structures.

ZONING MAP

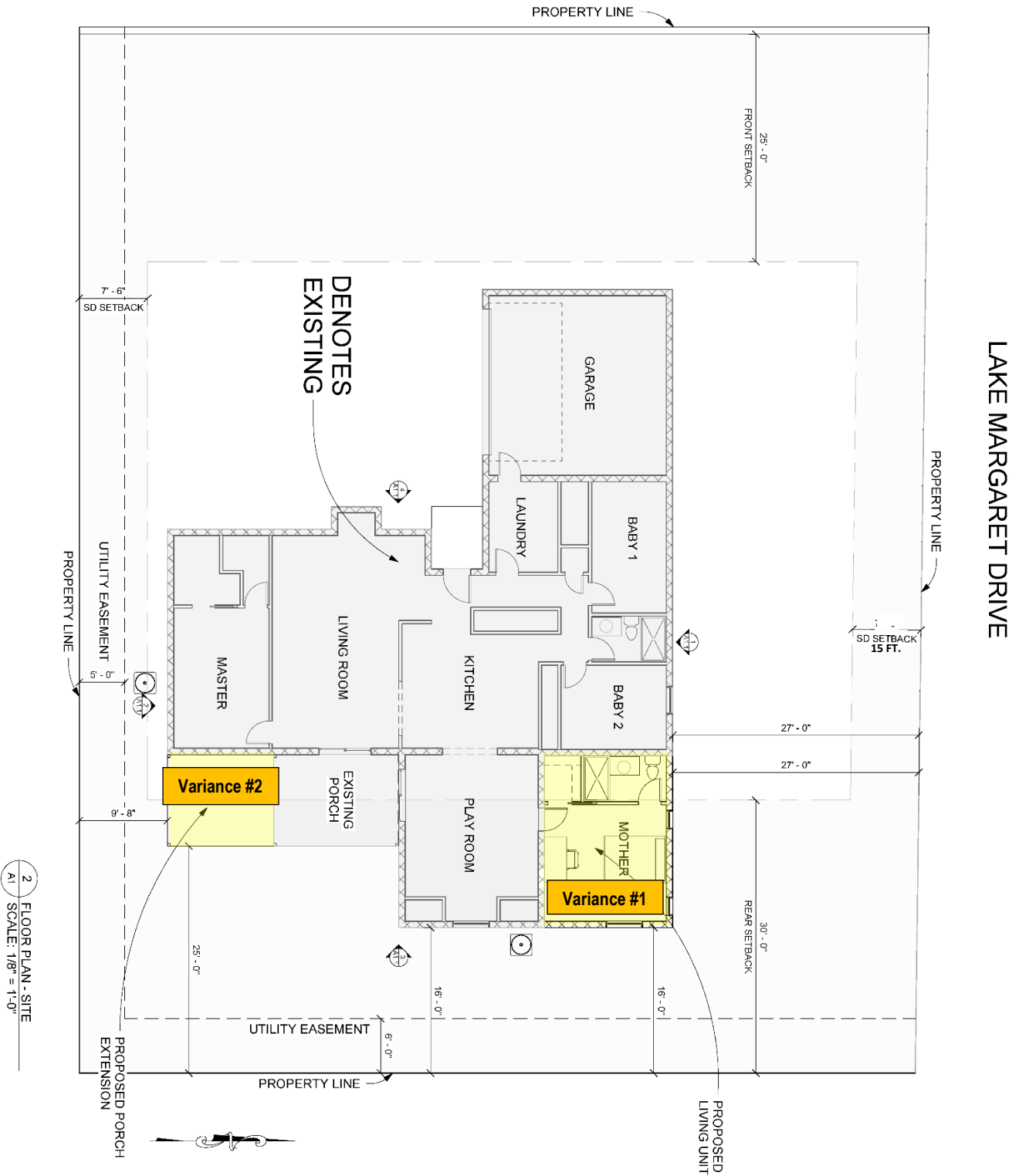


AERIAL MAP

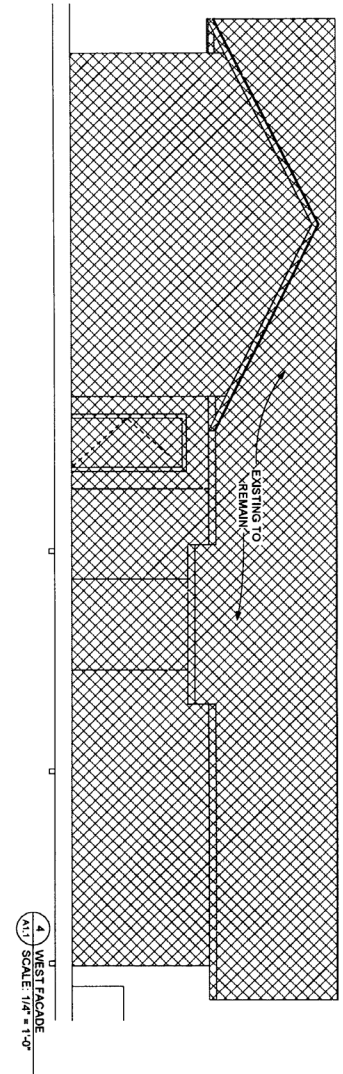
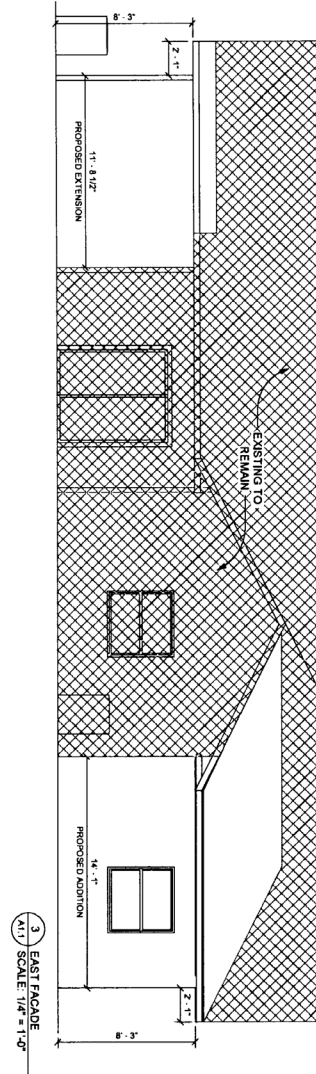
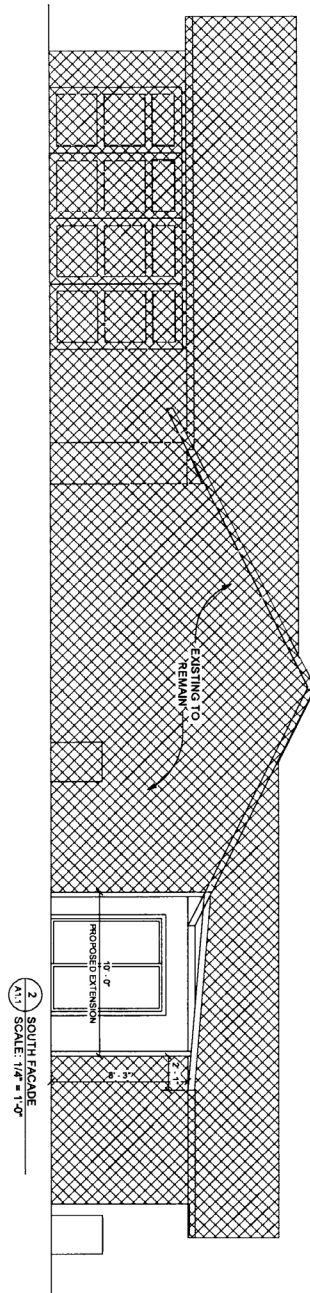
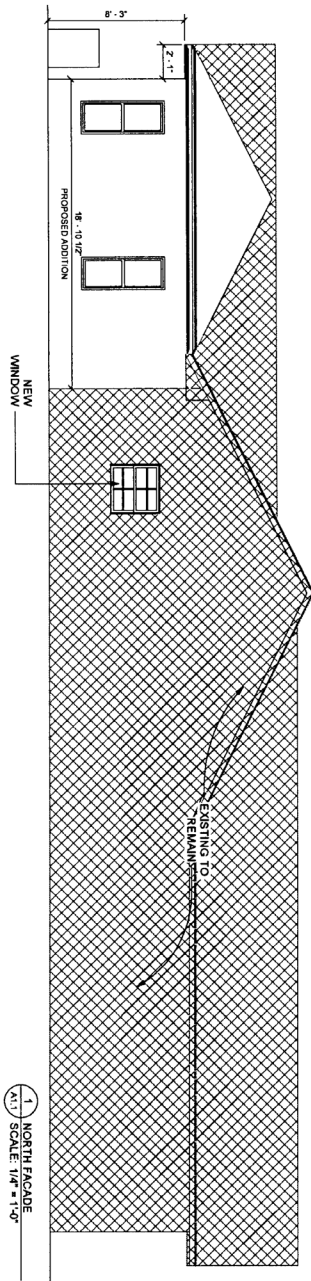


SITE PLAN

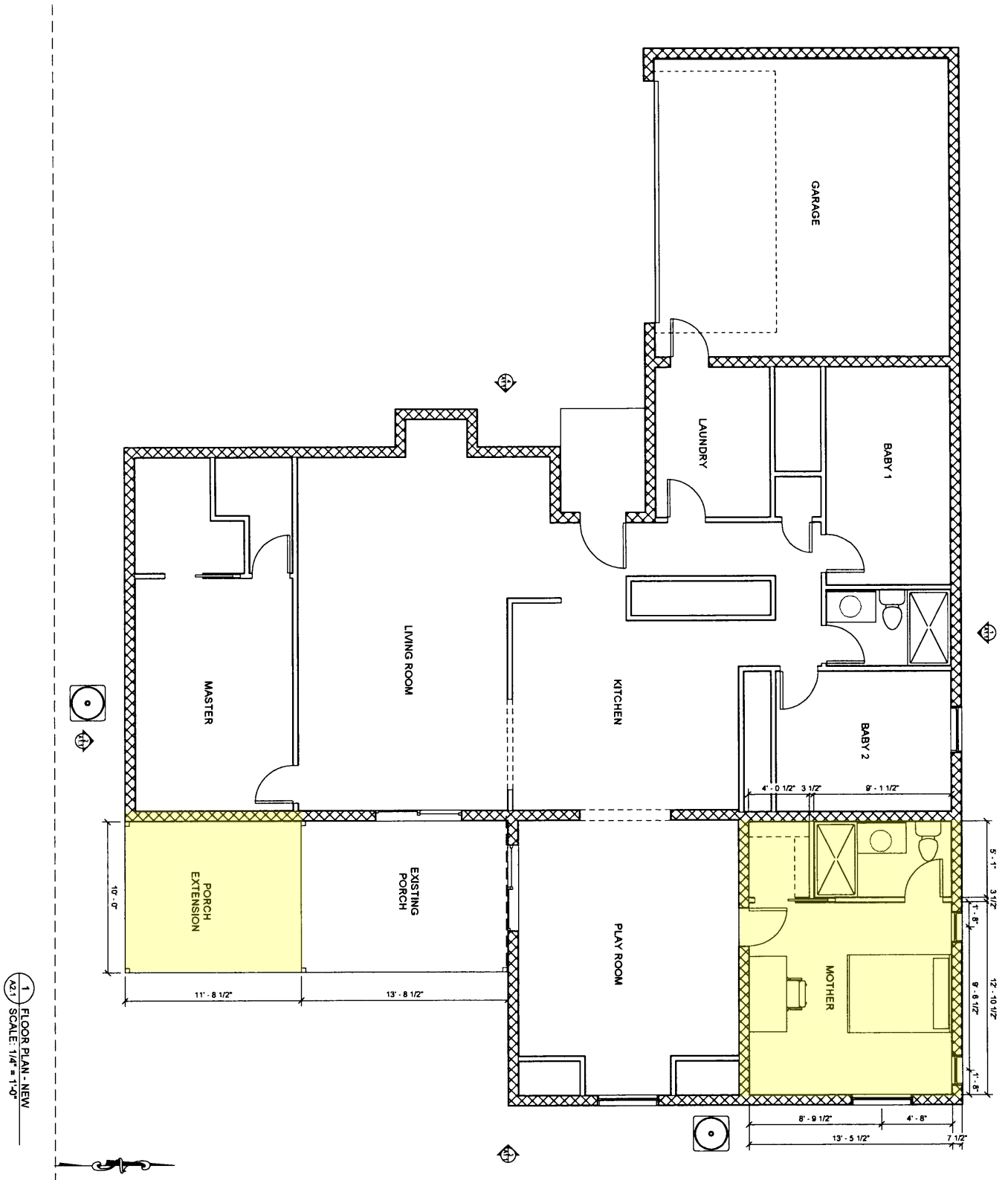
MARGARET OAKS LANE



ELEVATIONS



FLOOR PLAN



SITE PHOTOS



Front from Margaret Oaks Lane looking east



Location of proposed home addition facing south (Variance # 1)

SITE PHOTOS



Location of proposed home addition facing west (Variance #1)



Location of proposed covered porch facing west (Variance #2)

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 04, 2021**

Case Planner: **Nick Balevich**

Case #: **SE-20-11-105**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): NEW HOPE ROAD HOLDINGS (ANNA LONG)

OWNER(s): 6713 NEW HOPE ROAD HOLDINGS LLC

REQUEST: Special Exceptions and Variance in the A-2 zoning district as follows:

- 1) Special Exception to allow a landscaping and irrigation business
 - 2) Special Exception to allow 4,173 sq. ft. of detached accessory structures in lieu of 3,000 sq. ft.
 - 3) Variance to allow detached accessory structures (an existing pole barn and shed) in front of the primary structure
- This is a result of Code Enforcement action.

PROPERTY LOCATION: 6713 New Hope Rd., Orlando, Florida 32824, north side of New Hope Rd., east of Boggy Creek Rd., south of SR 417

PARCEL ID: 34-24-30-6368-00-130

LOT SIZE: 320 ft. x 620 ft. /+/- 4.55 acres

NOTICE AREA: 1,500 ft.

NUMBER OF NOTICES: 53

DECISION: Recommended **APPROVAL** of the Special Exception requests in that the Board finds it met 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; and, recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated February 1, 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. Days and hours of operation shall be limited to Monday through Saturday, 7 a.m. to 7 p.m.
5. Permits shall be obtained within 2 years for buildings, as applicable, or the approval of Special Exception #2 and the Variance shall be null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
6. Permits for the site work and landscaping shall be obtained within 1 year, or the approval be null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
7. To the extent that the site plan contradicts with the approved CAD and required setback buffers, the CAD and wetland buffer shall prevail unless a CAI is otherwise obtained.
8. A minimum 6 ft. high opaque 15 ft. wide type B vegetative landscape buffer shall be installed along the entire length of the property adjacent to New Hope Rd.

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 Special Exception #1, and approval of Special Exception # 2 and variance #3. Staff noted that seventeen (17) comments were received in support and eighteen (18) comments were received in opposition.

The applicant stated that the business had been operating for 7 years with no neighbor complaints from 2014 to 2019 until another landscaping business applied for a Special Exception within the area. They contended that the use is compatible with the area, and noted that the owner will improve parking and will pay for road impacts. The applicant also showed a time lapse video of traffic on the road adjacent to the property.

Eight neighbors spoke in opposition to the request, citing concerns about the use being incompatible with the area, and the truck traffic, noting that there are only 2 roads in and out of the area. They also noted that the business has dramatically expanded over the past several years.

The applicant noted that there are no processed or manufactured materials at the site, stated that this operation cannot be blamed for all the traffic and trash, and noted that the Special Exception will limit any future expansion.

The BZA noted when the complaints were submitted, and discussed the provision of a landscaping buffer along the front of the property.

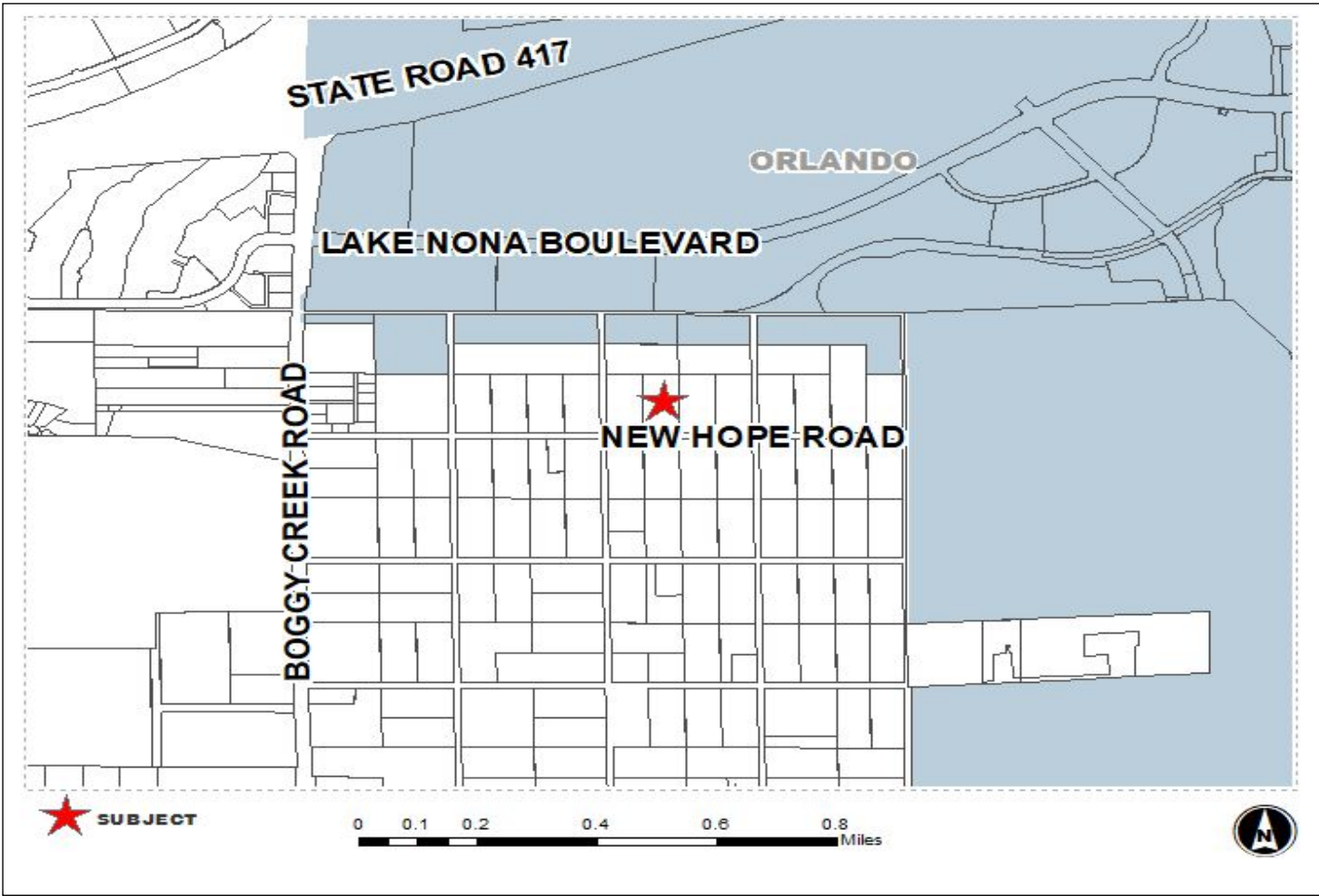
The BZA unanimously recommended approval of the special exceptions and the variance by a 6-0 vote, subject to the six (6) conditions in the staff report, a new Condition 7, which states "To the extent that the site plan contradicts with the approved CAD and required setback buffers, the CAD and wetland buffer shall prevail unless a CAI is otherwise obtained." and a new Condition 8, which states "A minimum 6 ft. high opaque 15 ft. wide type

B vegetative landscape buffer shall be installed along the entire length of the property adjacent to New Hope Rd."

STAFF RECOMMENDATIONS

Denial of Special Exception #1, and approval of Special Exception #2 and Variance #3, subject to the conditions in this report. However, if the BZA finds that the applicant has satisfied the criteria for the granting of both Special Exceptions and the 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	A-2	A-2	A-2	A-2
Future Land Use	R	R	R	R	R
Current Use	Landscaping Business	Single-family residential	Vacant	Single-family residential, nursery	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-2 Farmland Rural zoning district, which allows agricultural uses including nurseries, mobile homes, and single-family homes with accessory structures on larger lots. In addition, uses associated with nurseries, such as landscaping businesses and irrigation contractors are permitted through the Special Exception process.

The area consists of vacant land, single-family homes, citrus groves and nurseries. The subject property was created by a lot split in 1979 from the original Orlando-Kissimmee Farms Plat, which was recorded in 1926, and is considered to be a conforming lot of record. The applicant purchased the property in 2014.

The site is developed with: a 633 sq. ft. storage building, labeled on the site plan as Building A, constructed in 2006 under permit #B06016099; a 846 sq. ft. storage building, constructed without a permit, labeled on the site plan as Building B; a 3,000 sq. ft. warehouse/office building, constructed without a permit, which is labeled on the Site Plan as Building C; a 2,525 sq. ft. pole barn, labeled as Building D, constructed in 2006 under permit #B06016098; a 132 sq. ft. wellhouse, labeled as Building E, constructed in 2008 under permit #B08010924; and a 35 sq. ft. pumphouse labeled as Building F, constructed without a permit. The unpermitted structures appear to have been installed between 2005 and 2006 based on aerials. The code requirements for the location of accessory structures was the same at the time the buildings were constructed, as it is now. There is no documentation as to how the structures that did obtain permits were able to at that time without a variance.

In addition to the structures on site, there are large mulch piles in the front along the road, pallets along the side entryway, parking and vehicular access on unimproved surfaces, and a small area in the northeast portion of the property being used for a nursery. To the rear of the site are wetlands.

Code Enforcement cited the owner in January of 2020 for operating a landscape operation without a Special Exception, and for accessory structures with no principal structure (Incident 561660). Upon review of the site plan, it was determined that Building C is considered to be the principal structure and all others are considered accessory.

The applicant is requesting approval of Special Exceptions to allow a landscaping and irrigation business on the property, and to allow 4,173 sq. ft. of detached accessory structures in lieu of 3,000 sq. ft. The applicant is also requesting approval of a variance to allow detached accessory structures (an existing pole barn-Building D and shed-Building A) to be located in front of the primary structure, requiring variance #3.

The applicant is not proposing to add any structures and is proposing modifications to the parking area and the addition of landscaping, to meet code. The applicant has stated that they will move their mulch stocks from the front of the property to the rear. Approximately 50 people are employed by the company. The applicant states that the days and hours of operation will be Monday through Saturday, 7 a.m. to 7 p.m.

The parking requirements for the property are as follows:

Office: 1,600 sq. ft. @ 1 parking space per 200 sq. ft., requiring 8 spaces

Warehouse: 1,400 sq. ft. @ 1 parking space per 1,000 sq. ft., requiring 2 spaces, and 1 parking space per bay, requiring 2 spaces

Storage: 4,004 sq. ft. @ 1 parking space per 1,000 sq. ft., requiring 5 spaces

The total parking spaces required is 17 spaces. The site plan shows 21 parking spaces, and 1 accessible parking spaces for a total of 22 spaces, thus meeting the parking code requirement. The applicant is proposing to use 57 stone for parking and drive aisles.

The applicant submitted letters of support from the most impacted property owners located to the north, south, east and west of the subject property. At the time of the drafting of this staff report, staff has received 16 correspondences from neighbors in the area who are against the project.

On December 31, 2020, a Conservation Area Determination (CAD-20-10-210) was completed for the property, to delineate wetlands on the northwest and southwest portions of the property. The site plan has been updated to reflect these areas.

The Orange County Transportation Planning Division provided the following comments: This project will generate 132 daily trips and 60 P.M. peak hour trips. Therefore, the project will have a minimal impact on the roadway segments within the impact area. Based on this information, all roadway segments are currently operating within their adopted capacity except for the segment of Boggy Creek Road which is currently operating at a Level of Service F. Prior to permit approval, the developer/applicant will have to submit a traffic study and participate in the cost of improving the deficient roadway segments to secure concurrency. The participation will be on a proportionate share basis.

On Thursday, February 18, 2021, a virtual Community Meeting was held to allow for input. The meeting was attended by the applicant, County staff, and nine residents. The majority of the residents in attendance spoke against the case. They were concerned with parking on the adjacent road, the high number of landscape vehicles, the speed of the truck traffic in the area, the road damage due to the large trucks and the noise impacts due to the operations. They were also concerned about the impacts of mulch piles on the groundwater and felt that the use is an incompatible use for the neighborhood that will set precedent for other prohibited uses in the area.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	20 ft.
Min. Lot Width:	100	320 ft.
Min. Lot Size:	0.5 ac.	4.56 ac.

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	35 ft.	60 ft. (South)
Rear:	50 ft.	350 ft. (North)
Side:	10 ft.	68 ft. (West), 88 ft. (East)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of landscape, irrigation and lawn care businesses as conditioned through the Special Exception process is consistent with the Comprehensive Plan since such a use provides a service to the surrounding residential areas. The provision of accessory structure square footage above 3,000 sq. ft., is permitted in the A-2 zoning district through the Special Exception process if performance standards such as setbacks are met, and is consistent with the Comprehensive Plan since the proposal is compatible with the surrounding uses.

Similar and compatible with the surrounding area

Special Exception #1

The landscaping and irrigation business is not compatible with other existing nearby uses such as plant nurseries and single-family acreages due to truck traffic, noise, safety, odor, intensity, and appearance.

Special Exception #2

The provision of additional accessory structure square footage is compatible with the surrounding area, since the primary structure setbacks from the property lines are met and since the property is large and screened by perimeter landscaping.

Shall not act as a detrimental intrusion into a surrounding area

Special Exception #1

The landscaping and irrigation business on the subject property has and will continue to negatively impact the surrounding area due to the intensity of the use, noise and truck traffic caused by the operations.

Special Exception #2

The provision of additional accessory structure square footage is compatible with the surrounding area, and will not act as a detrimental intrusion into the area due to the size of the property and the visual screening of the structures.

Meet the performance standards of the district

The landscaping and irrigation business meets setbacks, height limits, parking requirements, and other performance standards of the district (except for the building locations for which a variance is being requested). The provision of additional accessory structure square footage will meet the performance standards of the district, upon the granting of the Special Exception for square footage, and the variance for the building locations.

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

Special Exception #1

The landscaping and irrigation business does and would continue to generate noise, vibration, dust, and odor, due to truck traffic, intensity of the use and onsite material storage that is not similar to the adjacent and nearby nurseries and adjacent residences.

Special Exception #2

The provision of additional accessory structure square footage will not generate any more noise, vibration, dust, odor glare or heat that is dissimilar to existing conditions by a majority of properties in the area. Further, the property is vegetated and will be buffered, which will offset any potential impacts.

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

The owner has provided a plan which indicates hedge materials at the perimeter and the addition of trees installed with a separation of 40 ft. on center, around the site.

VARIANCE CRITERIA

Special Conditions and Circumstances

The existing location of the accessory structures at the front is a consideration of special conditions and circumstances. Removal or relocation of these structures that were permitted and constructed in 2006 would be necessary to meet code requirements.

Not Self-Created

The accessory structures were constructed after receiving approval of permits and the placement of those structures in front of the primary structure is not due to actions on the part of the current owner.

No Special Privilege Conferred

Granting the variance will not be conferring any special privilege. The accessory structures will remain in the location that they were permitted and constructed in 2006.

Deprivation of Rights

The orientation and location of the accessory structures at the front were as permitted and constructed in 2006. Denying the variance will deprive the applicant the ability to continue the use of these structures.

Minimum Possible Variance

The accessory structures in the current locations as permitted is the minimum possible variance.

Purpose and Intent

Since the existing situation has existed since these structures were permitted in 2006, approval of the request will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding area. The location of the existing buildings will not be out of character with the overall area, which includes other non-residential uses such as nurseries.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated February 1, 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. Days and hours of operation shall be limited to Monday through Saturday, 7 a.m. to 7 p.m.
5. Permits shall be obtained within 2 years for buildings, as applicable, or the approval of Special Exception #2 and the Variance shall be null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
6. Permits for the site work and landscaping shall be obtained within 1 year, or the approval be null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Anna Long
420 S Orange Ave. Suite 700
Orlando, FL 32801



ATTORNEYS AT LAW

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ANNA LONG
(407) 428-5120
along@deanmead.com

October 13, 2020

VIA E-MAIL: (Nick.balevich@ocfl.net)

and FEDERAL EXPRESS

Orange County Zoning Division
Orange County Administration Center
201 S. Rosalind Avenue, #1
Orlando, FL 32801

Re: CONSOLIDATED/REVISED COVER LETTER
Special Exceptions and Variance Application
6713 New Hope Road, Orlando, Florida
Parcel ID No. 342430636800130

Dear Sir or Madam:

This letter is being transmitted, as requested, to consolidate correspondence and revise, previous cover letters dated September 2, September 25 and September 30, 2020, respectively, for the subject application/property. Supporting documentation for the requested special exceptions and variance has been previously provided unless referenced and attached hereto. The application fees have previously been submitted and received by the County as well.

Landscape Systems, Inc., is a related entity to the current property owner, 6713 New Hope Road Holdings, LLC. 6713 New Hope Road Holdings, LLC purchased the subject property in 2014. While the current use denoted on the Orange County Property Appraiser's website provides that the property's use was/is a single family residence, at the time of the purchase in 2014, the property was vacant. Landscape Systems, Inc. conveyed the property to Landscape Systems Holdings, LLC on May 22, 2019. On that same date, Landscape Systems Holdings, LLC, conveyed the property to the current owner. Landscape Systems Holdings, LLC is a related party to the current owner, 6713 New Hope Road Holdings, LLC. At no time, from the time of the related entity purchase in 2014 through present date, was a single family residence located or intended to be constructed on the property. A copy of a 2014 aerial submitted on September 2, 2020 shows what appears to have been a sidewalk leading to what likely was a house. The other structures were not/are not residential in nature.

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Landscape Systems Holdings, LLC, the landscape operating entity, employs 40 employees. These individuals are dependent upon their employment with Landscape Systems Holdings, LLC for their livelihoods.

The requested Special Exceptions and Variance are consistent with Orange County's Comprehensive Policy Plan.

Special Exceptions:

The property owner is also requesting two special exceptions. The first is to allow for a landscaping, irrigation and sod business with NO on-site processing of raw materials. The second is to allow for the existing detached accessory structures in excess of 3,000 square feet (the size of the principal structure) to remain.

Special Exception for Use:

The request for the first special exception is to allow for the operation of a landscaping, irrigation and sod company (**no** on-site processing of raw materials) (Chapter 38, Article V, Section 38-137, Orange County Code of Ordinances). The operations at this site have been ongoing for a number of years, as the owner was unaware, due in part to the like businesses around the property, that the same required a Special Exception. Upon notification from Orange County for the need of a Special Exception for the business, the Owner moved quickly to bring the property into compliance and had intended to submit the subject application for review and approval in March. At the direction of zoning staff, the applicant hired a traffic engineer to complete a traffic analysis to accompany the Special Exception application. When Governor DeSantis issued the Safe at Home Order in response to COVID-19, the ability to complete the traffic analysis was delayed; that in turn, delayed the subject submittal as well. The traffic analysis has now been completed. The efforts to obtain the required approvals can proceed as well.

The criteria set forth under Section 38-78, Orange County Code are met, as explained in detail below:

1. The use shall be consistent with the Comprehensive Policy Plan: The continued use of this rural property as a landscaping, irrigation and sod company is consistent with the Comprehensive Policy Plan. The requested use is a permissible use provided a special exception is approved. The underlying land use of the subject property and surrounding properties is rural. The examples provided in our previous submittals noted above of like business operations in the area are also zoned A-2 and have an underlying land use designation as rural.

2. The use is similar to and compatible with the surrounding area and the use is consistent with the pattern of surrounding development: There are existing like and similar operations in close proximity to the subject site. One such business is adjacent to the subject site.

3. The use shall not act as a detrimental intrusion into a surrounding area: As previously noted, the operations has been located without issue on the subject property since 2014. No complaints have been issued against the operations as to noise, dust, disruption, traffic, etc. In

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Page 3

addition, none of the adjacent neighbors have objected to the operations nor are they objecting to the requested special exception. Letters of no objection were included with September 2, 2020 submittal.

4. The use has met the performance standards of the district in which the use is permitted: As previously noted, the applicant was unaware that a special exception was required to operate the business which has been on-going without issue since 2014. If performance standards were an issue, the same would have been so noted by neighbors/the County over the past 6 years. Performance standards have been met and will continue to be met.

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: As previously noted, the business for which the special exception is being requested has operated without issue or incident at the subject site since 2014. The property adjacent and east of the subject property operates a landscaping business. The property directly to the west of the subject property is a single family residence, is buffered from the subject site with natural vegetation. Additionally, this property owner has provided a letter of no objection for the requested special exception. The property directly to the north of the subject property is also a single family residence, partially buffered from the subject site with natural vegetation. Additionally, this property owner has provided a letter of no objection as well for the requested special exception. New Hope Road abuts the subject property to the south and across from New Hope Road to the south is a vacant residential 4.56 acre lot. As noted above, confirmation of no objection from neighbors were previously provided.

6. Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code. Buffer yard types shall track the zoning district in which the use is permitted: The landscape buffer yards on the property are in accordance with Section 24-5 of the Orange County Code. Buffer yard types track the A-2 zoning district.

It is understood that the Orange County Building Division must review and approve building plans for all existing structures located on the property. Two of the existing buildings were permitted through the Orange County Building Division. Building drawings for the third existing building was previously provided.

The subject site is 4.56 acres. The business offers installation of landscape, irrigation and sod, for new construction around Central Florida. Work trucks leave the site for most of the business day, returning around 6:00-7:00 p.m. The workday begins at 7:00 a.m. and concludes around 6:00-7:00 p.m., Monday through Friday and occasionally on Saturdays within the same time parameters. A list of all the trucks and trailers associated with the business, stored on site nights and weekends was previously provided. Parking for the employees is provided on the site. The business has a stock inventory of plants, trees, irrigation supplies and pre-processed mulch, nothing more.

Special Exception for Square Footage of Existing Detached Accessory Structures:

The second special exception request is to allow for the existing detached accessory structures to remain. The total square footage of the detached accessory structures, including the

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pump house and the well house (depicted on the revised site plan as amended and provided as a PDF and on the photographs, both previously provided) is 4173 square feet. (Chapter 38, Article IX, Section 38-1426, Orange County Code of Ordinances).

The criteria required per Section 38-78 Orange County Code is met. This special exception for the existing detached accessory structures will not change any of the “use” criteria previously detailed in our earlier submittals.

Section 38-1426(a)(3)(b)6 allows for detached accessory structures with a cumulative square footage of greater than 3,000 square feet, if the property is within a agriculturally zoned parcel with greater than 2 developable acres, provided that a special exception is obtained and that all of the following conditions are met:

- i. No detached accessory structure shall exceed five thousand (5,000) square feet in gross floor area and thirty-five (35) feet in overall height; and
- ii. These detached accessory structures shall be set back as follows:
 - I. Front — Fifty (50) feet.
 - II. Side/side street — Twenty-five (25) feet.
 - III. Rear — Thirty-five (35) feet.
 - IV. Normal high water elevation — Fifty (50) feet

Each of the detached accessory structures meets the conditions set forth above. Each is depicted on the previously submitted site plan with their respective square footages noted, as well as the distances of each from the property lines/setbacks. None of the detached accessory structures are below the normal high water elevation of 50’.

The Special Exception criteria set forth in Section 38-78, Orange County Code are met:

1. The use of the additional detached accessory structures is consistent with the Comprehensive Policy Plan.
2. The use of the additional detached accessory structures is similar and compatible with the surrounding area and is consistent with the pattern of surrounding development. The surrounding area is rural in nature. The structures on the property, with the exception of the principal structure, have been on site, in some instances for decades. All of the structures, except for the principal structure were existing at the time the property owner acquired the property.
3. The use of the additional detached accessory structures will not act as a detrimental intrusion into a surrounding area. As previously noted, the detached accessory structures on the property have been on site, in some instances for decades. All of the structures, except for the principal structure were existing at the time the property owner acquired the property.

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4. The use of the additional detached accessory structures meets the performance standards of the district in which the use is permitted, i.e. agricultural.

5. The use of the additional detached accessory structures is similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the agricultural zoning district.

6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the agricultural zoning district in which the use is permitted. The landscape buffers are depicted on the revised site plan.

Variance request:

The request for the variance is to allow for the existing detached accessory structures to remain in their current locations, which includes the location of the overflow warehouse/pole barn/storage structure and an existing shed, in front of the principal structure. Both are depicted on the revised site plan, with dimensions provided for each. Elevations were provided on the photographs submitted on September 30, 2020.

Section 38-1426(a)(3)b.3., Orange County Code of Ordinances, provides that a detached accessory structure shall not be located in front of the principal structure unless the principal structure is located in the rear half (½) of the lot/parcel, or when located on an agriculturally zoned lot/parcel with ten (10) or more developable acres. In these situations, the detached accessory structure shall comply with all principal structure setbacks.

The subject property has an agriculturally zoning designation, however the property is not 10 acres in size. Therefore a variance from this provision of the County Code is requested for these existing detached accessory structures.

The criteria set forth under Section 30-43(3), Orange County Code are met, as explained in detail below:

1. Special Conditions and Circumstances: All of the detached accessory structures located on the property, including those located in front of the principal structure, have been on the property for a number of years, prior to the current property owner's purchase of the property. Given the rural nature of the property providing a variance to allow the two detached accessory structures to remain in their current location will address the special circumstances that resulted from previous owners' construction of the same. Additionally, as noted in the September 2, 2020 application submittal to the County, a portion of the property has on-site wetlands. The location of the on-site wetlands, limits the property owners' ability to relocate the detached accessory structures, while still maintaining the required wetland buffers, landscape buffers, drive aisle and parking spaces.

2. Not Self-Created: As noted above, all of the detached accessory structures located on the property, including those located in front of the principal structure, have been on the property for a number of years, prior to the current property owner's purchase of the property.

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3. No Special Privilege Conferred: Approving a variance on the subject property to allow for the two detached accessory structures to remain in their current location (in front of the principal structure) does not confer a special privilege, but rather allows for the operation of a compatible business on the property, while taking into consideration the fact that these buildings were built prior to the property owner acquiring the property. It allows for continued use of existing structures that serve a purpose and have been serving that same purpose for a number of years. Additionally, as noted in the September 2, 2020 application submittal to the County, a portion of the property has on-site wetlands. The location of the on-site wetlands, limits the property owners' ability to relocate the detached accessory structures, while still maintaining the required wetland buffers, landscape buffers, drive aisle and parking spaces.

4. Deprivation of Rights: Denying the requested variance would deprive the property owner of rights commonly enjoyed by others in the same zoning district that do not have to contend with issues that have resulted from previous owners constructing the detached accessory structures in their respective locations. Additionally, as noted in the September 2, 2020 application submittal to the County, a portion of the property has on-site wetlands. The location of the on-site wetlands, limits the property owners' ability to relocate the detached accessory structures, while still maintaining the required wetland buffers, landscape buffers, drive aisle and parking spaces.

5. Minimum Possible Variance: The variance that is being requested is for existing detached accessory structures. Their respective locations are depicted on the revised site plan. The areas for which the variance is being requested are not excessive.

6. Purpose and Harmony: Approval of the variance as requested, allowing for the existing detached accessory structures to remain in their current locations, which includes the location of the overflow warehouse/pole barn/storage structure and an existing shed, in front of the principal structure, 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 public welfare.

The requested Special Exceptions and Variance meet the criteria set forth in the applicable County code provisions.

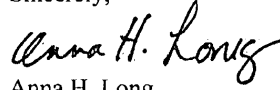
The applicant on behalf of the property owner respectfully submits this consolidated revised cover letter to support approval for the Special Exceptions and Variance application and supporting documents previously submitted on September 2, September 25 and September 30, 2020. Please note, the Environmental Protection Division, Orange County, has requested that the property owner complete and submit a Conservation Area Determination (CAD). The same is in the process of being completed. It is expected that the CAD will be submitted to EPD within the next two weeks. As a result of the need for an approved CAD, we have requested and you have agreed to move this item to the December BZA meeting date. I will advise when the CAD has been approved so that you can schedule the required Community Meeting.

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Should you have any questions regarding the same, please do not hesitate to call me at (407) 428-5120.

Sincerely,



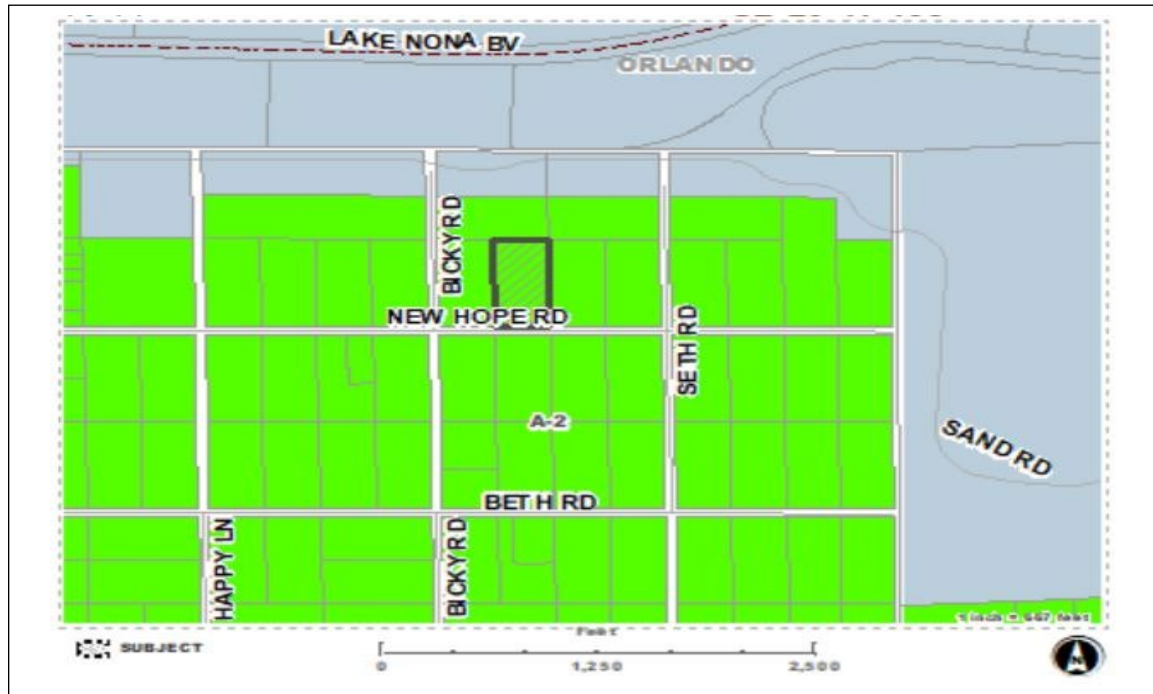
Anna H. Long

AHL:ph

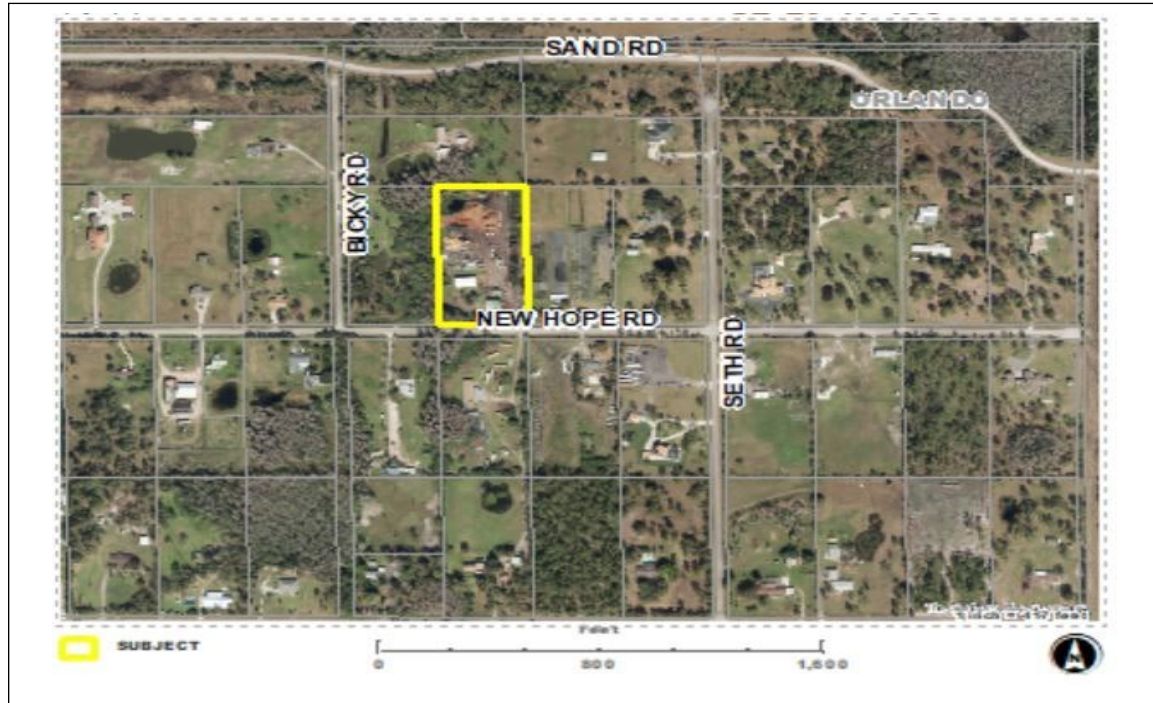
c: Megan Marshall (via email: Megan.Marshall@ocfl.net) w/o Attachments
Wilbert Ventura (via email: Wilbert.Ventura@ocfl.net) w/o Attachments
Martin B. White (via email: martin@landscapesystems.net)

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ZONING MAP



AERIAL MAP



CLOSE UP AERIAL

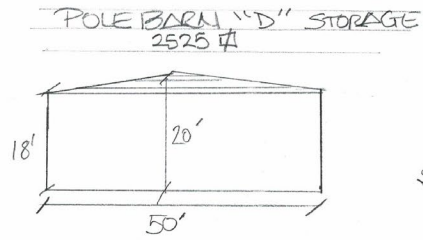
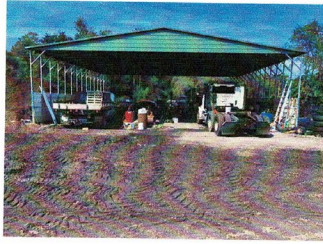


BICKY ROAD



ELEVATIONS

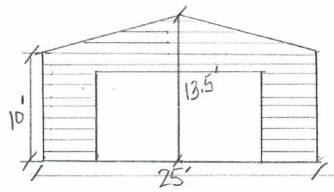
EXISTING BUILDINGS AT LAND PURCHASE



SCALE 1"=20'



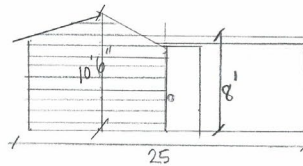
STORAGE "A" 625 sq ft



SCALE 1"=10'



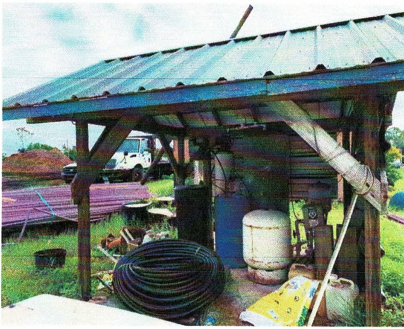
STORAGE "B" FRONT ELEVATION
846 sq ft



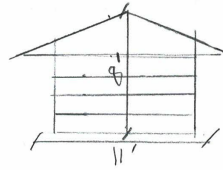
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ELEVATIONS

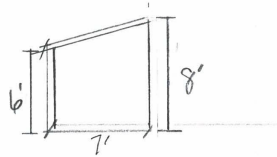


WELL HOUSE 132 ft



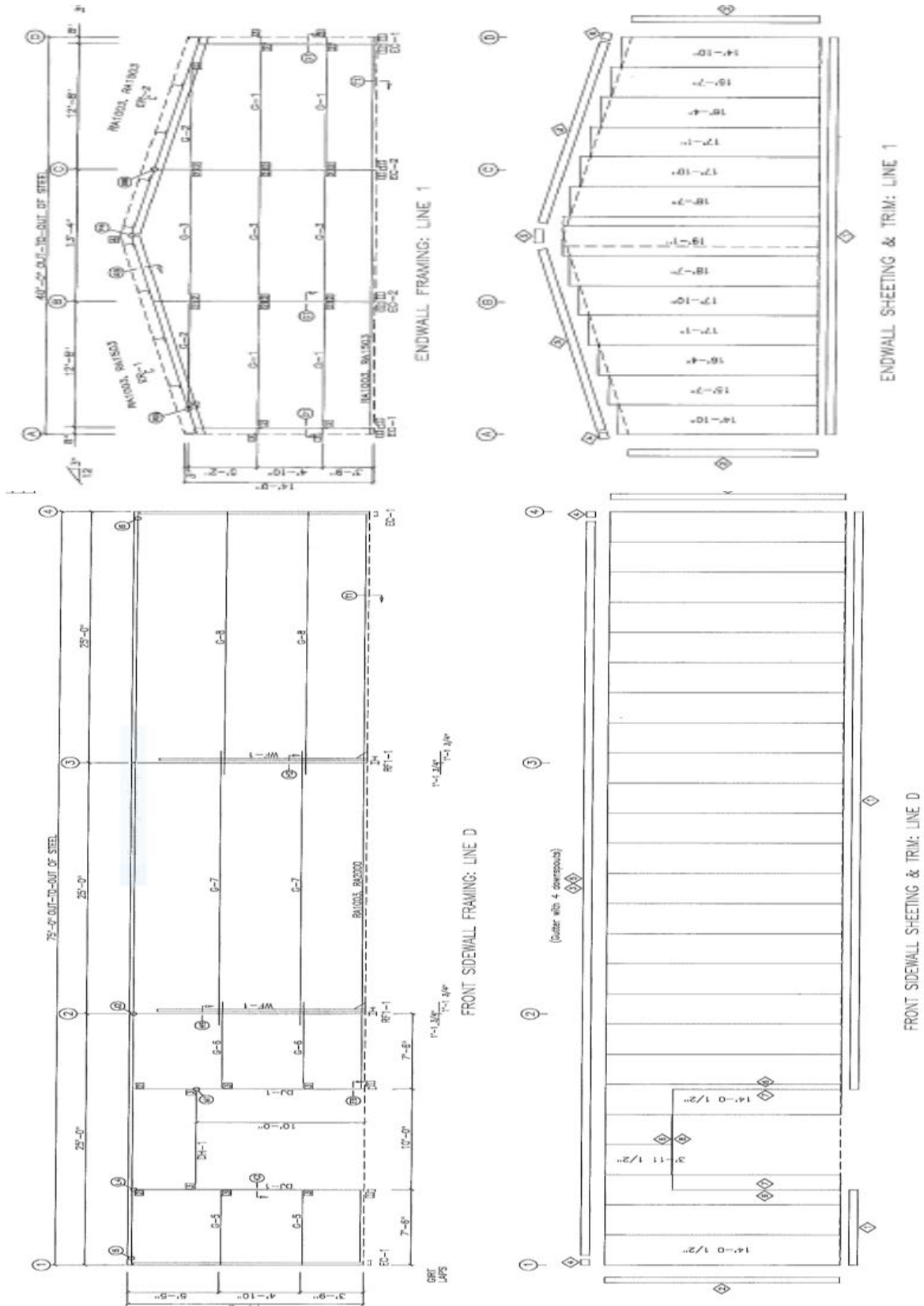
SCALE 1"=10'

PUMP HOUSE 35 ft

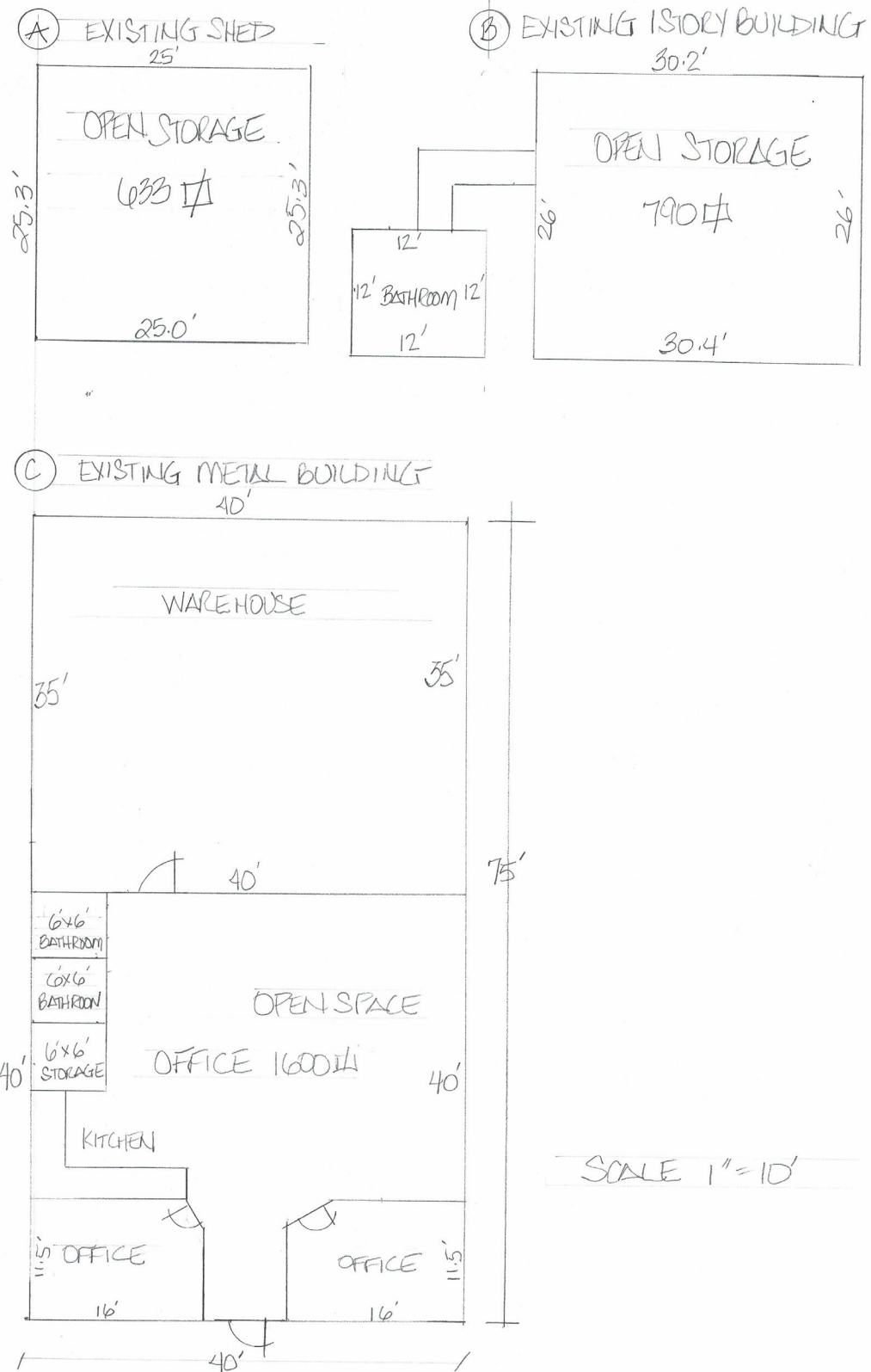


SCALE 1"=10'

Page | 60 Board of Zoning Adjustment [BZA]



FLOOR PLANS



SITE PHOTOS



Front from New Hope Rd. looking north



East entrance from New Hope Rd. looking north

SITE PHOTOS



West entrance from New Hope Rd. looking northeast



Bldg. D-2,525 sq. ft. pole barn, looking west

SITE PHOTOS



Bldg. A-633 sq. ft. shed, and Bldg. C-3,000 sq. ft. Office-Warehouse, looking west



Facing north, along east property line

SITE PHOTOS



Mulch piles at rear, facing north



Bldg. B-846 sq. ft. storage bldg., and Bldg. C-3,000 sq. ft. Office-Warehouse, looking south

SITE PHOTOS



Proposed parking area facing east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 04, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-01-128**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): YOHANNES MARSIE-HAZEN

OWNER(s): YOHANNES MICHAEL MARSIE-HAZEN

REQUEST: Variance in the R-1 zoning district to allow the construction of a single-family residence 26 ft. from the Normal High Water Elevation (NHWE) in lieu of 50 ft.

PROPERTY LOCATION: N. Dean Rd, Orlando, FL 32817, west side of N. Dean Rd., east side Lake Georgia, south of McCulloch Rd.

PARCEL ID: 05-22-31-0000-00-047

LOT SIZE: +/- 2.47 acres (+/- 0.66 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 122

DECISION: Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated January 13, 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. A permit 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 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

Orange County from any damages caused by flooding and shall inform all interested parties that the residence is no closer than 26 feet from the normal high water elevation of Lake Georgia.

SYNOPSIS: Staff presented the location of the site, the site plan, elevations and floor plans of the proposed residence, and the history of the property, noting the prior lot split. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff explained that the applicant could have designed a two-story home with a smaller footprint, or proposed a detached garage in a different location, which could have reduced the variance needed. Staff noted that they had received ten (10) correspondences in support and three (3) in opposition.

The applicant stated that a two-story home would not be a viable option for her needs. She also pointed out that N. Dean Road was to be expanded and did not want to locate the improvements near the road for safety reasons.

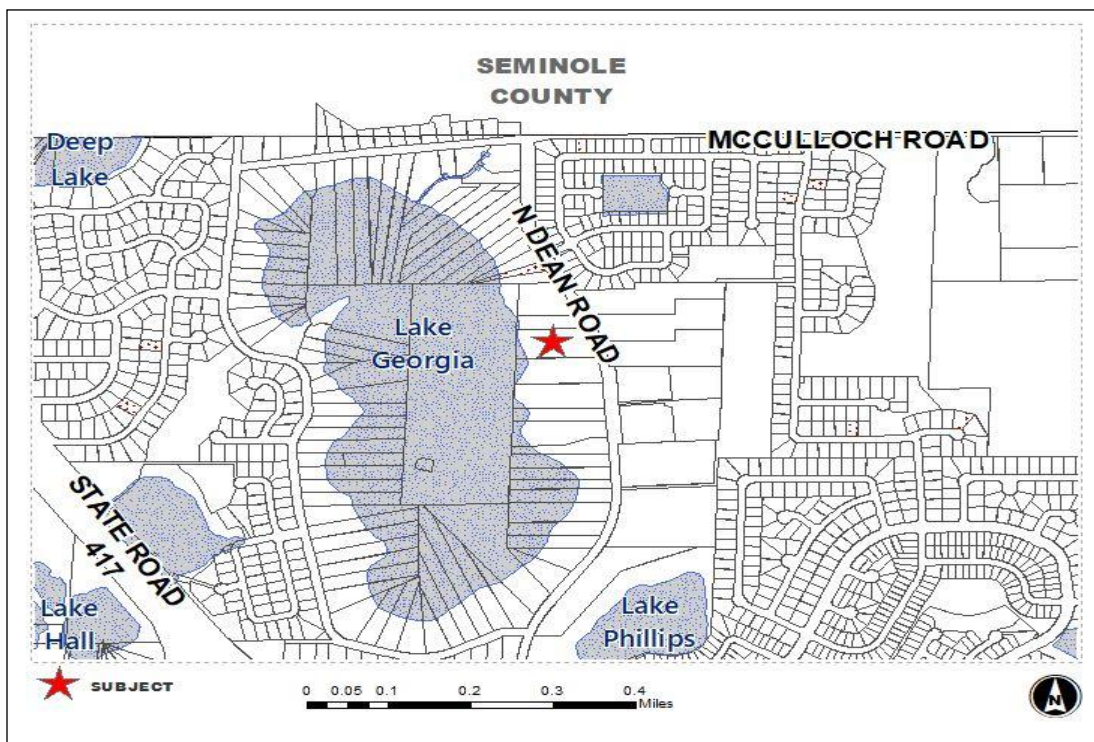
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the proximity of the proposed residence on the property to Dean Rd. and to Lake Georgia. The BZA unanimously recommended approval of the variance by a 6-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, should the BZA find that the applicant satisfies the criteria necessary to grant the 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-1	R-1	R-1	R-1A	R-1A/ Lake Georgia
Future Land Use	LDR	LDR	LDR	LDR	Lake Georgia/WB
Current Use	Vacant	Single-family residence	Vacant	Single-family residence & vacant	Lake Georgia

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1, Single Family Dwelling District, which allows single family homes and associated accessory structures on lots a minimum of 5,000 sq. ft. or greater.

The subject property consists of +/-2.47 acres of land, of which +/-0.66 acres is upland. The remainder of the parcel is either wetland or submerged property under Lake Georgia. The property is currently vacant.

The parcel, which was created through Lot Split LS-16-04-027 in 2016, is heavily wooded. The applicant is proposing to construct a one-story single-family residence with a total of 3,844 sq. ft. of floor area, including a 1,238 sq. ft. attached four-car garage. The residence meets the north, south and east setbacks, and proposes a 26 ft. Normal High Water Elevation (NHWE) setback in lieu of 50 ft., which requires a variance.

Other setback considerations include the Major Street setback which requires setbacks from the centerline of a road based on the roads functional classification. In the case of N. Dean Rd., the classification is Minor Urban Arterial, which requires a 60 ft. setback from the centerline. The centerline is equidistance from each edge, leaving 30 ft. of right-of-way west of the centerline, which requires a 30 ft. setback for the house. This means that the applicant could shift the house another 12 ft. east away from the NHWE and still meet the Major Street setback. This would result in a 38 ft. setback from the NHWE, reducing the amount of variance needed with the current proposed configuration.

In addition to adjusting the front setback, the applicant could also detach the garage and relocate the home further north, potentially moving the home further from the NHWE. As a detached accessory structure, the garage could also be redesigned and reduced in size to meet the less stringent accessory structure setback requirements.

The applicant was required by the County's Environmental Protection Division (EPD) to prepare a Conservation Area Determination (CAD). The CAD establishes the wetland boundary and wetland buffer. Once the CAD is approved, the wetlands on that site are protected from encroachment or other impacts. The applicant obtained approval of CAD-20-12-235 in January 2021.

The applicant submitted a petition with the signatures from the owners of seven (7) nearby residences supporting the variance request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	28 ft.
Min. Lot Width:	50 ft.	224 ft.
Min. Lot Size:	5,000 sq. ft.	28,749 sq. ft. (upland)

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	20 ft.	42 ft. (West)
Side:	6 ft.	15 ft. South/126 ft. North
Major Street	60 ft. from centerline	72 ft. (West)
Rear	20 ft.	400 ft. (East)
NHWE:	50 ft.	26 ft. (East – Variance)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

Although the property is considerably encumbered by surface water, there are alternatives which could reduce or eliminate the amount of variance needed, including developing a two-story house with a smaller footprint.

Not Self-Created

The request for the variance is self-created since the owner has other options to redesign the house to meet or increase the NHWE setback.

No Special Privilege Conferred

Granting the variance as requested confers a special privilege that is denied to other properties in the same circumstances in the area, as the owner has the ability to redesign the layout to meet the NHWE requirements.

Deprivation of Rights

Deprivation of rights is not a consideration since there are options to redesign, including detaching the garage and reducing its size, or designing a two-story house with a smaller footprint.

Minimum Possible Variance

Since there are options to reduce or eliminate the variance request, this is not a minimum variance.

Purpose and Intent

Approval of the variance will not be in harmony with the purpose and intent of the County code to provide separation from the normal high water elevation contour on any adjacent natural surface water body.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated January 13, 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. A permit 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 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 Orange County from any damages caused by flooding and shall inform all interested parties that the-residence is no closer than 26 feet from the normal high water elevation of Lake Georgia.

C: Yohannes Marsie-Hazen
1970 Corporate Sq. Unit B
Longwood, FL 32750

COVER LETTER

Parcel ID: 05-22-31-0000-00-047

Property Address:
5762 N Dean Rd.
Orlando, Florida 32817

Variance Request Cover Letter

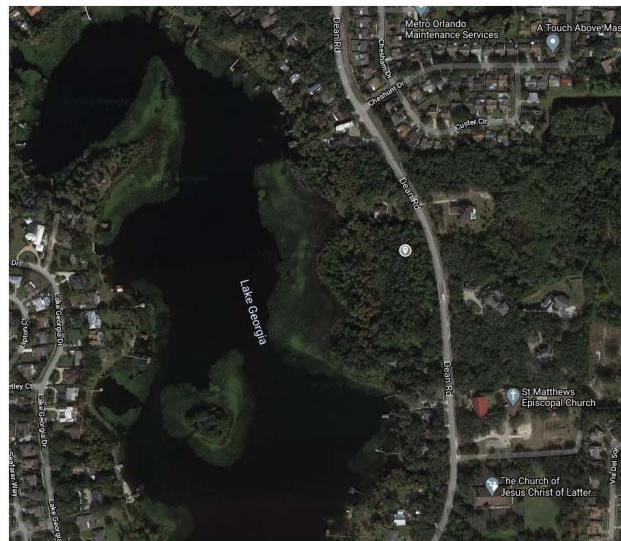
Dear Members of the Board,

This consideration for variance is to request permission to build my single family residence within the 50ft setback of the normal high water line on parcel 05-22-31-0000-

1-047 as defined in the Section 38-1501 (a). The home will face N Dean Road and the rear of the property faces Lake Georgia. The technical project details are listed below in bullets for convenience.

- The Square feet of the project is 1701 Sqft ft of living, 1238 sq ft of garage, 267 sq ft Lanai and 178sq ft for entry.
- The proposed dimensions are 71ft-10" by 69ft-2".
- Distance from property lines: 90 ft from N property line, 15ft from South property line, 41 ft 3" from east property line, 399.9 ft from West property line (into the water)
- Proposed height at peak is 27ft 4"
- The home will be made of concrete/block/CMU

The current code (Section 38-1501 (a)) requires the residence to maintain 50ft away from the normal high water line. This variance request is to allow for building of a small fraction of the residential structure within the NHWL setback area with the overwhelming majority of the residential structure remaining past the NHWL by 50ft or greater and in compliance with the setback code requirements.



The lot is zoned R1 and has a Low Density Residential FLU. No overlays govern this property

Size and Dimension Criteria		
	Code requirements	House dimensions
Minimum Lot Area	5,000 square feet	107,724 square feet
Minimum Front Yard Setback	20 feet	42.7 feet
Minimum Living Area	1,000 square feet	1,701 (under air) 3,384 total square feet
Lake Setback	50 feet from the NHWL	26 feet
Minimum Rear yard setback	20 feet	399.9+ feet
Minimum side yard setback	5 feet	15.1 feet
Max building height	35 feet	27.333 feet
Setback Distance from centerline for buildings and structures (feet)	60 feet	65.4 feet

The remaining sections of this letter will further demonstrate how this project meets all six of the criteria for variance.

Special Conditions & Circumstances (1)

This particular lot is peculiar as it is bordered by both a natural habitat and a minor arterial road way. These facts contribute to the matter at hand. The lot is over 200ft wide and over 500ft long. The entire east side of the lot is road frontage on N Dean Rd while the rear or back of the lot runs into Lake Georgia much of which is wetlands. At this time Dean Rd is a two lane roadway at the section in front of my lot, However a set of conceptual plans illustrate that part of my parcel will need to be allocated in order to expand / widen the road in order to meet the mobility needs of traffic.

We have taken this into consideration when designing and creating the site plan which is why I'm requesting to set back my home further from the road.

The study located in section 4.1.9 Accident Data (Dean Road Conceptual Analysis 2014) reports 49 crashes over a 3 year period. This crash rate exceeds the FDOT District 5 year average crash rate for an urban two lane undivided roadway. At the time of this study traffic volume along this segment of Dean road was 16,500 vehicles per day. Once the project is complete, engineers are anticipating that number to increase to up to 35,000 cars per day (page 18) Higher traffic volumes typically result in more road noise and traffic incidents. The traffic volume and accident rates are factors that have contributed to my concern and reason we request a safe placement of my home so that neither the safety of my family or commuting citizens is jeopardized.

The table in Section 38-1603 states that the setback distance from the centerline of buildings and structures along a minor arterial, urban is 60ft. The current position of my home is at 65.4ft.

The other unique factor of this parcel is the wetlands that are to the rear (west) side of the lot and run into Lake Georgia. To preserve this natural and beautiful habitat I've designed my home with plenty of respect to the wetland area and positioned it to remain past all setbacks related to the conservation of the wetland. The Dean Road expansion, elevations, soil quality and front yard setbacks have all contributed the proposed position of the home on this unique lot.

Not Self Created (2) I did not create this hardship onto myself. I acquired this R1 lot of record with the intent of building my first home.

No Special Privilege Conferred (3) Approval of this request does not grant any special privilege that is denied other citizens by the Orange County Code of Ordinances. Furthermore, I've been informed (and submitted supporting documents confirming) that my neighbors Roy and Betty Meador at 9789 Lake Georgia Dr (also lake front) were approved for a NHWL rear set back variance for their primary

Residence. I would think that this would set a precedence or at least indicate that this request isn't a special privilege. It is my hope that the county would allow this applicant to rights commonly enjoyed within the same zoning district and more specifically within this community.

Deprivation of Rights (4): As noted in site plan included within my application, The residential structure is placed in the area with very little infringement on the NHWL setback area. After consideration of the road setback The home design has been made to account for the NHWL setback and the curve of Dean road. Changing its location on the lot would still result in a request for either a NHWL setback variance OR a variance to meet the setback distance from centerline for buildings and structures. Therefore a variance would be needed in order to build a home on this lot and not approving this variance would deprive me of my rights to construct a single-family home on a property with full R-1 entitlements.

Minimum Possible Variance (5): After substantial time was spent with an architect and licensed Survey Company, it was determined that positioning the home in this location would require a minimum variance of 26ft setback from the NHWL. Current code calls for 50ft.

Dean Rd is a urban minor arterial road that is scheduled to be adjusted/widened to keep up with mobility demands including Four 12ft travel lanes, Two 4ft bike lanes, Two 5ft sidewalks, curb gutter, a 17.5 ft raised median w/2.25 foot type E curb and gutter, Two 3ft utility strips and a separation of 3.25 ft between the sidewalks. (Page 27 Dean Road Conceptual Analysis section 2.2)

When these adjustments are completed the right of way and related setbacks will result in Dean Rd becoming even closer to my home and reduce the setback distance from centerline for buildings and structures outside of the parameters in section 38-1603

All other aspects of this project are in compliance with zoning/ code requirements.

To offer perspective of the home location in respect to other homes on the same road please see the chart below

Address	Distance From Lake	Distance from Dean Road
Proposed House	390 Feet	42.7 feet
5616 N Dean Road	50 feet	110 feet
5584 N Dean Road	130 feet	65 feet
5768 N Dean Road	180 feet	150 feet
5800 N Dean Road	165 feet	75 feet
5804 N Dean Road	184 feet	47 feet

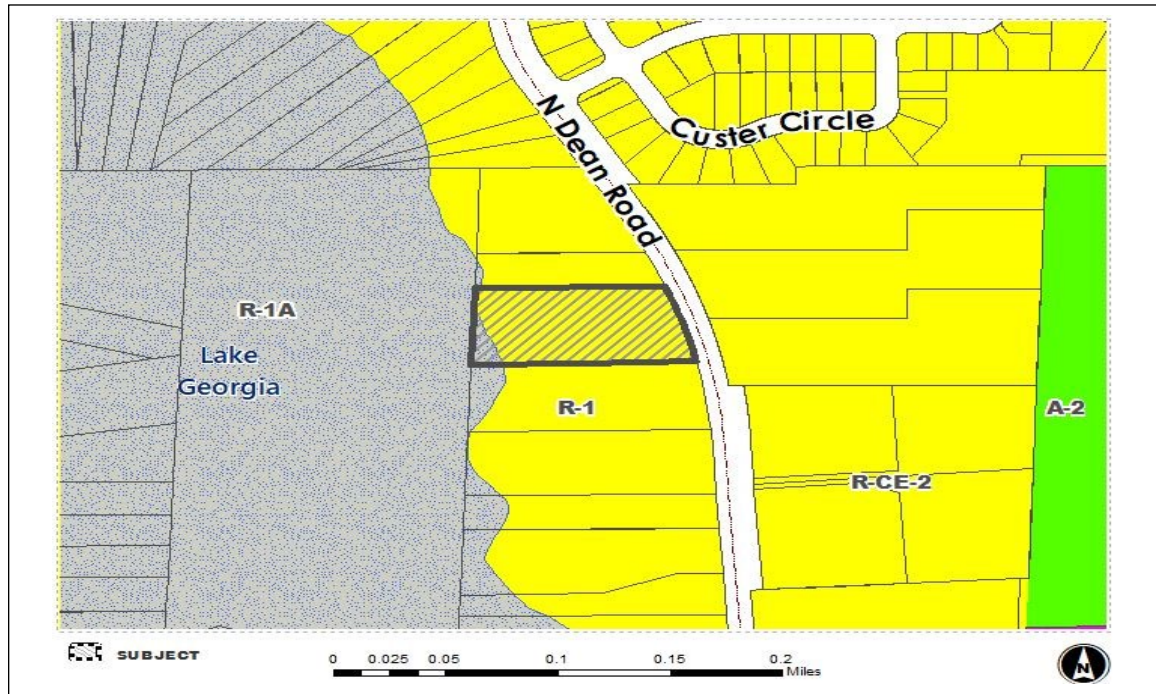
Purpose & Intent (6): I believe that granting the variance would be the safe choice and in the best interest of public welfare. Other residents of the neighborhood agree that the granting of the variance would NOT be injurious of the neighborhood and have shown support by signing the approval of this project. I understand only the members of this board can determine if a variance would be in harmony w/ the intent of zoning regulations and I believe that I have made every attempt to make the necessary home plan adjustments to maintain that harmony.

Closing: I will be happy to answer any question related to my variance request and intend on attending the hearing in person to do so.

Thank you for your time and consideration.

 11/18/2020
Yohannes Marsie-Hazen, Owner/Applicant for Variance
Phone: 407-749-4747
Email: YohanHazen@gmail.com

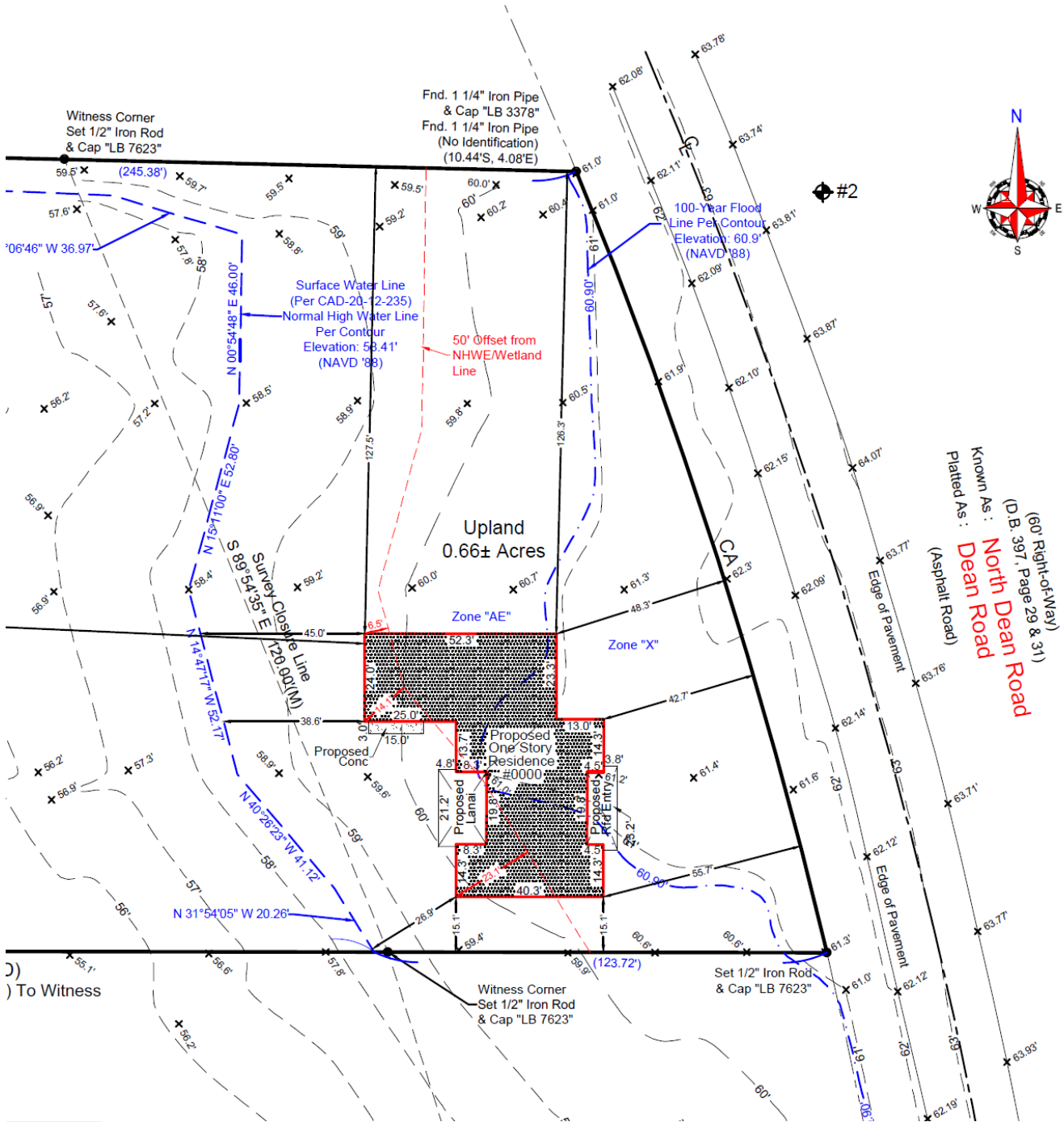
ZONING MAP



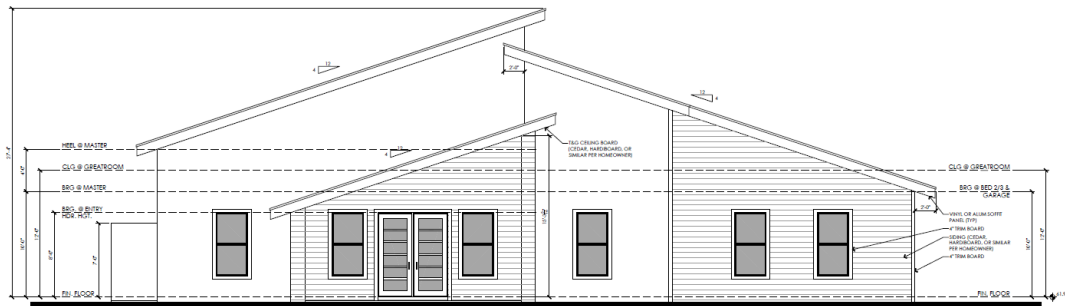
AERIAL MAP



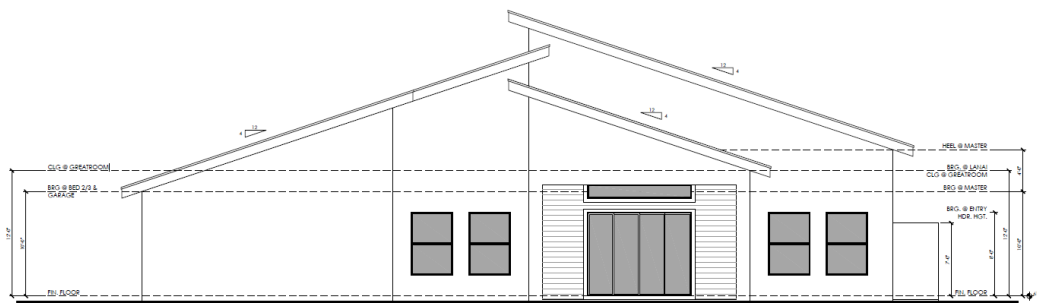
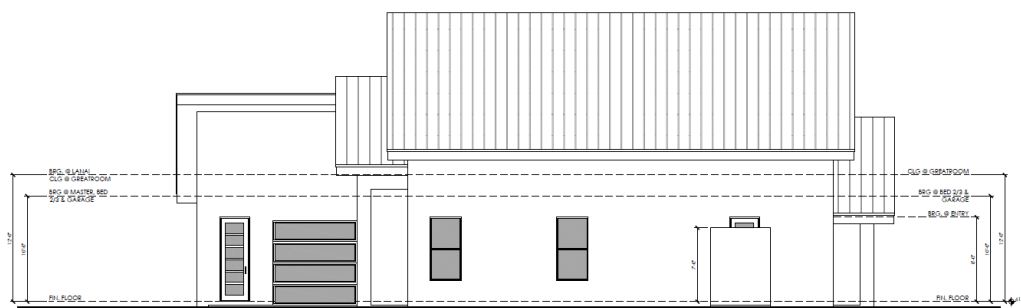
SITE PLAN



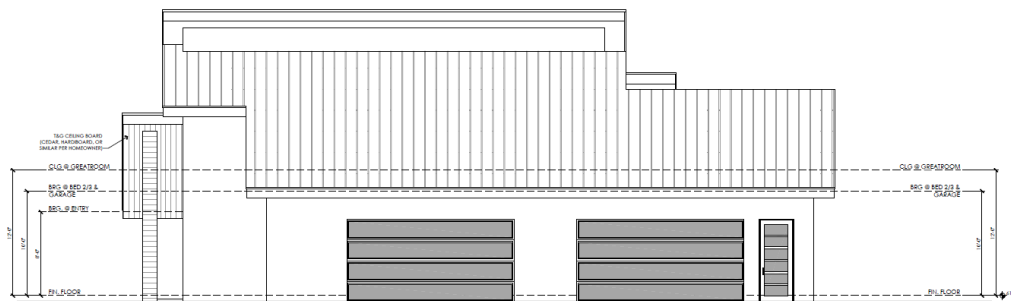
ELEVATIONS



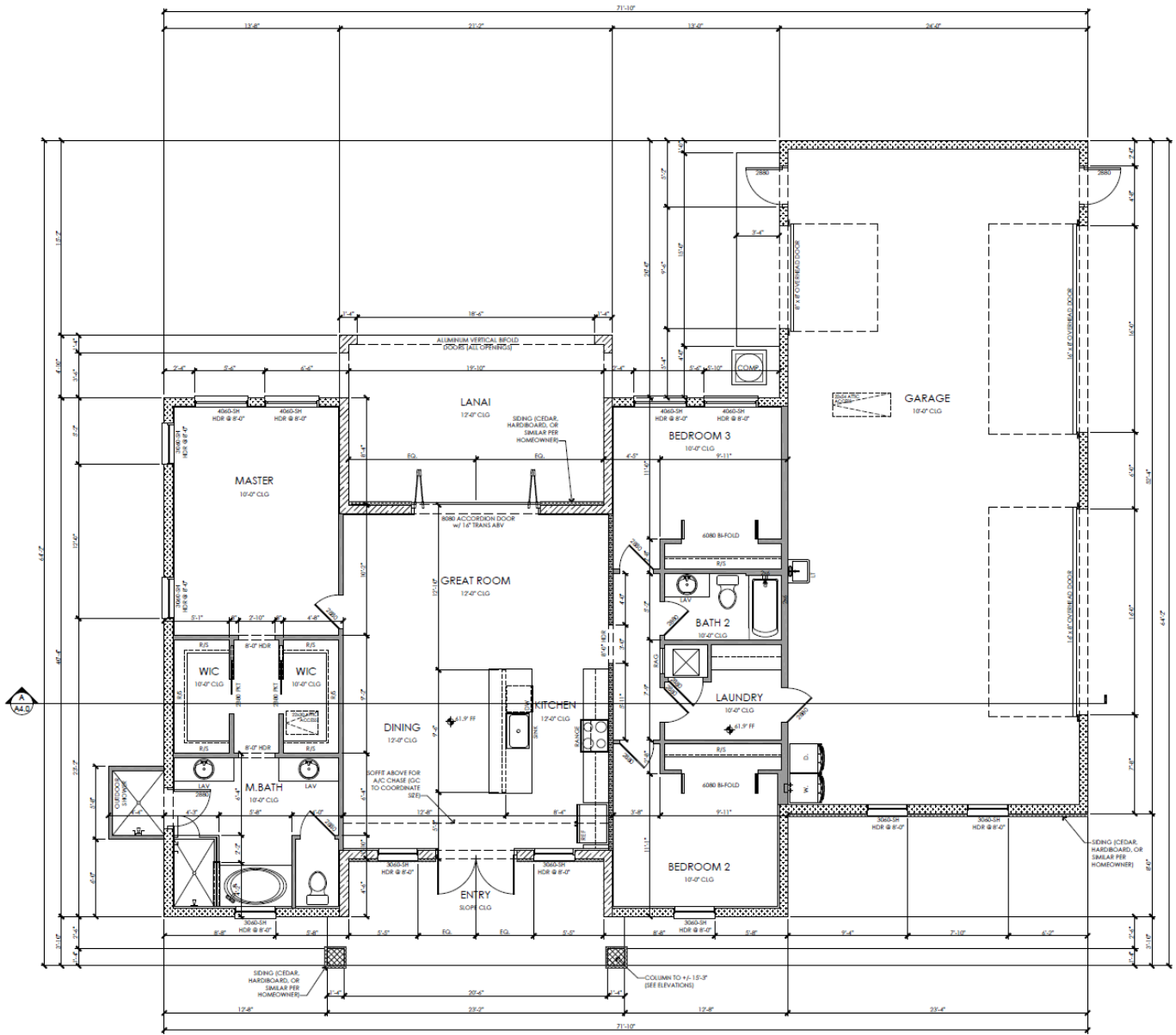
FRONT ELEVATION



REAR ELEVATION



FLOOR PLAN



SITE PHOTOS



Subject property looking northwest from east side of N. Dean Rd.



Center of subject property looking west from east side of N. Dean Rd.

SITE PHOTOS



Subject property looking southwest from east side of N. Dean Rd.



Neighbor north of subject property looking northwest from east of N. Dean Rd.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 04, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-04-012**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): PATMIN LLC FKA GROUP 108 LLC (VIVIEN MONACO)

OWNER(s): GROUP 108 LLC

REQUEST: Variance in the I-1/ I-5 zoning district to allow an existing 535* ~~509~~ sq. ft. garage to remain with an east rear setback of 14.4 ft. in lieu of 25 ft.
This is the result of Code Enforcement action.

PROPERTY LOCATION: 5225 Young Pine Road, Orlando, Florida, 32829, east side of Young Pine Rd., north of Lee Vista Blvd. and east of SR 417

PARCEL ID: 17-23-31-0000-00-003

LOT SIZE: +/- 2.32 acres

NOTICE AREA: 1500 ft.

NUMBER OF NOTICES: 40

*Note: Advertised as 509 sq. ft., but 535 sq. ft. as discussed during BZA. This is an unsubstantial difference since setbacks are met.

DECISION: Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated January 13, 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. A permit 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.

SYNOPSIS: Staff described the proposal, including the location of the property, the history of the site, the site plan, elevations and floor plans of the existing unpermitted structures, and photos of the site. In particular, staff noted that based on aerial photos, it appears that the subject garage was constructed between 2006 and early 2007 and that the current owner purchased the property in 2016. Staff provided an analysis of each of the six (6) Variance criteria and the reasons for a recommendation for denial of the Variance. Staff noted that no comments were received either in favor or in opposition.

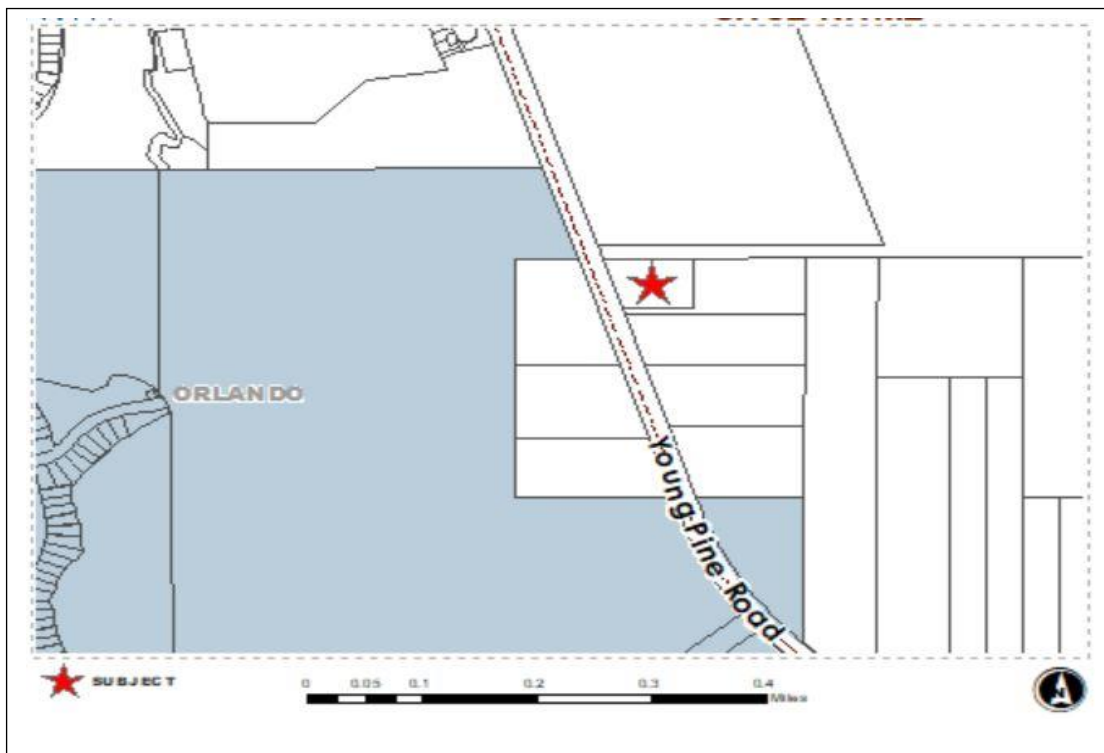
The applicant noted that permits have been submitted for all unpermitted structures, and also noted that the property abutting the rear of the site is used primarily for open vehicle storage. The applicant also stated that the existing garage structure cannot be relocated since there is no feasible alternative location on the site due to site constraints. There was no one in attendance to speak in favor or in opposition to the request.

The BZA stated that request is straightforward since the existing structures were built prior to the current ownership. The BZA unanimously recommended approval of the variance by a 6-0 vote, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA finds that the applicant has met the criteria required to grant the 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	I-1/I-5	R-CE	I-1/I-5	I-1/I-5	A-2
Future Land Use	IND	IND	IND	IND	IND
Current Use	Industrial	Young Pine Park	Industrial	Industrial	Vacant

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the I-1/I-5, Light Industrial District, which district allows light manufacturing and low intensity industrial development that will have minimal impact on surrounding areas.

The subject property consists of a 2.32 acre parcel of land created through a two (2) lot split in March 1989 (LS-89-28). The property was rezoned to I-1/I-5 in 2006 (RZ-06-02-028) with a condition restricting the use of the property to I-1A uses, required fencing, and limited the location where certain vehicles and equipment could be stored. The owner purchased the property in 2015. In 2016, the property was granted a variance (VA-16-04-019) to allow a reduction in the buffer yard along the northern property line from 50 ft. to 5 ft. In addition, in August 2016, the property was rezoned to remove the condition restricting the uses to only those permitted in I-1A zoning district (RZ-16-08-028).

The property is currently developed with 11,334 sq. ft. of non-residential floor area, and 2,159 sq. ft. of residential living area. The existing residential includes a 2,059 sq. ft. two-story residence (B89008071) and a 60 sq. ft. shed (B20904614). The non-residential structures include a 9,228 sq. ft. storage facility constructed in 2017 (B17903438) (Bldg. #1), an 837 sq. ft. office/storage building originally constructed in 1991 as a residential garage (B91005770) and converted to office space (B20902799) (Bldg. #2), and two matching metal garages, each with 535 sq. ft. of floor area. The west garage (Bldg. #3) has a pending permit (B20904613), and the east garage (Bldg. #4), which is the subject of this variance, also has a pending permit (B19917167) awaiting the outcome of this request. Bldg. #4, which was installed without a permit was constructed 14.4 ft. from the east rear property line in lieu of the required 25 ft. There is a 199 sq. ft. carport attached to the east side of Bldg. #4, which the owner proposes to demolish since it appears to be located within one (1) ft. or less from the rear property line. The two (2) garages and carport appeared in the 2007 aerial. The owner is requesting a variance to allow Bldg. #4 to remain in its current location.

Code enforcement cited the property in February 2019 (Incident #532079) for shipping containers, an addition to the single-family residence, paved parking and drive aisles, installation of an aluminum awning and dog kennel, and erecting three buildings, all without zoning approval or permits. The case went to the Code Enforcement Board on 4/17/2019 and began accruing fines on 4/16/2020, which are currently over \$46,000.

The applicant obtained a permit for the temporary storage container, which has since been removed. Permit applications were submitted for the two garages and the addition. Ultimately, the permit for the addition (B20904625) was replaced with a permit to demolish the addition (B20907337). Currently permit B20904613

for Bldg. #3 is pending approval. Permit B19917167 for Bldg. #4 is on hold pending the outcome of the variance request.

Parking requirements for the subject property are as follows:

- Single-family residence – Two (2) spaces per unit;
- Warehouse/storage (2 garages (Bldgs. # 3 and 4) @ 535 sq. ft./garage = 1,035 sq. ft. + 2 bays require 1 space/1,000 sq. ft. + 1 space per bay = 4 spaces required;
- Office conversion (Bldg. # 2) @ 837 sq. ft. requires 1 space/200 sq. ft. = 5 spaces required;
- Storage facility w/office (Bldg. # 1) @ 6,750 sq. ft. of storage + 9 bays + 2,478 sq. ft. of office requires 1 space/1,000 sq. ft. of storage + 1 space/bay + 1 space/200 sq. ft. of office space = 29 spaces required.
- Total spaces required 40
- Total spaces provided 58

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	16 ft. Bldg. #4
Min. Lot Width:	N/A	284 ft.
Min. Lot Size:	N/A	2.32 ac.

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	35 ft.	215 ft. Bldg.#1 (West)
Rear:	25 ft.	14.4 ft. Bldg. #4 (East - Variance)
Side:	25 ft.	104 ft. Bldg. #2 (North) 60 ft. Residential shed (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances particular to this property pertaining to the need for a variance, since it is possible to comply with the code requirement.

Not Self-Created

Given that there is a remedy available such as relocating the garage structure elsewhere on the property, this is considered self-imposed.

No Special Privilege Conferred

Granting the variance would be conferring a special privilege upon the applicant others in the I-1/I-5 zoning district are not afforded, since the owner has the ability to relocate the structure to meet setback requirements.

Deprivation of Rights

The right to continue the business operations and to use the structure is not being denied, since there is an opportunity for setback requirements to be met.

Minimum Possible Variance

Since the garage can be relocated to meet setback requirements, this is not the minimum possible variance.

Purpose and Intent

The garage is 11 ft. closer to the neighboring property than permitted and is not in character with neighboring properties, therefore the purpose and intent of the code is not being met.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated January 13, 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. A permit 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.

C: Vivien Monaco
100 S Orange Ave. Suite 1000
Orlando, FL 32801

COVER LETTER



**WATSON
SLOANE**
ATTORNEYS

VIVIEN J. MONACO
PARTNER

O: 407.622.6751
F: 866.440.1211
V.MONACO@WATSONSLOANE.COM

January 13, 2021

VIA EMAIL: BZA@OCFL.NET

Board of Zoning Adjustment
Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor
Orlando, Florida 32801

RE: Application for variance for rear setback of existing building to 14' – 4" in lieu of 25'. 5225 Young Pine Road, parcel # 17-23-31-0000-00-003 (the "Property").

This BZA application is for a rear setback variance to allow a 14' – 4" rear setback for an existing building in lieu of a 25' setback. The existing building was originally constructed as a garage and was converted to a storage shed before the current owner, Patmin, LLC (f/k/a Group 108, LLC) ("Owner") purchased the Property in August 2015, the Warranty Deed for which is recorded as Document Number 20150450078 on August 27, 2015.

The side setback of the structure (not including the concrete pad in front of it) to the southern property line is 90'. The side setback of the structure to the northern property line is +/- 155.1' (calculated using dimensions on the site plan). The front setback to the eastern property line is greater than 294.2'. The height of the structure is +/- 16'. The Property is zoned I-1, I-5.

The special conditions and circumstances existing peculiar to the subject structure are that the subject structure (along with other structures on the Property) were existing on the Property when the Owner purchased the Property. The Owner was not aware that structures had been converted to other uses without permits and was not aware that the subject structure did not meet the rear setback requirement. In looking at the site plan, the rear setback for the current parcel may have been a side setback when the structure was constructed as a detached garage for the single-family residence.

The special conditions and circumstances do not result from any action by the Owner. As noted previously, the structure existed when the Owner purchased the Property.

Approval of this setback variance will not confer any special privilege denied to other lands buildings or structures in the I-1, I-5 zoning district. The property located to the south and east of the Property is used as a recovery (repossession) and towing business operated by Howard's Recovery. Approval of this setback variance will not affect Howard's Recovery; storage for repossessed vehicles and equipment is adjacent to the rear property line.

WATSON SLOANE PLLC
100 S. ORANGE AVENUE, SUITE 1000 | ORLANDO, FL 32801 | O: 407.622.6751 | F: 866.440.1211
WATSONSLOANE.COM

Literal enforcement of the 25' rear setback would require the Owner to demolish the structure, thus depriving the Owner of the use of that structure, the value of which was considered in the purchase and purchase price of the Property, which would cause unnecessary and undue hardship. The Owner did not buy the Property with intent to develop it by adding a storage shed because it was already existing. In fact, the Owner has expended significant time and money in bringing all of the existing structures in compliance with the Code, and this variance is required for approval of an after-the-fact permit.

The rear setback variance of 14'-4" in lieu of 25' is the minimum variance that will make it possible to use the existing structures.

Approval of this setback variance is in purpose and harmony with the Zoning Code. The Property is zoned I-1, I-5, which is intended to be used for, in pertinent part, light manufacturing and industry and promoting development of a wide variety of industrial and related uses, which are the types of uses located on the Property.

The BZA application is attached. Please note that there are also two site plans attached. The first is the site plan for the office warehouse structure properly permitted and constructed by the Owner. The second is the same site plan, with the recently constructed office warehouse circled in red, and structures existing at the time the Owner purchased the Property circled in yellow. The second site plan also shows the addresses assigned to each of the pre-existing structures for permitting purposes, along with building permit numbers for after-the-fact permits.

Also attached is the proof of the LLC name change from Group 108, LLC to Patmin, LLC, a copy of the Code Enforcement Citation, and a copy of a 2020 aerial from the Orange County Property Appraiser's website, which shows the Property and adjacent properties.

On behalf of my client, Patmin, LLC (f/k/a Group 108, LLC), I respectfully request approval of a variance from the rear setback to allow a 14'-4" rear setback in lieu of 25".

Sincerely,

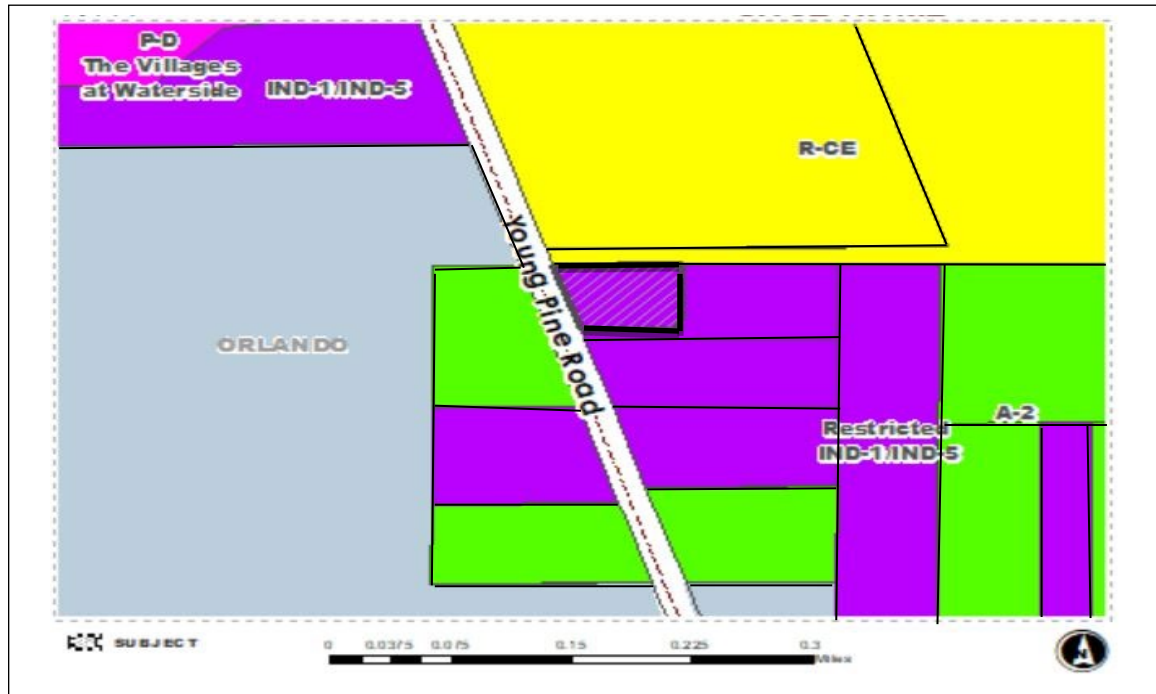
WATSON SLOANE PLLC



Vivien J. Monaco, Esq.
Board-Certified Specialist in City, County and
Local Government Law

VJM
Attachments

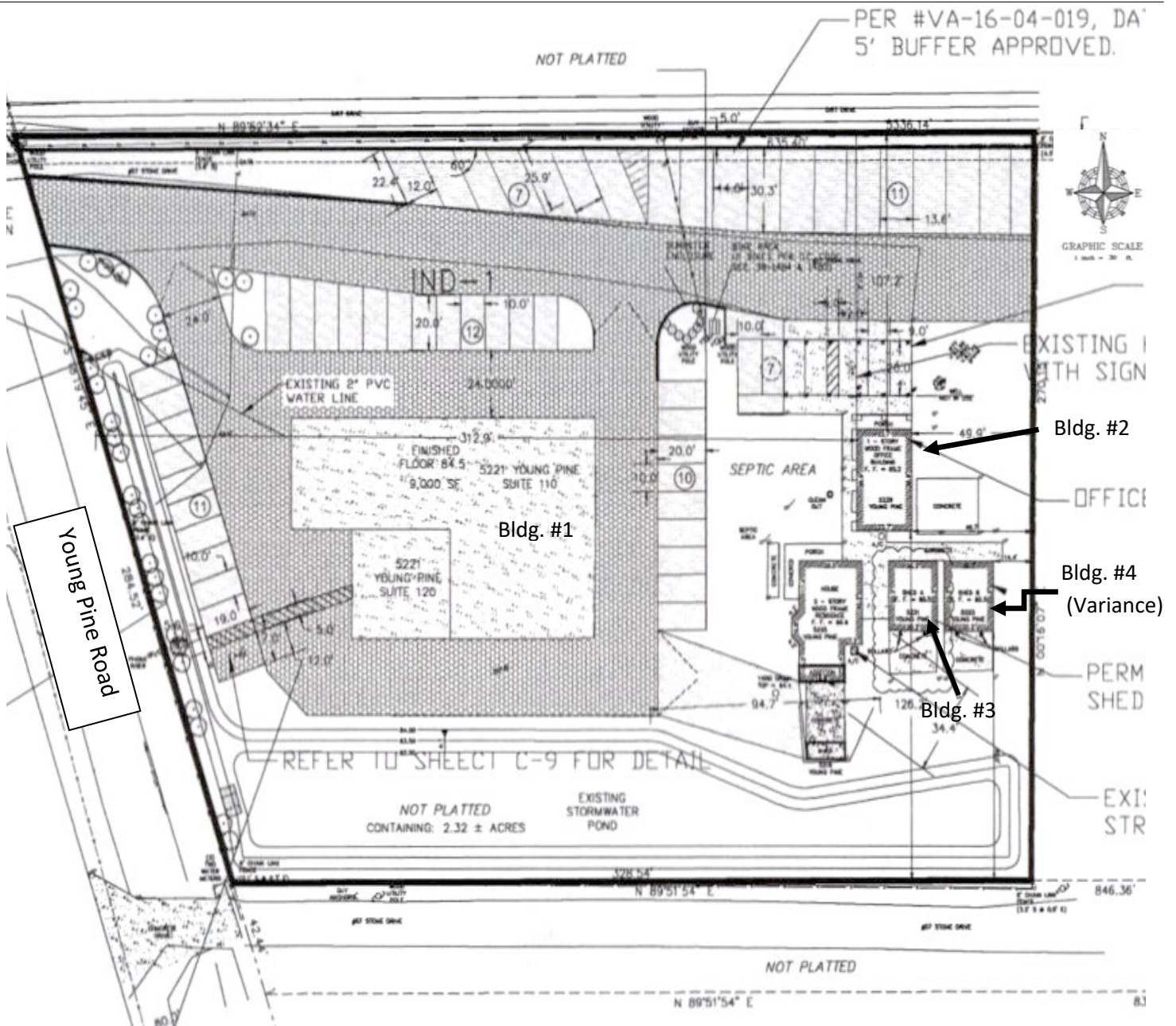
ZONING MAP



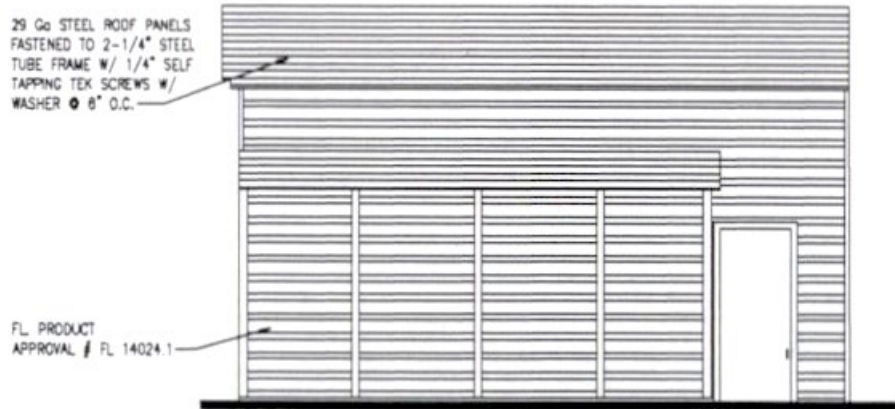
AERIAL MAP



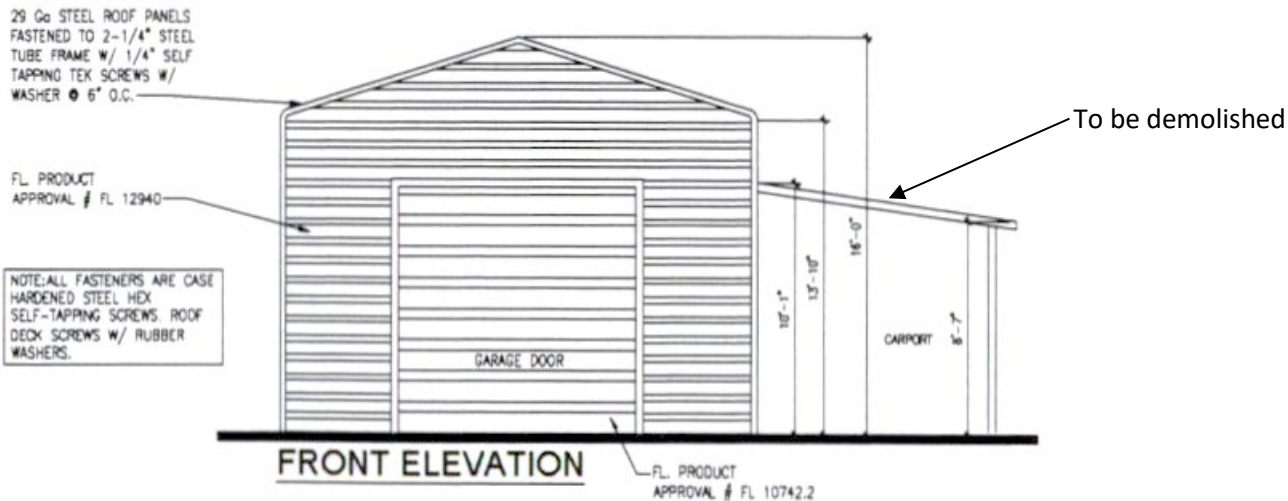
SITE PLAN



GARAGE ELEVATION (BLDG #4)



SIDE ELEVATION



FRONT ELEVATION

SITE PHOTOS



Garage requiring variance at right looking north



Carport proposed to be removed looking north

SITE PHOTOS



Rear of garage requiring variance looking south



Neighboring property looking east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 04, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-03-004**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): SPINCO 11 LLC (JOHN TAYLOR)

OWNER(s): SPINCO 11 LLC

REQUEST: Variances in the I-4 zoning district as follows:

- 1) To allow an 8,820 sq. ft. existing building located 18 ft. from the north side property line in lieu of 25 ft.
- 2) To allow a 1,505 sq. ft. east addition located 18 ft. from the north side property line in lieu of 25 ft.
- 3) To allow a 1,508 sq. ft. west addition located 18 ft. from the north side property line in lieu of 25 ft.

PROPERTY LOCATION: 11245 Satellite Boulevard, Orlando, Florida, 32837, east side of Satellite Blvd., east of S. Orange Blossom Trl., south of Central Florida Pkwy.

PARCEL ID: 10-24-29-1234-00-430 & 10-24-29-1234-00-400

LOT SIZE: 250 ft. x 295 ft./ +/- 1.69 acres

NOTICE AREA: 1000 ft.

NUMBER OF NOTICES: 79

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated January 13, 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. 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.

SYNOPSIS: Staff explained the proposal, including the location of the site, the history of the property, the site plan, elevations and floor plans of the existing and proposed additions, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial since the project could be redesigned to comply with the required setback. Staff noted that two (2) correspondences were received in support, including one (1) from the most impacted neighbor to the north, and no correspondences were received in opposition.

The applicant provided reasons for the request and the design of the proposed addition, which includes a very large investment in an area which has been in decline for years.

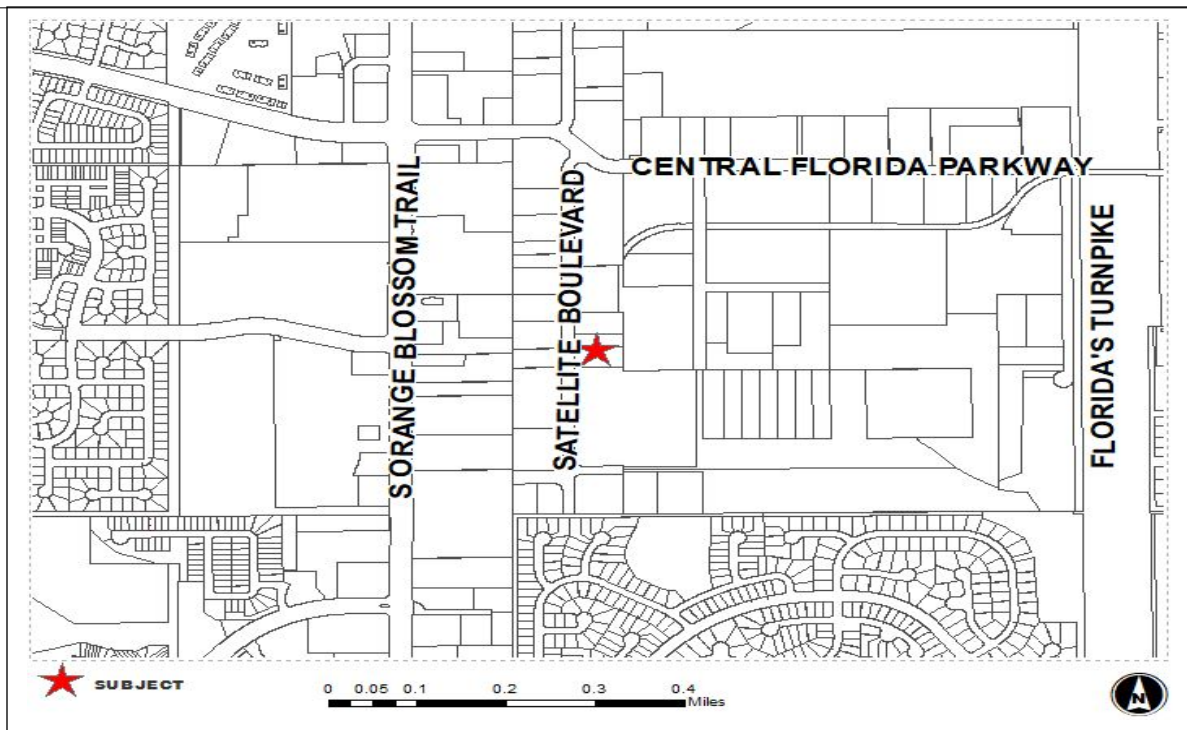
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the variances by a 6-0 vote, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval of Variance #1 and denial of Variances #2 and #3. However, if the BZA finds that the applicant has satisfied the criteria for the granting of all 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	I-4	I-4	I-4	I-4	I-4
Future Land Use	IND	IND	IND	IND	IND
Current Use	Industrial	Industrial	Industrial	Industrial	Industrial

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is zoned I-4, Heavy Industrial District, which allows the most intense industrial uses, including the processing of bulk materials, manufacturing and open storage of materials.

The subject property was established through the Central Florida Industrial Park Section One plat, which was recorded in late 1961. In mid-1966, the property was part of a rezoning from A-2, C-3 and M-1 to I-4. There is an existing 35 ft. wide drainage easement and an abandoned 23 ft. wide railroad easement located along the rear property line. There is also a 35 ft. wide drainage and utility easement that runs generally east to west through the center of the common side lot line of the two existing parcels.

The property is currently developed with two (2) identical 8,820 sq. ft. multiple bay buildings on two (2) separate parcels. The applicant proposes to combine the parcels together and construct a 1,500 sq. ft. addition to the east and west end of each building, increasing the total square footage of each building to 11,820 sq. ft. The proposal also includes removing existing parking spaces along Satellite Blvd., which are currently partially located in the right-of-way, and result in backing into the road.

The building on the north side of the site was constructed in 1969, and is only 18 ft. from the north side property line, in lieu of the required 25 ft. The proposal is to add on to each end of the building in line with the existing setback resulting in variances #2 and #3 being needed. However, the proposal could be modified by shortening the bays by seven (7) ft., which would meet the required setback. This would result in bays measuring 25 ft. wide by 53 ft. deep for a total of 1,325 sq. ft. of floor area.

The most impacted property owner to the north has submitted a letter of support for the variances. That owner notes that there is 32 ft. between the south side of their building and the adjacent property.

District Development Standards

	Code Requirement	Proposed
Max Height:	50 ft.	25 ft.
Min. Lot Width:	N/A	250 ft.
Min. Lot Size:	N/A	1.69 ac.

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	35 ft.	40 ft. (West)
Rear:	10 ft.	56 ft. (East)
Side:	25 ft.	Existing structure 18 ft. (North - Variance #1) Additions 18 ft. (North - Variances # 2 & #3) 21 ft. to common property line to be combined

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1

The special condition and circumstance particular to this variance is the fact that the building has existed for 50 years.

Variances #2 & #3

There are no special conditions and circumstances, as the owner is proposing new construction which allows the building additions to be designed in a manner that will not require variances.

Not Self-Created

Variance #1

The owner is not responsible for the location of the building on the site and the substandard setback is not self-created.

Variances #2 & #3

The request for the variances is self-created as a result of the request as designed. There are other options in order to lessen or negate the need for the variances by increasing the setbacks.

No Special Privilege Conferred

Variance #1

The building was constructed in this location in 1969, granting approval of the variance will not be conferring any special privilege.

Variances #2 & #3

Because the applicant has an option to comply with the setback, granting this variance would be conferring a special privilege not available to others in the same zoning district.

Deprivation of Rights**Variance #1**

The building was constructed in 1969 in its current location and denying the variance will deprive the owner the right to continue the ability to operate a business in a building that has existed for over 50 years.

Variances #2 & #3

Since there is an ability to meet the required setbacks for the addition, they are not being deprived of their rights.

Minimum Possible Variance**Variance 1**

The existing structure in its current location for 50 years is the minimum possible variance.

Variances #2 & #3

Since the applicant has the ability to construct the additions in a manner which would meet the required setbacks, these are not the minimum possible variances.

Purpose and Intent**Variance #1**

Granting of the variance meets the purpose and intent of the code since the existing condition has existed since 1969.

Variances 2 & 3

Granting these variances will not be in harmony with the purpose and intent of the zoning regulations since there are options to construct the additions that comply with the required setbacks.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated January 13, 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. 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.

C: Mark Spinicelli
9484 American Eagle Way
Orlando, FL 32837

John Taylor
1325 W. Colonial Dr.
Orlando, FL 32804

COVER LETTER

FASSETT, ANTHONY & TAYLOR, P.A.

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January 13, 2021

Via email: David.nearing@ocfl.net

David C. Nearing, AICP
Planner II
Orange County Zoning Division
201 S. Rosalind Ave., 1st Floor
Orlando, FL 32801

Re: Variance Application
11245 and 11301 Satellite Boulevard

Dear Mr. Nearing:

This letter is to follow up to our conversation on today's date regarding to the above referenced variance application. As you are aware, I represent Spinco 11, LLC, ("Spinco") the owner of properties 11245 and 11301 Satellite Boulevard, located in Orange County, Florida. Spinco acquired the properties on February 21, 2020. At the time of acquisition, the buildings that were constructed in 1969 were in poor condition and in need of renovation. My client has proposed plans for renovation and a small expansion of the north building on the east and west ends of said building. At this time, the variance application has been submitted regarding the north property line located at 11245 Satellite Boulevard. The existing building was constructed in 1969 is 18 ft from the north property line. The current code requires 25 ft setback from the property line. This application is to request a variance as to the setback requirement to allow the 18 ft setback to remain. It is the intent of the owner to extend the building on the east and west ends by 25 ft each to extend the current configuration of the building without modifying the current setback. The variance is necessary to obtain the building permit for the improvement of the structures.

1. **Special Conditions and Circumstances.** The existing setback of 18 ft. was established in 1969 at the time of the construction of the building located at 11245 Satellite Boulevard. The refurbishment and expansion of the building would maintain the existing configuration without increasing the non-conformity.
2. **Not Self-Created.** The building was constructed in 1969. The 18 ft. set back was established for the northern property line at that time. The owner, Spinco, acquired the property on February 21, 2020. Spinco intends to refurbish the existing building and expand the existing building without changing the setback. The north side of the building shall remain as established in 1969.
3. **No Special Privilege Conferred.** The granting of the variance will confer no special privilege in regard to the owner. The owner is merely dealing with the factual situation on the ground. The adjacent property owner immediately north of the property at issue has consented and agrees to

Page 2

the granting of the variance. In fact, the closest building to the north line of the building at issue is 50 ft.

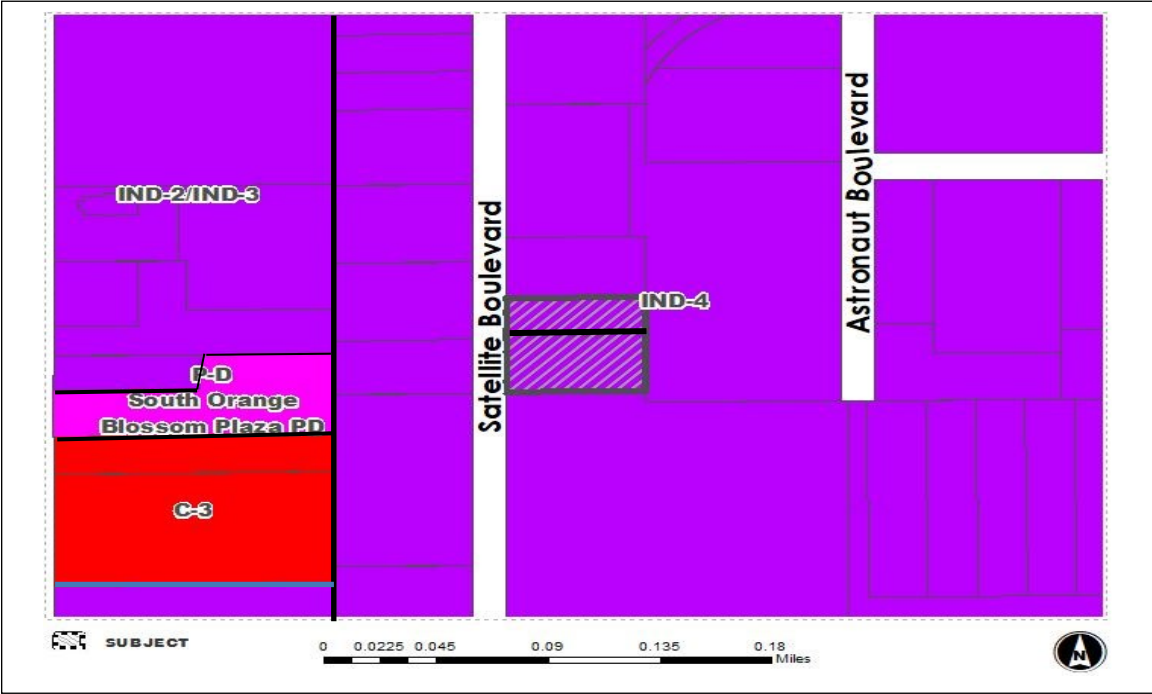
4. **Deprivation of Rights.** The inability to obtain a variance in this instance would preclude the existing building built in 1969 to be refurbished and exist as a viable business. The building has existed with an 18 ft. setback for more than 50 years.
5. **Minimum Possible Variance.** The setback will remain unchanged. The owner is not aware of any other non-conformities.
6. **Purpose and Intent.** The approval of the zoning variance will continue the location of the structure that has existed for 50 years. It will further enable and facilitate the refurbishment and improvement of the structure for the benefit of the surrounding neighborhood.

Respectfully submitted,



John A. Taylor

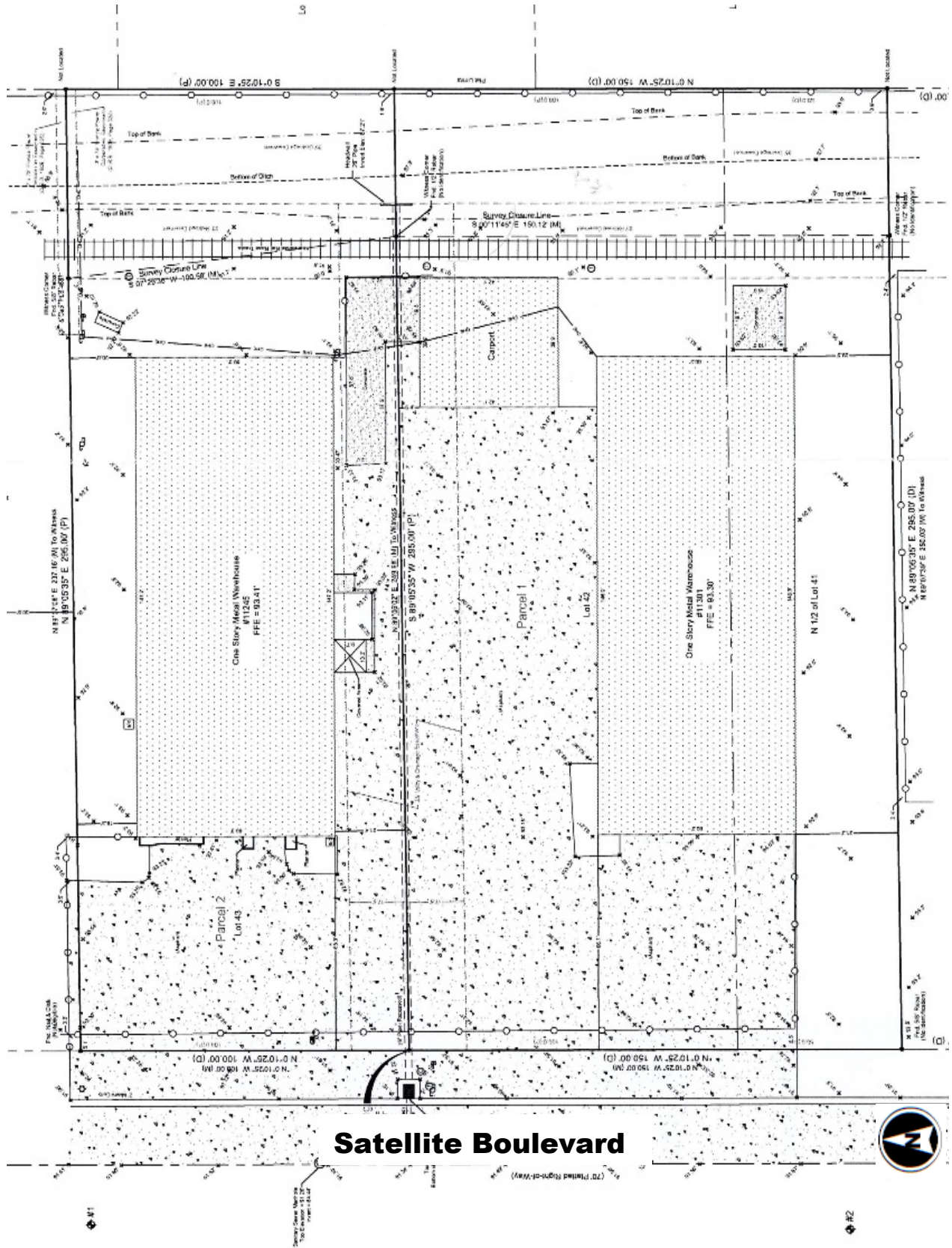
ZONING MAP



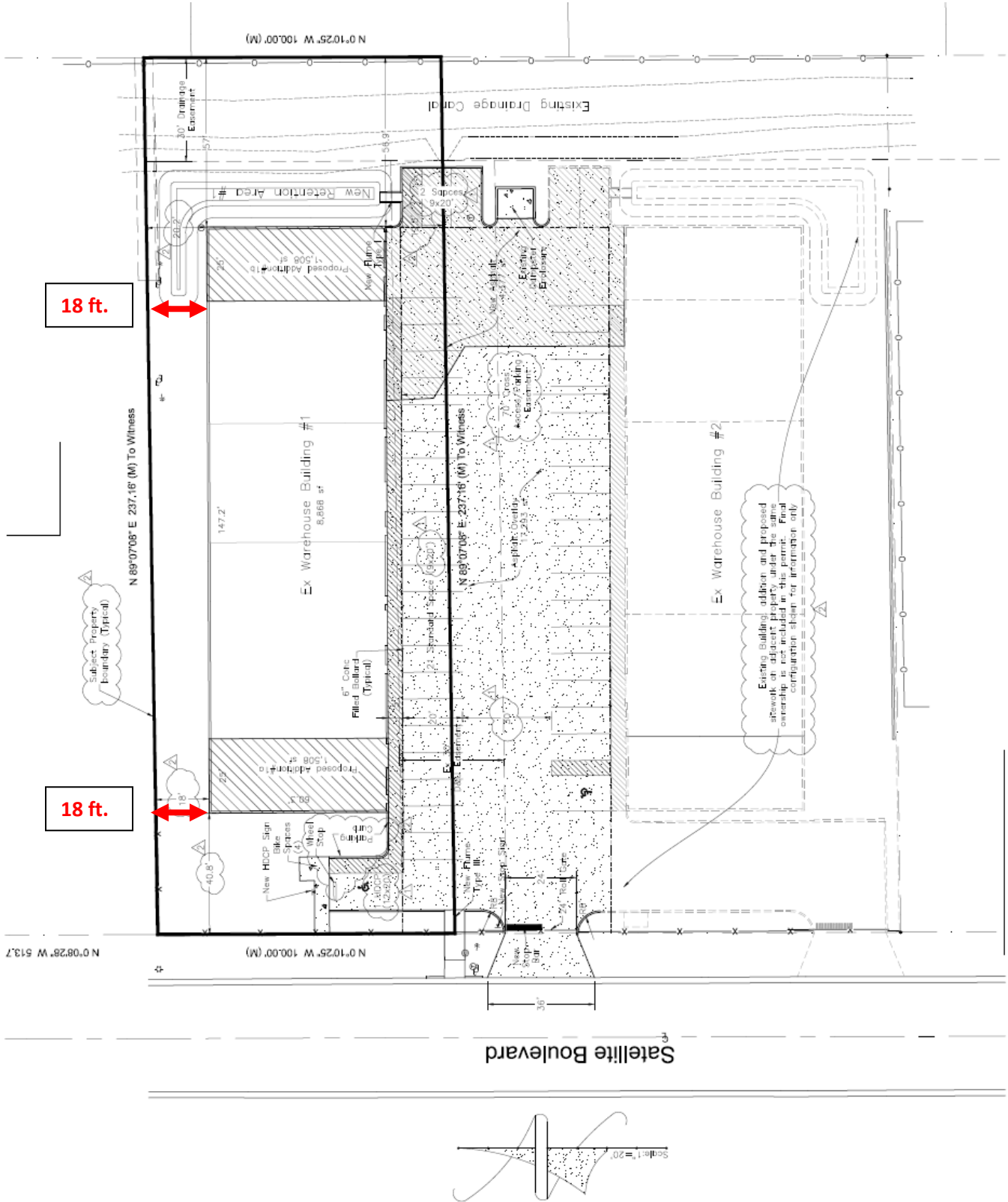
AERIAL MAP



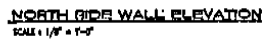
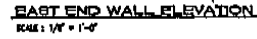
EXISTING CONDITIONS



PROPOSED SITE PLAN



EXISTING AND PROPOSED ELEVATIONS, FLOOR PLAN



SITE PHOTOS



Subject building looking east from Satellite Blvd.



Proposed west (front) addition looking south

SITE PHOTOS



Existing deficient rear (north) setback looking east



Proposed east (rear) addition looking north.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 04, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-03-143**

Commission District: **#6**

GENERAL INFORMATION

APPLICANT(s): PEDRO HENRIQUE DA SILVA ASCHAR

OWNER(s): PEDRO HENRIQUE DA SILVA ASCHAR

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

- 1) To allow an existing residence to remain 18 ft. from the front west property line in lieu of 25 ft.
- 2) To allow an existing addition to remain 3.4 ft. from the north side lot line in lieu of 7.5 ft.
- 3) To allow an existing addition to remain 22.4 ft. from the front west property line in lieu of 25 ft.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 4309 S. Rio Grande Avenue, Orlando, FL, 32839, northeast corner of S. Rio Grande Ave. and 44th St., south of S. Texas Ave.

PARCEL ID: 10-23-29-6152-04-132

LOT SIZE: 75 ft. x 90 ft./+/- 0.15 acres (6,654 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 121

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (5 in favor, 1 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated December 18, 2020, 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.

SYNOPSIS: Staff explained the proposal, including the location of the site, the history of the property, such as when the owner purchased the property and constructed the addition, the site plan, elevations and floor plans of the existing permitted and unpermitted structures, and photos of the site. Staff noted that one (1) correspondence was received in support and no correspondences were received in opposition.

The applicant noted that he constructed the addition without the knowledge that permits were required and was working to correct the violations.

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

The BZA discussed the aesthetic improvements to the property, the location of the addition and the orientation of the original home. The BZA recommended approval of the variance by a 5-1 vote, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval of Variance #1, and denial of Variances #2 and 3. However, if the BZA finds that the applicant has satisfied the criteria for the granting of all 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-1A	R-1A	R-1A	R-1A	R-3
Future Land Use	LDR	LDR	LDR	LDR	MDR
Current Use	Single-family residence	Single-family residence	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures on lots a minimum of 7,500 sq. ft. or greater.

The subject site consists of a 75 ft. x 90 ft. parcel (6,654 sq. ft.), which is the south half of a lot created through the First Unit Ohio Homesites plat, recorded in 1925. The property was developed with a single-family residence with 732 sq. ft. of living area constructed in 1953.

The property is a corner lot with frontage on both S. Rio Grande Avenue and 44th street. Per code, the lot frontage is determined by the narrowest frontage abutting a street right-of-way, which is S. Rio Grande Ave. The existing front yard portion of the residence facing S. Rio Grande Ave. was built in 1953, prior to establishment of the Zoning Code in 1957, 18 ft. from the front property line, requiring Variance #1 in order to establish the existing front setback as a legal conforming status.

In August 2020, the owner was cited by Code Enforcement for construction without a permit (Incident #576582). Based on aerials, it appears an addition was added in mid-2020. The addition was constructed 3.4 ft. from the north side property line and 22.4 ft. from the west front property line, where 7.5 ft. side and 25 ft. front are required, prompting the need for Variances #2 and #3.

The new addition to the house generally follows the front building line of the existing residence and provides 469 sq. ft. living area and when added to the existing 732 sq. ft. of existing gross floor area, the total area under roof equals 1,201 sq. ft. The angle at which the original home was constructed causes the addition to encroach to within 22.4 ft. of the front property line in lieu of 25 ft. (Variance #3). The applicant notes that the home is oriented on the lot at an angle, making it difficult to blend the addition with the existing residence without the requested variances. However, the applicant could reduce the scale of the project, while still providing a sizable addition, and meet the required setbacks.

As of the preparation of this report, staff has not received any correspondence pertaining to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	15 ft.
Min. Lot Width:	75 ft.	75 ft. at building line
Min. Lot Size:	7,500 sq. ft.	6,654 sq. ft.

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	25 ft. (S. Rio Grande Ave.)	18 ft. (Existing home - Variance #1) 22.4 ft. Addition (West - Variance #3)
Rear:	30 ft.	32 ft. Addition (East)
Side:	7.5 ft.	3.4 ft. Addition (North - Variance #2)
Side Street:	15 ft. (44 th St.)	22 ft. (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance 1

The home was built in 1953, and the placement of the home in the front setback is not due to any actions on the part of the owner.

Variances 2-3

The request for the variances are self-imposed in that there are other options in order to lessen or negate the need for the variances by shifting or reducing the location and size of the proposed addition. Further, the need for the variances could have been prevented had a permit been obtained prior to installation.

Not Self-Created

Variance 1

Since the home was existing when the owner purchased the property, the request is not self-created.

Variances 2-3

The requests are self-created since the addition could have been designed to meet the required front and side setbacks if a permit was obtained prior to installation.

No Special Privilege Conferred

Variance 1

Granting this variance will not be conferring any special privilege. The home will remain as constructed in 1953, in this configuration and location.

Variances 2-3

Granting these variances will confer a special privilege that is denied to others in the same area and zoning district, in that the applicant has the ability to construct an addition that can be reduced in scale to meet setback requirements.

Deprivation of Rights**Variance 1**

This residence was constructed in 1953 in its current location, and denying the variance will deprive the applicant the right to continue the enjoyment of a house that has been existing for nearly 70 years.

Variances 2-3

The applicant is not being deprived the right to enjoy the use of the property as a single-family residence since he has the opportunity to meet setback requirements.

Minimum Possible Variance**Variance 1**

The residence in its current location will be the minimum possible variance.

Variances 2-3

Since the scale of the project could be reduced to reduce or eliminate the need for the variances, the proposed variances are not the minimum.

Purpose and Intent**Variance 1**

Since the existing situation has existed since 1953, granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Variances 2-3

Approval of the variances will not be in harmony with the purpose and intent of the zoning regulations. The locational requirements for the proposed addition have not been met; therefore, the improvements will not maintain the character of the existing neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated December 18, 2020, 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.
- C: Pedro Henrique Da Silva Aschar
4309 S. Rio Grande Ave.
Orlando, FL 32839

COVER LETTER

Hi

My name is Pedro Silva , I am the homeowner to the property 4309 Rio Grande ave
Parcel ID# 10-23-29 6152-04-131

I bought the house 1 year ago and expanded the living room because I needed more
space for my baby that was born last year. By that time I didn't know the measurements
required by the County until now.

I am applying for this variance since I am having another baby He born sep 10. and also
I am having my mother in law coming to help with the babies. I am in the need of more
space for them.

The requirements indicate that the property should be 7.5 feet from the side and the
property is located about 4 feet from the side.

I am not familiar with Building codes of Florida, also I do not have the money to hire a
Contractor. My financial situation is very tight at the moment. I worked whole last year to
save money to Gordy my wife with this extension , but now the dream come to a
nightmare, I have water and dirt in my house please help me . I need to finish it .

I claim for your help in this matter, since the conditions of the house right now are not
proper for a newborn. There is a lot of dust and water all over the place and my wife will
be due in 2 weeks.

Please this last days the rain is really strong , and the water come to inside my house ,
the water danger my new area , I expend almost whole my money to build it , my wife is
in depression with 2 babies to care , is not easy , I try to help but is really difficult , last
night I expect hours cleans and dry my floor , because the water come inside my house ,
I claim and I implore for you comprehension, please authorize me go ahead My name is
Pedro Silva , I am the homeowner to the property 4309 Rio Grande ave Parcel
ID# 10-23-29 6152-04-131

Criteria for apply to variance for 4309 s rio grande ave 32839, Pedro henrique da Silva Aschar .

1- Special Conditions and Circumstances.

the position of the old construction on the land only gives me the possibility of a new construction to add a new living room in that location.

2-Not Self-Created

For lack of knowledge of the rules and poor guidance by my own build this new living room that is already ready. I respected all the rules of construction and engineering, electrical and structural rules, but the lateral distance that should be 6 feet is 3.5 / 4 feet.

3-No Special Privilege Conferred

I have no advantage over my neighbors or orange county over the rodica request requested, when it is only authorization to request a permit for the size of the setback provided in the code.

4-Deprivation of Rights

builds this new area as a gift for my wife and new baby who was born in September 2020, in order to have more comfort for me and my family, had a lot of expenses and due to all the stress generated by problems with the work and the like, my wife is depressed, very stressed and unmotivated. due to the construction being ready and integrated into the house, the removal of the house is impossible due to available and financial issues.

5-Minimum Possible Variance

as I mentioned above the variation is minimal, everything was done in the rule as mentioned and the only thing I ask for in this variation is the lateral spacing test that is required by code and is 6 feet and I have 4 feet of side distance.

6-Purpose and Intent

the distance maintained between my house and the house of the ovizinho leave in torino of 11 feet due to the distance from the house of the neighbor of the fence that divides the two lots, I already talked with the owner of the house next door and the same one said that it does not matter with distance , in this way the position of my house follows without prejudice to the neighbors

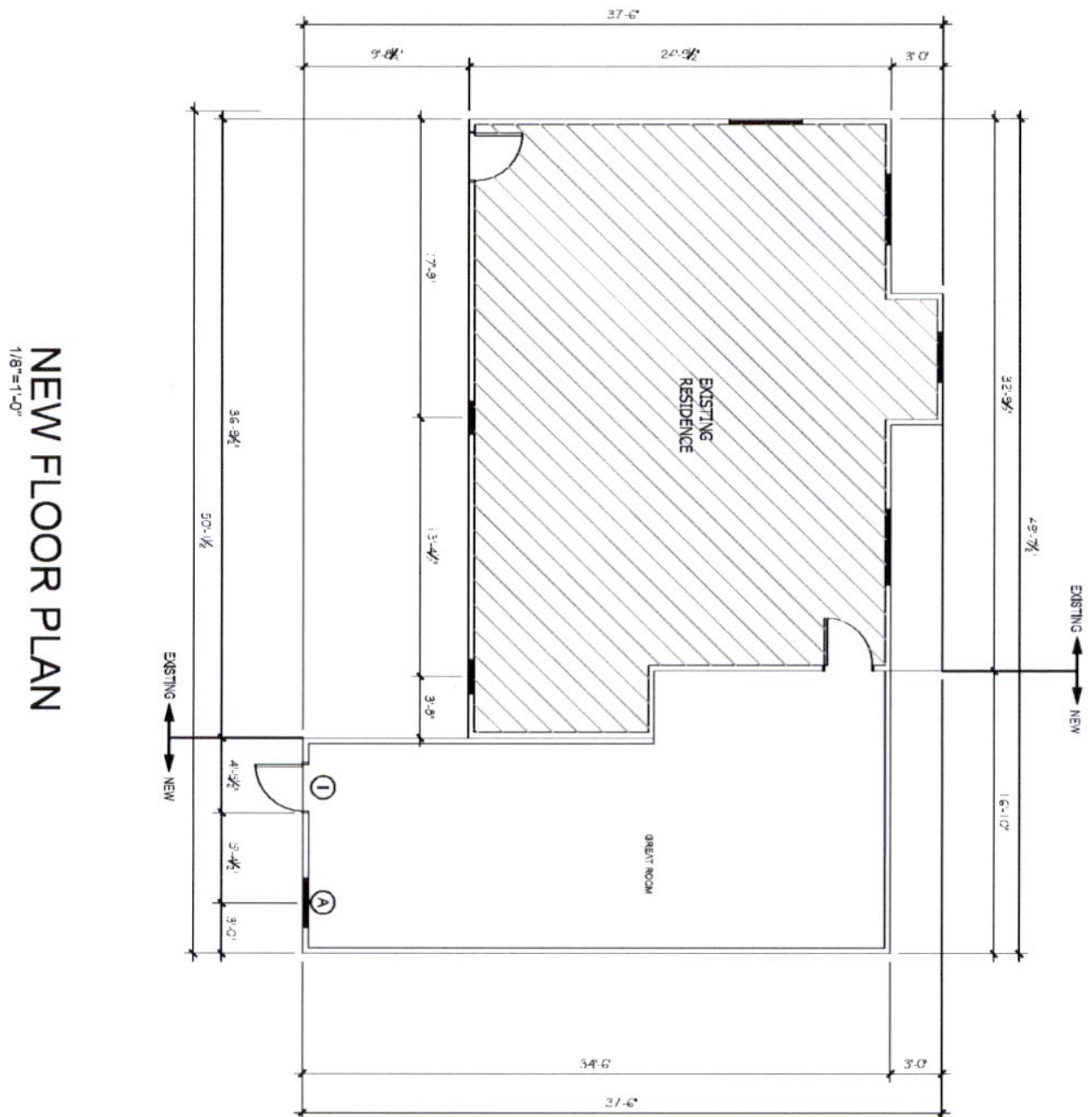
ZONING MAP



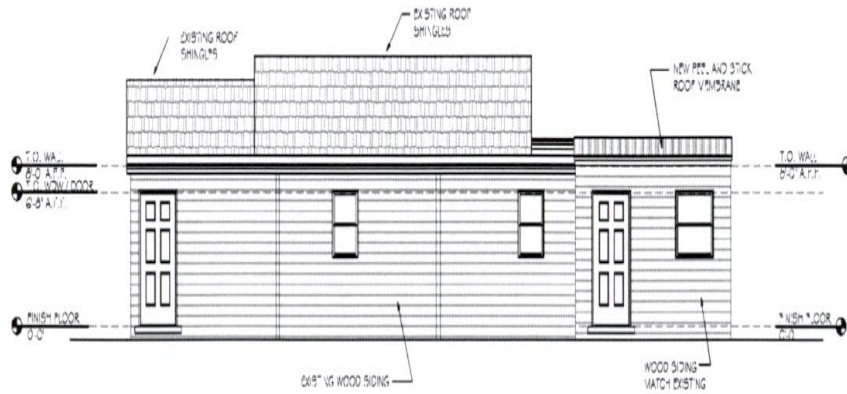
AERIAL MAP



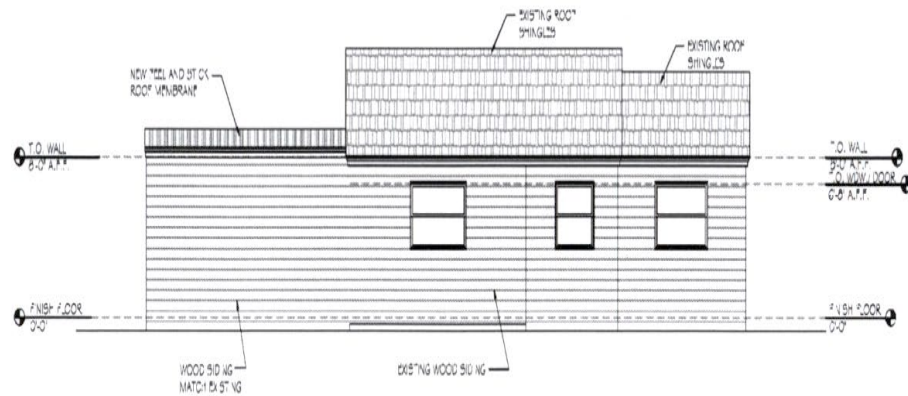
Page | 118 Board of Zoning Adjustment [BZA]



ELEVATIONS

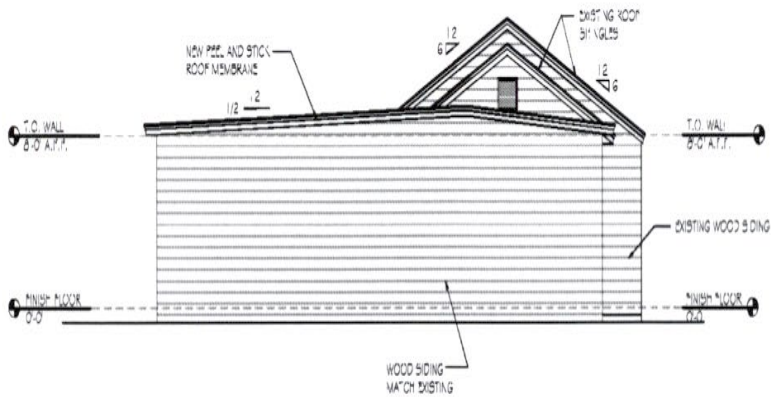


NEW EAST ELEVATION



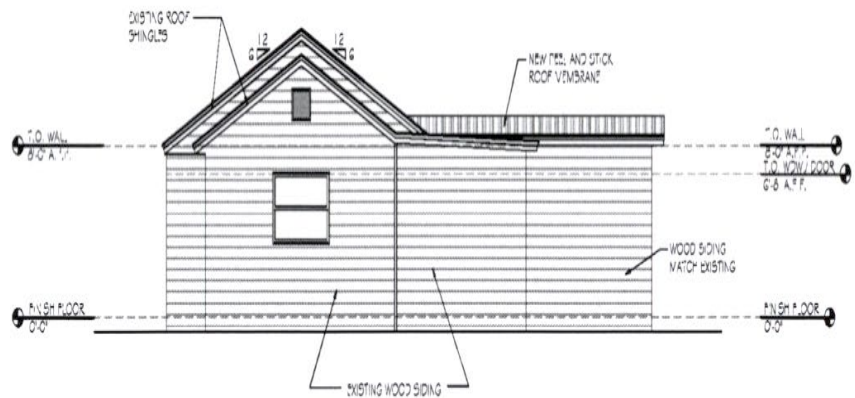
NEW WEST/S. RIO GRANDE AVE. ELEVATION

ELEVATIONS



NEW NORTH ELEVATION

1/8" = 1'-0"



NEW SOUTH/44th ST. ELEVATION

SITE PHOTOS



Subject property looking northeast from corner of S. Rio Grande Ave. and 44th St.



Original house left, addition right looking northwest from rear yard

SITE PHOTOS



North side yard looking west from rear yard



North side yard looking east from S. Rio Grande Ave.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 04, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-03-000**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): DR. PHILLIPS ACE HARDWARE, INC. (JOHN W. MCMILLAN)

OWNER(s): GRAND OAKS VILLAGE 1673 LLC

REQUEST: Variance in the P-D zoning district to allow a south rear setback of 20 ft. in lieu of 35 ft. for a propane fueling station.

PROPERTY LOCATION: 5142 Dr. Phillips Boulevard, Orlando, Florida, 32819, generally located at the southwest corner of Conroy Windermere Rd. and Dr. Phillips Blvd.

PARCEL ID: 14-23-28-3143-00-012

LOT SIZE: +/- 2.43 acres

NOTICE AREA: 900 ft.

NUMBER OF NOTICES: 217

DECISION: Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan dated January 6, 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. Obtain permits 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.

SYNOPSIS: Staff described the proposal, including the location of the property, the requirements of the planned development, the site plan, and photos of the site. Staff noted the differences between conventional commercial zoning rear setback requirements and the setbacks as required by the planned development. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that six (6) comments were received in support and three (3) comments were received in opposition.

The applicant agreed with the staff recommendation and noted the need to provide propane sales since it was a sizable percentage of the store’s overall sales.

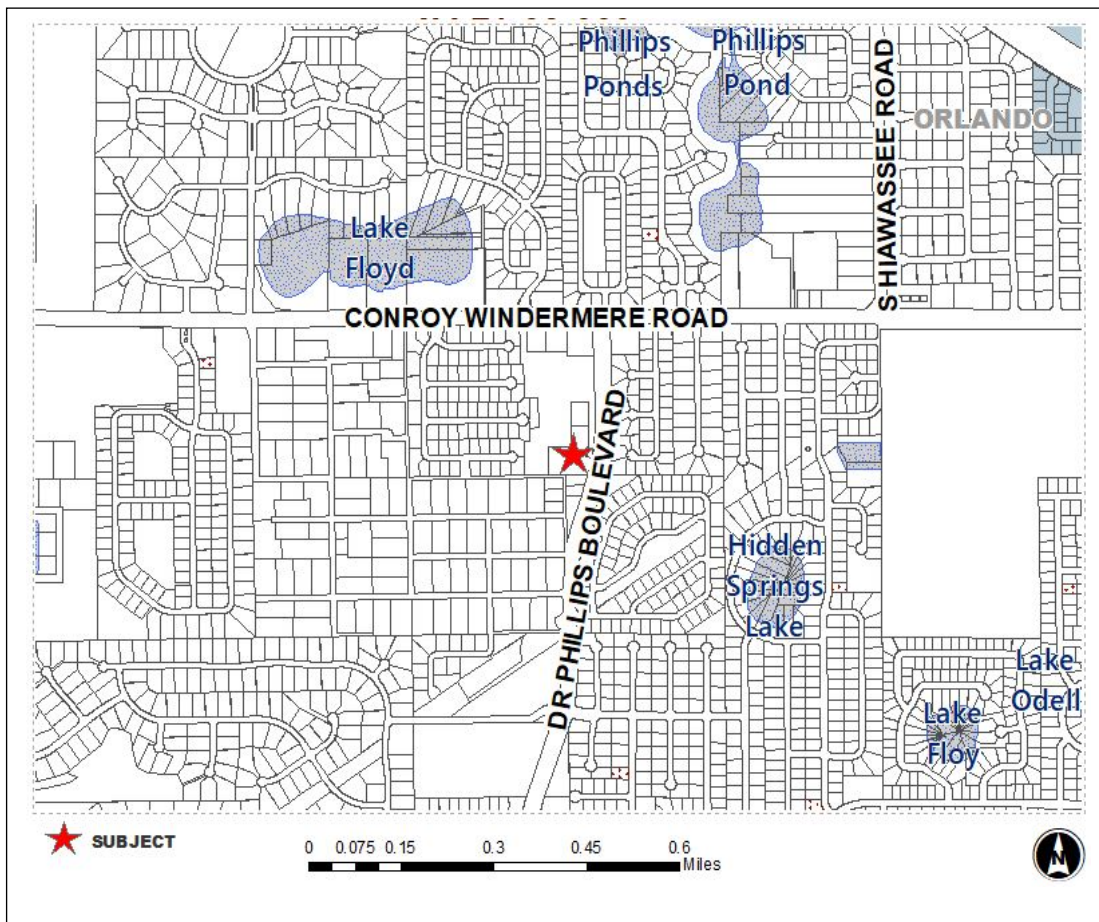
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed propane locational criteria, the existing parking area and landscaping and noted that there are not noise issues or other impacts. The BZA unanimously recommended approval of the variance by a 6-0 vote, 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	P-D Grand Oaks Village	P-D Grand Oaks Village	R-1A	R-1A	PD Grand Oaks Village
Future Land Use	O	C	LDR	LDR	C
Current Use	Commercial	Commercial	Single-family residences	Single-family residences	Stormwater management pond

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Grand Oaks Village PD Planned Development district. This PD allows a commercial shopping center.

The area consists of 2.43 acres of land created through the Grand Oaks Village plat recorded in 2000. The site is developed with a multi-tenant commercial shopping center containing a total of 35,541 sq. ft. of floor area. The Grand Oaks Village Development Plan received approval in 2003, and the applicant, Ace Hardware, is a tenant in a 7,544 sq. ft. bay. The center was constructed in 2005 (B04900119, B04900109 & B05901068).

The applicant is proposing a propane fueling facility for outdoor gas grills in a storage area to the rear of the building which is enclosed by a 7 ft. tall chain link fence screened with shade cloth. The setback from the property line is proposed to be 20 ft. Currently there is an eight (8) ft. tall masonry wall along the entire perimeter of the shopping center which abuts residential development.

The tank is considered a structure that must meet the principal structure standards which is 35 ft. from the south property line; therefore, a variance is required to allow it to be 20 ft. A 35 ft. setback would place the tank in the middle of the drive aisle located between the rear of the shops and the property line, which is not possible.

The proposed location will provide security for the tank as well as visual screening. The existing masonry wall will provide an additional layer of screening for the adjacent residents to the south, and will buffer any effects of the operation of the fueling station.

Staff looked at alternative locations to place the fueling station, and determined that none were feasible. Placing the fueling station in the main parking area in front of the storefront would be highly visible, and could potentially disrupt traffic flow. According to the applicant, the State requires the fueling station to be located a minimum of 25 ft. from any structure, so it could not be located directly to the rear of the hardware store. The applicant has indicated that the proposed location meets the State requirements for a fueling station.

As of the preparation of this report, staff has received four comments in favor and one comment in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	5.5 ft. (Tank)

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	40 ft.	N/A (Located behind building)
Rear:	35 ft.	20 ft. (South – Variance)
Side:	35 ft.	250 ft. (West)
Side Street:	20 ft.	250 ft. (East)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The required setback for a fueling station in the Grand Oaks Village P-D is 35 ft. from any side or rear property line, 40 ft. from Conroy Windermere Rd. and 20 ft. from Dr. Phillips Blvd. If the property had conventional commercial zoning the setback from a residentially zoned property would only be 20 ft., and a variance would not be needed. The location and setback as proposed will have the least noticeable impacts on the adjacent properties.

Not Self-Created

The need for the location of the propane fueling station in the location as proposed is not self-created since there is no alternative location that would meet the visual screening needs while meeting the setback requirements of the P-D.

No Special Privilege Conferred

Granting the variance will not confer special privilege that is denied to other properties in the same situation, since there are no other locational alternatives.

Deprivation of Rights

Without the variance, the applicant will not be able to offer services commonly enjoyed by nearby commercial properties and similar hardware stores.

Minimum Possible Variance

Allowing the location of the fueling station as proposed is the minimum possible variance. There is no other feasible location on the site that would meet the requirements of the code and still meet the applicant's needs.

Purpose and Intent

The proposed location within an existing paved and screened area will not be disruptive to the appearance or traffic flow of the shopping center, nor will it negatively affect the neighboring residential properties, thus meeting the purpose and intent of the code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated January 6, 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.
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 4. Obtain permits 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.
- C: John W. McMillan
5142 Dr. Phillips Blvd.
Orlando, FL 32819

COVER LETTER

Cover Letter – Narrative
Dr. Phillips Ace Hardware
5142 Dr. Phillips Blvd. Orlando FL 32819

To whom it may concern:

Summary:

Dr. Phillips Ace Hardware is seeking to obtain a variance to the 40' setback requirement and parking space requirements for the property at 5142 Dr. Phillips Blvd. Orlando FL 32819 to install a propane fill station. The only available space that meets the state requirements for a fill station within the allotted space by the landlord lies within 40' of the property line in a designated parking area. The owner of the Dr. Phillips Ace Hardware currently owns and operates two additional Ace Hardware with propane fill stations that meet all state requirements. The property was recently renovated under the master permit# B20904950. The proposed propane filling station was included in the original plans submitted to the county, but the zoning committee responded that we would need to seek a public hearing to obtain permission to place the tank in our desired location. Please note that an 8' tall fence with privacy screen has already been approved and installed under sub permit B20905345 that will conceal the propane fill station from view. Please reference the attached scalable architectural drawing A012-A-204 Enlarged site plan for the proposed location for the propane fill station.

Reason for the variance:

If a variance is not granted to the property, the tenant will be unable to meet the state inspector requirements to install a propane fill station in the area allotted by the landlord. Propane sales are a significant portion of the hardware business and are commonly found at hardware stores. This variance will benefit the neighborhood and community by giving a place for consumers to fill their propane tanks. We are requesting the minimum variance to be able to install a propane fill station.

a.) 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: The 40ft setback for this property in combination with the state required setbacks from buildings make it impossible to place a propane fill station at this location unless the 40ft setback requirement is waived.

b.) 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: A main part of a hardware stores sales are linked to propane. The agreement with the landlord was that the tenant would be able to install a propane fill station. The only way to meet the state requirements for a propane fill station are to waive the Planned Development 40ft. setback requirements.

Cover Letter – Narrative
Dr. Phillips Ace Hardware
5142 Dr. Phillips Blvd. Orlando FL 32819

c.) 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: This is not a special privilege and for the zoned area or for a typical hardware. This is standard for the zoning and for the retail type.

d. 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 zoning for commercial property allows the installation of a propane fill station. The 40ft setback does not make it possible to install a propane fill station and meet the states required setbacks from occupied buildings.

e. 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: Dr. Phillips Ace Hardware is seeking the minimum variance to be able to install a propane fill station.

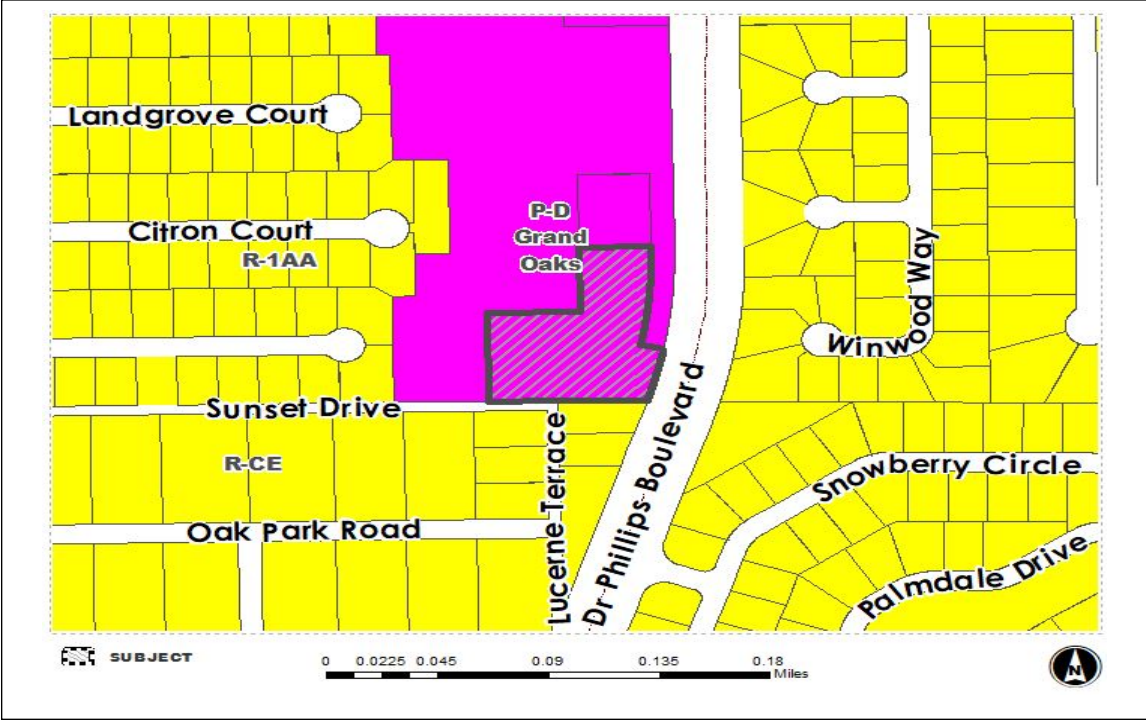
f. Purpose and Intent - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Response: The propane fill station will be kept and maintained in strict accordance with state mandated requirements. It will also be concealed from the public behind an 8ft tall fence. It will serve the best interest of the public by providing a convenient location for the public to fill their propane tanks.

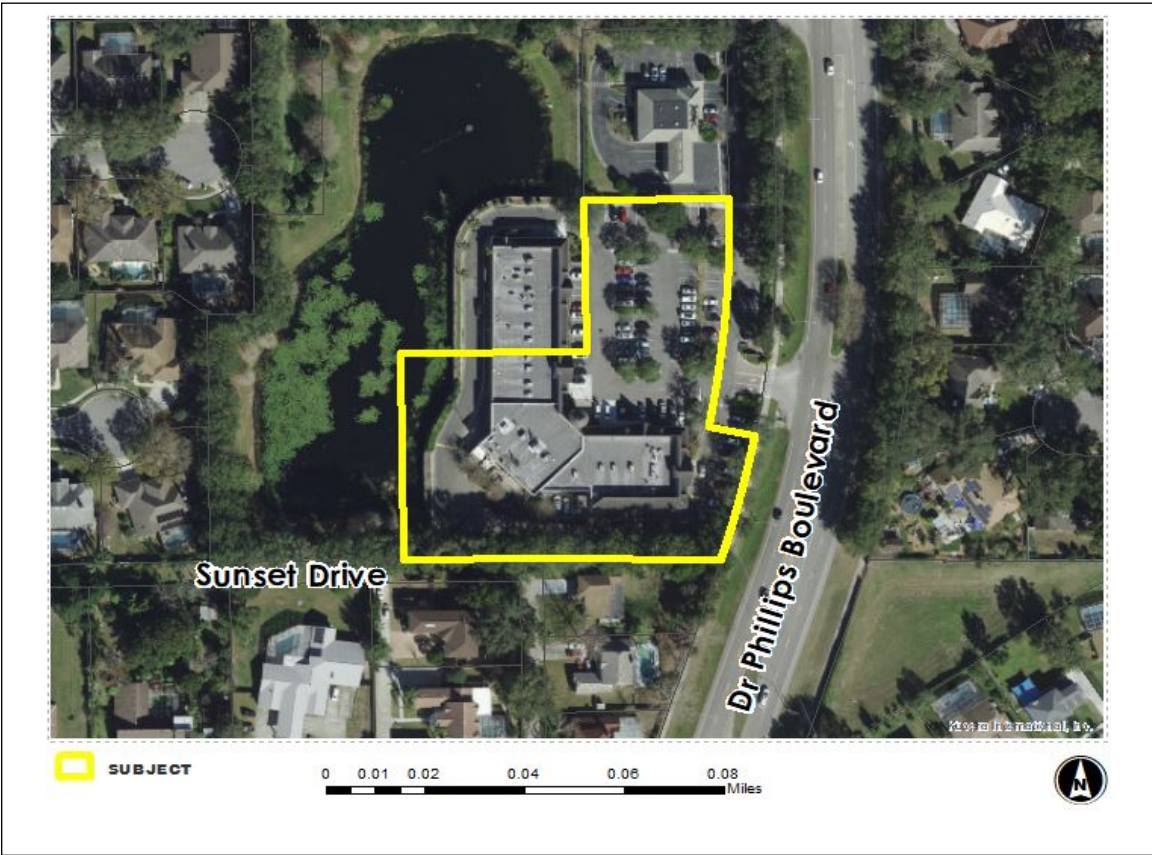
Thank you,

John McMillan
407-509-7098
wessmcmillan@centralfloridaace.com

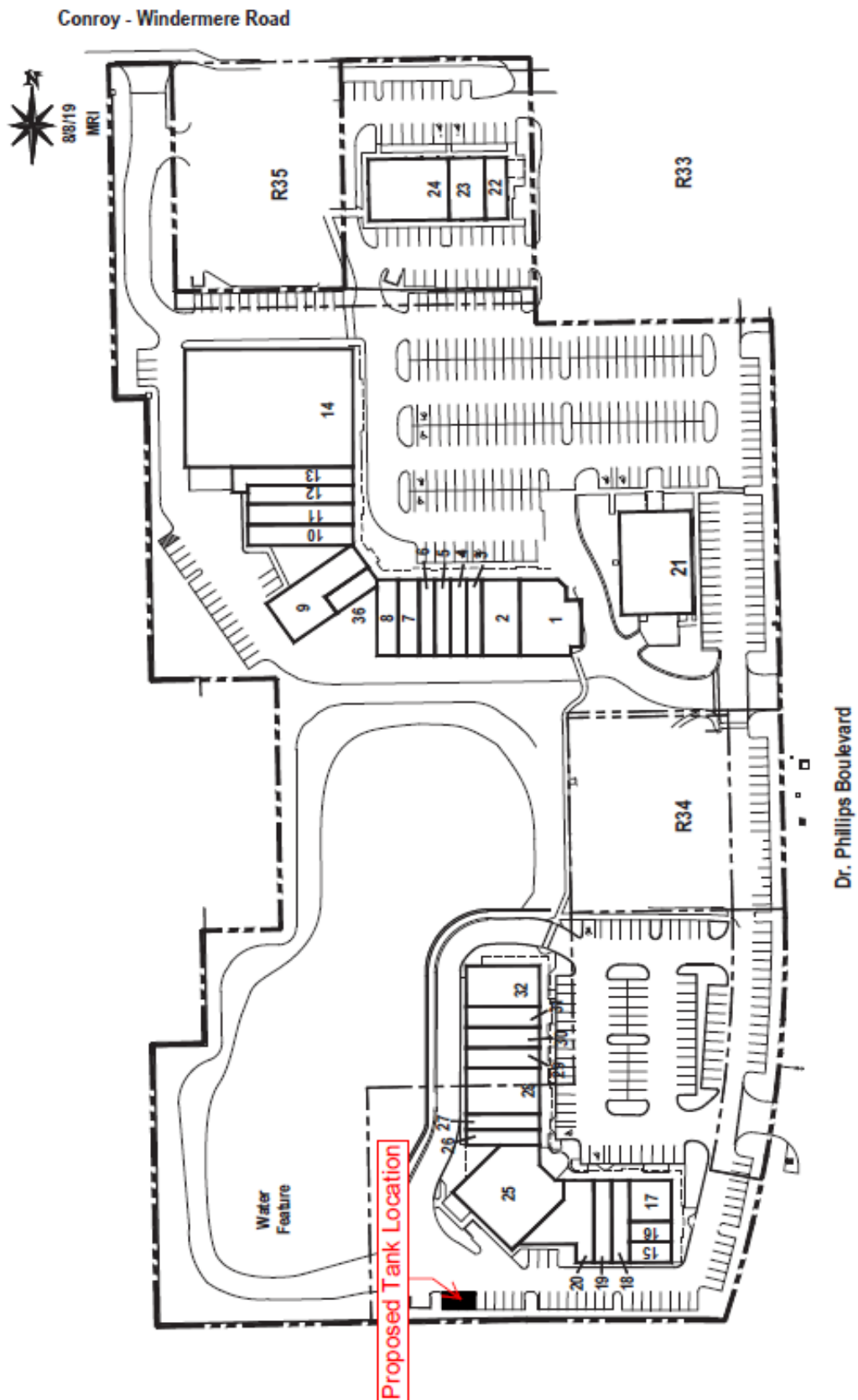
ZONING MAP



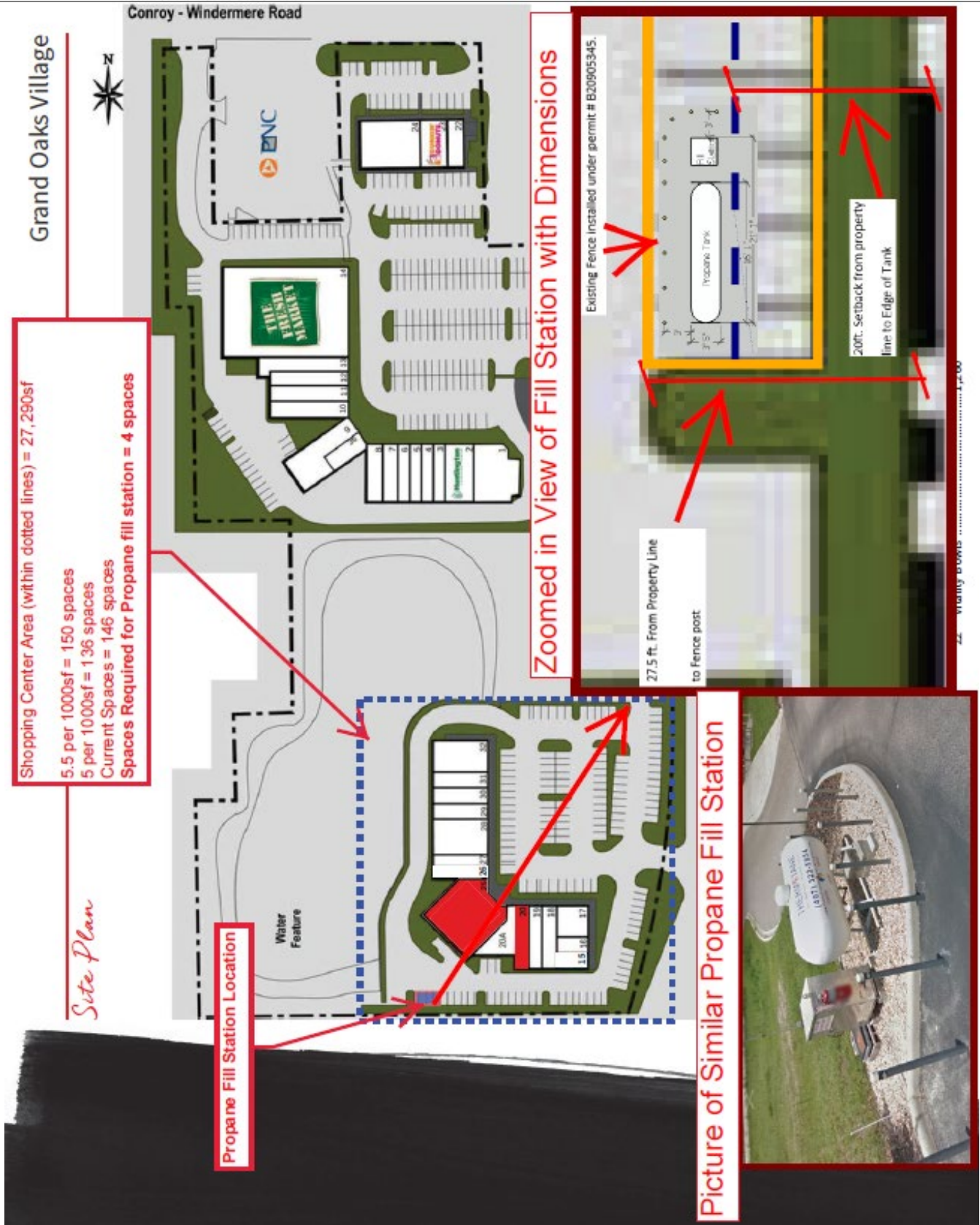
AERIAL MAP



SITE PLAN FOR ENTIRE SHOPPING CENTER

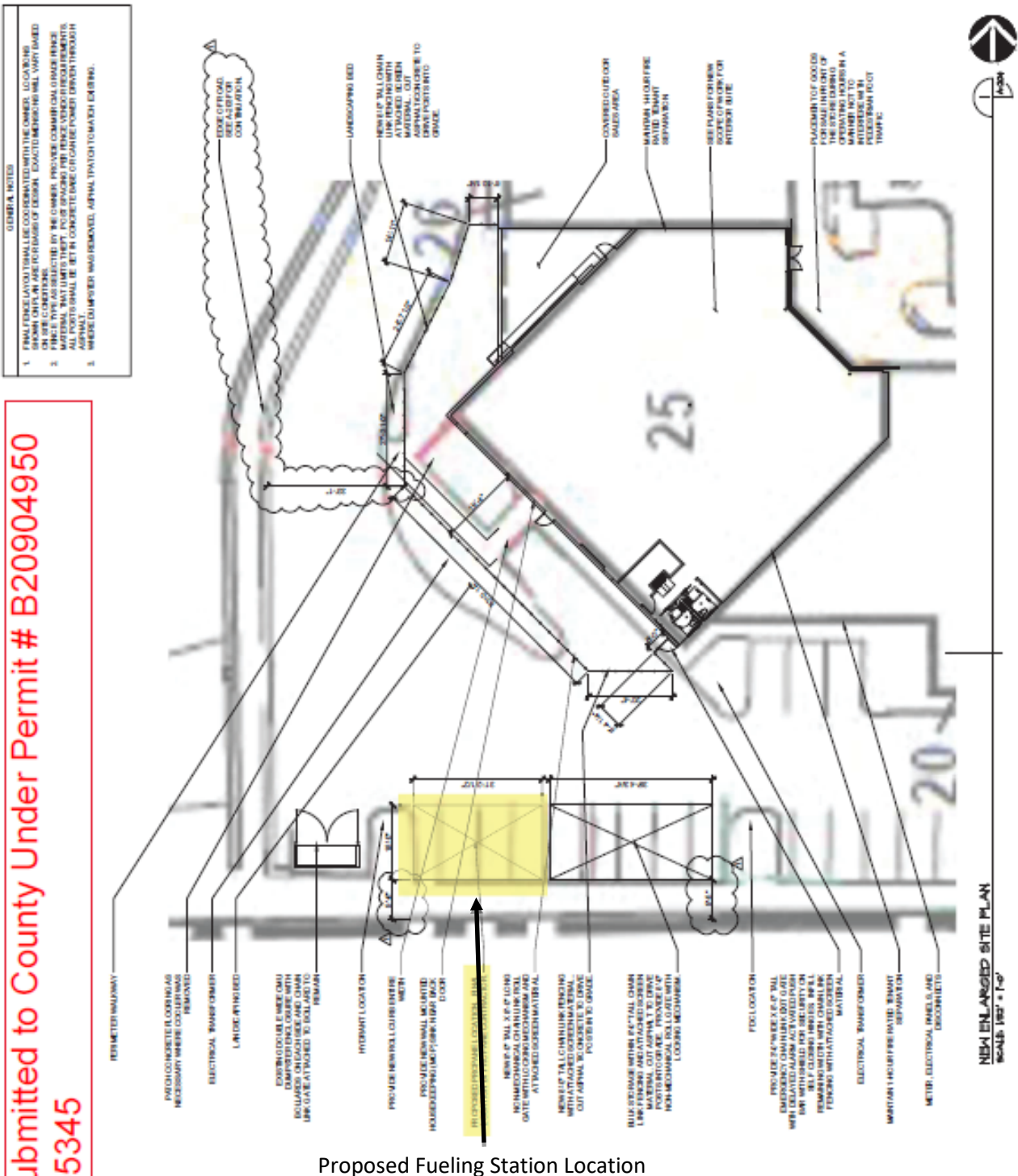


DETAIL OF FUELING STATION



DETAIL OF SITE PLAN

Drawing Submitted to County Under Permit # B20904950
and B20905345



SITE PHOTOS



Proposed fueling station location looking south



Existing 8 ft. tall masonry wall looking south

SITE PHOTOS



Rear of hardware store



Stormwater retention pond looking west from behind hardware store

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 3, 2020**

Case Planner: **Ted Kozak, AICP**

Case #: **ZM-20-08-072**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): FISHBACK DOMINICK (A. KURT ARDAMAN)

OWNER(s): DB RETAIL STORES, LLC

REQUEST: Appeal of a Zoning Manager's Decision that the proposed improvements are considered signage and not art.

PROPERTY LOCATION: 12399 S. Apopka Vineland Rd., Orlando, Florida, 32836, east side of S. Apopka Vineland Rd., approximately 325 ft. south of Palm Parkway, north of I-4

PARCEL ID: 22-24-28-0000-00-023

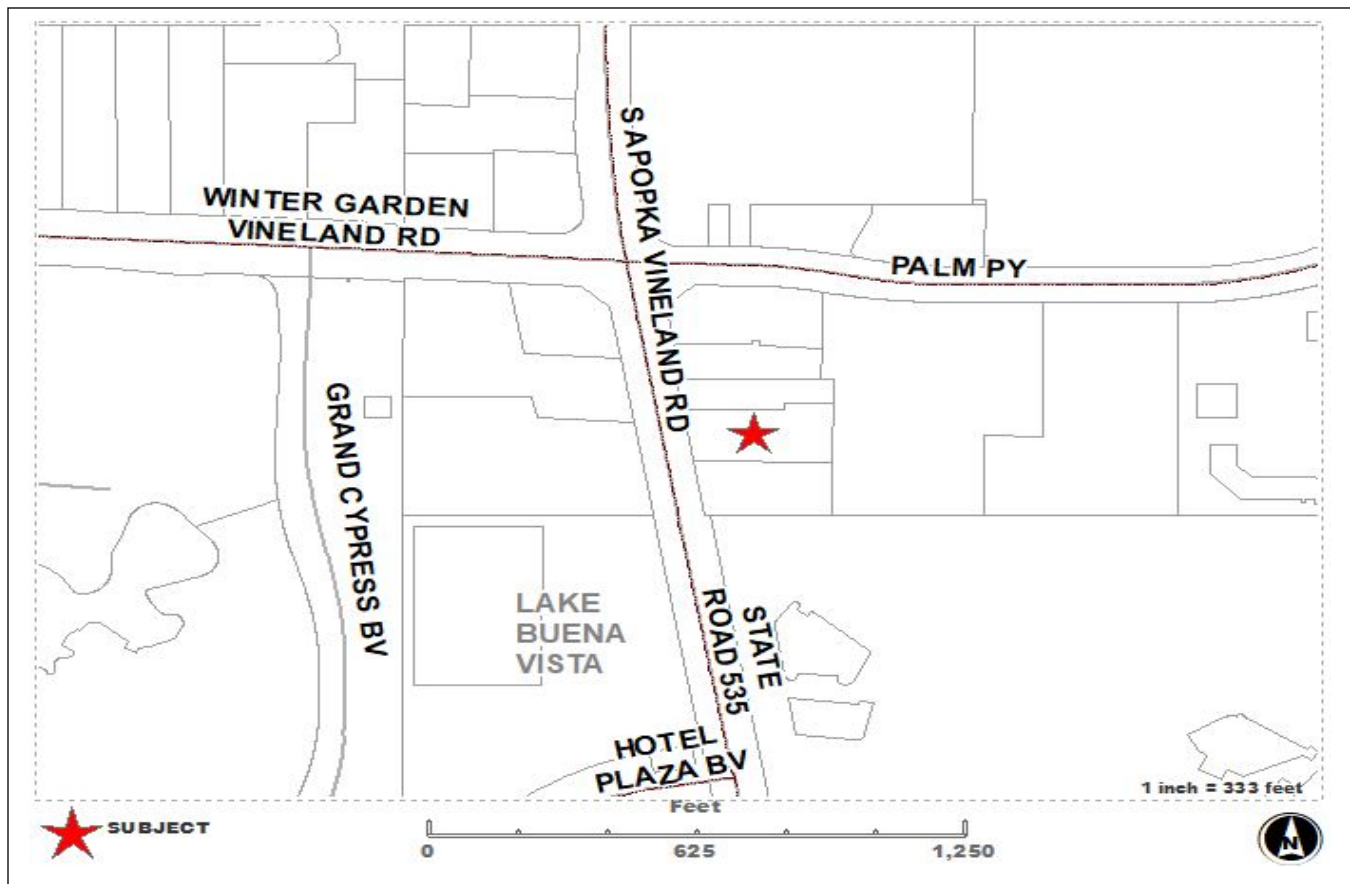
LOT SIZE: 1.15 acres

NOTICE AREA: 1500

NUMBER OF NOTICES: 44

THE CASE WAS WITHDRAWN BY THE APPLICANT PRIOR TO THE PUBLIC HEARING.

LOCATION MAP





BOARD OF ZONING ADJUSTMENT