



Planning, Environmental &  
Development Services  
Department



Orange County Board of Zoning Adjustment

# Recommendations Booklet

Hearing Date:

**November 2, 2023**

Zoning Division

**ORANGE COUNTY GOVERNMENT  
BOARD OF ZONING ADJUSTMENT (BZA)**

<b><u>Board Member</u></b>	<b><u>District</u></b>
Thomas Moses	1
John Drago (Vice Chair)	2
Juan Velez	3
Deborah Moskowitz (Chair)	4
Vacant	5
Sonya Shakespeare	6
Roberta Walton Johnson	At Large

**BZA Staff**

Ted Kozak, AICP	Chief Planner
Nick Balevich	Planner II
Jenale Garnett	Planner I

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT  
RECOMMENDATIONS  
NOVEMBER 2, 2023**

<u>Case #</u>	<u>Applicant</u>	<u>Commission District</u>	<u>Staff Recommendation</u>	<u>BZA</u>	<u>Page #</u>
VA-23-11-102	Kelli Todd, Mancil Todd	1	Denial	Approval w/ Conditions	1
VA-23-11-108	Diana Almodovar	1	Approval w/ Conditions	Approval w/ Conditions	14
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SE-23-10-096	Evens Chery For House Of Grace Church & Ministries	2	Continued	Continued	56
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**Please note that approvals granted by the BZA are not final unless no appeals are filed within 15 calendar days of the BZA's recommendation and until the Board of County Commissioner (BCC) confirms the recommendation of the BZA on November 28, 2023.**

# 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	60	25	25	6	35	<i>a</i>
(prior to 1/29/73)		Min. mobile home size 8 ft. x 35 ft.						
R-T-2 (after 1/29/73)	21,780 ½ acre	SFR 600	100	35	50	10	35	<i>a</i>
		Min. mobile home size 8 ft. x 35 ft.						

<i>District</i>	<i>Min. lot area (sq. ft.)<sup>m</sup></i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.)<sup>a</sup></i>	<i>Min. rear yard (ft.)<sup>a</sup></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>

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.)
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"> <li>(i) are either platted or lots of record existing prior to 3/3/97, and</li> <li>(ii) are 75 feet in width or greater, but are less than 90 feet, and</li> <li>(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.</li> </ul>
<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: **NOV 02, 2023**

Commission District: **#1**

Case #: **VA-23-11-102**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** KELLI TODD, MANCIL TODD

**OWNER(s):** KELLI TODD, MANCIL TODD

**REQUEST:** Variances in the A-2 in zoning district as follows:

1) To allow 2 detached accessory structures in front of the principal structure in lieu of the side or rear.

2) To allow an existing screen room with a 36.1 ft. Normal High Water Elevation (NHWE) setback in lieu of 37 ft.

Note: This is a result of Code Enforcement

**PROPERTY LOCATION:** 17101 Arrowhead Blvd., Winter Garden, FL 34787, north side of Arrowhead Blvd., south side of Lake Rexford, east of Avalon Rd., north of U.S. 192.

**PARCEL ID:** 31-24-27-0306-04-041

**LOT SIZE:** +/- 0.97 acres (+/- 0.28 acres upland)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 34

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (Motion by Thomas Moses, Second by Juan Velez; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, 0 opposed; 2 absent: Sonya Shakespeare, Roberta Walton Johnson; 1 vacant):

1. Development shall be in accordance with the site plan received October 12, 2023, as modified to remove the sheds or to show the shed in a location that meets code, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance #2 request and, which shall inform all interested parties that the screen room is located no closer than 36.1 feet from the Normal High Water Elevation (NHWE) of Lake Rexford.

**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 Variance #1, and approval of Variance #2. Staff noted that three (3) comments were received in favor of the request, and no comments were received in opposition to the request.

The applicant discussed the staff recommendation of denial for Variance #1 and noted the alternative locations proposed by staff to relocate the shed to contain the septic system and drain field on the west side of the property and the east side provides the only boat access to the boat dock.

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

The BZA discussed the sheds, discussed that the potential alternative locations to relocate the sheds to are not feasible due to the existing location of the septic tank, drain field, and boat access to the boat dock. The BZA unanimously recommended approval of the Variances by a 4-0 vote, with two absent and one seat vacant, subject to the three (3) conditions in the staff report, as modified to include Condition #4, which states "Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance #2 request and, which shall inform all interested parties that the screen room is located no closer than 36.1 feet from the Normal High Water Elevation (NHWE) of Lake Rexford."

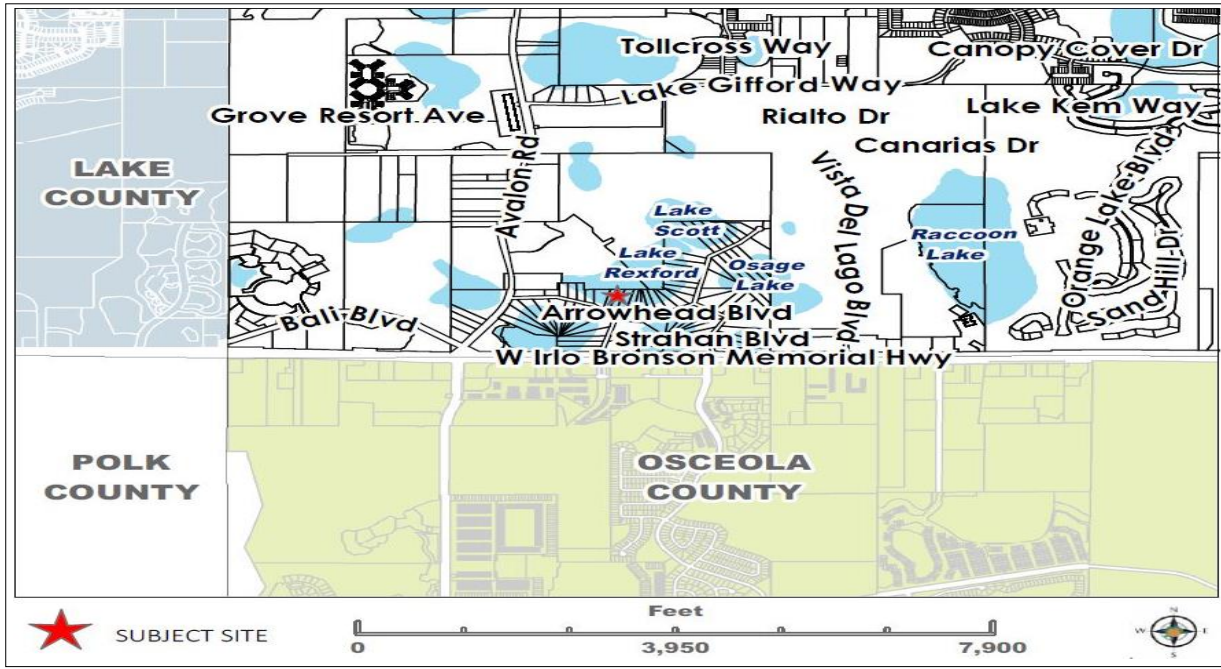
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#### **STAFF RECOMMENDATIONS**

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Denial of Variance #1, and approval of Variance#2 subject to the conditions in this report. However, if the BZA should find that the applicant has satisfied the criteria for the granting of both 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	A-2	Lake Rexford	A-2	A-2	A-2
Future Land Use	LDR	Lake Rexford	LDR	LDR	LDR
Current Use	Mobile Home	Lake Rexford	Single-family residence	Single-family residence	Single-family residence

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the A-2, Farmland Rural zoning district, which allows agricultural uses, mobile homes, and single-family homes with accessory structures on larger lots. The future land use is Low Density Residential (LDR), which is inconsistent with the zoning district. Per Comprehensive Plan Policy FLU1.1.3(B), whereby it states the interpretation of FLU1.1.2 shall not preclude the construction of one (1) residential unit (including ancillary buildings or improvements) on an exist lot of record (according to Zoning Division records) as of July 1, 1991.

The area surrounding the subject site consists of single-family homes, many of which abut Lake Rexford. The subject property is Lot 3 of the Arrowhead Lakes subdivision, recorded in 1959, and is considered to be a non-conforming lot of record. It is a +/- 0.97 acre platted parcel of land, of which +/- 0.28 acres is upland. The remainder of the parcel is either wetland or submerged property under Lake Rexford. It is developed with a 1,587 gross sq. ft. one-story mobile home (B07009022) installed in 2007 which replaced a mobile home (B98010652) installed in 1998, and an attached 1,210 sq. ft. aluminum screen room (B08002716) constructed in 2008 for use as a carport and screen porch. Also, there is a 200 sq. ft. detached accessory structure (Shed #1) and a 240 sq. ft.

detached accessory structure (Shed #2) which both appear beginning in 2006 via aerial photography. The property was purchased by the current owner in 2022.

In January 2008, a Variance (VA-08-01-024) was approved to construct a screened porch addition to the mobile home 37 ft. from the Normal High Water Elevation (NHWE) of Lake Rexford in lieu of 50 ft.

A Code Enforcement citation was issued on June 2023 (CE#: 624659) for the detached accessory structures without a permit in front of the principal structure. The applicant has since applied for a permit for Shed #1 (B23014948) and Shed #2 (B23014933), which are on hold pending the outcome of these requests.

The proposal is to allow the 20 ft. by 10 ft., 8 ft. high Shed #1 and 20 ft. by 12 ft., 8 ft. tall Shed #2 to remain in front of the primary structure, requiring Variance #1. Although both sheds meet the required setbacks, the sheds do not meet the required location for detached accessory structures. Per Section 38-1426 (3) of the Orange County Code, "A detached accessory structure may not be located in front of the principal structure unless the entire principal structure is located in the rear half (½) of the lot/parcel, or when located on a lot/parcel with five (5) or more developable acres. In these situations, the detached accessory structure shall comply with all principal structure setbacks". Further, the Variance request in 2008 approved the existing attached 1,210 sq. ft. screen room to be 37 ft. from the NHWE and the updated site plan submitted reflects the screen room 36.1 ft. from the NHWE in lieu of 37 ft., necessitating Variance #2.

Staff is recommending denial of Variance #1 since the detached accessory structures can be relocated to comply with the code. There is sufficient space in the side yards of the property for it to be moved in a manner that meets code. Whereas staff is recommending approval of Variance #2 since there are no options available to relocate the existing attached screen room to a code compliant location due to the location of the existing mobile home on the property.

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

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	8 ft. (Shed #1, #2)
Min. Lot Width:	100 ft.	100 ft.
Min. Lot Size:	21,780 sq. ft. (1/2 acre)	0.97 acres (0.28 acres upland)

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	Not permitted in front Variance #1 Request	35 ft. (South – Shed #1) 40 ft. (South – Shed #2)
Rear:	50 ft.	358.9 ft. residence (North) 350.2 ft. screen enclosed porch (North)
Side:	10 ft.	10 ft. (East -Shed #,1 #2) 59.1 ft. (West – Shed #1, #2)
NHWE:	50 ft. (37 ft. – approval)	50.1 ft. residence (North) 36.1 screen enclosed porch (North – Variance #2)

**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

**Variance #1:** There are no special conditions or circumstances as there are other options to shift the detached accessory structures to a location that will meet code, eliminating the need for the Variance.

**Variance #2:** The special conditions and circumstance particular to the subject property is the location of the mobile home on the lot, and the existing screen room which was built slightly off from the approved Variance.

**Not Self-Created**

**Variance #1:** The request is self-created since there are alternatives available to shift the detached accessory structures to a location that will meet code, and the structures were installed without a permit.

**Variance #2:** The request is not self-created since the current owner is not responsible for the existing screen room being constructed a foot off from the approved Variance in 2008.

**No Special Privilege Conferred**

**Variance #1:** Granting the Variance as requested would confer special privilege since all the developed properties in the surrounding area do not contain detached accessory structures in front of the principal structure.

**Variance #2:** Granting the Variance will not confer any special privilege due to the orientation of the existing home on the lot relative to the lake, and the structure being built slightly off from the approved Variance.

**Deprivation of Rights**

**Variance #1:** There is no deprivation of rights since the property may contain an accessory structure in a conforming location, and there are other options available.

**Variance #2:** Denial of the Variance would deprive the owners the ability to continue to enjoy the screen room which has been located in its current location since 2008.

**Minimum Possible Variance**

**Variance #1:** The request is not the minimum possible as the side yards provide sufficient space to relocate the accessory structures to meet code.

**Variance #2:** Given the location of existing improvement and existing constraints of the rear of the property, the request is the minimum possible.

**Purpose and Intent**

**Variance #1:** Approval of the requested Variance would not be in harmony with the purpose and intent of the Zoning Regulations and will be detrimental to the neighborhood since the detached accessory structures would be significantly visible from Arrowhead Boulevard.

**Variance #2:** Approval of the requested Variance will allow improvements to the site, which will be in harmony with the purpose and intent of the Zoning Regulations, and will not be detrimental to adjacent properties as the screen room is not significantly visible from any of the surrounding properties due to the landscaping and abutting Lake Rexford, and is less than a foot off from the previously approved Variance, thereby limiting any quantifiable negative impact to surrounding property owners.

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### CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received October 12, 2023, as modified to remove the sheds or to show the shed in a location that meets code, 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: Kelli Todd and Mancil Todd  
17101 Arrowhead Boulevard  
Winter Garden, FL 34787



# Variance Request

08/01/2023

To Whom It May Concern,

We are requesting a variance at 17101 Arrowhead Blvd, Winter Garden, FL 34787. We are requesting this variance for two sheds that have been on this property since 2007. At the time we purchased this house last year we were not aware the sheds were not correctly permitted.

Both sheds are wood and vinyl, they are approximately 120 sq ft, 12x 10x 8.

They are 30 ft from front property line. 66 ft from the left property line and 10 ft from the right property line.

See attached letter in regards to how these sheds meet the six variance criteria.

Regards,

Kelli Todd

M. Newton Todd

Owners

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## COVER LETTER

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08/01/2023

To Whom It May Concern,

Upon receiving a citation from the Orange County Zoning Division we were notified that the sheds on our principal residence were not properly originally permitted. We purchased this property last year and were unaware that the proper permitting had not been done as both sheds have been located on this property since 2007. We did not create this hardship and are asking for a variance in order to keep the sheds as is. We are unable to relocate the sheds due to the high water line in the back yard. To lose these sheds would create an undue hardship as they store the proper equipment to maintain this property and would result in us having to pay for a storage facility elsewhere.

1. Our special circumstance is that the sheds were already here at time of purchase and we were unaware that they did not obtain a permit.
2. We are not the original owners and therefore did not self-create this hardship.
3. We acknowledge that no special privilege will be conferred by granting this variance.
4. The sheds provide a means to properly store equipment necessary to maintain this primary residence.
5. The sheds are intended only for storage purposes
6. The sheds are not injurious to the neighborhood and not detrimental to the public welfare. They are inside of a fully fenced lot and not accessible to the public.

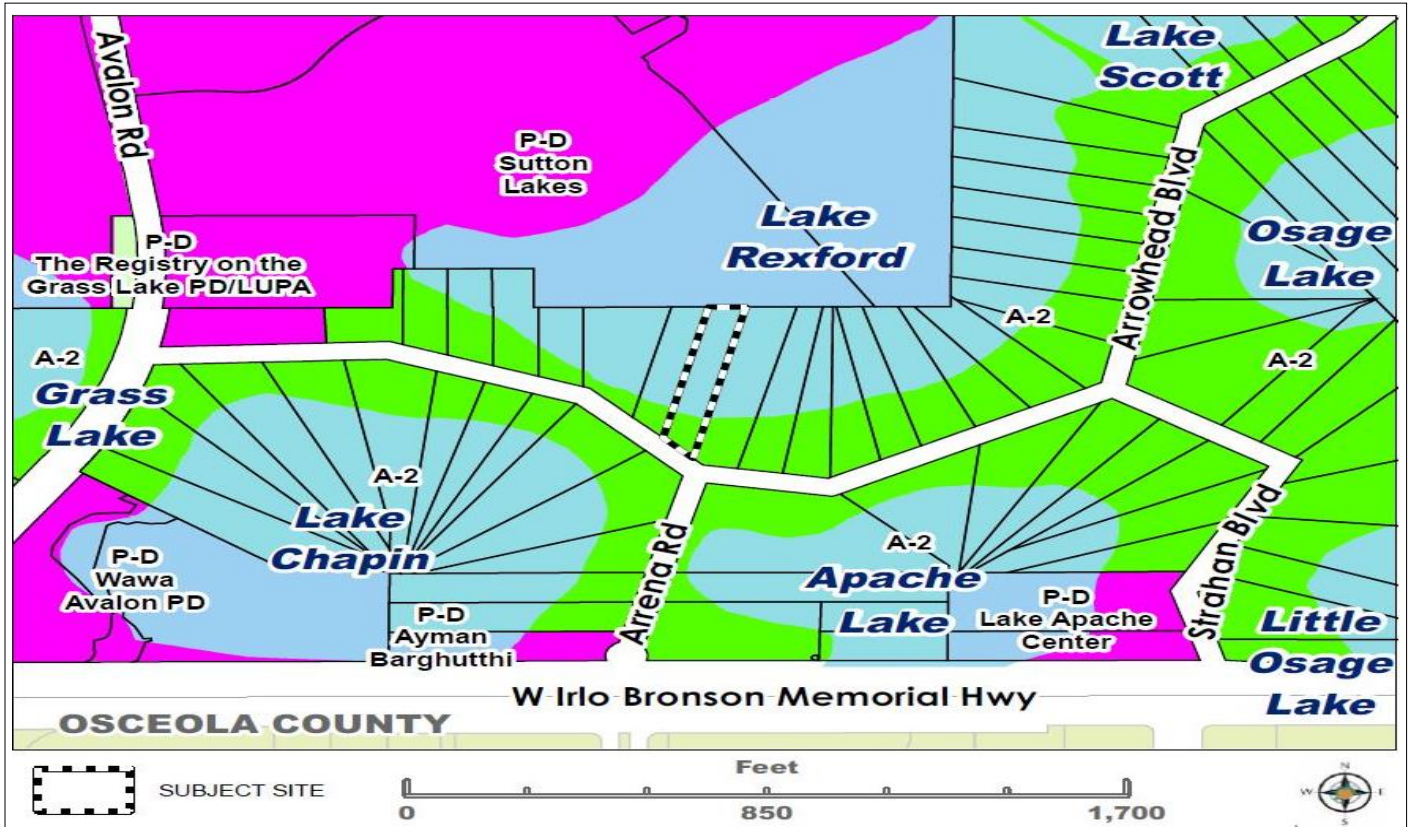
Regards,

Kelli Todd

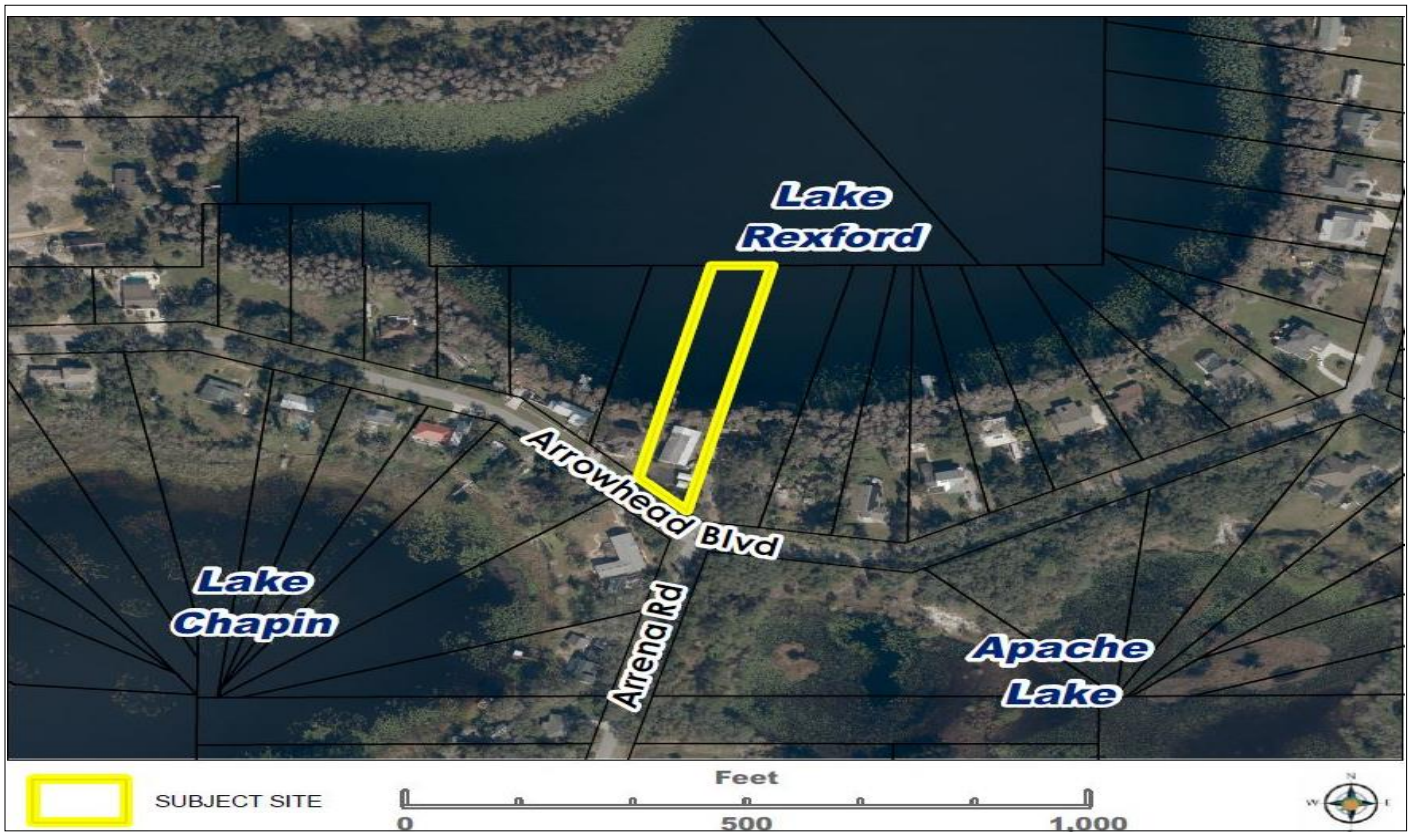
M. Newton Todd

Owners

ZONING MAP



AERIAL MAP



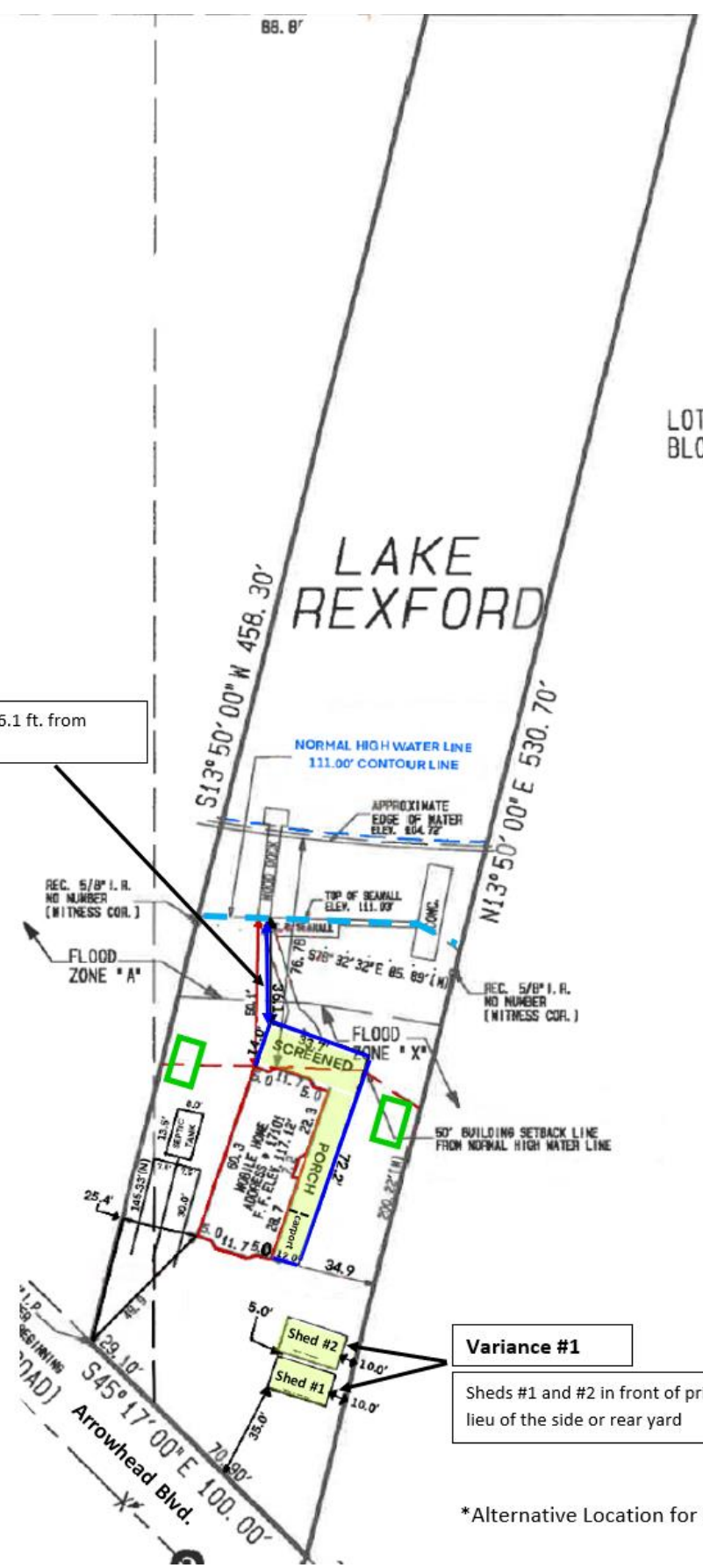
SITE PLAN




LOT 4  
BLOCK

LAKE  
REXFORD

**Variance #2**  
Existing screen room 36.1 ft. from  
NHWE in lieu of 37 ft.



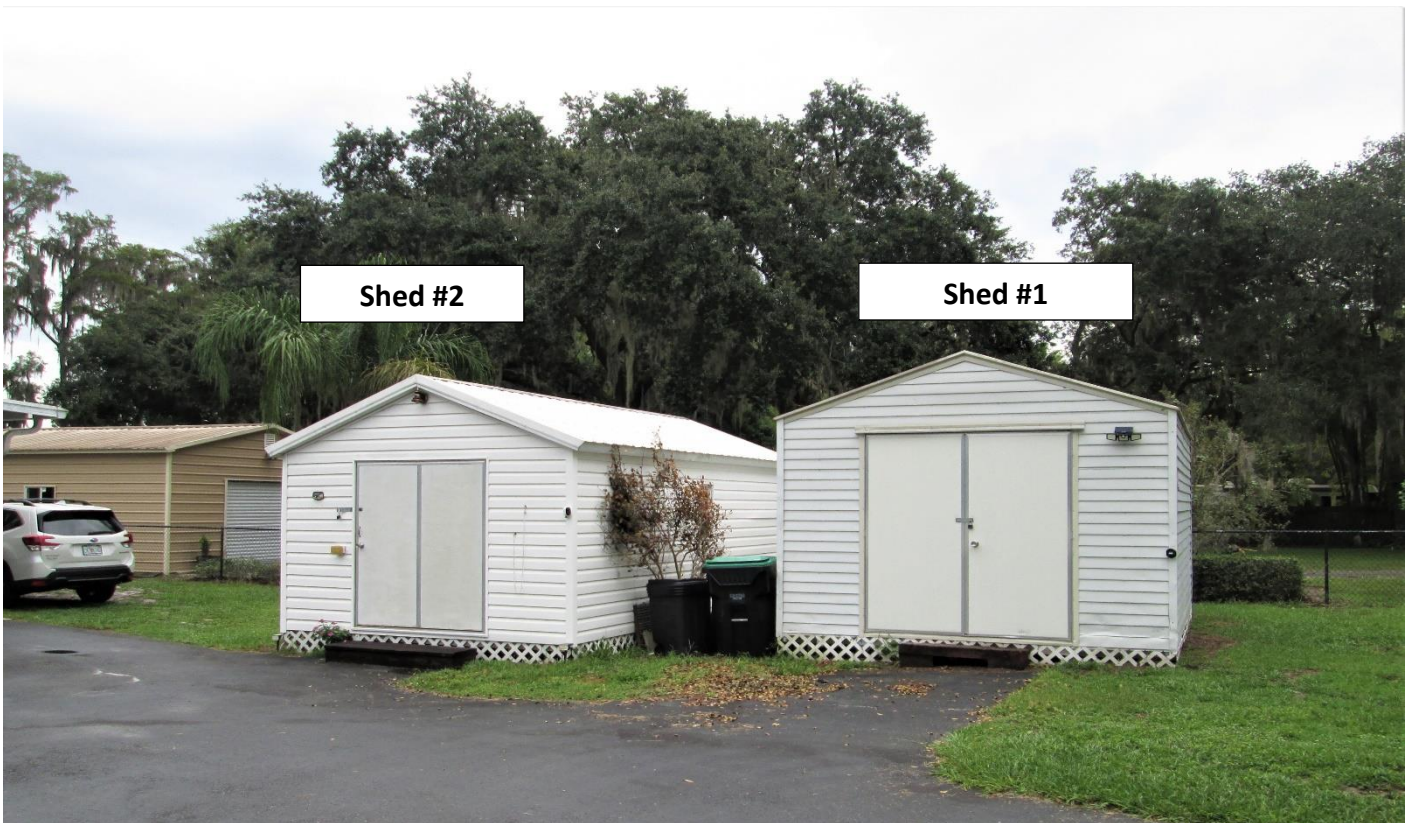
**Variance #1**  
Sheds #1 and #2 in front of principal structure  
in lieu of the side or rear yard

\*Alternative Location for sheds = 

**SITE PHOTOS**



**Facing northwest from Arrowhead Blvd. towards front of subject property**



**Front yard, facing east towards existing metal Sheds #1, #2**

**SITE PHOTOS**



**Front yard, facing north towards side yard, possible location for relocation of shed**



**Rear yard, facing south towards side yard, another possible location for relocation of a shed**

**SITE PHOTOS**



**Boat dock, facing south towards portion of existing screen room encroaching in NHWE**



**Side yard, facing north towards rear yard and Lake Rexford**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 02, 2023**

Commission District: **#1**

Case #: **VA-23-11-108**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** DIANA ALMODOVAR

**OWNER(s):** C M D M CORP 1/2 INT, LOUISE C MEADOR IRREVOCABLE TRUST 1/2 INT

**REQUEST:** Variances in the R-CE zoning district to allow an existing residence to remain on Lot 56 for a future lot split as follows:

- 1) To allow a south side setback of 0.8 ft. in lieu of 10 ft.
- 2) To allow an east front setback of 31.4 ft. in lieu of 35 ft.
- 3) To allow a minimum living area of 1,184 sq. ft. in lieu of 1,500 sq. ft.

**PROPERTY LOCATION:** 1156 Mill St., Windermere, FL 34786, west side of Mill St., east of Hempel Ave., southwest of Florida's Turnpike, northwest of S. Apopka Vineland Rd.

**PARCEL ID:** 33-22-28-3100-15-550

**LOT SIZE:** +/- 2.3 acres

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 85

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by Juan Velez; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 2 absent: Sonya Shakespeare, Roberta Walton Johnson; 1 vacant):

1. Development shall be in accordance with the site plan received September 25, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.



4. Prior to the approval of a lot split, the 2 accessory structures on Lot 55 shown on the site plan shall be removed.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the 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 one (1) comment was received in favor of the request, and one (1) comment was received in opposition to the request.

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

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

The BZA unanimously recommended approval of the Variances by a 4-0 vote, with two absent and one seat vacant, subject to the four (4) conditions in the staff report.

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### STAFF RECOMMENDATIONS

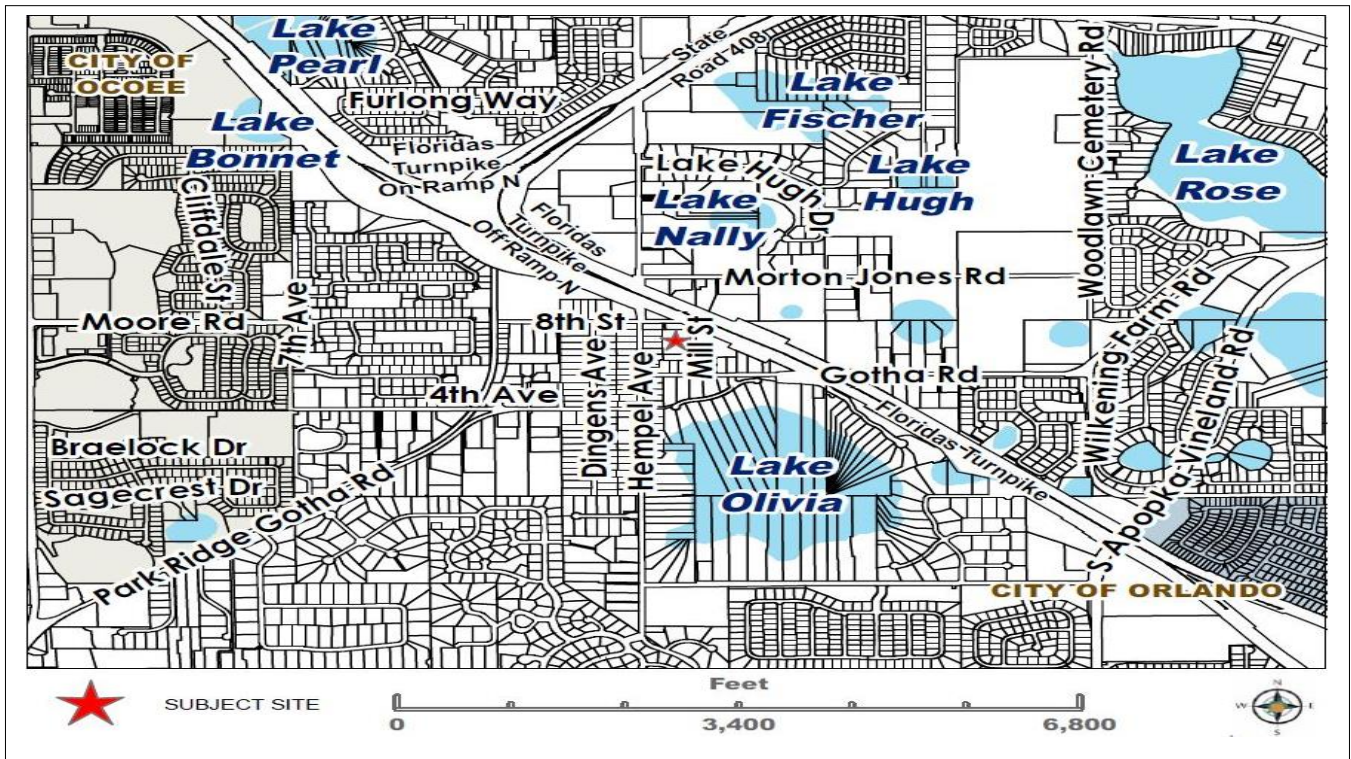
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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-CE	R-CE	R-CE	R-CE	R-CE
Future Land Use	RS 1/1	RS 1/1	RS 1/1	RS 1/1	RS 1/1
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

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**BACKGROUND AND ANALYSIS**

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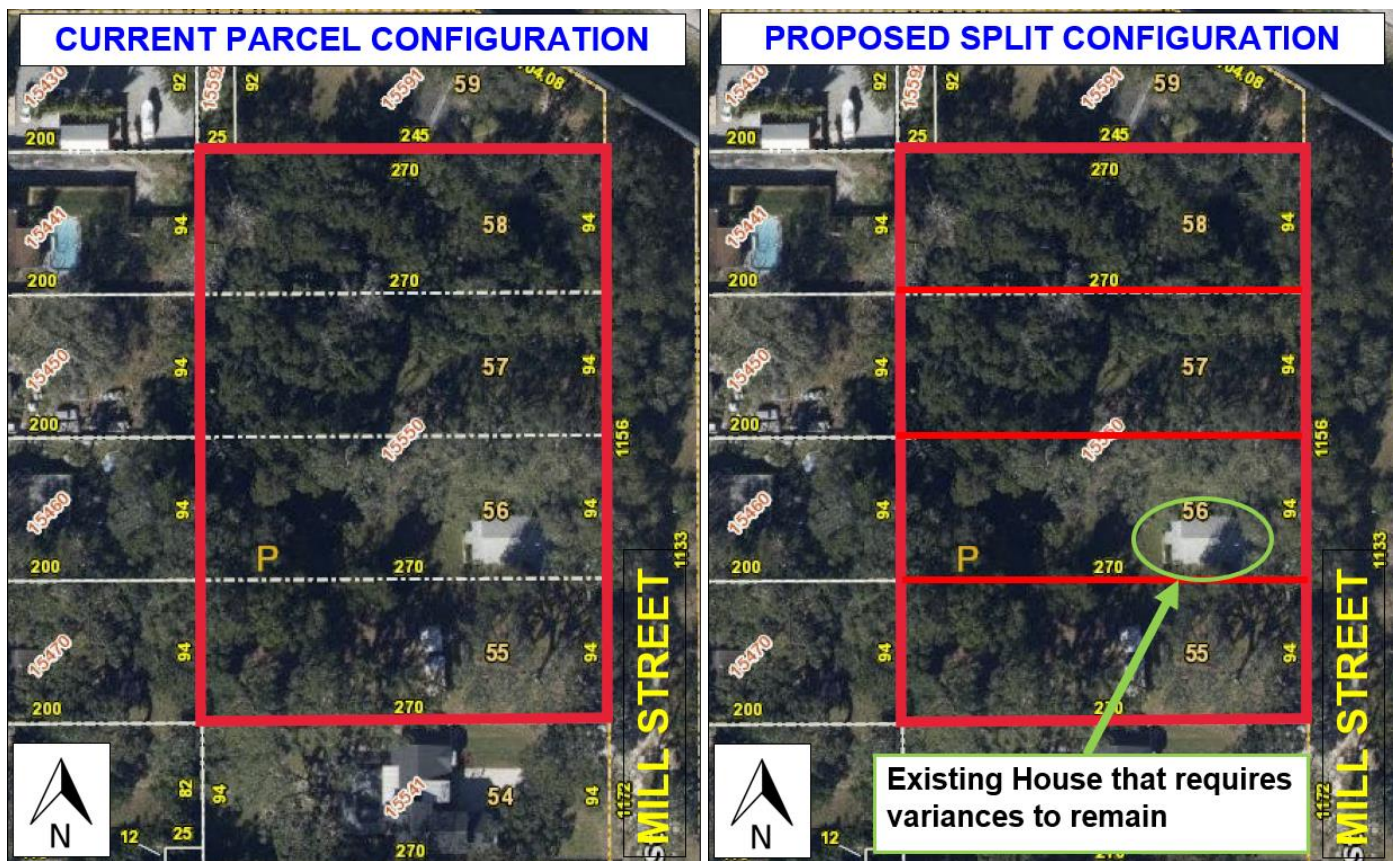
**DESCRIPTION AND CONTEXT**

The subject property is located in the R-CE, Single-Family Dwelling District, which allows single-family homes and associated accessory structures. The future land use is RS 1/1 (Rural Settlement, 1 dwelling unit per acre), which is consistent with the R-CE zoning district. The subject property is located in the Gotha Rural Settlement. The Gotha Rural Settlement is identified in the Orange County Future Land Use Element as one of five Rural Settlements within the County that has maintained its historically rural character, and mandates that every effort shall be made to preserve this rural character as part of Orange County's heritage and historic preservation efforts. Rural Settlements restrict non-residential uses to those that support existing residential uses and serve the residents of the community. The request is not impacted by this rural settlement.

The subject property is a 2.32 acre parcel, which consists of 4 platted lots. The lots were platted in 1885 as Lot 55 through 58 in Block P of the Town of Gotha Plat. Each platted lot is 94 x 270 ft., with an area of 0.58 acres. Each of the underlying platted lots is substandard to the lot width and lot area standards of the R-CE Zoning district. However, there is an approved Variance (for lot width and lot area) from January 1986 (Case #15) that allows a home to be built on each substandard lot. And while the maximum allowed density of the RS 1/1 Future Land Use is 1 dwelling unit per acre, because the underlying lots were created prior to the 1991 adoption of the Comprehensive Plan, as well as the fact that the Variances for substandard lot sizes were approved prior to 1991, the properties are exempted from the density requirements, per Comprehensive Plan policy FLU1.1.3. Therefore, a home is permitted to be built on each platted lot, subject to obtaining a lot split to revert these lots back to how they were originally platted.

However, in order to approve the lot split, all existing structures must meet the required setbacks from new property lines being created. Currently, there is a house that is located entirely on platted Lot 56 that is only 0.8 ft. (9.6 inches) from the proposed new property line to the south, which is Variance request #1. The proposed Variance is to allow this house to remain in its current location, rather than modify or demolish the house, and to allow for a future lot split.

The existing home on Lot 56 that is the subject of this Variance request was originally built in 1926, prior to the adoption of the zoning code in the County (which occurred in 1957), and prior to the rezoning of this property (and most of the properties in the Town of Gotha Plat, as well as the general Gotha area) to R-CE in 1981. As such, in addition to not meeting the side setback to the south, the existing house also does not meet the required 35 ft. front yard setback to the east (only 31.4 ft, where 35 ft. is required) or the minimum living area requirements of the R-CE district (only 1,184 sq. ft. of living area, where 1,500 sq. ft. is required). Variance requests # 2 and # 3, respectively, will recognize the non-conforming conditions of the existing house.



The Variances allow a historic home built nearly 100 years ago to remain and helps to further preserve the existing character and heritage of the Gotha Rural Settlement, consistent with the comprehensive plan goals. The alternative to granting these Variances is for the historic home to be removed so that the lot split can move forward. Therefore, staff is recommending approval of this request, subject to the conditions of approval in this report.

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

#### District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	130 ft.	94 ft. (approved by Variance in 1986)
Min. Lot Size:	43,560 sq. ft. (1 acre)	25,380 sq. ft. (0.58 acres) approved by Variance in 1986

#### Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	35 ft.	31.4 ft. (East- Variance #2)
Rear:	50 ft.	183.6 ft. existing home (West)
Side:	10 ft.	0.8 ft. existing home (South -Variance #1) 56.3 ft. existing home (North)

**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The existing house was built in 1926, prior to the adoption of any zoning standards. Additionally, a Variance was granted in 1986 to allow development on each of the platted lots. The Variance for the existing house's setback was not addressed in the 1986 Variance approval, but allowing the existing home to remain will still allow a home to be built on each existing platted lot, consistent with the approved Variances, while also allowing the preservation of a historic home built nearly 100 years ago.

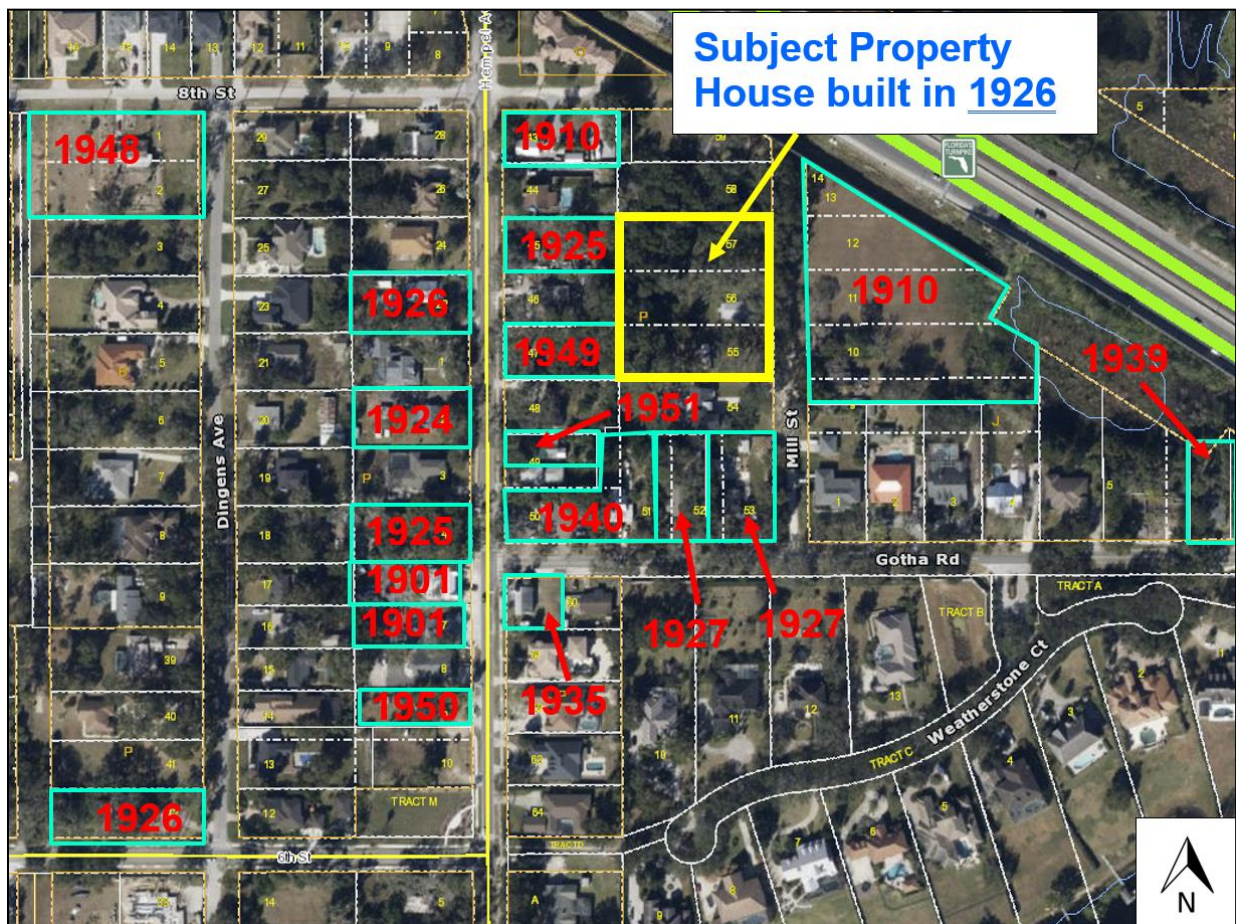
**Not Self-Created**

The need for the Variances is not self-created, as the existing house was built on a single platted lot prior to adoption of zoning standards, and the 1986 Variance allowed for the construction of a house on each platted lot, while incorrectly not addressing the required Variance for the existing house relative to the new lot lines.

**No Special Privilege Conferred**

Granting the Variances as requested would not confer special privilege, as there are many houses built prior to the adoption of the zoning code that do not meet current R-CE district or minimum living area requirements. Below is a map of other homes and structures built prior to 1957 on substandard lots in the Town of Gotha Plat from 1888, that are substandard to the R-CE requirements in some way.

**Map of Surrounding Lots with Structures Built prior to 1957**



**Deprivation of Rights**

Denial of these Variances would deprive the rights of the applicant to keep the existing, non-conforming house that has existed for nearly 100 years, in order to develop the other lots which have obtained Variances. The alternative to effectuate the split of the 4 lots would be to demolish or modify the existing, historic house.

**Minimum Possible Variance**

The request is the minimum possible Variances to allow the existing structure, which was built prior to the adoption of the zoning code, to remain in its current location, or without modification. While the Variance is large in context of the current required setback, it has existed in this location, entirely on Lot 56 for nearly 100 years.

**Purpose and Intent**

Approval of the requested Variances would be in harmony with the purpose and intent of the Zoning Regulations, as well as the Rural Settlement policies of the comprehensive plan. This site is located in the Gotha Rural Settlement, and FLU Policy FLU6.2.2 in the comprehensive plan states that every effort should be made to preserve the existing character of the Gotha Rural settlement, as part of the County's heritage and historic preservation. Many of the original, substandard lots that were part of the Town of Gotha Plat from 1885 have been developed over the last 30 years with larger, more modern houses. While there are some existing homes built prior to the adoption of zoning standards, as indicated in the above map titled *Map of Surrounding Lots with Structures Built prior to 1957*, the overall development pattern in Gotha has been for existing substandard lots to be developed with larger and modern homes. Granting this Variance offers a unique opportunity to preserve a historic structure and maintain some of the history and character of the Gotha Rural Settlement, while still allowing development consistent and compatible with the existing built environment of Gotha.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received September 25, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to the approval of a lot split, the 2 accessory structures on Lot 55 shown on the site plan shall be removed.

C: Joseph Perez  
415 Hager Dr.  
Ocoee, FL 34761

C: David Nguyen  
2823 Cabernet Circle  
Ocoee, FL 34762

**DMA Civil Engineers LLC  
3703 Pompano Court,  
Gotha, FL 34734  
321-438-8154**

To the Board of Zoning Adjustment,

I am Diana M. Almodovar, P.E., authorized Agent representing the owners of the parcel located at 1156 Mill Street in Gotha, Florida (PID#: 33-22-28-3100-15-550), Mr. Paul Meador/Louise C. Meador and Mr. Kenneth Fisher. The above mentioned parcel was originally platted in April 21, 1888 as 4 lots (Lots 55-58, Blk. P, Map of Gotha as Recorded in Plat Book A, Page 39 of the Public Records of Orange County). The Meador/Fisher families later requested a lot aggregation to combine all 4 lots into one and in 1986, the families, represented by Esther L. Fisher and her Agent, requested a Variance to obtain a Lot Reversion (see enclosed minutes). Such request was approved by the County. The current one lot parcel contains a single-family residential home that was constructed in 1926 and that has 1,184 sq ft of living area with a 10'W X 17'L portico (11.5' in height) and two utility sheds (located within Lot 55 which are planned to be removed). The owners are seeking a variance of the side building setback along the south property line due to a portion of the portico encroaching into the side setback. **The request is to allow for a 0.8 foot side building setback along the south property line in lieu of the 5 foot side setback required per Orange County Code.**

This variance will allow for the existing structure, built in 1926, to remain on the lot as it was constructed and for a lot reversion/lot split request to be processed. The lot reversion request is to restore all 4 lots of record: Lots 55-58. The residential structure will be located entirely within Lot 56; however, the structure's portico will encroach into the south property line's side setback; hence the request for the Variance. The Meador/Fisher families have owned the property since before the residential home was built in 1926. The residential home is currently occupied by Ms. Louise C. Meador who has lived in this house all her life, she is 92 years old.

The zoning of the property is RCE and is located within the Gotha Rural Settlement boundaries.

As this is an existing 1926 original residential structure that pre-dates current and past Code requirements, the building encroachment was not a self-created hardship or was not caused as a result of any actions taken by the property owners since lot 56, as recorded in the above-mentioned plat, was an existing lot at the time the residential home was constructed. Approval of this zoning variance will not confer any special privilege to the owners and will not affect any neighboring landowners since both adjacent future lots will be owned by the Meador/Fisher families. Not allowing the variance will deprive the owners of the right to use their property in the same way they have for the past 97 years and would work unnecessary and undue hardship on the owners of the property. The existing portico has served as shelter for vehicles for many years and the variance request is the minimum required that will continue to allow reasonable use of the existing residence. Approval of this variance will not be injurious to the neighbors or detrimental to the public welfare since this lot will be compatible with the adjacent lots in size and zoning designation.

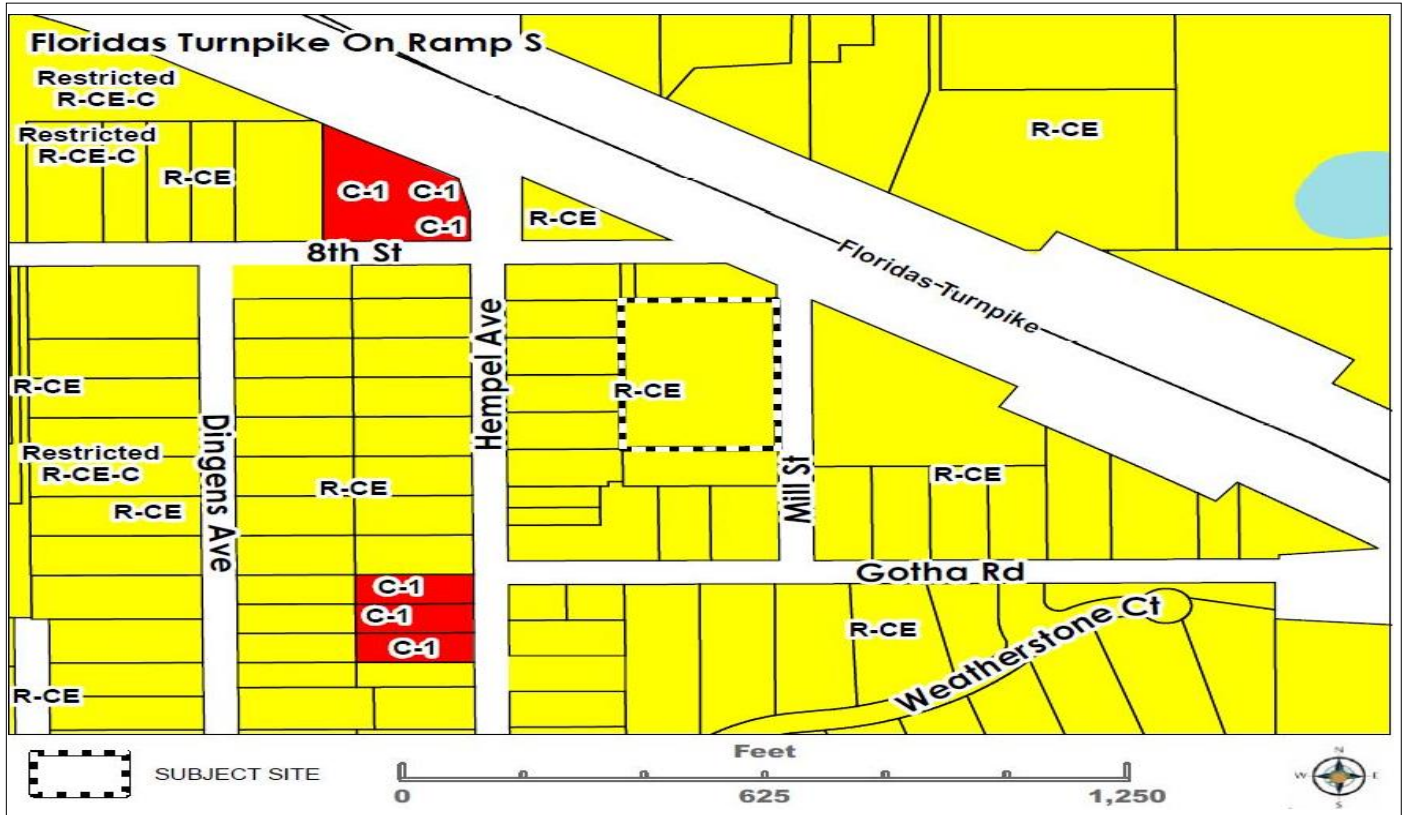
Sincerely,



Diana M. Almodovar, P.E.  
Applicant/Authorized Agent  
DMA Civil Engineers LLC  
3703 Pompano Court  
Gotha, FL 34734  
321-438-8154



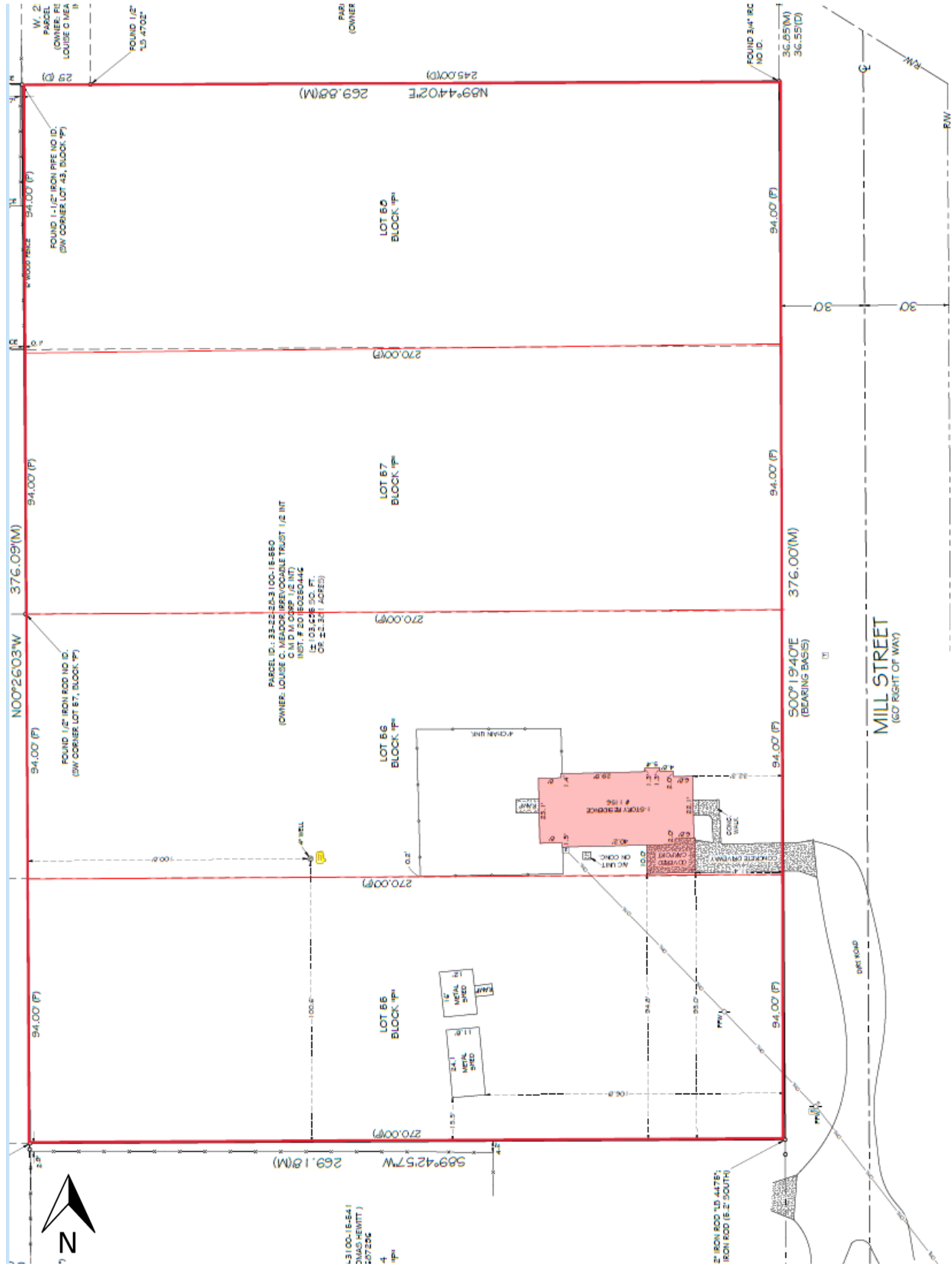
ZONING MAP



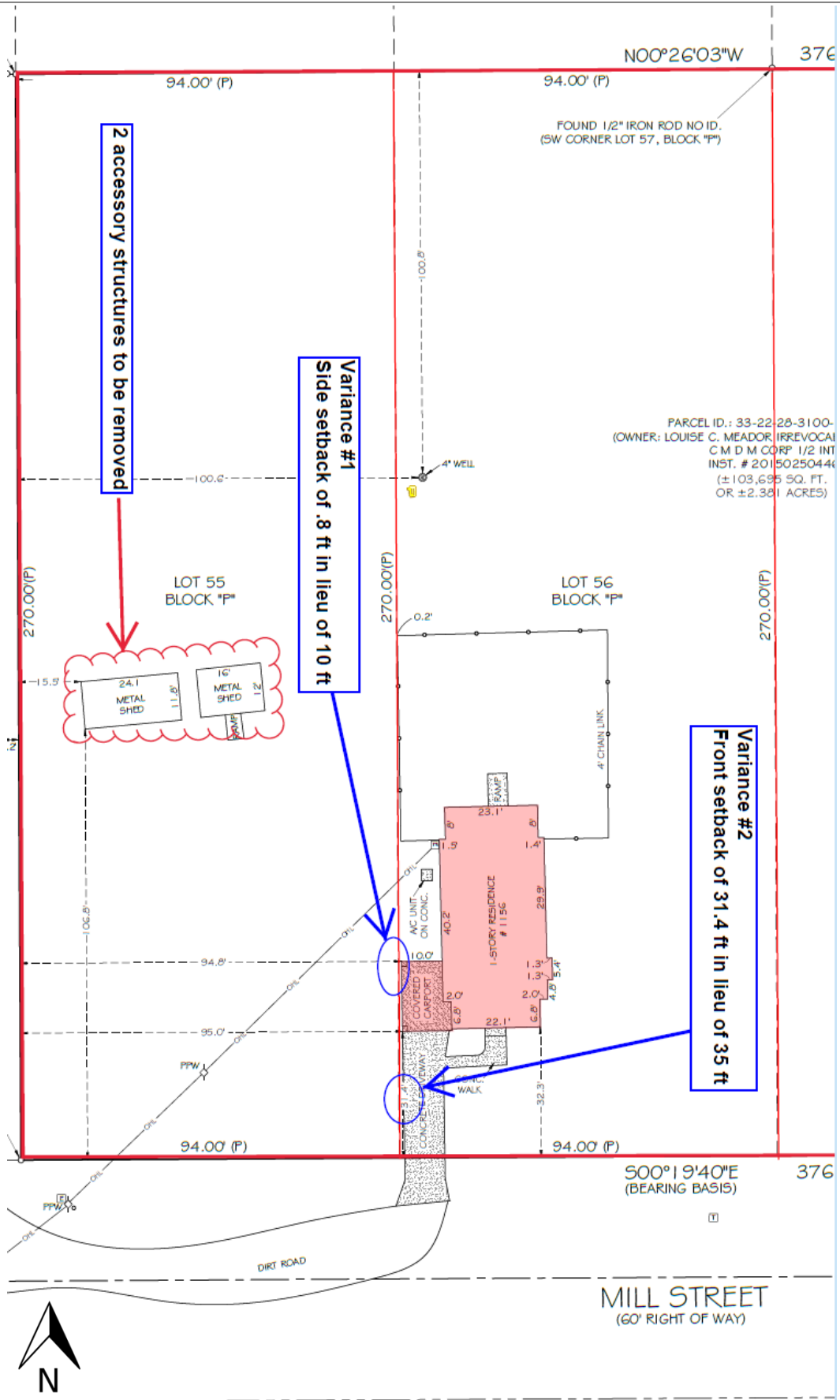
AERIAL MAP



SURVEY



# ENHANCED SITE PLAN (SHOWING IMPACTED LOT LINES)



**SITE PHOTOS**



**Accessory Structures  
to be removed**

**Existing house  
proposed to remain.**

**Existing House subject to Variances, facing west from Mill Street**



**Approximate new lot line**

**Rear of Existing House subject to Variances, facing east**

**SITE PHOTOS**



**Existing house subject to Variances, facing west from Mill Street**



**Looking down Mill Street, facing North**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 02, 2023**

Commission District: **#5**

Case #: **VA-23-11-109**

Case Planner: **Jenale Garnett (407) 836-5955**  
**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** AIDA ABUD

**OWNER(s):** AIDA ABUD LIVING TRUST

**REQUEST:** Variance in the R-2 zoning district to allow an addition to a residence with a 20.5 ft. west rear setback in lieu of 25 ft.

**PROPERTY LOCATION:** 2232 Donegan Pl., Orlando, FL 32826, west side of Donegan Pl., northwest of Lake Pickett Rd., northeast of Challenger Pkwy., north of E. Colonial Dr., east of N. Alafaya Trl.

**PARCEL ID:** 14-22-31-0787-00-310

**LOT SIZE:** +/- 0.14 acres (6,327 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 82

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board finds it meets that the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by Juan Velez; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 2 absent: Sonya Shakespeare, Roberta Walton Johnson; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received September 8, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. A permit for the shed shall be obtained or the shed shall be removed prior to the issuance of the permit for the addition.

**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 one (1) comment was received from the homeowner's association in favor of the request, and no comments were received in opposition to the request.

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

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

The BZA unanimously recommended approval of the Variance by a 4-0 vote, with two absent and one seat vacant, subject to the four (4) conditions in the staff report.

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### STAFF RECOMMENDATIONS

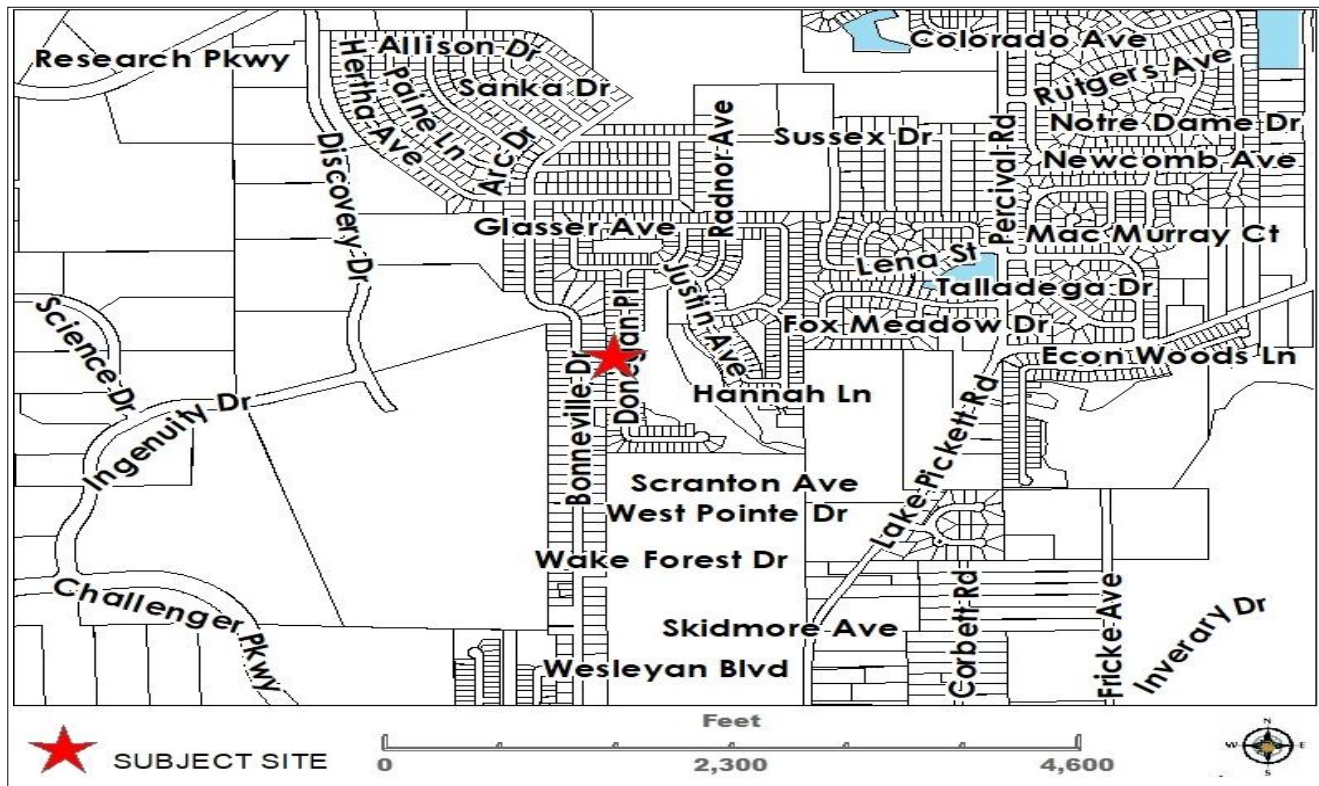
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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

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

The area around the subject site consists of single-family homes and vacant land to the east across Donegan Place. The subject property is a +/- 0.14 acre lot, platted in 1993 as Lot 31 of the Bonneville Pines Phase I plat, and is a conforming lot of record. The property is developed with a 1-story, 1,497 gross sq. ft. single-family home (B97016977) constructed in 1998, and a shed installed in 2023 without a permit. There is a 10 ft. utility easement along the east property line, and a 5 ft. easement on the north, south, and west. These easements are not affected by the Variance requested. The property was acquired by the current owner in 2022.

The proposal is for the construction of a 440.4 sq. ft., 16.9 ft. tall addition to the rear of the existing residence, which will contain a bedroom and living room. After the addition, the home will contain a total of 1,937 gross sq. ft. Although the addition will meet the required side setbacks, the north rear yard will have a 20.5 ft. setback in lieu of 25 ft., necessitating the Variance. The applicant is also proposing to remove or relocate to a conforming location the unpermitted shed currently located at the rear of the house.

Staff recommends approval as the existing footprint in relation to the rear property line renders any useable addition or improvements difficult without the need for the request. Furthermore, the addition will not be significantly visible from any of the surrounding properties due to the 6 ft. wood fence along the sides and rear of the property, and the landscaping along the abutting rear property line. A permit to construct the addition, B23008240, is on hold pending the outcome of this request.

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

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	16.9 ft. (addition)
Min. Lot Width:	45 ft.	60 ft.
Min. Lot Size:	4,500 sq. ft.	6,327 sq. ft.



**Building Setbacks**

	Code Requirement	Proposed
Front:	25 ft.	26.9 ft. (East)
Rear:	25 ft.	20.5 ft. (West– Variance)
Side:	6 ft.	11.9 ft. (North) 11.4 ft. (South)

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**STAFF FINDINGS**


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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special conditions and circumstances particular to this property are related to the size, layout and location of the existing home which renders any useable addition difficult without a Variance.

**Not Self-Created**

The request is not self-created since the owners are not responsible for the existing home in relation to the rear property line which limits the area where an addition or accessory structure with useable area could be built that conforms to setback requirements.

**No Special Privilege Conferred**

Granting the Variance as requested would not confer special privilege as other properties in the area appear to have similar rear setbacks.

**Deprivation of Rights**

Without approval of the requested Variance, the owners will not be able to construct the proposed addition.

**Minimum Possible Variance**

The requested Variance is the minimum possible to accommodate the construction of a reasonably sized addition.

**Purpose and Intent**

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The proposed addition will be at the rear of the house, which will not be significantly visible from any of the surrounding properties. Further, there is a 6 ft. high wood fence along the sides and rear of the property, and landscaping abutting west rear property line which will screen the view of the proposed one-story addition.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received September 8, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the shed shall be obtained or the shed shall be removed prior to the issuance of the permit for the addition.

C: Aida Abud  
2232 Donegan Place  
Orlando, FL 32826

C: Eric Kuritzky  
1800 Everhart Drive  
Orlando, FL 32806

  
ERIC D. KURITZKY, ARCHITECT, CBO  
AR0007981 BU0001096

September 1, 2023

**Jenale Garnett, MPA, MURO, Planner**  
**Orange County Zoning Division**  
**201 S. Rosalind Avenue**  
**Orlando, Florida 32801**

RE: Variance Request, BZA  
2232 Donegan Place

**Ms. Garnett:**

As requested via your email of August 31, 2023, to Aida Abud, the following will hopefully comply with your requested additional information.

The Owner of the property in question, Aida Abud, is requesting a variance of 4.5' to the required rear setback, in order to add additional living area at the rear of the house, so that additional family members can share the house. Because of the original platting date of the property, the required rear setback is 25', not the more current requirement for similar properties of 20'.

Variance Criteria:

1. Special Conditions and Circumstances - As stated, due to the platting date, more restrictive rear setback exist for this development, which are not necessarily applicable to other property in the same zoning district. This information was not understood when the property was purchased. The development HOA has approved the requested variance request. HOA letter and submittal documents were included in the original submittal package.
2. Not Self-Created – The special conditions appropriate to this property is a change in the family needs, whereby; additional adult family needs to move into the house. This necessitates a new living area for Ms. Abud. The proposed addition is the most viable and cost effective approach to resolve this demand.
3. No Special Privilege Conferred – The owner acknowledges that approval of the zoning variance will not confer on her any special privileges that is denied by this Chapter to other property in the same zoning district.
4. Deprivation of Rights – Denial of the variance, after receiving approval from the HOA governing board, would deprive the applicant of the right that the HOA approval assigns to this property, as it would to any other property in the zoning district requesting similar considerations. Additionally, as noted above, denial would create familial financial issues that necessitate the additional space for the expanding family unit, not anticipated when the property of purchased.

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**COVER LETTER**

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BZA Application Letter  
September 1, 2023  
Page 2 of 6

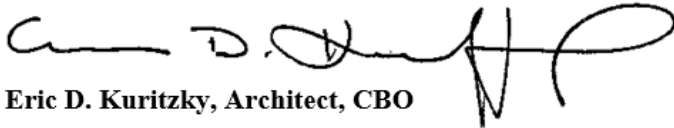
5. Minimum Possible Variance – The request variance will allow for the Owner, who’s bedroom and primary living area will be in the proposed addition, to age in place, with consideration for future use or assistance of wheelchairs, walkers, or other age appropriate accessories, including a bathroom of an appropriate size for any retrofit that might be required. While a foot or two of reduction might be viable, doing so would create more potential difficulty for age appropriate considerations.

6. Purpose and Intent – The proposed addition will be in complete harmony with the purpose and intent of the Regulations, and will not be injurious to the neighborhood or public welfare. The addition will match the design and materials of the existing house, and neighboring homes, and, as noted, has been approved by the HOA as meeting their expectations and requirements, as well.

I hope that, along with the revised building elevations, complete property survey, and this letter, all the required information has been provided for the Board.

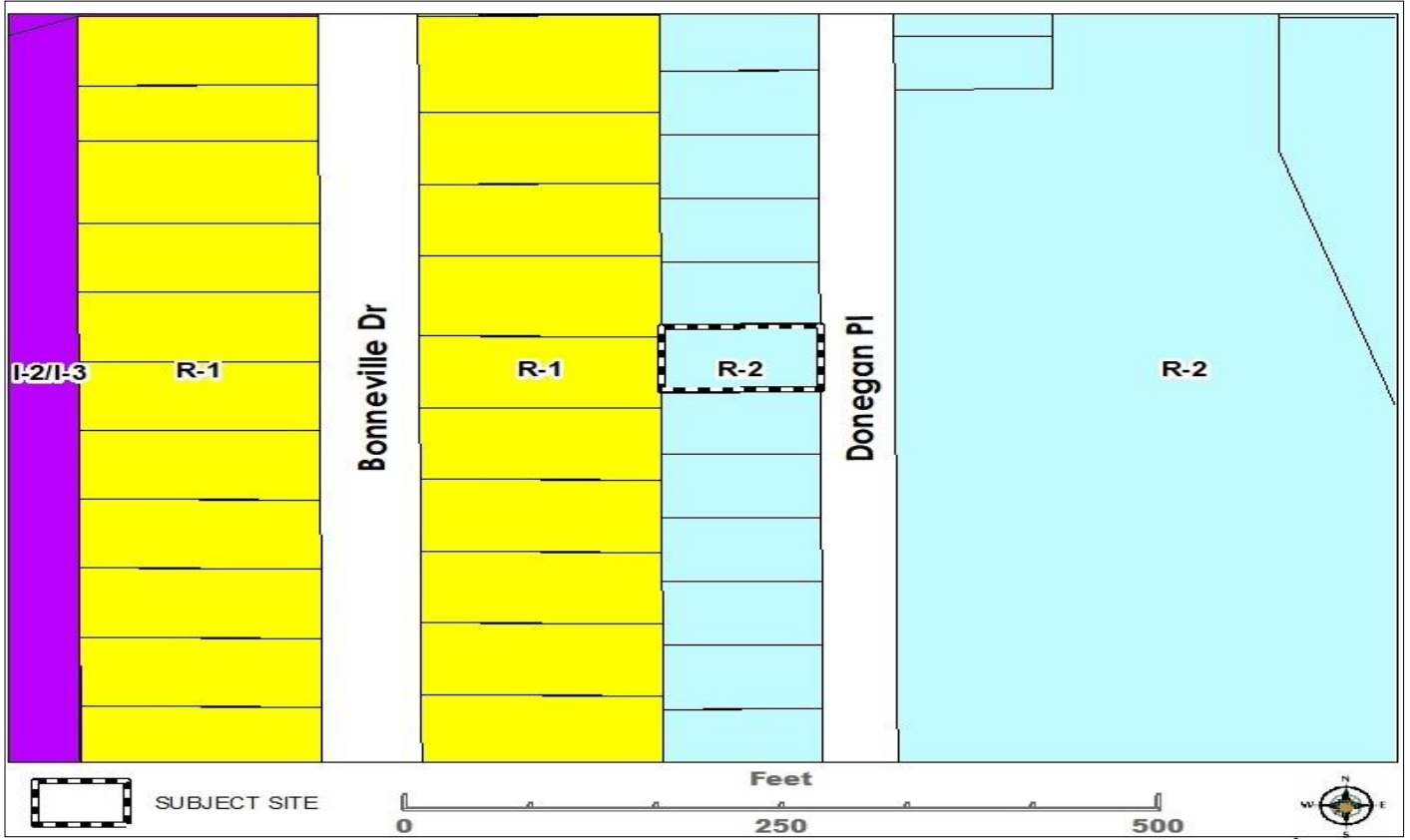
Please do not hesitate to contact me if there are any questions, or if additional information is required.

Thank you.



Eric D. Kuritzky, Architect, CBO

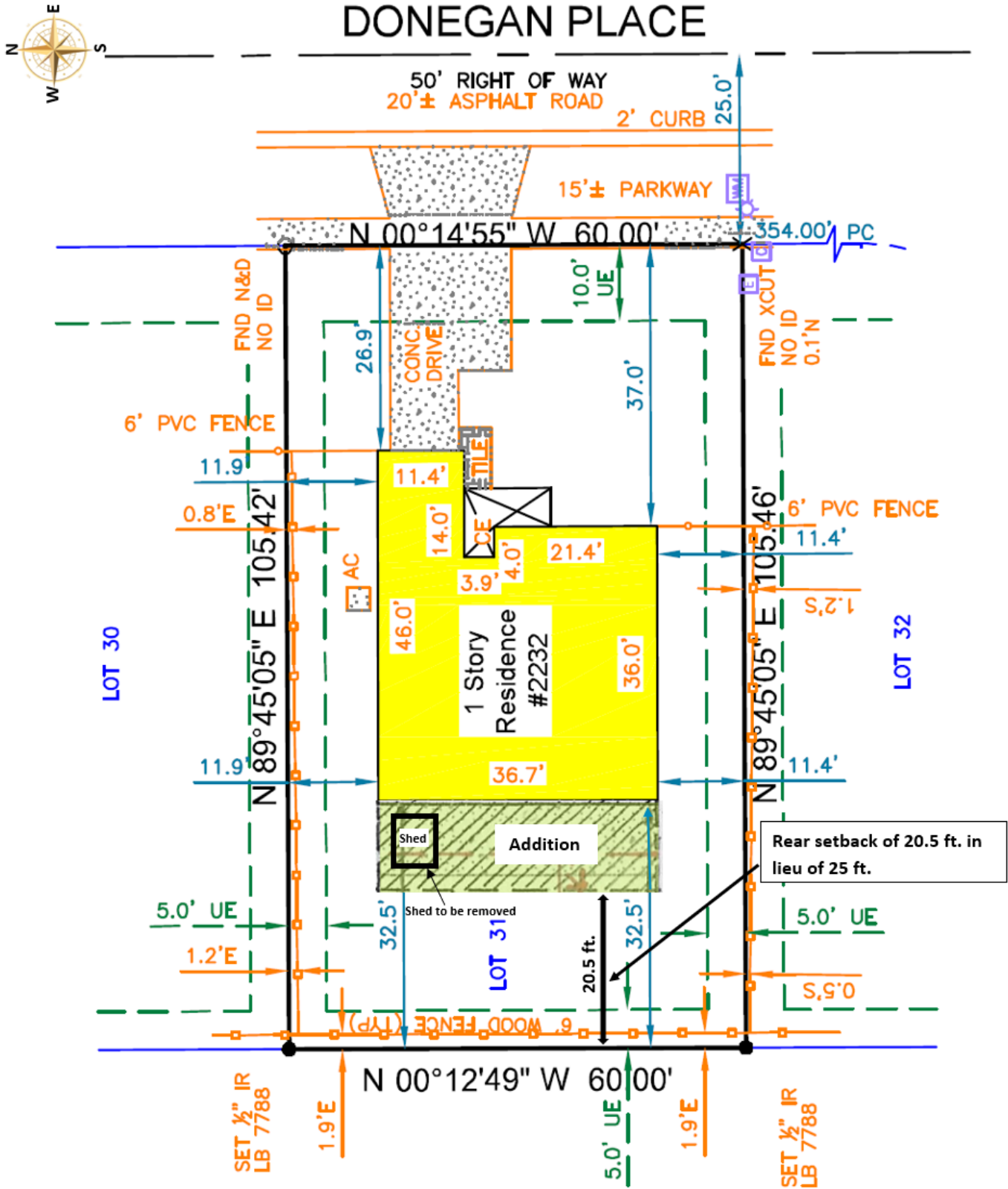
ZONING MAP



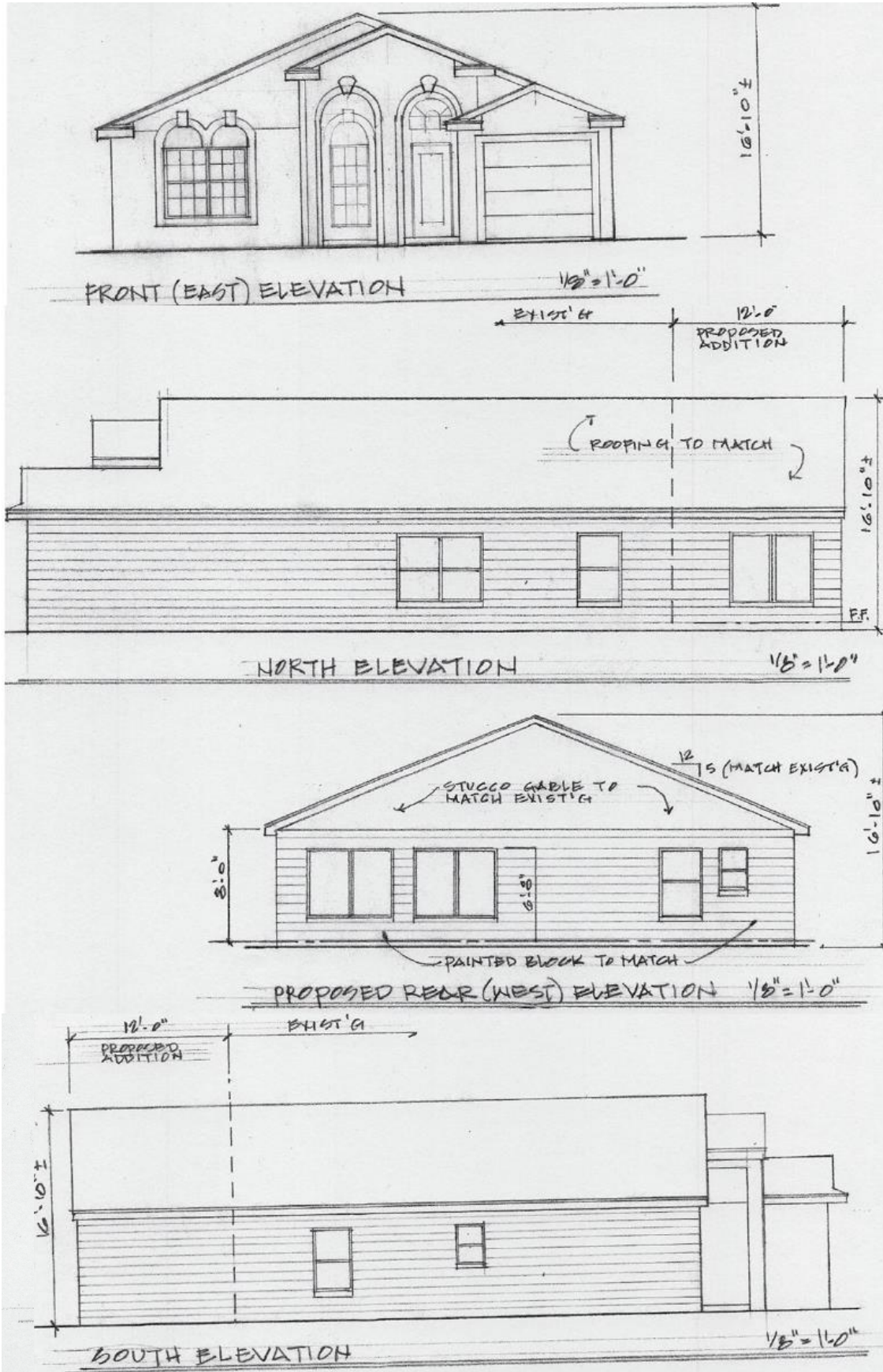
AERIAL MAP



SITE PLAN



ELEVATIONS



**SITE PHOTOS**



**Facing west from Donegan Pl. towards front of subject property**



**Rear yard, facing northeast towards proposed location of addition**



**SITE PHOTOS**



**Rear yard, facing southwest towards requested Variance**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 02, 2023**

Commission District: **#5**

Case #: **VA-23-11-110**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** MCGREGOR LOVE

**OWNER(s):** JOSHEPH T IV JOHNSON, CHRISTINE JOHNSON

**REQUEST:** Variance in the R-1AA zoning district to allow a pool/ deck with a 25 ft. setback from the Normal High Water Elevations (NHWE) in lieu of 35 ft.

**PROPERTY LOCATION:** 8427 Amber Oak Dr., Orlando, FL 32817, north side of Amber Oak Dr., north of University Blvd., east of N. Goldenrod Rd., south side of Lake Martha.

**PARCEL ID:** 01-22-30-5643-00-220

**LOT SIZE:** +/- 0.40 acres (+/- 0.24 acres upland)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 94

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board finds it meets that the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, Second by Thomas Moses; unanimous; 4 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz; 0 opposed; 2 absent: Sonya Shakespeare, Roberta Walton Johnson; 1 vacant):

1. Development shall be in accordance with the site plan received September 15, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance request and, which shall inform all interested parties that the pool and deck is located no closer than 25 feet from the Normal High Water Elevation (NHWE) of Lake Martha.

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

The applicant agreed with the staff presentation and public comments in favor of the request were submitted today.

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 4-0 vote, with two absent and one seat vacant, subject to the four (4) conditions in the staff report.

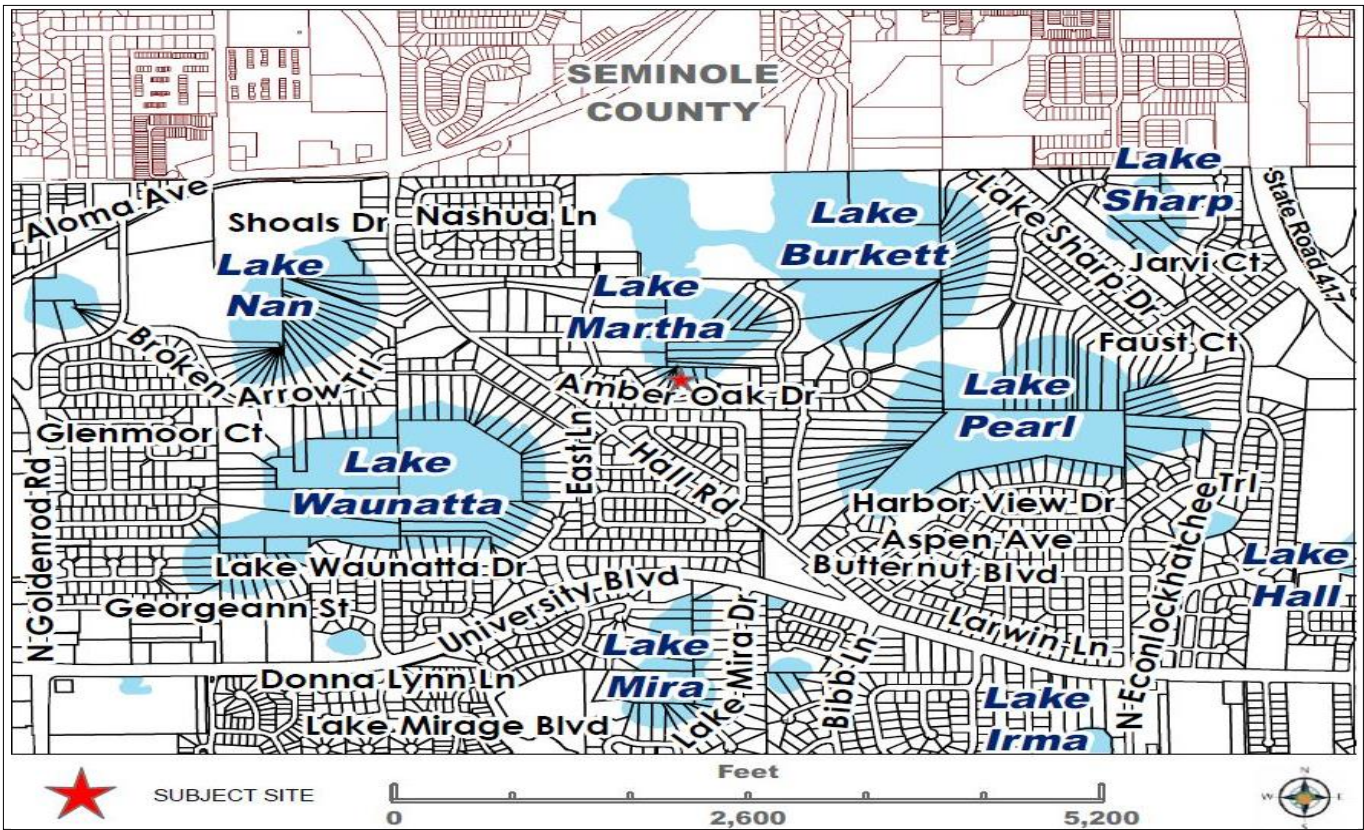
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#### **STAFF RECOMMENDATIONS**

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Approval, subject to the conditions in this report.

**LOCATION MAP**



**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	R-1AA	Lake Martha	R-1AA	R-1AA	R-1AA
Future Land Use	LDR	Lake Martha	LDR	LDR	LDR
Current Use	Single-family residential	Lake Martha	County Stormwater/Retention	Single-family residential	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1AA, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on lots a minimum of 10,000 sq. ft. or greater. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1AA zoning district.

The area around the subject site consists of single-family homes, many of which are lakefront. The subject property is Lot 21 of the Miller’s Cove plat, recorded in 1992, and is considered to be a conforming lot of record. It is a +/- 0.40 acre platted lot, of which +/- 0.24 acres is upland. The remainder of the parcel is either wetland or submerged property under Lake Martha. The property is developed with a two-story 4,520 gross sq. ft. single-family home (B95000306) constructed in 1995 and a boat house (B95006786) built in 1995. There is a 10 ft. drainage and utility easement along the south property line, a 5 ft. easement on the east, and 7.5

ft. easement on the west, none of which are affected by the Variance requested. The property was acquired by the current owners in 2019.

The proposal is to install an 890 sq. ft. pool and deck in the rear yard of the residence with a 25 ft. setback from the NHWE in lieu of 35 ft., requiring the Variance. A 211 sq. ft. accessory structure (cabana) is also proposed within the deck area, which meets the required setbacks. Staff has reviewed the request and is recommending approval of the Variance since the location of the pool and deck is the only location available to provide sufficient space for a useable sized pool and deck. Directly north of the subject site is Lake Martha, and the neighbors abutting to the east and west of the property have similar sized pool and decks. The residence located to the west of the subject property received a Variance for a similar request from the NHWE for a pool and pool screen enclosure and there have been several approved Variances from the NHWE for properties in the area for pool and decks.

The Orange County Environmental Protection Division has reviewed the request and has no objections.

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

### District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	10 ft. (cabana)
Min. Lot Width:	85 ft.	89.9 ft.
Min. Lot Size:	10,000 sq. ft.	0.40 acres (0.24 acres upland)

### Building Setbacks that apply to pool and deck

	Code Requirement	Proposed
Front:	not allowed	not allowed
Rear:	35 ft.	178.6 ft. (North)
Side:	5 ft.	7.5 ft. (East) 7.7 ft. (West)
NHWE:	35 ft.	25 ft. (North– Variance)

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## STAFF FINDINGS

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### VARIANCE CRITERIA

#### Special Conditions and Circumstances

The special conditions and circumstance particular to the subject property are its natural constraints and the location of the house on the lot, which renders any additional site improvements in the rear difficult without a Variance.

#### Not Self-Created

The request is not self-created since there are limited options available to locate the proposed pool and deck to meet code requirements.

**No Special Privilege Conferred**

Granting the Variance as requested would not confer special privilege as several other properties in the area appear to have similar sized pool and decks relative to the NHWE.

**Deprivation of Rights**

Denial of the Variance would deprive the owners the ability to install a useable pool and deck.

**Minimum Possible Variance**

Given the location of existing improvements and existing natural constraints, this is the minimum possible Variance to allow a pool and deck of an appropriate, useable size.

**Purpose and Intent**

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The proposed pool and deck will not impact any adjacent neighbors to the rear of the property since it will be adjacent to Lake Martha, and the abutting neighbors have similar sized pool, deck, and screen enclosures.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received September 15, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
  2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
  3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
  4. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance request and, which shall inform all interested parties that the pool and deck is located no closer than 25 feet from the Normal High Water Elevation (NHWE) of Lake Martha.
- C:     McGregor Love  
       215 N. Eola Drive  
       Orlando, FL 32832



MCGREGOR T. LOVE

mcgregor.love@lowndes-law.com  
215 North Eola Drive, Orlando, Florida 32801-2028  
T: 407-418-6311 | F: 407-843-4444  
MAIN NUMBER: 407-843-4600



September 14, 2023

Ted Kozak  
Chief Planner  
Orange County, Florida  
201 S. Rosalind Avenue  
First Floor  
Orlando, FL 32801

**Re:           Application for NHWE Setback Variance for Proposed Swimming Pool Located at  
8427 Amber Oak Drive (PID: 01-22-30-5643-00-220)**

Dear Ted:

This law firm represents Joseph and Christine Johnson, the owners of the above-referenced Property, with respect to the application for a variance that is enclosed herein (the "Variance"). The purpose of this letter is to describe how the requested Variance meets the approval criteria under Section 30-43(3) of the Orange County Code. The Property is 10,587 square feet acres and is located within the R-1AA zoning district. The Property is bounded by Lake Martha to the north, and single-family residential to the east, west, and south. The Future Land Use designations of the parcels surrounding the Property are Low-Density Residential.

The proposed Variance would allow the construction of a swimming pool twenty-five (25) feet from the Normal High-Water Elevation (NHWE) of Lake Martha in lieu of thirty-five (35) feet setback requirement under Code, as is depicted in the enclosed site plan included with this application. Section 30-43(3) of the Orange County Code details the specific criteria that must be met for all variance requests. In this case, all criteria have been met, as is discussed in more detail below.

*(1) Special Conditions and Circumstances.*

Special conditions and circumstances exist which are peculiar to the Property which are not applicable to other lands in the same zoning district. In particular, other properties zoned R-1AA that are not located on a waterbody may construct swimming pools and other structures without being restricted by NHWE setbacks. Accordingly, the Property's location on a waterbody and its configuration in relation to the NHWE constitute special conditions and circumstances peculiar to the Property.





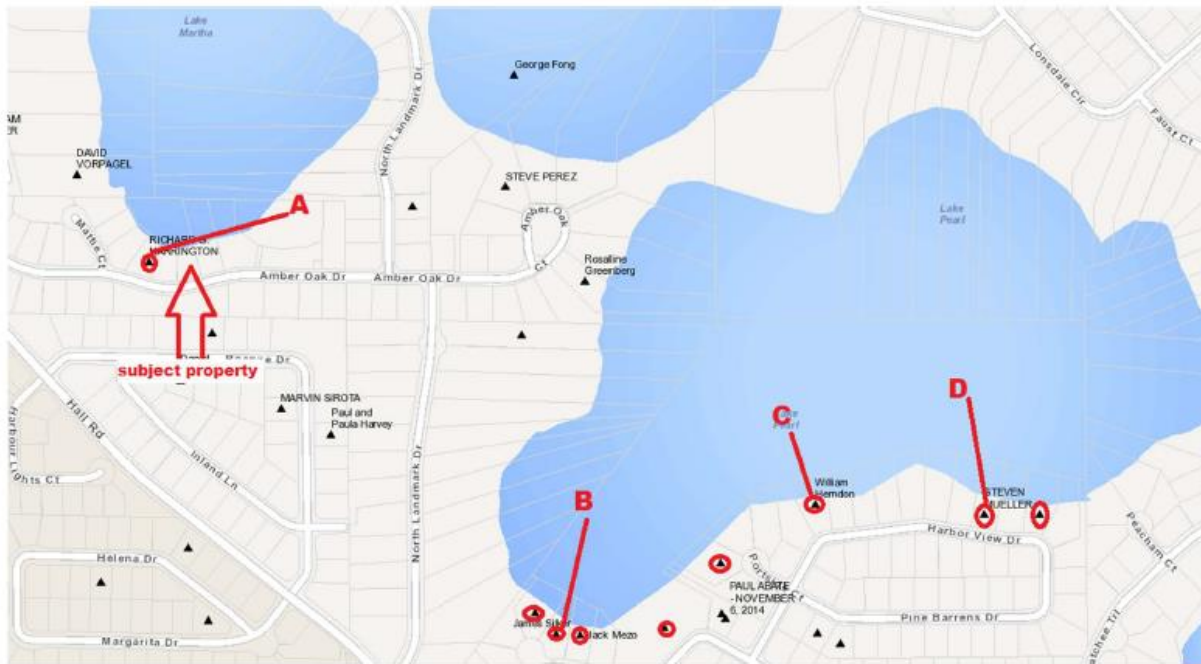
Ted Kozak  
September 14, 2023  
Page 2

*(2) Not Self-Created.*

The special conditions and circumstances presented by the Property's location on a waterbody and its configuration in relation to the NHWE did not result from the Johnsons' actions.

*(3) No Special Privilege Conferred.*

Approval of the requested variance will not confer on the applicant any special privilege that is denied to other lands or buildings in the same zoning district. As outlined above, the requested variance is justified by the peculiar special conditions and circumstances presented by the Property's configuration in relation to the NHWE. Over the years, the County has repeatedly granted NHWE setback variances to nearby property owners looking to construct a swimming pool. Such previous swimming pool variance approvals (which includes approval of an identical request one lot away from the Property) are depicted below circled in red:



- A. VA-97-11-017 – 25 ft.
- B. VA-21-09-080 – 18 ft.
- C. VA-02-10-120 – 20 ft.
- D. VA-11-02-116 – 18 ft.

Ted Kozak  
September 14, 2023  
Page 3

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Approval of the Variance will allow the applicant to build a swimming pool, which is a common accessory structure on R-1AA lots. Moreover, as the County has granted similar variances on numerous occasions, approval of the Variance would not confer any special privilege upon the applicant.

*(4) Deprivation of Rights.*

The denial of the requested Variance would deprive the applicant of rights commonly enjoyed by other property owners in the vicinity of the Property and would work unnecessary and undue hardship on the applicant. As discussed above, properties not located on a waterbody are able to construct swimming pools without a variance. Where lakefront property owners have needed variances to build a pool, the County has granted them. Accordingly, strict adherence to the NHWE setback would deprive the applicant of rights commonly enjoyed by other property owners in the vicinity of the Property.

*(5) Minimum Possible Variance.*

The requested variance is the minimum variance that will make possible the construction of a swimming pool on the Property.

*(6) Purpose and Intent.*

The approval of the requested variance will be in harmony with the purpose and intent of Orange County Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The purpose of the NHWE setback is to provide for lakeshore protection and conservation of the watershed. As discussed above, the County has repeatedly found similar requests from lakefront owners to be in harmony with the purpose and intent of Code. As a result, the requested Variance would be compatible with the surrounding area and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

As illustrated above, the proposed use meets all of the required standards for a variance that are set forth in the County Code. In support of this variance request, enclosed please find the following:

- (a) Application form;
- (b) Application fee payment;
- (c) OCPA Map of the Property;
- (d) Legal Description of the Property (copy of the deed);
- (e) Copies of site plan;

Ted Kozak  
September 14, 2023  
Page 4

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- (f) Agent Authorization;
- (g) Specific Project Expenditure Report;
- (h) Relationship Disclosure Form; and

We appreciate the opportunity to request this variance. Please let me know if you have any questions or require any further information.

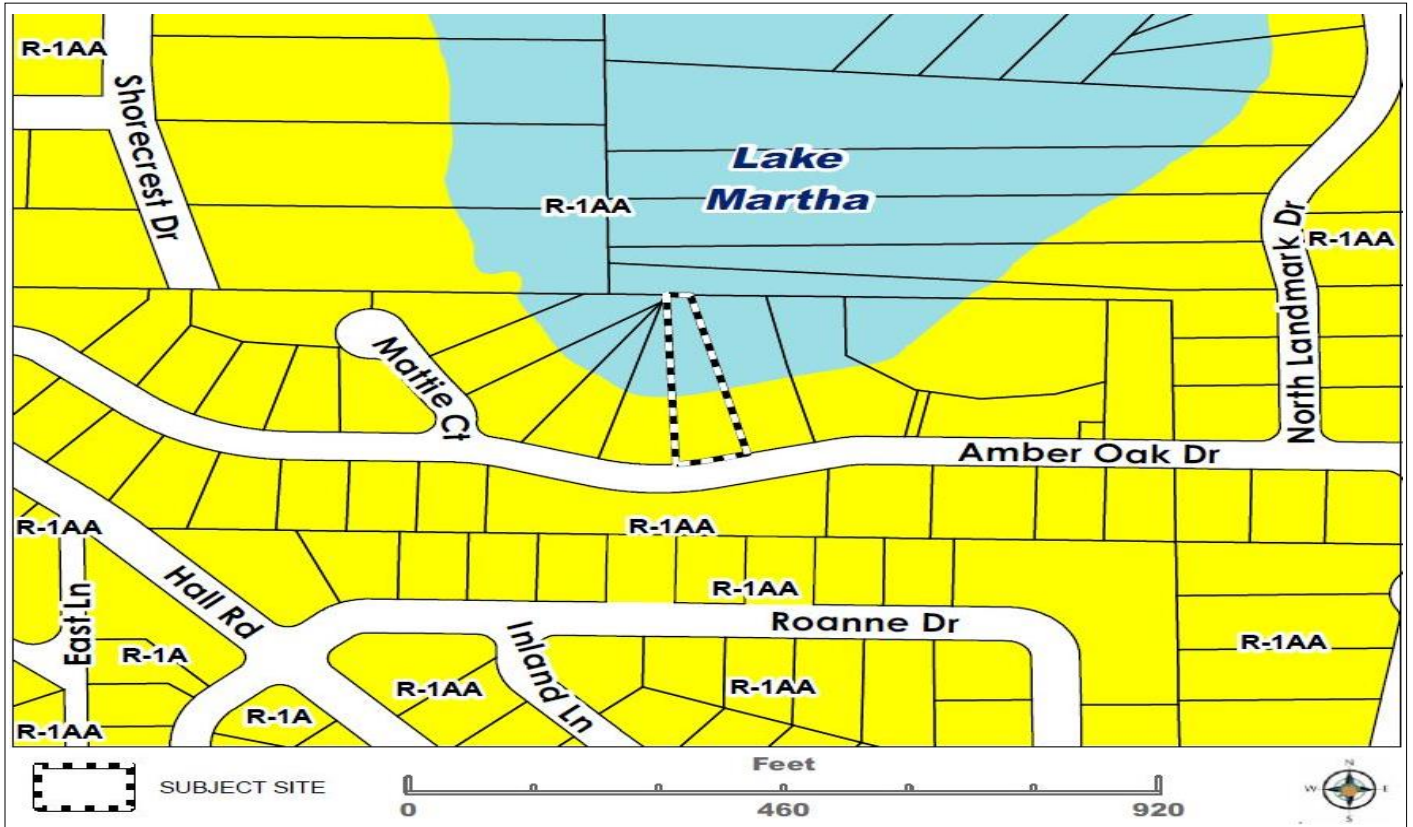
Very truly yours,



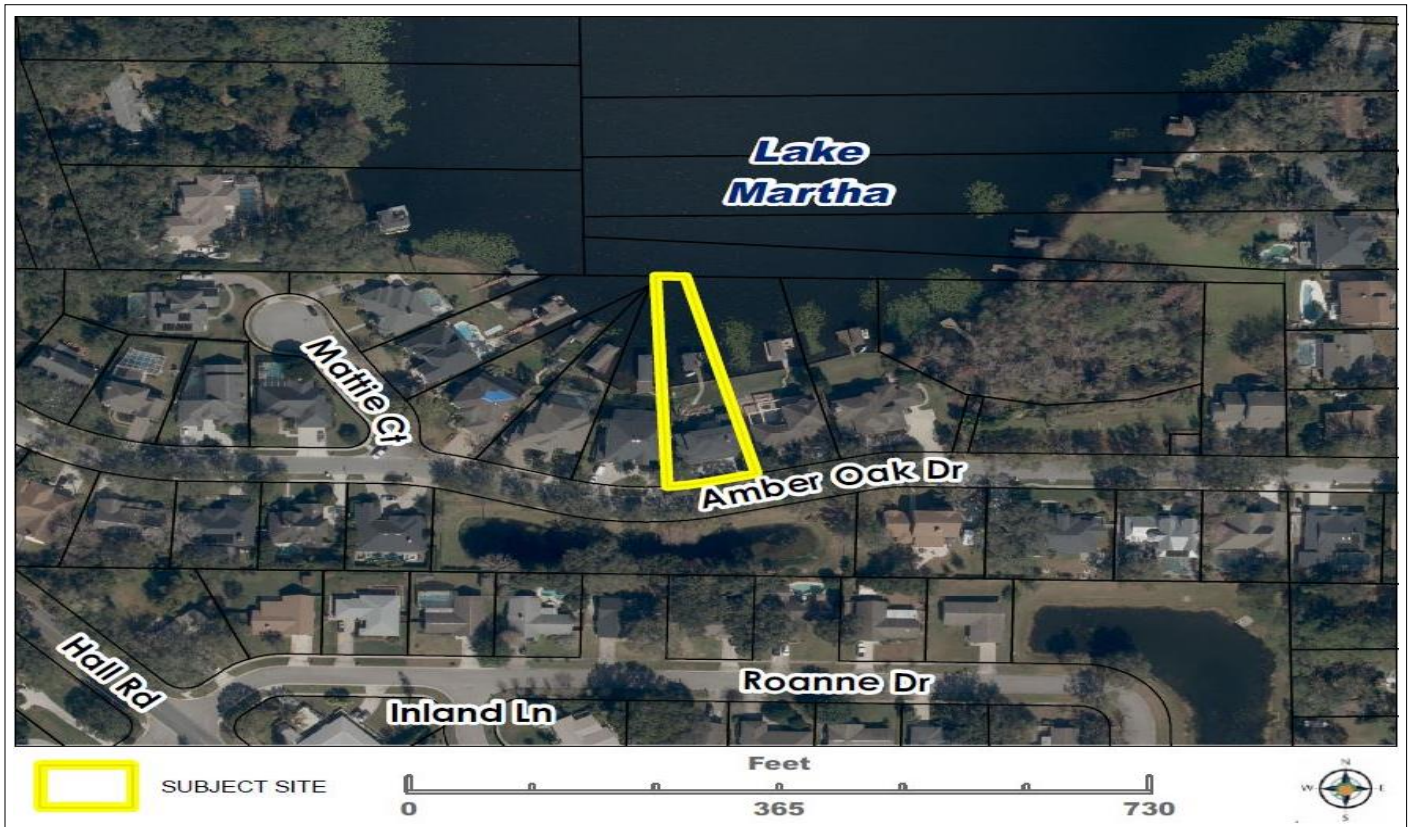
McGregor T. Love

MTL/MTL

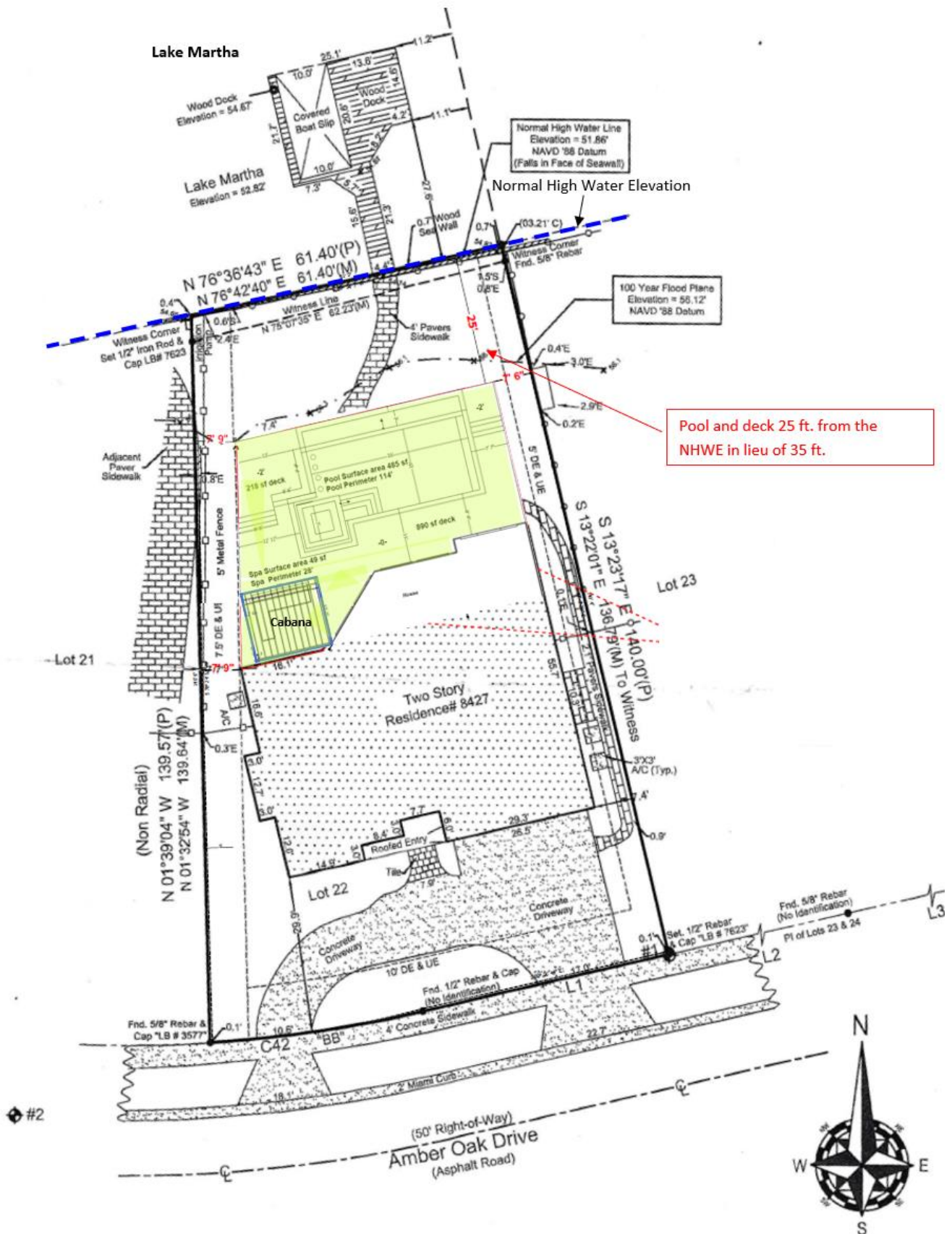
ZONING MAP



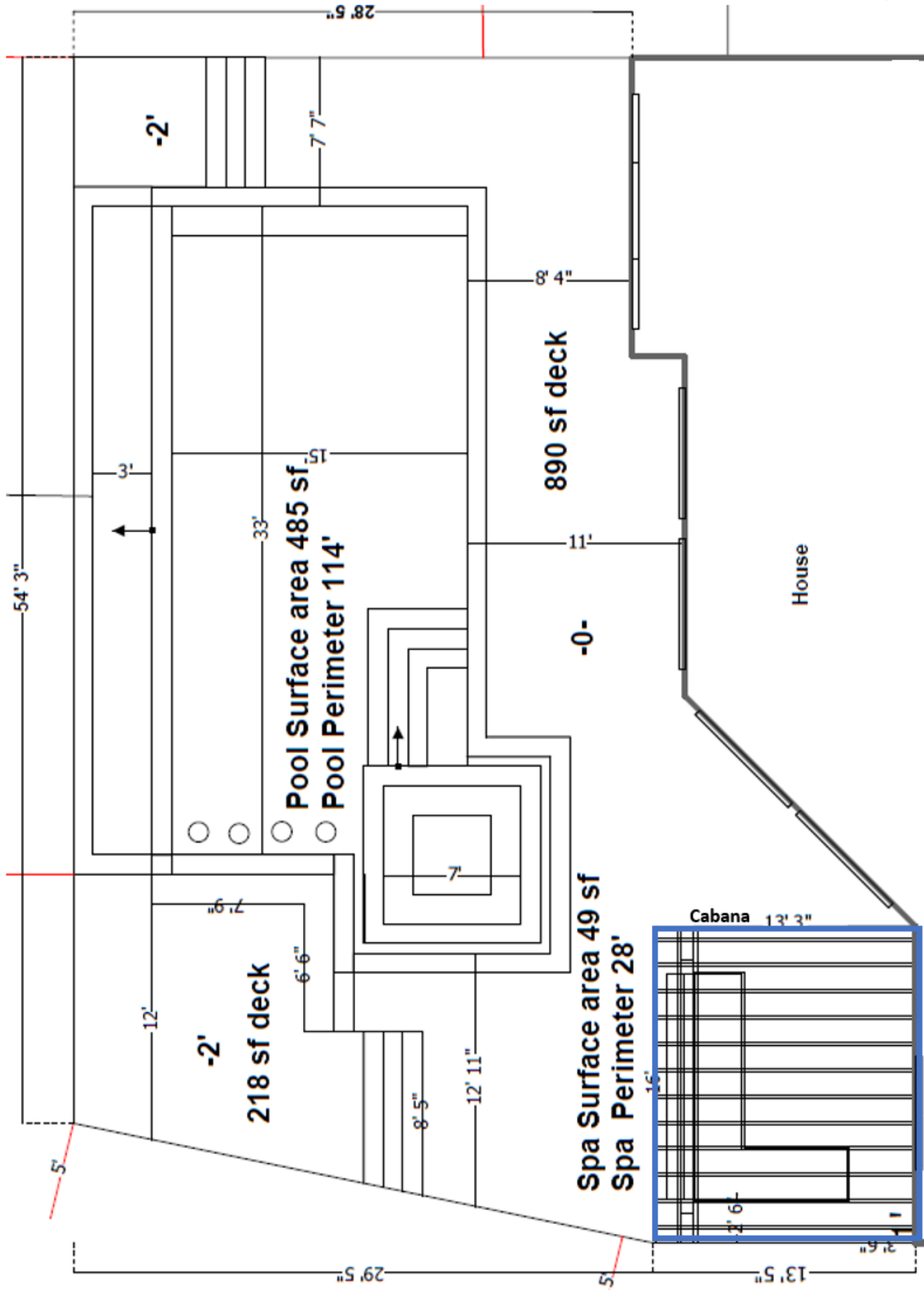
AERIAL MAP



# SITE PLAN



PROPOSED POOL, DECK, AND CABANA



RENDERINGS OF PROPOSED POOL, DECK, AND CABANA



**SITE PHOTOS**



**Facing northeast from Amber Oak Dr. towards front of property**



**Rear yard, facing south towards proposed location of pool and deck**



**SITE PHOTOS**



**Rear yard, facing north towards Lake Martha**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 02, 2023**

Commission District: **#2**

Case #: **SE-23-10-096**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** EVENS CHERY FOR HOUSE OF GRACE CHURCH & MINISTRIES

**OWNER(s):** HOUSE OF GRACE CHURCH AND MINISTRIES INC

**REQUEST:** Special Exception and Variances in the R-1A zoning district for the construction of a two-phased religious institution as follows:

- 1) Special Exception for a religious institution with 93 seats for patrons in the first phase and 290 seats for patrons in the second phase.
- 2) Variance for all unimproved parking areas in lieu of improved parking areas in the first phase.
- 3) Variance for 95 unimproved parking spaces in lieu of 105 improved parking spaces in the second phase.

**PROPERTY LOCATION:** 4213 N. Pine Hills Rd., Orlando, FL 32818, east side of N. Pine Hills Rd., south of North Ln., west of N. John Young Pkwy.

**PARCEL ID:** 07-22-29-6974-03-170

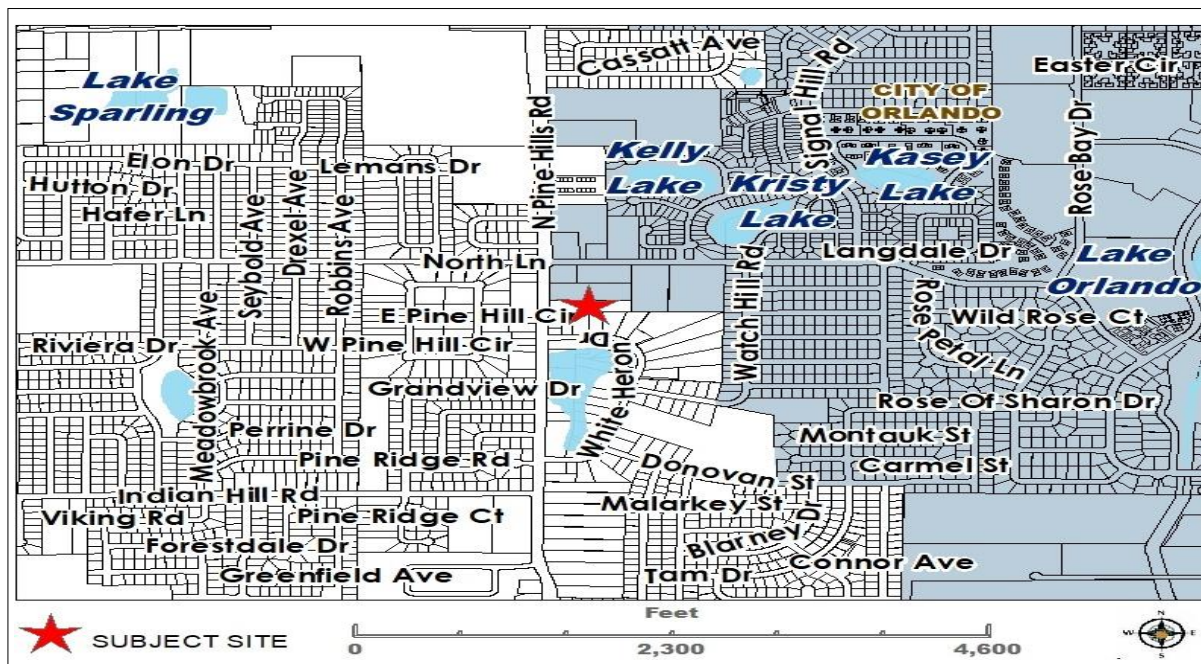
**LOT SIZE:** +/- 2.2 acres

**NOTICE AREA:** 700 ft.

**NUMBER OF NOTICES:** 150

CONTINUED TO THE 12/7/2023 BZA MEETING

## LOCATION MAP



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 02, 2023**

Commission District: **#2**

Case #: **SE-23-10-095**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** AMY DALY FOR FREEDOM RIDE

**OWNER(s):** FREEDOM RIDE INC

**REQUEST:** Amendment to an existing Special Exception and Variance in the R-1A zoning district as follows:

- 1) Amendment to a Special Exception for a therapeutic riding center to include a covered horse wash area and to reduce the size of the previously approved stable and arena.
- 2) Variance to allow all unimproved parking spaces in lieu of improved parking spaces.

**PROPERTY LOCATION:** 3919 Bay Lake Rd., Orlando, FL 32808, northwest corner of Bay Lake Rd. and Eunice Ave., west side of Bay Lake, west of N. John Young Pkwy., north of Silver Star Rd.

**PARCEL ID:** 08-22-29-1900-00-490

**LOT SIZE:** +/- 24.4 acres (+/- 17.49 acres upland)

**NOTICE AREA:** 500

**NUMBER OF NOTICES:** 196

**DECISION:** Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, **APPROVAL** of the Variance request in that the Board finds it meets that the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, Second by Juan Velez; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan received October 5, 2023, horse stable and horse wash area elevations received September 21, 2023, and arena elevations received October 16, 2023, 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 5 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. Hours of operation of the therapeutic riding facility shall be limited to 8:30 a.m. to 5:00 p.m., Monday through Saturday; and, hours for horse care will be 7:00 a.m. to 6:00 p.m. Sunday through Saturday.
6. No outdoor speakers or other audio amplification shall be used on site.
7. No more than three (3) outdoor special events advertised as open to the public per calendar year, and the hours of such events shall be limited from 8:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
8. Install one tree at the end of the row of parking spaces in front of the proposed arena as required per Sec.24-4 (3) (e) of the Orange County code.
9. The number of horses shall be capped at 20. Any increase shall require an amendment to the Special Exception.
10. Use of the property is limited to an indoor/outdoor recreation use (therapeutic riding center).
11. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."
12. Development shall comply with Chapter 24 (Landscaping) and Chapter 15 Article VIII (Tree Protection and Removal). In the event there is a conflict between Chapter 24 or Chapter 15 and the site plan, the provisions of Chapter 24 and Chapter 15 shall prevail.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval of the Special Exception and Variance. Staff noted that two (2) comments were received in favor of the requests, and no comments were received in opposition to the request.

The applicant agreed with the staff presentation and briefly mentioned the services provided by the facility.

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

The BZA unanimously recommended approval of the Special Exception and the Variance by a 5-0 vote, with one absent and one seat vacant, subject to the twelve (12) 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	City of Orlando R-1AA/W	City of Orlando I-P/W & County P-D	Bay Lake & R-1A	City of Orlando R-1AA/ W
Future Land Use	LDR & WB (Bay Lake)	City of Orlando Residential Low	City of Orlando Industrial & County MDR	WB (Bay Lake) & LDR	City of Orlando Residential Low
Current Use	Ranch/ Therapy	Single-family residences	Industrial, Single-family residences	Bay Lake, Single-family residences	Single-family residences

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures on lots a minimum of 7,500 sq. ft. or greater. Certain non-residential uses, such as outdoor recreation, are permitted through the Special Exception process. The Future Land Use is Low Density Residential (LDR), and Waterbody (WB) which are consistent with the Zoning District.

The area around the subject site is comprised of single-family homes, many of which are lakefront. The subject property is comprised of Lots 49 through 52 located in the A.R. Daniels Subdivision, recorded in 1962, and is considered a conforming lot of record. It is a +/- 24.4 acre lot, of which +/- 17.49 acres is upland. The remainder

of the parcel is either wetland or submerged property under Bay Lake. The property is located on the corner of Bay Lake Road and Eunice Avenue and is developed with an existing horse ranch used as a therapeutic recreational use. The existing residence, which was constructed in 1939, contains 1,567 sq. ft. of gross floor area and serves as an office with an attached carport. There is also an existing 1,636 sq. ft. horse stable, 2 metal sheds for storage of equipment located on the property, another 343 sq. ft. horse stable, and a 517.1 sq. ft. covered horse stable. There currently is a temporary dumpster on site that is being removed by the end of October. When the existing structures were converted to be used in association with the therapeutic riding center the property was a bona fide agricultural use, therefore they were not required to pull permits for any of the work that was done. However, that exemption has since expired and they will be required to obtain permits for the site improvements and any new structures moving forward.

Prior BZA cases:

- May 2020: Special Exception and Variances (SE-20-03-003) to allow the construction of a 20,000 sq. ft. covered riding arena and associated 26,000 sq. ft. barn for up to 20 horses for an indoor/outdoor therapeutic riding center (indoor/outdoor recreation use). The Variances allowed a portion of the site to be used for overflow parking for one (1) or two (2) annual special events without requiring improved drive aisles or parking spaces, allowing for the area to be used for pasture the remainder of the time. The overflow parking, arena, and barn were never installed.
- January 2021: Amendment to an existing Special Exception and Variances (SE-21-01-123) approved to allow an updated site plan showing the relocation of the 20,000 sq. ft. covered riding arena and associated 26,000 sq. ft. barn for up to 20 horses for an indoor/outdoor therapeutic riding center (indoor/outdoor recreation use). Also, Variance requests to allow grass parking for an overflow parking area and drive aisles in lieu of an improved parking area, a dumpster enclosure to be located in front of the principal structure in lieu of alongside or behind, and grass parking for the overflow parking associated with the riding area in lieu of paved parking. The overflow parking area, arena, and barn were never constructed, however the previously existing single family residence that was converted to an office and horse stable on the site serves the therapeutic equine riding center use permitted under (Z22001786).

The proposal is an amendment to the Special Exception to address the following site plan changes: use existing structures, decrease the square footage of the structures previously proposed, removal of the unimproved grassed parking area for overflow parking, conversion of improved paved parking area to unimproved grass parking, and reorientation of site facilities. The proposal includes the construction of a 9,800 sq. ft., 23.7 ft. high covered riding arena, an additional 3,593 sq. ft. wood frame horse stable with a height of 15 ft., and a 576 sq. ft. covered horse wash area with a height of 12.2 ft. located southwest of the existing horse stable. The proposed structures are for the continued operation of a therapeutic equine riding center on the property which includes personnel and volunteer training, therapeutic riding for children and adults with disabilities, guided therapist riding, wellness therapy and merit badge programs for boy and girl scouts. Even though the applicant's cover letter states that there will be 25 horses on site, the number of horses will remain at 20, the same as the approved Special Exception in 2021. A dumpster is no longer proposed because the regular trash removal services provided by the County for the property are going to be used. The new proposed site plan and conditions of approval contained in this report will replace all previous approvals.

The following table provided by the applicant, titled *Structure Inventory in Square Feet*, outlines the square footage of the structures that are existing, approved through the Special Exception in 2021, current, and proposed modifications.

## Structure Inventory in Square Feet

Structure Type/Status	Existing <sup>2</sup>	County Approved <sup>√</sup>	Current <sup>**</sup>	Proposed Modification <sup>^</sup>
Metal Shed	307.65	307.65	307.65	307.65
2 Story Frame house/office	1,542.67	1,542.67	1,542.67	1,542.67
Metal Shed*	85.60	----	----	----
Wood Frame Horse Stable	257.47	----	343.07	343.07
Metal Frame Horse Stable	1,636.08	----	1,636.08	1,636.08
Metal Frame Building	621.76	----	621.76	621.76
Covered Metal Horse Stable	517.11		517.11	517.11
Proposed Covered Horse Wash Area	----	----	----	576.0
Proposed Wood Frame Horse Stable	----	23,600	----	3,593
Proposed Arena	----	20,000	----	9,800
<b>Total</b>	<b>4,968.34</b>	<b>45,450.32</b>	<b>4,968.34</b>	<b>18,937.34</b>

**Notes:**

\*=Metal shed incorporated into Wood Frame Horse Stable

<sup>2</sup>=Existing structures when FR gained control of property

<sup>√</sup>=Approved structures in Special Exception

<sup>\*\*</sup>=Existing Structures currently on FR property, FR is using existing structures

<sup>^</sup>=Modification to the Special Exception to retain existing structures, propose new structures with an overall decrease in square footage of 26,512.98

There are three scheduled events: the annual Holiday Horse show for riders which is a one-day event for 3 hours with an attendance of 40 participants, and two annual 2-hour Open House events that host 30 participants. There will be no services of training and therapeutic riding provided during the hours of the special events.

Parking requirements for the use are as follows:

- Assembly place with 30 patrons and 10 employees (therapeutic riding center):  
1 parking space per 3 patrons, plus 1 space per employee, requiring 20 spaces.

The site plan shows a total of 23 spaces (21 unpaved regular parking spaces and 2 paved handicap spaces), which meets the parking requirements per Orange County Code Sec. 38-1476 for quantity of off-street parking for assembly places without fixed seats. The applicant states in their cover letter that there is no modification to the number of parking spaces, however the parking requirements were reduced due to the reduction in the number of patrons attending events which is a direct result of the decrease in the proposed arena's size and the overflow parking was removed as it was no longer needed.

Per Sec. 38-1479 (a) of the Orange County Code, "All parking areas shall have durable all-weather surfaces for vehicle use areas, shall be properly drained, shall be designed to separate pedestrian and vehicle circulation for safety, and shall meet all accessibility requirements of the most recent editions of applicable federal and state standards as adopted. For purposes of this article, a durable, all-weather surface shall consist of an improved surface, including concrete, asphalt, stone and other permanent surfaces, but not including gravel, wood chips, mulch or other materials subject to decay." The Variance is required because the applicant is requesting to allow 21 unimproved parking spaces in lieu of parking on an improved surface. The parking area will still be required to have improved drive aisles and wheel stops or railway ties for each parking space to prevent parking in undesignated areas. The allowance for parking on an unimproved surface will support compatibility with the continued use of the property as a riding center and consistency with the surrounding residential uses in the

area. Moving forward, the proposed structures and nonvertical construction are required to be permitted since the property is no longer a bona fide agricultural use.

In their cover letter, the applicant requested relief from Chapter 24 - Landscaping, Buffering, and Open Space section of the Orange County Code. However, this is not the appropriate time or mechanism to request such a deviation because it cannot be granted by the Board of Zoning Adjustment. Therefore, the applicant will need to request that at a later date and provide their request in writing to the zoning manager per Section 24-3 (h). The landscaping for the project will be required to meet the Type C, opaque buffer which requires that the buffer be completely opaque from the ground up to a height of at least six (6) feet and shall be a minimum of fifteen (15) feet wide. The Type C buffer may utilize a masonry wall, berm, planted and/or existing vegetation or any combination thereof which maintains a completely opaque buffer. The buffer must be three (3) feet high and fifty (50) percent opaque at planting and be capable of attaining full height and opacity within three (3) years. This buffer must also include one (1) shade tree for each forty (40) lineal feet or fraction thereof per Sec. 24-5 - Buffer yards, of Orange County Code.

The hours of operation are not proposed to change and are Monday through Saturday between 8:30 a.m. through 5:00 p.m. for riding, and daily between the hours of 7:00 a.m. through 6:00 p.m. for horse care.

The County Transportation Planning Division reviewed the request and has determined that the request meets the de minimis level of peak trips and may proceed with a de minimis application for a concurrency review prior to obtaining a building permit.

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

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	23.7 ft. (Arena) 15.2 ft. (Horse Stable)
Min. Lot Width:	75 ft.	160 ft.
Min. Lot Size:	7,500 sq. ft.	24.4 acres (17.49 acres upland)

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

	Code Requirement	Proposed
Front:	25 ft.	740.6 ft. Arena (East) 702.1 ft. Horse Stable (East)
Rear:	30 ft.	544.4 ft. Arena (West) 572.9 ft. Horse Stable (West)
Side:	7.5 ft.	246 ft. Arena (South) 411 ft. Horse Stable (North)
NHWE:	50 ft.	465 ft. Arena (East) 405 ft. Horse Stable (East)



**SPECIAL EXCEPTION CRITERIA**

**Consistent with the Comprehensive Plan**

Indoor and outdoor recreation uses are permitted in the R-1A zoning district through the Special Exception process. As such, with the approval of a Special Exception, the proposed use will be consistent with the Comprehensive Plan.

**Similar and compatible with the surrounding area**

The property has been used for the keeping of horses and cows for over 50 years and the site is large and the proposed improvements will be located over 50 ft. from the nearest property line. The proposed use will be compatible with surrounding properties, especially since the prior approved improvements have been shifted away from the closest residences.

**Shall not act as a detrimental intrusion into a surrounding area**

The proposed improvements will not negatively impact the surrounding area since they are located almost over 300 ft. from the closest residential property line. Additionally, both the barn and the arena are being significantly reduced in size from the previously approved Special Exception in 2021.

**Meet the performance standards of the district**

Staff has recommended approval of the requested Variance and if approved, the proposal will meet the performance standards of the district.

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

No activity takes place on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to other uses allowed within the Zoning district. Further, the site is currently heavily vegetated and buffered, which will offset any potential impacts.

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

The site is developed with existing landscaping in accordance with Chapter 24 (Landscaping, Buffering and Open Space) of the Orange County Code. No changes to the existing natural landscape buffers are proposed or required, however, one tree is proposed to be installed at the south parking area in front of the proposed arena.

**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The special condition and circumstance are that unimproved parking is typical of the rural nature of the use.

**Not Self-Created**

The need for the Variance is not self-created since as the desire to minimize impervious surface in such close proximity to an environmentally sensitive body of water such as Bay Lake signifies the need for reduced paving and the logical alternative is grass parking.

**No Special Privilege Conferred**

Granting the Variance as requested will not confer special privilege as the applicant is trying to maintain the property's existing state and comply with parking requirements.

**Deprivation of Rights**

Without the requested Variance, the owner will be required to provide an improved surface for the parking spaces that will be infrequently used, which would create additional runoff and could negatively impact the surrounding area.

**Minimum Possible Variance**

The variance being requested is the minimum possible to allow the parking spaces to remain in a natural state and still meet the parking requirements because the applicant will still be required to improve the drive aisles and provide wheel stops.

**Purpose and Intent**

Approval of the requested variance will be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on preserving the existing character of the area and the subject property to ensure compatibility with the adjacent neighborhoods. Allowing for unimproved parking spaces will minimize the impervious area and keep the site in a more natural state.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received October 5, 2023, horse stable and horse wash area elevations received September 21, 2023, and arena elevations received October 16, 2023, 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 5 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. Hours of operation of the therapeutic riding facility shall be limited to 8:30 a.m. to 5:00 p.m., Monday through Saturday; and, hours for horse care will be 7:00 a.m. to 6:00 p.m. Sunday through Saturday.
6. No outdoor speakers or other audio amplification shall be used on site.
7. No more than three (3) outdoor special events advertised as open to the public per calendar year, and the hours of such events shall be limited from 8:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
8. Install one tree at the end of the row of parking spaces in front of the proposed arena as required per Sec.24-4 (3) (e) of the Orange County code.
9. The number of horses shall be capped at 20. Any increase shall require an amendment to the Special Exception.
10. Use of the property is limited to an indoor/outdoor recreation use (therapeutic riding center).
11. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."

12. Development shall comply with Chapter 24 (Landscaping) and Chapter 15 Article VIII (Tree Protection and Removal). In the event there is a conflict between Chapter 24 or Chapter 15 and the site plan, the provisions of Chapter 24 and Chapter 15 shall prevail.

C: Amy Daly  
3919 Bay Lake Road  
Orlando, FL 32808



August 6, 2023  
 Orange County Zoning Division  
 201 S. Rosiland Avenue, 1<sup>st</sup> Floor  
 Orlando, Florida 32801

**RE: Freedom Ride at Bay Lake Property  
 Special Exception Application to the Board of Zoning Adjustment  
 Orange County Commission District 2**

Dear Mr. Ted Kozak,

As follow up to our meeting, Freedom Ride is requesting a modification to an existing Special Exception (Case # SE-21-01-123) to allow for the changes to our site plan at our facilities located at 3919 Bay Lake Road (subject property). **Freedom Ride applied for a special exception for a non-conforming use to authorize therapeutic equine riding that includes boarding the horses that are used in the therapeutic riding. The special exception should also authorized operation of office/administrative operations associated with therapeutic equine riding.** This non-conforming use was approved. This submittal is to address site plan changes to use existing structures, decrease the square footage of the structures previously proposed, relocation of grassed parking areas (numbers of parking spots remains the same), removal of paved parking and reorientation of site facilities. Due to the nature of the facility horse pasture and the request of the neighbors, Freedom Ride is requesting relief from the requirement for occlusion fencing and landscaping.

The following information is provided to process a Special Exception for Freedom Ride at the Bay Lake Property.

- **Type of activities which will be taking place on the property, i.e., training, open riding hours, etc.;**  
 Freedom Ride will continue to operate a therapeutic equine riding center on the subject property which will include personnel and volunteer training, therapeutic riding for children and adults with disabilities, guided therapist riding, wellness therapy and merit badge programs for boy and girl scouts.

- **Days and hours of operation;**  
 The hours of operation – 7:00AM – 6:00PM Horse Care only  
   8:30AM – 5:00PM Therapeutic Programs  
 Days of operation –          Horse Care – Sunday through Saturday  
   Programs: Monday through Saturday  
 Proposed outdoor activities – Programs primarily in arena, covered arena and guided trail riding in pastures  
 Provided services: therapeutic horseback riding for disabled individuals, mental wellness and US Veterans program (equine therapy)

Special Events - Anticipated special events include:

Event Name	Approximate Event Date	Event duration	Event frequency (Annually, bi-annually, etc.)	Event purpose	Anticipated Attendance
Open House	Sept 20 <sup>th</sup> -22 <sup>nd</sup>	2 hours	2 X annually	Intro to facility	30 people
Holiday Horse Show for riders	Dec. 15	3 hours	1 X annually	Celebrate riders	40 people

**COVER LETTER**

- **Estimated highest number of participants at any one time, and at what time of day;**  
The estimated highest number of participants at any one time for therapeutic riding is 10. The time of day for the estimated highest number of participants will vary depending on staff work schedules, weather, make-up riding sessions, etc. but it will occur anytime between the hours of 9 AM through 4 PM.
- **Estimated number of participants on a daily basis;**  
The estimated number of participants on a daily basis will varies from 10 to 30.
- **Number of animals which will be kept on the property;**  
The number of animals on the property will not exceed 25.
- **Will all riding take place indoors, or will there be riding in the open air.**  
The therapeutic riding will take place in a covered (not enclosed) open area riding arena, non-covered open air riding arena and on riding paths within the subject property.

Freedom Ride has made adjustments to the previous site plan approved under Case # SE-21-01-123. The following table summarizes what was previously approved, what structures were existing, and what structures are proposed.

**Structure Inventory in Square Feet**

Structure Type/Status	Existing <sup>2</sup>	County Approved <sup>√</sup>	Current <sup>**</sup>	Proposed Modification <sup>^</sup>
Metal Shed	307.65	307.65	307.65	307.65
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Metal Frame Building	621.76	----	621.76	621.76
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Proposed Arena	----	20,000	----	9,800
<b>Total</b>	<b>4,968.34</b>	<b>45,450.32</b>	<b>4,968.34</b>	<b>18,937.34</b>

**Notes:**

\*=Metal shed incorporated into Wood Frame Horse Stable

2=Existing structures when FR gained control of property

√=Approved structures in Special Exception

\*\*=Existing Structures currently on FR property, FR is using existing structures

^=Modification to the Special Exception to retain existing structures, propose new structures with an overall decrease in square footage of 26,512.98

### **FREEDOM RIDE AT BAY LAKE PROPERTY**

Freedom Ride, a 501 (c) 3 non-profit, is Central Florida's premier PATH, premier accredited therapeutic horseback riding center for individuals with disabilities. We provide therapeutic riding to adults and children four years and older with spina bifida, developmental delays, autism, Down syndrome, muscular dystrophy, cerebral palsy, learning disabilities, brain injury, speech-language disorders and other disabilities. It is also our great privilege to provide U.S. Veterans with horse-based mental health services, including professional PTSD intervention.

Freedom Ride opened its stables in 1998 with one rider and one borrowed horse. Today, Freedom Ride has 13 horses, 100+ volunteers and provides therapeutic riding activities for over 100 local children and adults every week. Freedom Ride provides therapy to 200+ individuals with disabilities, 100+ mental wellness participants and 300+ US Veterans.

The movement of the horse, the rhythmic side-to-side, forward and backward movement is similar to a human walking. As participants sit atop a horse, their pelvic area, trunk and upper body move in motion to the horse. This stimulation gently relaxes taut muscles and thereby increases range of motion for the rider. As important, being able to participate in an activity like their siblings and able-bodied friends increases self-esteem and confidence.

Freedom Ride is nationally accredited by PATH (Professional Association of Therapeutic Horsemanship), an organization that helps set the standards for therapeutic centers nationwide. All of our instructors are certified through PATH.

Current program activities include:

#### ***THERAPEUTIC RIDING CLASSES***

Riders in the therapeutic riding classes learn equestrian skills while receiving therapeutic benefits from the horses. All potential participants complete a comprehensive in-take process that includes completion of registration forms, including a physician release form and attending an evaluation.

#### ***MENTAL WELLNESS/VETERANS PROGRAM***

The Wellness program provides Veterans the opportunity to come together with other Veterans to interact with horses in a way that allows for increasing self-awareness, enhancing coping skills and learning more effective ways to interact and move forward with the community and with loved ones.

#### ***VOLUNTEER PROGRAM***

Freedom Ride's dedicated volunteer team is the backbone of our organization. Volunteers must be at least 14 years of age and can assist with all aspects of the program, most importantly – working with our clients during their lessons.

Freedom Ride needs assistance seven days a week, operates both morning and afternoons and has a comprehensive intake procedure for new volunteers, which includes verifying references and a basic background check. Once the background check and references are reviewed, the volunteer will attend a two-hour orientation.

#### ***COMMUNITY INVOLVEMENT***

In addition to our therapeutic classes, Freedom Ride offers "animal therapy" to central Florida nursing homes, hospitals and various facilities by transporting our two mini-horses to area facilities. These miniature size horses encourage participation by offering individuals a time to relax, smile, laugh and enjoy a visit from these non-judging, friendly "therapists!" Freedom Ride also participates in various central Florida events such as the Winter Park Parades, Nathaniel's Hope, Down Syndrome Walk, Autism Now Walk, The Great Outdoors, Spina Bifida Walk n Roll and numerous other public events.

**ADDITIONAL PROGRAMS**

Girl Scouts and Boy Scouts can earn their badges at Freedom Ride by learning horse care, grooming, feeding and even progress to riding skills. Additionally, schools such as Paragon visit on a weekly basis to encourage their students to develop motor skills, job responsibility, physical strength and even vocational skills to develop possible future employment in the animal care field.

Freedom Ride is using the existing residential home as an administrative building. The approximate location and specific dimensions of the existing and proposed structures are located on attachments to this cover letter. Should you require additional information to process this request please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,

**FREEDOM RIDE**



Amy E. Daly  
Board of Director, Secretary





**All Special Exception Requests Must Provide the Following:**

1. Provide a detailed cover letter including, but not limited to, the purpose of the request(s), such as size, height, number of buildings, number of clients, instructors, animals, children, members, employees, students, days and hours of operation, provided services, and any proposed outdoor events/activities. The letter should also clarify what currently exists and what is proposed on the property. The letter is also required to provide justification for how the proposal meets the six standards for special exception approval as outlined below:

**Special Exception Criteria:** Section 38-78, Orange County Code stipulates specific criteria to be met for all Special Exception requests. No application for a Special Exception can be approved unless the BZA finds that the following criteria are met:

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

**The proposed use is consistent with the Comprehensive Policy Plan. The Comp Plan Future Land Use Map indicates the proposed property as Low Density Residential. The proposed use while not residential is less intense than the allowable density under Comp Plan FLU1.1.2 B.**

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

**The proposed use is similar to the previous use which was approved by the County. The surrounding area consists of single-family residential homes and light industrial. The property shall remain undeveloped grazing pasture. The covered riding arena will be an addition to the property. The covered arena is necessary for Freedom Ride's growth, without it Freedom Ride cannot provide classes in the rain or during the summer. The arena will protect the riders, volunteers, instructors and horses from the hot summer sun and inclement weather. The riding arena will allow Freedom Ride to serve more individuals in the community and reduce the waiting list of riders needing therapy. The previously approved covered arena was 20,000 square feet. The proposed covered arena is 9,800 square feet. The existing barn was renovated and Freedom would be requesting approval for another small barn structure and horse wash area adjacent to the existing barn.**

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

**The proposed use is similar to the existing use and will not intrude into the surrounding area. Freedom Ride will be self-contained by two perimeter fences were only one exists currently. Freedom Ride has solicited comment from adjacent landowners directly abutting the property. All feedback received from the surrounding adjacent landowners has been positive. The alternative to Freedom Ride was a multi-family apartment development which is not popular with the adjacent landowners. The adjacent landowners do not want occlusion fencing along the perimeter. The adjacent landowners want to be able to view the horses in the pasture. Freedom Ride has been at this location for approximately 15 months and our presence has not been detrimental to the surrounding area.**

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

**The subject property is zoned R-1A, Single Family District. The performance standards relate to lot size and minimum living spaces, lot width and yard width. The maximum building height is 35 feet. Freedom Ride's proposed barn and covered riding arena shall not exceed the 35 feet maximum height limitation.**

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.

**Freedom Ride shall not increase the noise, cause vibration, dust, odor, glare, or produce heat above the current level at the property. The proposed use at Freedom Ride is low intensity. The majority of the property shall remain undeveloped and consistent with a low impact recreational activity.**

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 use is permitted.

The buffer yards prescribed in section 24-5 are intended to reduce, both visually and physically, the negative impacts generated by abutting uses. Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the parcel boundary. Buffer yards shall not be located on any portion of an existing or dedicated public or private street or right-of-way. **The property perimeter is fenced and separates the property from surrounding uses – this will not change. The southern boundary is fenced with a 6 foot brick wall on adjacent property and on the Freedom Ride side of the fence that area is completely vegetated with trees and shrubs. Freedom Ride has been asked by the neighbors not to install landscaping as a buffer. The perimeter of the property shall remain unchanged and aesthetically pleasing. Due to the nature of the facility, landscaping above what is existing should not be required. The majority of the property shall remain undeveloped. A second perimeter fence shall be installed to contain the horses within the property and to protect the horses. The neighbors have stated in the previous community meeting they want to be able to view the pasture and horses from their houses.**

2. Detailed site plan/survey (8 ½ "x 11" or 11" x 14") with dimensions drawn to scale by a surveyor, licensed contractor, architect, or engineer showing the following information:

- Boundary of the subject property and adjacent streets including property dimensions  
**Figure 1 depicts the subject property boundary and adjacent streets with property dimensions. Also attached is a survey of the subject property performed by a professional surveyor.**
- Existing uses and structures, including amount of existing square footage and building height in feet  
**Please refer to the table in the cover letter that catalogs existing structures and their square footage. The property use is residential with horse boarding for up to 25 animals. The existing square footage and height of each of the structures is provided on Figure 2.**
- Proposed uses and structures, including amount of proposed square footage and locations  
**Please refer to the table in the cover letter that catalogs proposed structures and their square footage. The proposed uses will not change from the current uses previously mentioned above. The existing barn was renovated and provides housing for the horses and facilities that will store their feed, equipment and provides a breakroom/meeting room for staff, volunteers, instructors and riders. Freedom Ride is proposing to construct a covered open air riding arena, barn and horse wash area. The covered riding arena will provide a sheltered area to hold classes and therapy sessions. The proposed square footage of the covered open air riding arena is 9,800, the barn is 3,593 and the horse wash area is 576. The approximate location of proposed structures is provided on the Site Plan.**
- Building setbacks from all property lines  
**There is an existing residential home on the Bay Lake Property that will remain. Freedom Ride Administrative Office operates out the residential home which has been renovated. The barn and**

## COVER LETTER

covered arena are shown on the conceptual plan with proposed or approximate setbacks. The conceptual plan is attached.

- Parking calculations, existing and proposed parking spaces and driving aisles  
**There are no designated parking areas/spaces currently at the Bay Lake Property. The driving aisle is located from the property ingress/egress point to the parking areas. One pasture will act as an overflow parking area. This overflow parking area shall remain in pasture grasses. Proposed parking is depicted on conceptual site plan.**
- Indicate if existing and proposed parking facilities are paved or unpaved  
**Existing parking areas are unpaved. All parking areas on the Freedom Ride property will remain unpaved. The previous special exception proposed 46 parking spaces. This modification has the same number of parking spaces; the location of parking spaces have changed. Please see the site plan.**
- If new exterior lighting is proposed, location, type and specifications  
**Freedom Ride's riding hours of operation are limited to day light hours for the safety of riders, horses, instructors, staff and volunteers. The only lighting proposed shall include sufficient lighting for security. Light intrusion from the Freedom Ride facilities to surrounding areas is not a consideration associated with the proposed use.**
- Proposed hours and days of operation, proposed outdoor activities and special events  
**The hours of operation – 7:00AM – 6:00PM Horse Care only; Programs: 8:30AM – 5:00PM  
 Days of operation – Horse Care – Sunday through Saturday; Programs: Monday through Saturday  
 Proposed outdoor activities – Programs primarily in arena  
 Provided services: therapeutic horseback riding for disabled individuals, mental wellness and US Veterans program (equine therapy)**

**Special Events - Anticipated special events include:**

Event Name	Approximate Event Date	Event duration	Event frequency (Annually, bi-annually, etc.)	Event purpose	Anticipated Attendance
Open House	Sept 20 <sup>th</sup> -22 <sup>nd</sup>	2 hours	2 X annually	Intro to facility	30 people
Holiday Horse Show for riders	Dec. 15	3 hours	1 X annually	Celebrate riders	40 people

- Existing and proposed entrances  
**The Bay Lake Property will have one ingress and egress location to the property. The location of the current ingress and egress into the property will not change. It is the only ingress/egress into the property. It is located at the southeastern corner of the property at the convergence of Bay Lake Road and Eunice Road (Figure 4).**
- Existing and proposed landscaping, fencing, and trees  
**The subject property is not currently landscaped but left in a natural condition. Freedom Ride is not proposing landscaping other than maintaining the existing landscaped areas. Freedom Ride has retained trees on the property and has adjusted proposed structures to avoid the mature live and laurel oak canopy. Existing fencing and proposed fencing is shown on graphics provided with this application.**

- Indicate the number of proposed and existing seats, patrons, congregation, children, clients, students, employees, teachers, instructors, customers, and members. This is particularly important for all religious, day care, school, training, educational, recreational, social service uses and businesses or facilities involving animals.

**Proposed and existing seats – not applicable**

**Patrons - Approx. 100 participants (children accompanied by parent or guardian and adults) per week for 45 minutes to 1 hour sessions each; 7 or 8 staff and instructors daily to oversee operations and teach classes and approximately 15-20 volunteers per week as needed.**

**Congregation - not applicable**

3. Floor plan (8 ½" x 11" or 11" x 14")

**The conceptual floor plan is provided for the covered open air riding arena, proposed barn and horse wash area.**

4. Architectural elevations for all proposed structures (to scale- 8 ½" x 11" or 11" x 14") including height

**The conceptual arena plan, new barn and horse wash area are provided.**

5. For all religious institutions/ non-profit organizations, Articles of Incorporation must be submitted.

**Freedom Ride's, a non-profit organization, Articles of Incorporation are attached to this submittal.**

6. Special Exception applications for a solid waste management facility (i.e. landfills, recycling facilities, composting operations, incinerators, transfer stations, etc.) must provide all information necessary to comply with Chapter 32, Article V, Orange County Code.

**Freedom Ride is not a solid waste management facility and therefore this requirement is not applicable.**

**Attachments**

- Existing Non-conforming Use Letter
- S-1 Site Plan
- S-2 Old Site Plan overlaid on New Site Plan
- Exhibits 1, 2 and 3
- Figures 1, 4, 5 and 6
- Boundary Survey
- Conceptual Barn, Horse Wash Area & Arena Plans
- Freedom Ride Articles of Incorporation

COVER LETTER

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

The property use is for recreational use for equine therapy paved parking does not exist and we would like to continue to have unpaved parking.

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

Freedom Ride is not creating a hardship, Freedom Ride would like to continue to operate under current conditions.

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

Freedom Ride is not requesting a special privilege with this application.

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

Deprivation of rights does not seem to apply to this application.

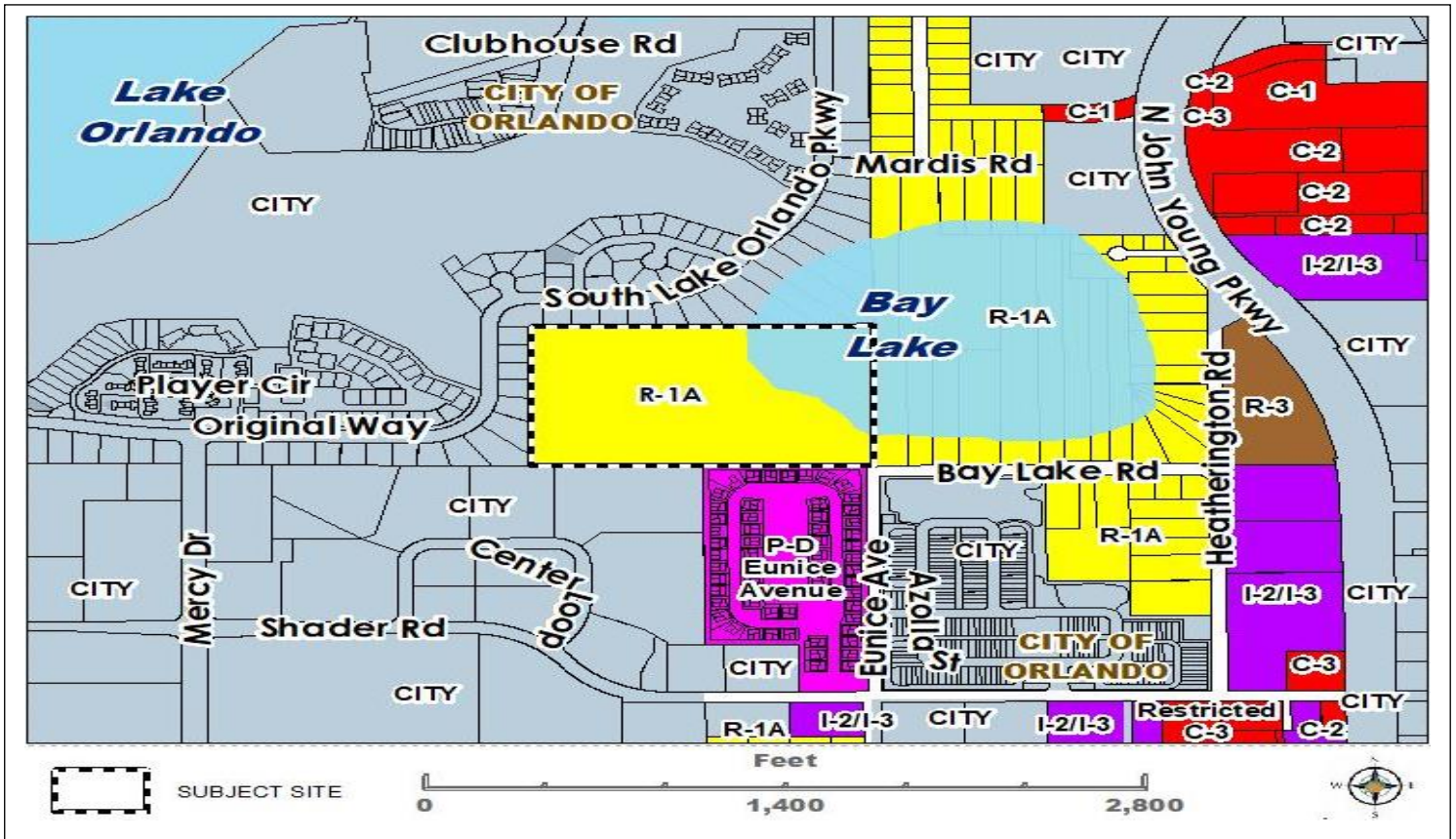
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The requested variance is the minimum possible to continue to operate at this location for this low impact therapy program.

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

Freedom Ride believes the approval requested is in harmony with the zoning regulations, request of neighbors and will not be detrimental to public welfare.

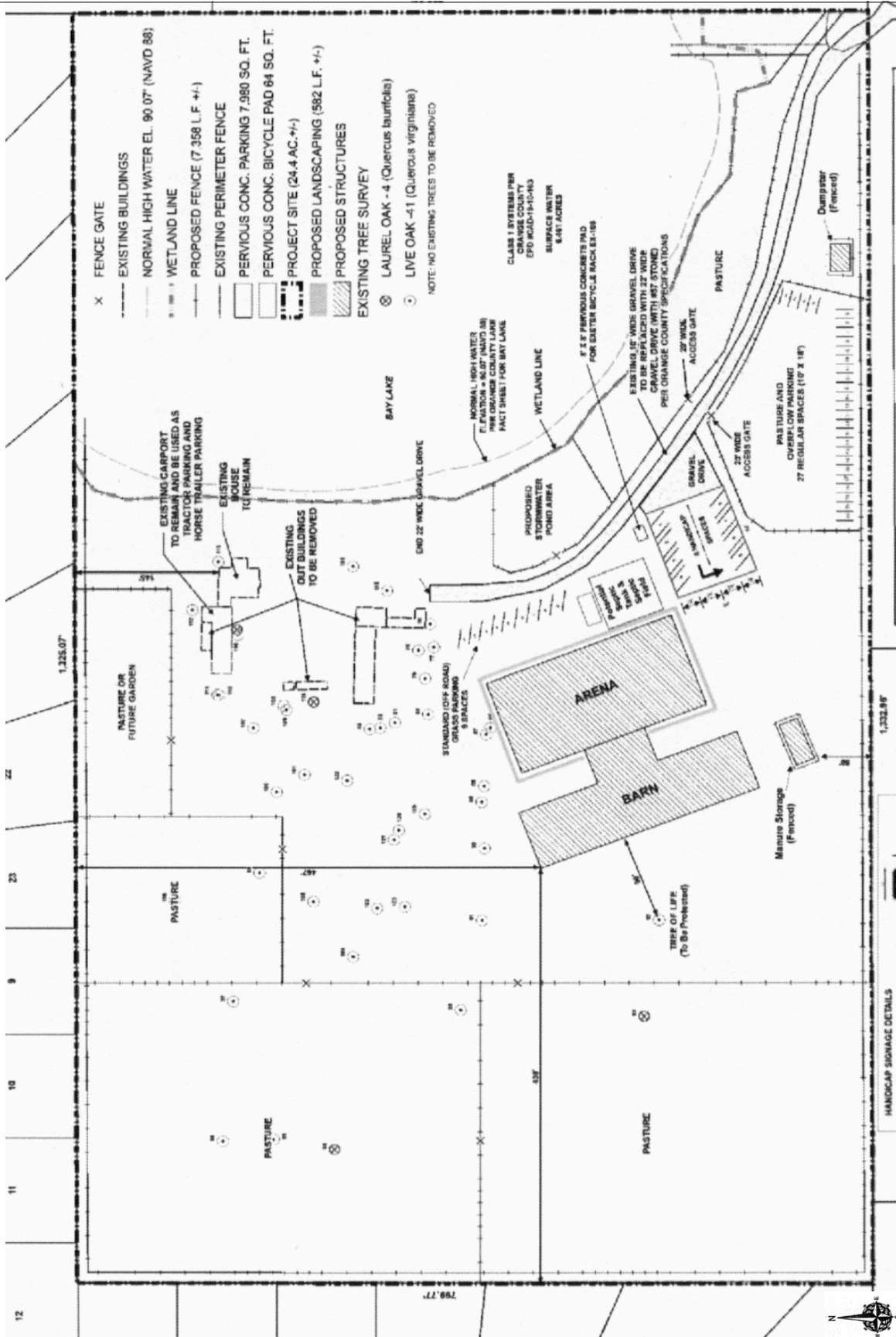
ZONING MAP



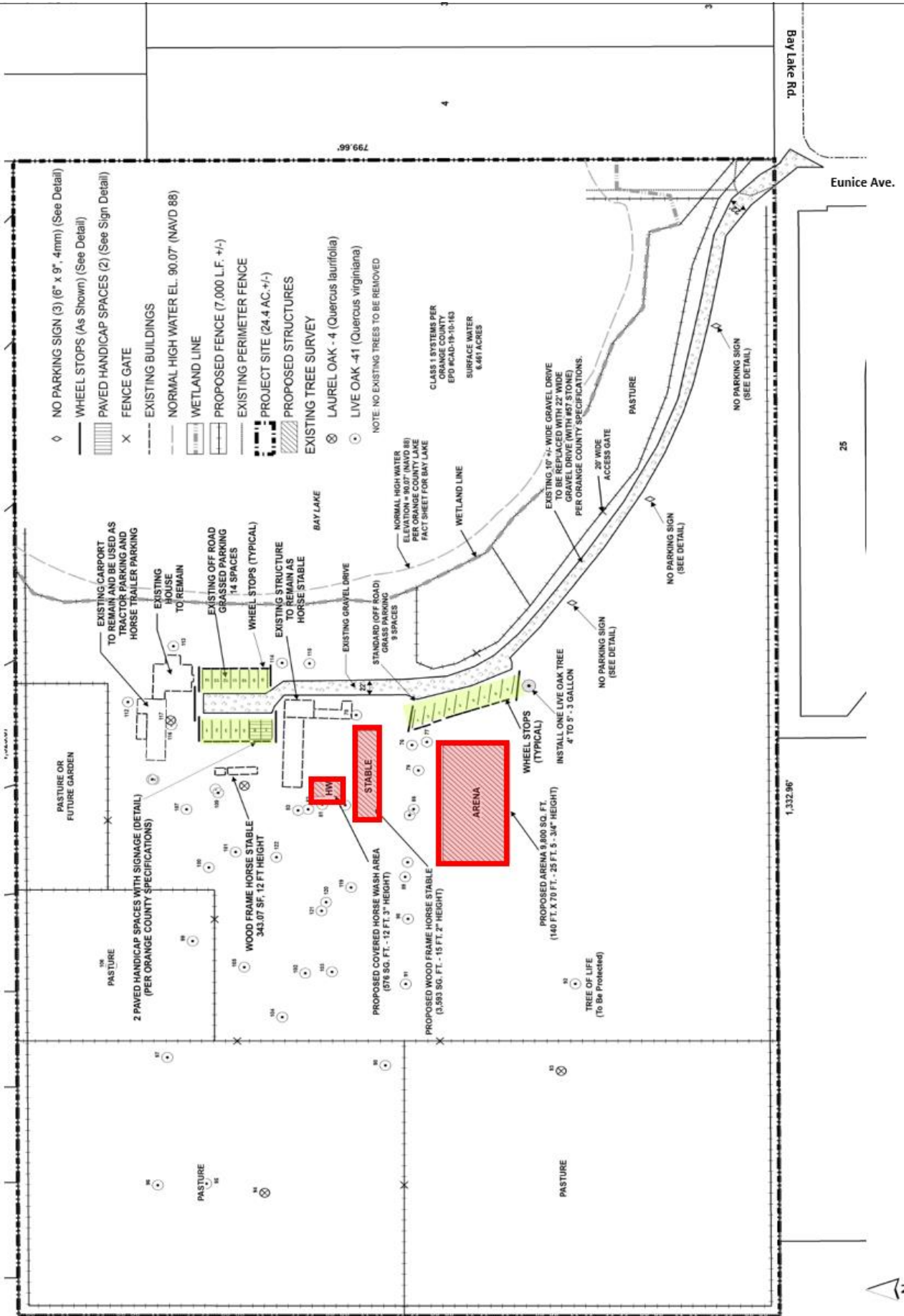
AERIAL MAP



APPROVED SITE PLAN (SE-21-01-123)

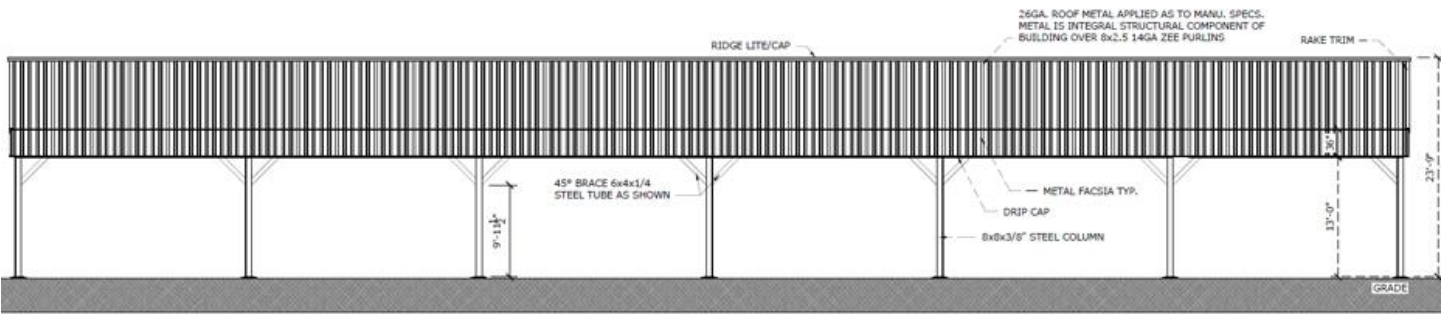


PROPOSED SITE PLAN

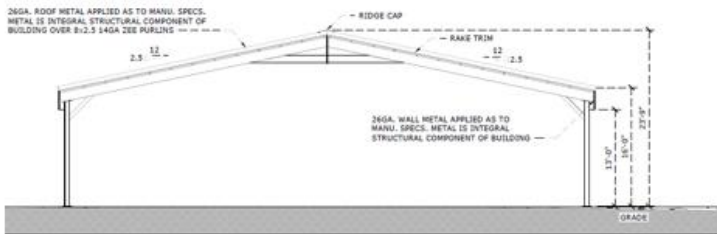




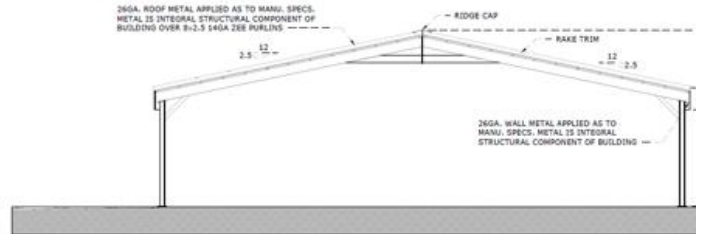
# RENDERINGS AND ELEVATIONS FOR PROPOSED ARENA



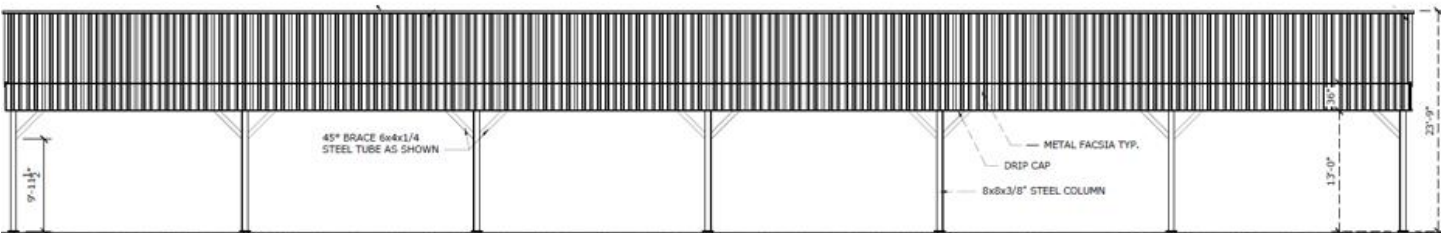
**South Elevation**



**West Elevation**



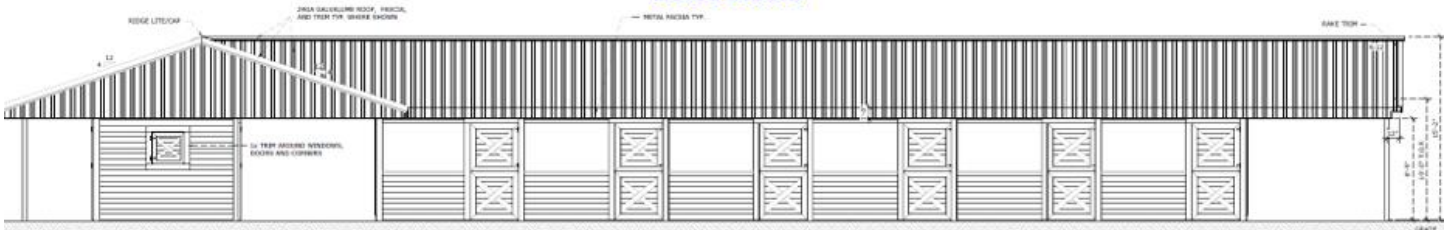
**East Elevation**



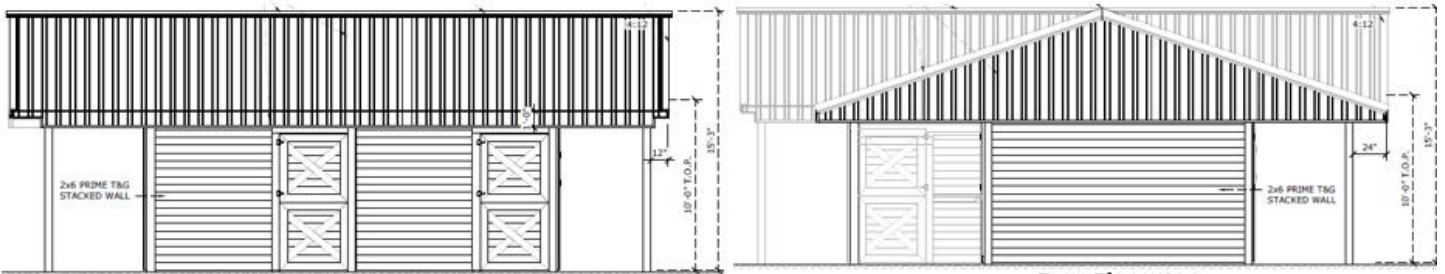
RENDERINGS AND ELEVATIONS FOR PROPOSED HORSE STABLE AND HORSE WASH AREA



Horse Stable



South Elevation



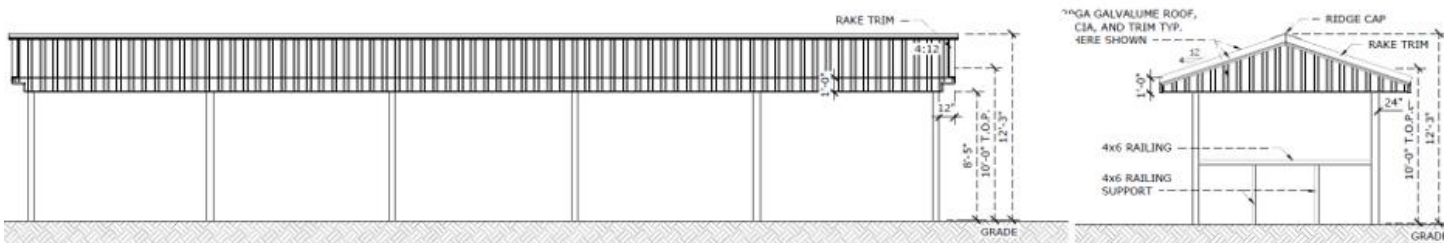
West Elevation

East Elevation



North Elevation

Covered Horse Wash Area



**SITE PHOTOS**



**Facing northwest from corner of Bay Lake Rd. and Eunice Ave. towards the front entrance of property**



**Facing north towards front of existing office**

**SITE PHOTOS**



**Facing northeast towards attached carport to existing office**



**Facing south towards existing horse stable**

**SITE PHOTOS**



**Facing northeast towards rear of existing horse stable and metal sheds**



**Facing northwest towards proposed arena location and nine unimproved parking spaces**

**SITE PHOTOS**



**Facing northeast towards proposed location of horse stable, horse wash area, and dumpster to be removed**



**Facing south towards existing drive aisle and proposed unimproved parking spaces**

**SITE PHOTOS**



**Facing northwest towards proposed two paved handicap parking and unimproved parking spaces**



**Facing northeast toward proposed unimproved parking spaces and Bay Lake**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 02, 2023**

Commission District: **#3**

Case #: **VA-23-11-104**

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

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** WILLIAM KAY

**OWNER(s):** REM: ANDREA J NORBERG, KAY WILLIAM DAVID LIFE ESTATE, REM: JUSTIN B NORBERG, REM: STEFFANIE NORBERG YOPP, NORBERG BRIAN EDMUND LIFE ESTATE

**REQUEST:** Variances in the A-2 zoning district as follows:

- 1) To allow an addition with a north side setback of 7 ft. in lieu of 10 ft.
- 2) To allow an existing residence with north side setback of 7 ft. in lieu of 10 ft.

**PROPERTY LOCATION:** 4045 S. Chickasaw Trl., Orlando, FL 32829, east side of S. Chickasaw Trl., west of S. Econlockhatchee Trl., south of Curry Ford Rd., east of S. Goldenrod Rd.

**PARCEL ID:** 12-23-30-0000-00-079

**LOT SIZE:** +/- 1.1 acres

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 115

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Juan Velez, Second by Roberta Walton Johnson; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received September 8, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.



**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that two (2) comments were received in support, and no comments were received in opposition.

The applicant agreed with the staff presentation, described the need for the request and noted that the neighbors are supportive of the proposal.

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

The BZA briefly discussed the Variances, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 5-0 vote, with one absent and one seat vacant, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

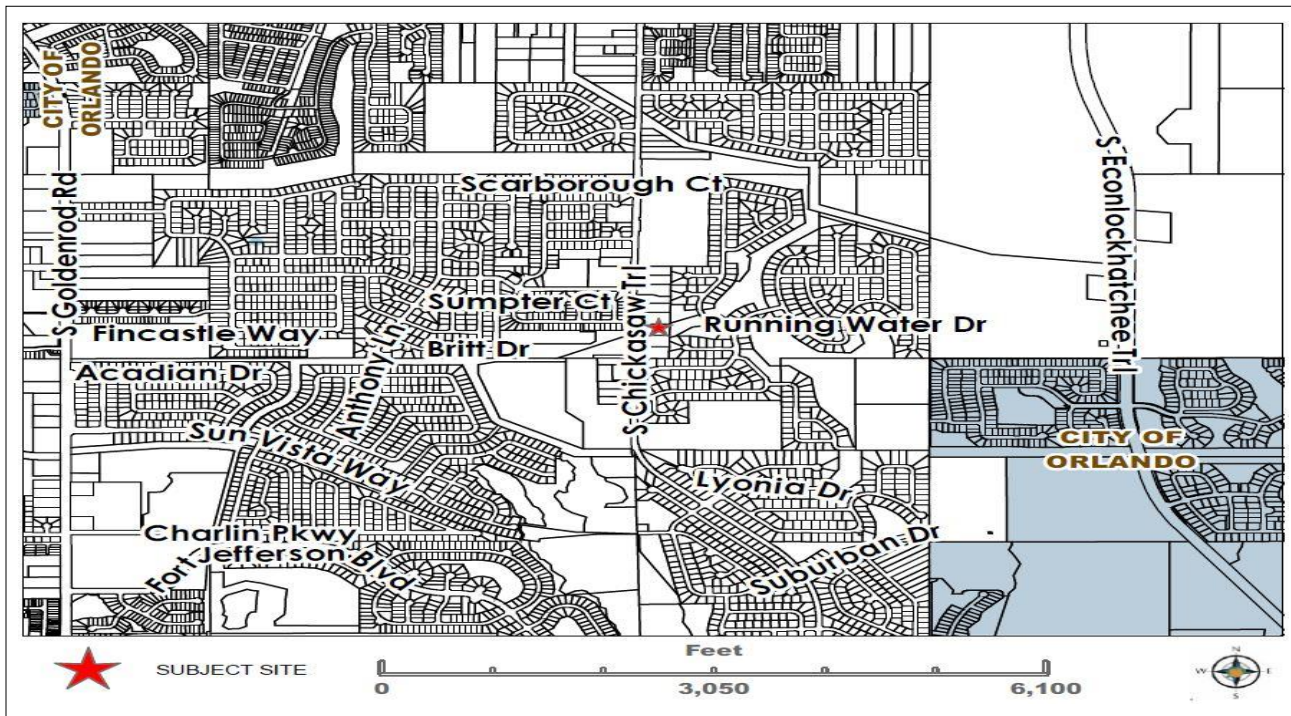
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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the A-2, Farmland Rural district, which allows agricultural uses, as well as mobile homes and single-family homes on larger lots. The Future Land Use is LDR (Low Density Residential). A-2 zoning is inconsistent with the Low Density Residential Future Land Use; however, the subject parcel meets the requirements of policy FLU 8.2.5.1. as the lot existed in this configuration prior to the adoption of the Orange County Comprehensive Plan in 1991 based on County records.

The area surrounding the subject site consists of single-family homes on larger lots to the north and south, and residential subdivisions to the east and west. The subject property is +/- 1.1 acres in size, created through a lot split in 1985, and conforms with the zoning regulations. The property is developed with a 3,576 gross sq. ft. single-family home and pool that were built in 1985, a detached garage that was built in 2023, and a shed that was built in 2002. The owners purchased the property in 2022.

The proposal is to construct a 200 sq. ft. bedroom addition along the north side of the house, which extends along the same wall as the existing house with a 7 ft. side setback in lieu of 10 ft. requiring Variance #1. The existing house was constructed with a 7 ft. side setback in lieu of 10 ft. requiring Variance #2. The owner has applied for a permit for the addition (B23014984) which is on hold pending the outcome of this request.

Staff has reviewed the request and is recommending approval. The existing house was constructed with a 7 ft. north side setback, and the proposal is to continue construction along the same plane as the wall, to effectively square off an indentation on the northeast side of the house. There is no other logical place to put the addition, as the rear yard contains a swimming pool and septic tank, and the other side of the house contains the garage. Further, others in the same area have a similar side setback, and the addition will not be noticeable from the road.

As of the date of this report, 2 comments have been received in favor of the request from neighboring properties to the north and south. No comments were received in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	14 ft.
Min. Lot Width:	100 ft.	166 ft.
Min. Lot Size:	0.5 acre	1.1 acres

**Building Setbacks**

	Code Requirement	Proposed
Front:	35 ft.	110 ft. (West)
Rear:	50 ft.	150 ft. (East)
Side:	10 ft.	80 ft. (South) 7 ft. (Addition-North) -Variance #1 7 ft. (House-North) -Variance #2

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**STAFF FINDINGS**


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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are the location of the house, as constructed with the existing north side setback, and the location of improvements in the rear yard such as the swimming pool, septic tank, and garage.

**Not Self-Created**

The requests are not self-created since the house is existing as constructed over 40 years ago, and the addition is being proposed along the same north side setback. There are no other logical options available to construct a usable bedroom addition.

**No Special Privilege Conferred**

Granting the requested Variances will not confer any special privilege since the house is existing and the addition is being proposed along the same plane as the north side wall, with the same setback.

**Deprivation of Rights**

Without the requested Variances, the existing house would remain nonconforming, and the construction of a bedroom addition in a conforming location would be difficult.

**Minimum Possible Variance**

The requested Variances are the minimum necessary to recognize the existing house location and construct the proposed improvements in the only logical and feasible location.

**Purpose and Intent**

Approval of the requested Variances would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood, since the house is existing and the design of the addition is consistent with the existing house, thereby limiting any quantifiable negative impacts to surrounding property owners.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received September 8, 2023, 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: William Kay  
4045 S. Chickasaw Trl.,  
Orlando, FL 32829

**William Kay and Brian Norberg**

4045 South Chickasaw Trail

Orlando, FL 32829

407-443-5052

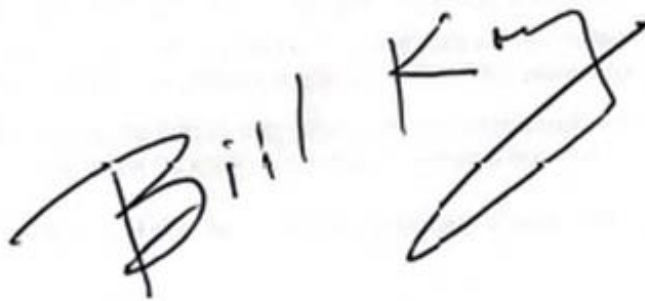
9/7/2023

BZA-

New Owners are requesting a variance to follow the lines of their home's existing construction @ a 7' setback vs the 10' required today. The extension to a small bedroom adds less than 200 sq' and matches the current design, adds value and is in harmony with surrounding neighborhoods.

Thank you in advance for considering this request -

Bill and Brian

Handwritten signature of Bill Kay. The word "Bill" is written in a cursive style, and "Kay" is written in a blocky, stylized font with a large "K".

9/5/2023

Variance criteria 1-6

We are the new owners at 4045 S Chickasaw Trail.

The home was constructed in 1987 with the north side setback allowed @ 7' vs the required 10' today. **2) We are requesting a variance for this existing condition and to follow the present house 7' setback on a single story (14' tall) wood frame extension. We would like to enlarge a small bedroom on the northeast side by less than 200 sq' \*(12' x 15'2"). This larger bedroom is designed to best follow the present house lines and style.**

**1) The 7' setback seems unique and peculiar to this lot and the house.**

**3) No special favor or privilege is expected or requested that is not allowed to neighboring homes or other applicants.**

**4) This would allow us to improve our home's normal usage and value**

**5) requiring a minimal variance**

**6) and does not negatively impact the immediate neighbors or neighborhood. The design is in harmony with the mixture of styles in the surrounding properties and follows the intent of the original regulations.**

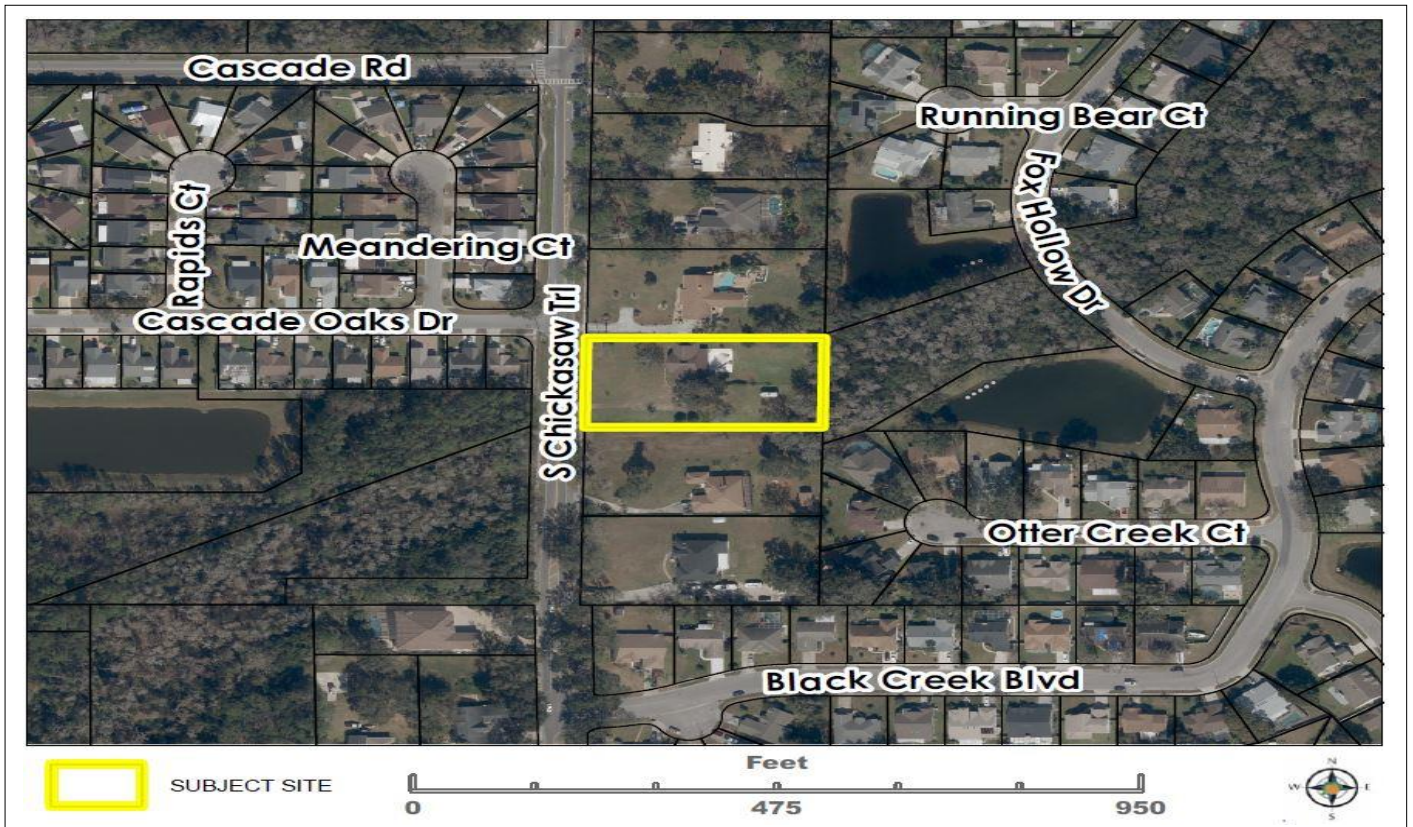
I have sent a "bird's eye view" of the property.

On the east and west sides we are bordered by conservation woods and the wall of Cascade Oaks development. To the north and south only 2 neighbors have a direct view of our home. The north neighbors Orlando and Enelida (Nelly) Villa at 4033 S Chickasaw Trail would view the bedroom extension from the driveway-garage side and have given a letter of support for the variance (attached).

ZONING MAP



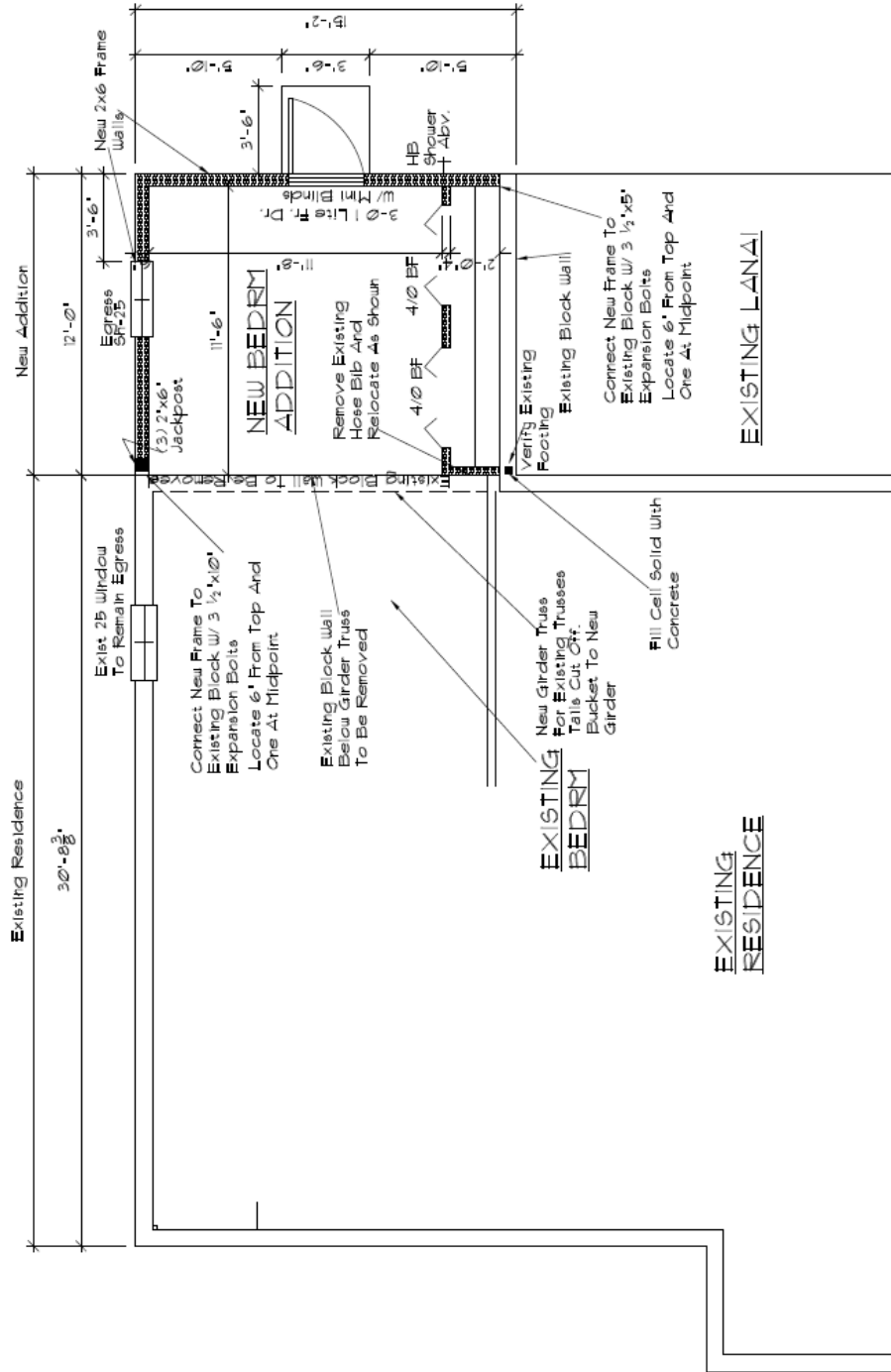
AERIAL MAP



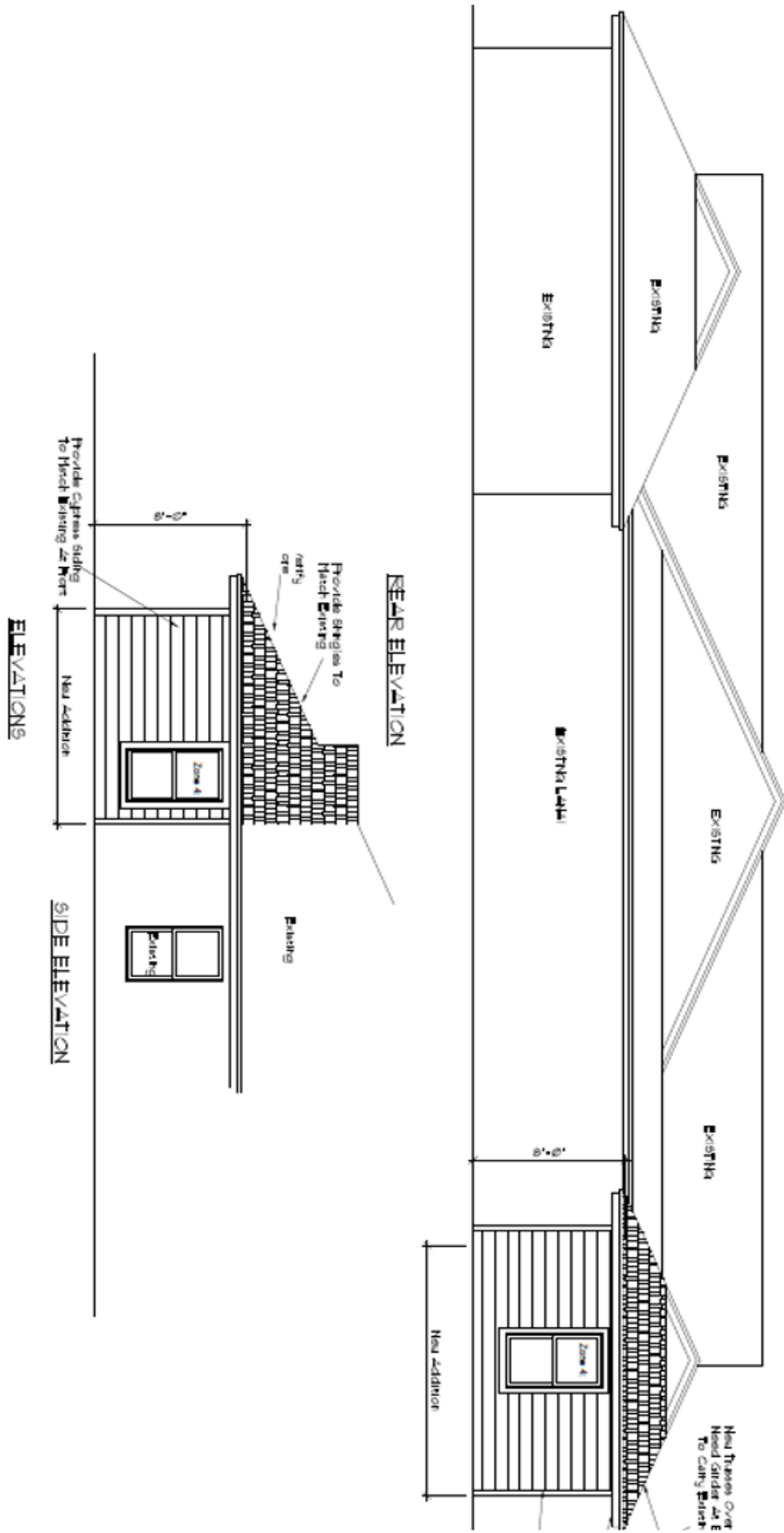




# FLOOR PLAN-ADDITION



ELEVATIONS



**SITE PHOTOS**



**Property from S. Chickasaw Tr. facing east**



**Existing 7 ft. north side setback facing east**

**SITE PHOTOS**



**Proposed location of addition facing west**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 02, 2023**

Commission District: **#5**

Case #: **VA-23-11-105**

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

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** KELLI L KERNS

**OWNER(s):** KELLI L KERNS LIVING TRUST

**REQUEST:** Variance in the ~~A-2~~ R-1 zoning district to allow a pickleball court in front of the principal structure in lieu of the side or rear yard.  
This is the result of Code Enforcement.

**PROPERTY LOCATION:** 3649 Lake Drawdy Dr., Orlando, FL 32820, east side of Lake Drawdy Dr., west side of Lake Drawdy, west of Chuluota Rd., north of Lake Pickett Rd.

**PARCEL ID:** 09-22-32-4416-00-050

**LOT SIZE:** +/- 2.09 acres (1.3 acres upland)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 47

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board finds it meets that the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by Roberta Walton Johnson; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan received August 24, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that seven (7) comments were received in support, and no comments were received in opposition.

The applicant agreed with the staff presentation, noted the rationale for the request, which included flooding and grading issues at the rear of the property and noted neighbor support.

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

The BZA discussed the need for the request, acknowledged that the property is constrained in the rear, noted the substantial setback of the proposed location from the road, stated justification for the six (6) criteria and unanimously recommended approval of the Variance by a 5-0 vote, with one absent and one seat vacant, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

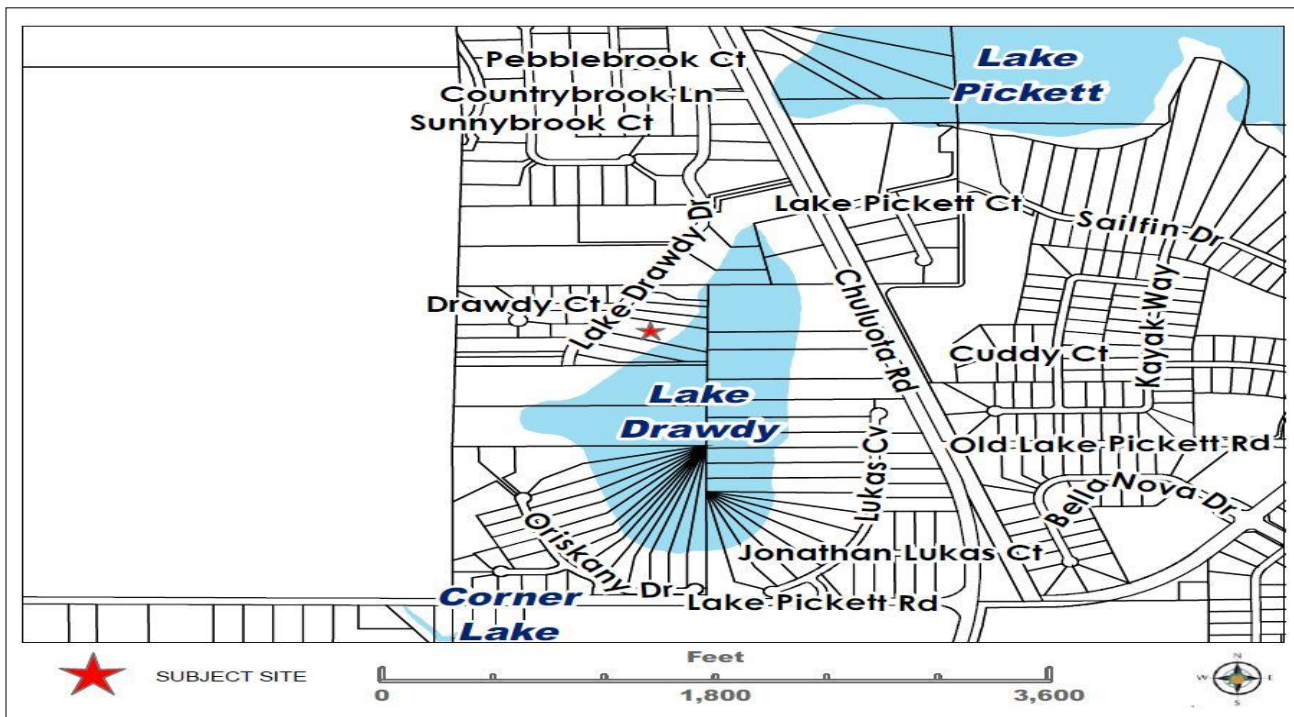
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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-1	R-1	R-1	Lake Drawdy	R-1
Future Land Use	Lake Pickett Rural Settlement RS 1/1	Lake Pickett Rural Settlement RS 1/1	Lake Pickett Rural Settlement RS 1/1	Lake Drawdy	Lake Pickett Rural Settlement RS 1/1
Current Use	Single-family residential	Single-family residential	Single-family residential	Lake Drawdy	Single-family residential

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1, Single-Family Dwelling district, which allows for single-family homes and associated accessory structures. The Future Land Use is Rural Settlement 1/1 (RS 1/1) and the property is located in the Lake Pickett Rural Settlement. Rural settlements are established through the Comprehensive Plan and are intended to identify areas with unique traits and characteristics which the residents of those area wish to preserve. The rural settlement designation typically impacts such development factors as residential density, location and intensity of commercial and other nonresidential uses, and with the exception of density, have no impact on single-family development. The Future Land Use is inconsistent with the R-1 zoning district; however, the subject parcel meets the requirements of policy FLU 8.2.5.1. as the lot existed in this configuration prior to the adoption of the Orange County Comprehensive Plan in 1991 based on County records.

The area surrounding the subject site consists of single-family homes on larger lots, many of which are lakefront. The subject property is a +/- 2.09 acre (1.3 acres upland) lot, located in the Lake Drawdy Terrace Plat, recorded in 1957, and is considered to be a conforming lot of record. It is developed with a 5,348 gross sq. ft. single-family home constructed in 2016. The property was purchased by the current owners in 2013.

Proposed is a 30 ft. by 60 ft. concrete slab to be used as a pickleball court which was installed in front of the house without permits. Per section 38-79(10), No swimming pool, wading pool, jacuzzi, tennis court, spa, or hot tub (including all appurtenances thereto) shall be located in the front yard of the principal building. Pickleball courts are treated and fall under the same code section as pools and tennis courts and are not allowed to be permitted in the front yard. Thus, a variance is required to allow the pickleball court to remain in this location.

A Code Enforcement citation was issued in April 2023 (CE#: 621172) for the installation of a cement slab without permits. The owner has applied for a permit (B23009199) which is on hold pending the outcome of this request.

Staff has reviewed the request and is recommending approval. The pickleball court could not be placed further back beside the house on the south side, as it is impeded by the septic system and well, it could not be located in the north side as there is not enough room and locating it behind the house would be very difficult due to the slope of the rear yard to Lake Drawdy. Further, the pickleball court is less impactful than an accessory structure which would be permitted in this same location, per section 38-1426(b)(3) which states

that a detached accessory structure may be located in front of the principal structure if the principal structure is located in the rear half (½) of the lot/parcel. In this case the house is located on the rear half of the lot, and an accessory structure (which would be more noticeable and have a greater impact), would be allowed in front of the house, however the same allowance is not included for the pickleball court under section 38-79(10).

As of the date of this report, 2 comments have been received in favor of the request, including from the neighboring property to the south, which is most impacted by this request. No comments were received in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	N/A
Min. Lot Width:	50 ft.	166 ft.
Min. Lot Size:	5,000 sq. ft.	2.09 acres (1.3 acres upland)

**Building Setbacks (Pickleball Court )**

	Code Requirement	Proposed
Front:	not allowed	67 ft. (West-Variance)
Side:	10 ft.	12 ft. (South) 100 ft. (North)
NHWE	25 ft.	170 ft. (East)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are the location of the house, as constructed on the rear half of the lot, and its natural constraints being the slope of the rear yard, and other constraints including the location of the septic system and well that prevent placing the pickleball court in other locations.

**Not Self-Created**

The request is not self-created since there are no other options available to locate the pickleball court, since the house is existing on the rear half of the lot, in combination with the limited space and slope of the yard.

**No Special Privilege Conferred**

Granting the requested Variance will not confer any special privilege since the property has constraints that preclude the installation of the pickleball court elsewhere on the property.



### **Deprivation of Rights**

Without the requested Variance, the construction of a pickleball court in a conforming location would be difficult.

### **Minimum Possible Variance**

Given the location of the house and existing improvements and existing natural constraints, the request is the minimum possible.

### **Purpose and Intent**

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood, since the pickleball court is essentially a slab that is at grade and would cause much less impact than a permitted accessory structure in the same location. Further, the pickleball court is located 67 ft. from the front property line which is further than the required front setback for the zoning district, and there is existing vegetation screening the view from the road, thereby limiting any quantifiable negative impacts to surrounding property owners.

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## **CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan received August 24, 2023, 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: Kelli Kerns  
3649 Lake Drawdy Dr.  
Orlando, FL 32820

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**COVER LETTER**

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September 8, 2023

Orange County Zoning Division  
201 South Rosalind Ave. 1<sup>st</sup> Floor  
Orlando, FL 32801

Dear Zoning Division,

Please find enclosed check #1169 in the amount of \$638 for the variance fee for residential permit **#B23009199**. The variance was submitted electronically to the email address – [BZA@ocfl.net](mailto:BZA@ocfl.net) on 9/8/23. The permit is for a 30' x 60' concrete slab that is professionally coated for a pickleball court.

The reason for the variance request is the location of the pickleball court. Our home is on a double lot totaling 2.0 acres of land. Although that seems to be plenty of space for a pickleball court, the house is 167' from the street, making the front yard larger than the backyard. In addition, the house is lakefront on Lake Drawdy which means there is potential for flooding in the backyard. Our well is located directly beside the house, therefore the only feasible place for the pickleball court would be our side yard, which more than meets all the setback requirements.

We have submitted all the required documentation for the variance request as well as emails from our neighbors who are in support of the court and find it a value to the neighborhood. We sincerely hope you will approve our request for this variance.

Thank you,

Kelli L. Kerns  
Property Owner  
3649 Lake Drawdy Dr.  
Orlando, FL 32820  
614.726.0007  
[Kellikerns1@gmail.com](mailto:Kellikerns1@gmail.com)

## REQUIRED DOCUMENTATION FOR ALL VARIANCE REQUESTS

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

*The house sits on a double lot further back towards the lake. The proposed Pickleball court is located on the extra side lot which allows plenty of space for the court and meets all setback requirements. There is no room in the backyard for the court due to the 50-year flood line. Our well is located directly beside the house, making the upper side yard the only feasible spot for a Pickleball court.*

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

*We are facing an extremely difficult and stressful situation that we in no way would have ever knowingly put ourselves in this position. We were told by our concrete contractor that a permit was not required since we were not putting up a structure. When filing for a permit after being told we needed one, it was very difficult to even find the appropriate permit to file on Orange county's website.*

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

*We are in no way asking for special privilege. We just want some recreation we can enjoy on our property that also happens to bring value and happiness to our neighborhood.*

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

*A financial hardship would absolutely incur should you deny our proposed variance. The court itself was very expensive to install as we went the extra mile to insure it would look beautiful for the neighborhood. It would be even more costly and extremely disruptive to take out.*

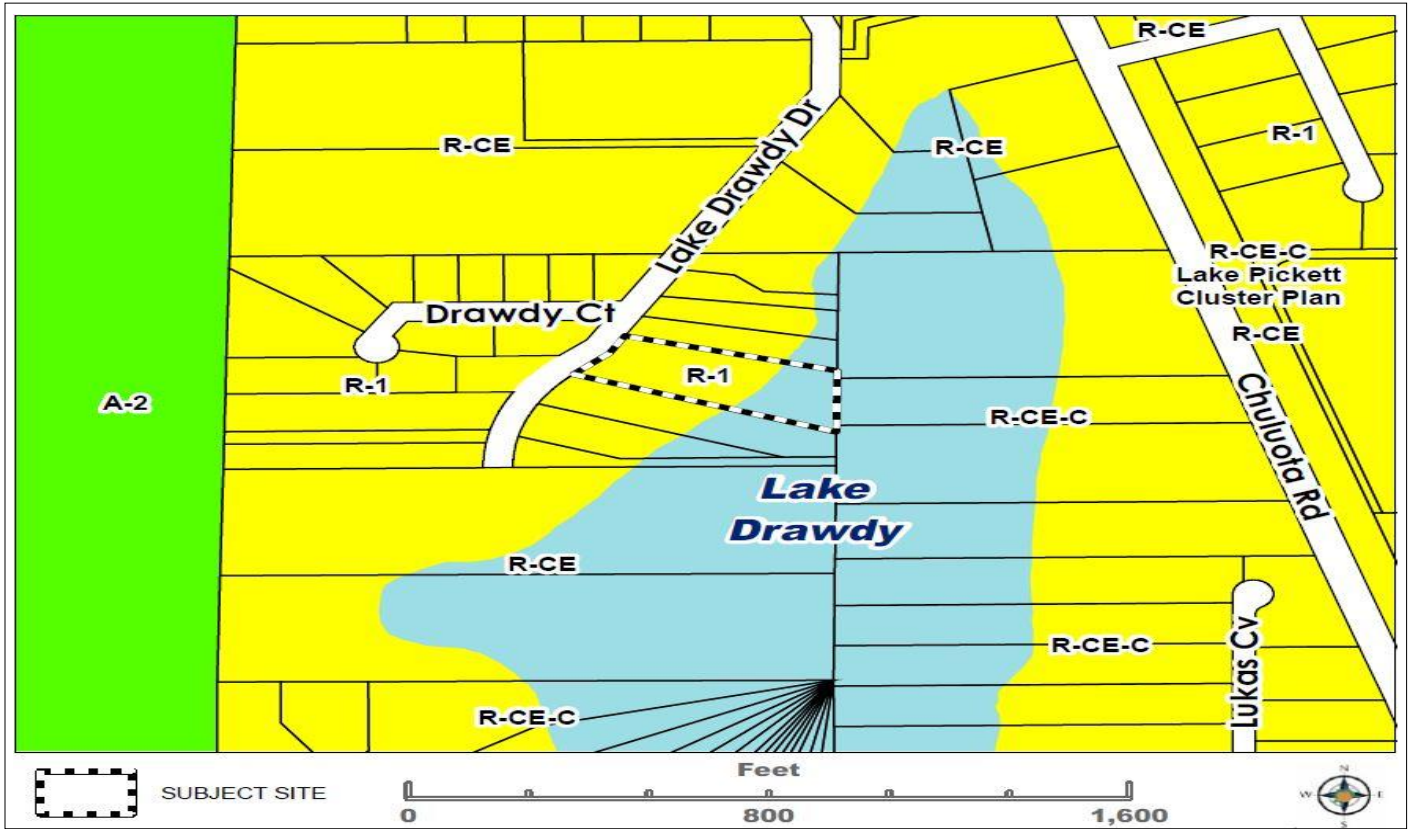
- 5. Minimum Possible Variance** – The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

*Our request is reasonable. It meets all set back requirements, is located on an extra lot in the side yard and can barely be seen by the road. It is a beautiful court that will increase property values to our neighborhood.*

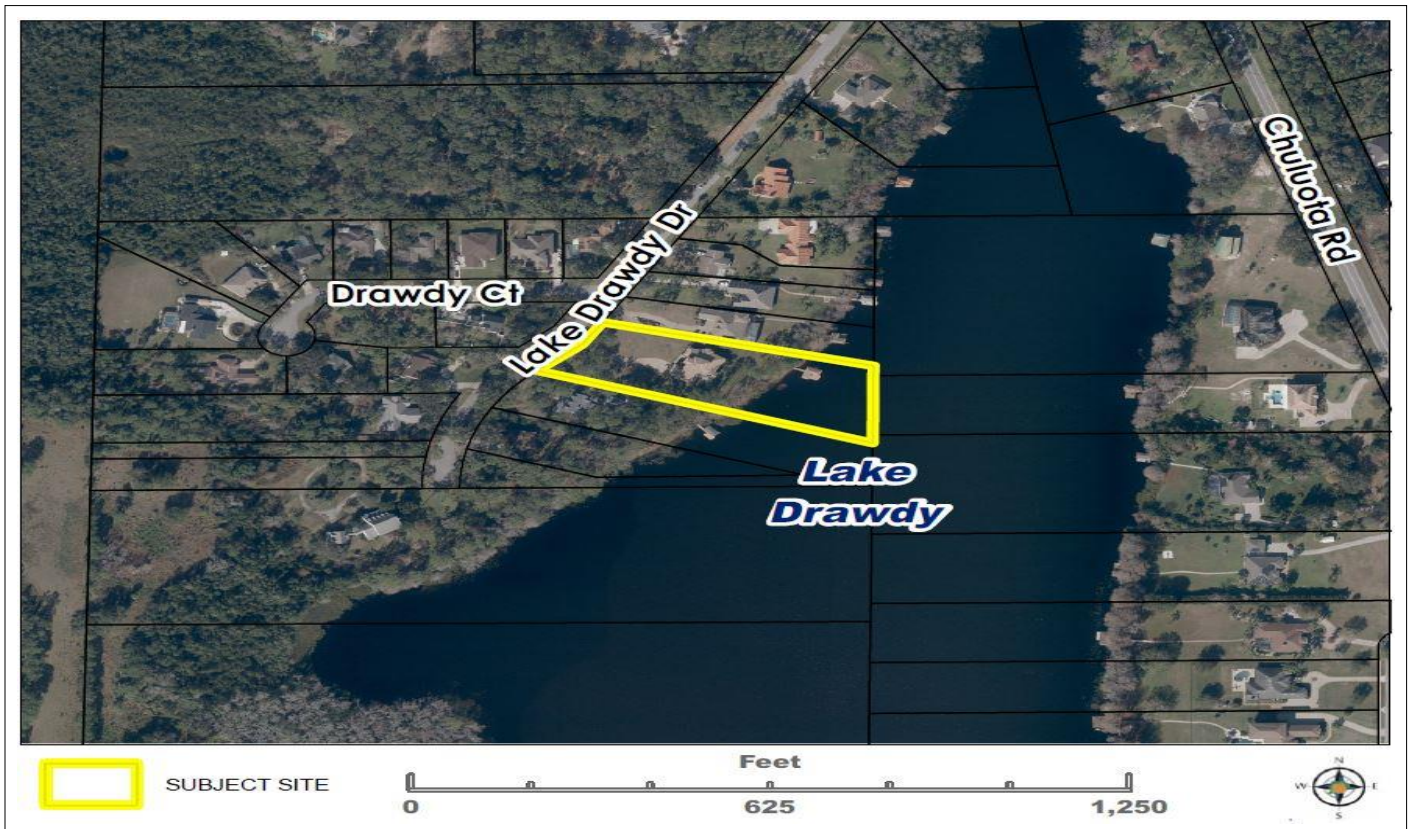
- 6. Purpose and intent** – Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

*Please see the attached emails from our neighbors who are in support of the court.*

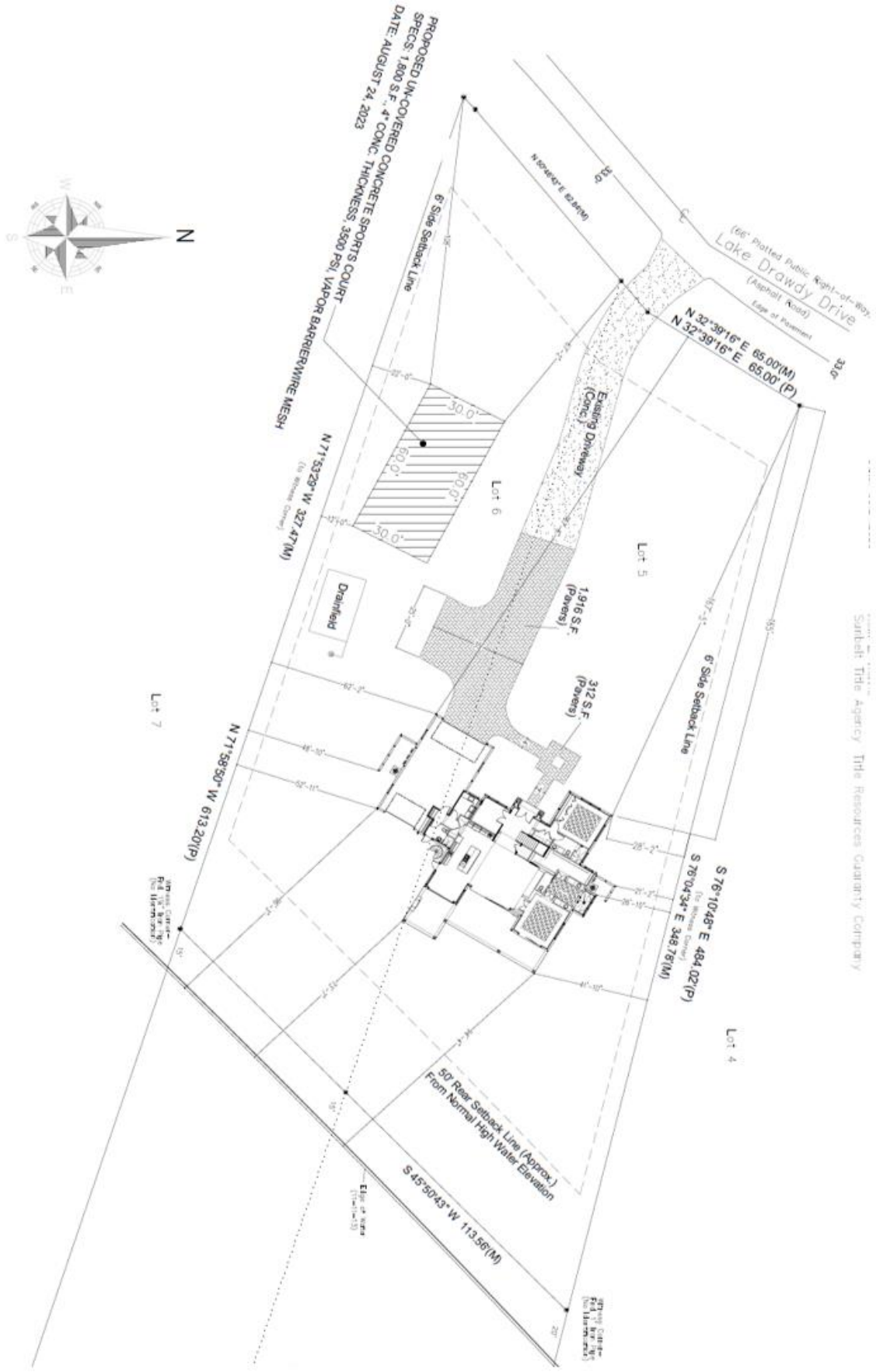
ZONING MAP



AERIAL MAP



# SITE PLAN



**SITE PHOTOS**



**Front from Lake Drawdy Dr. facing east**



**Court facing east**

**SITE PHOTOS**



**Court facing west**



**Slope of side and rear yard facing east**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 02, 2023**

Commission District: **#5**

Case #: **VA-23-12-111**

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

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** ERIC KOBBI, RACHAEL KOBBI

**OWNER(s):** ERIC KOBBI, RACHAEL ELLIOTT

**REQUEST:** Variances in the R-1AA zoning district to allow a two-story addition to a residence as follows:

1) To allow a north side setback of 5.9 ft. in lieu of 7.5 ft.

2) To allow an east rear setback of 30.16 ft. in lieu of 35 ft.

~~3) To allow the existing house to remain with a north side setback of 3.1 ft. in lieu of 7.5 ft.~~

\*Variance was advertised but is not needed.

**PROPERTY LOCATION:** 2103 Merritt Park Dr., Orlando, FL 32803, east side of Merritt Park Dr., north of Corrine Dr., east of N. Mills Ave., west of Winter Park Rd.

**PARCEL ID:** 18-22-30-5596-00-600

**LOT SIZE:** +/- 0.16 acres (+/- 7,315 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 101

**DECISION:** Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by Thomas Moses; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received September 20, 2023, 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.

- Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that three (3) comments were received in support, and no comments were received in opposition.

The applicant described the rationale for the request and the lack of visibility from the public right-of-way.

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

The BZA noted that the addition will improve the property, that the requested setbacks are appropriate, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 5-0 vote, with one absent and one seat vacant, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1AA, Single-Family Dwelling District, which allows single-family homes and associated accessory structures with a minimum lot size of 10,000 square feet. The Future Land Use is LDR, which is consistent with the R-1AA zoning district.

The area surrounding the subject site consists of single-family homes. The subject property is a 7,315 sq. ft. lot, located in the Merritt Park Plat, recorded in 1924, and is considered to be a non-conforming developed lot of record, due to the lot width and lot size. It is developed with a 1 story, 1,737 gross sq. ft. single-family home constructed in 1954, and a swimming pool, constructed in 2018. The property was purchased by the current owners in 2016.

The proposal is to construct a 2 story, 900 sq. ft., addition along the north side of the house, which extends along the same wall as the existing house with a 5.9 ft. side setback in lieu of 7.5 ft. requiring Variance #1. The proposed addition will also have a 30.16 ft. rear setback in lieu of 35 ft. requiring Variance #2. Although advertised, Variance #3 is not needed, as it is for a chimney.

The house was built in 1954 prior to the establishment of zoning codes and setbacks. In April 1993, a Variance (Case #10) was approved for an addition 5.5 feet from the north side property line, however, this addition was not built.

Staff has reviewed the request and is recommending approval. The existing house was constructed with a 5.9 ft. north side setback, and the proposal is to continue construction along the same plane as the existing wall. Also, there is no other logical place to put the addition in the rear yard, as the property is constrained, and the rear of the house has a swimming pool. Further, the addition will not be noticeable from the road and other properties in the neighborhood have similar setbacks, including adjacent properties.

As of the date of this report, 2 comments have been received in favor of this request, including from the neighbor to the immediate north, and no comments have been received in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	21.5 ft.
Min. Lot Width:	85 ft.	55 ft. (developed lot of record)
Min. Lot Size:	10,000 sq. ft.	7,315 sq. ft. (developed lot of record)

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	30 ft.	24.9 ft.-Existing house (West)
Rear:	35 ft.	60.5 ft.-Existing house (East) 30.16 ft. Addition (East-Variance #2)
Side:	7.5 ft.	5.7 ft.-Existing house (South) 5.9 ft. Addition (North-Variance #1) 5.9 ft. Existing house (North)

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**STAFF FINDINGS**


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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are that the lot is constrained due to the size and the location of the house as constructed with the existing north side setback, and the location of improvements such as the swimming pool.

**Not Self-Created**

The requests are not self-created since the house is existing, and the addition is being proposed to extend along the north wall of the existing house as constructed almost 70 years ago. Further it is a constrained lot, and there are no other logical options available construct an addition.

**No Special Privilege Conferred**

Granting the requested Variances will not confer any special privilege since the house is existing and the addition is being proposed along the same plane as the north side wall, with the same setback, and both the side and rear setbacks will be similar to other existing homes in the neighborhood.

**Deprivation of Rights**

Without the requested Variances, the existing house would remain nonconforming and the construction of an addition in a conforming location would be difficult.

**Minimum Possible Variance**

Given the location of existing improvements, the requested Variances are the minimum necessary to construct the proposed improvements in the only logical and feasible location.

## Purpose and Intent

Approval of the requested Variances would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood, since the house is existing and the design of the addition is consistent with the existing house and would be compatible with the surrounding area thereby limiting any quantifiable negative impacts to surrounding property owners.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received September 20, 2023, 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: Eric and Rachel Kobb  
2103 Merritt Park Dr.  
Orlando, FL 32803

C: Dirk Arace  
3563 Terra Oaks Ct.  
Longwood, FL 32779

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**COVER LETTER**

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**VARIANCE REQUEST:**

**TO ALLOW THE LOCATION OF THE PROPOSED 900 sq. ft. 1.5-STORY ADDITION BE LOCATED approx. 5'11" from the SIDE (NORTH) PROPERTY LINE and 30' from the REAR (EAST) property line.**

**RE: 2103 MERRITT PARK DRIVE ORLANDO, FL. 32803**

**OWNER: ERIC AND RACHAEL KOBBS**

**PARCEL ID#: 18-22-30-5596-00-600**

**DATE: SEPTEMBER 10, 2023**

Dear Members of the BZA,

We are in the planning stages of a 1.5-story addition to our existing home. The Addition will be approximately 450 sq.ft on the ground floor and 450 sq.ft for the loft. It will be approx. 30' 8" long and 14'8" and 21' 6" high. This will be used as a new, functional master suite. with loft above. Due to the small size of the original 1761 sq. ft. home, and our growing family needs. We are requesting to utilize the existing side setback of 5'11" of the original house to continue the structure along the north (side) setback at the same setback as the original house (5'11")

Also, we are requesting an additional 5' more for the rear setback to allow for a functional addition. There are several reasons for this variance request.

Our lot was platted before the codes changed to allow for a 30' rear setback. by no fault of ours. Due to this , our lot was platted smaller than normal, and the allowable footprint is very limited for our needs for expansion.

We have located this at the rear corner of the home (NE corner) since this is the only possible location available, as well as be as respectful as possible to keep the existing front elevation and charm of the existing home. The Addition will solely be located in the rear portion of the lot. and not affect the charm and harmony of the street views. We cannot locate the addition on any other part of the property due to the current location of our existing home.

We did not create this hardship and this new addition will be in harmony with these as well. We are NOT building a two-story addition and have designed the Loft space to work withing a one-story roof line on the sides. We have a letters of approval from our neighbors, and the existing fence and vegetation will remain to keep the same privacy.

By allowing this variance, it does not impede any traffic, or hinder any views from any of the surrounding homes., nor grant any special privileges to the home that is there currently. Our lot and the existing setbacks of the current home will be the same on the sides.

Thank you for your consideration and vote of approval for our variance, due to the above reasons, so that we may move forward in permitting and beginning our construction.

Sincerely,  
Eric and Rachael Kobb



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## COVER LETTER

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**VARIANCE REQUEST:**

**TO ALLOW THE LOCATION OF THE PROPOSED 900 sq. ft. 1.5-STORY ADDITION BE LOCATED approx. 5'11" from the SIDE (NORTH) PROPERTY LINE and 30' from the REAR (EAST) property line.**

**RE: 2103 MERRITT PARK DRIVE ORLANDO, FL. 32803**  
**OWNER: ERIC AND RACHAEL KOB**  
**PARCEL ID#: 18-22-30-5596-00-600**  
**DATE: SEPTEMBER 10, 2023**

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

**SPECIAL CONDITIONS DO APPLY TO THIS LOT DUE TO THE SMALL SIZE OF THE LOT AND THE AVAIABLE EXISTING FOOTPRINT ALLOWED FOR THE ADDITION. ALSO USING THE EXISTING NORTH SIDE SETBACK OF 5'11" OF THE ORIGINAL HOME.**

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

**THIS CONDITION WAS NOT SELF-CREATED. THE EXISTING HOME WAS BUILT WITH A 5'11" NORTH SIDE SETBACK, AND 5' SOUTH SIDE SETBACK. THERE IS NO OTHER PLACE ON THE PROPERTY FOR THE EXPANSION . ALSO, NEIGHBOR'S HOMES ARE BUILT WITH A 4.9' SIDE SETBACK (TO THE NORTH) AND 5' SIDE SETBACK TO THE SOUTH.**

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

**NO SPECIAL PRIVILEGES WILL BE CONFERRED DUE TO THIS VARIANCE. THE PROPOSED ADDITION WILL REMAIN THE SAME DISTANCE AS THE EXISTING STRUCTURE. . ALSO, THE NORTH NEIGHBOR HAS A 4.9' SIDE SETBACK, WHILE THE SOUTH NEIGHBOR HAS A 5' SIDE SETBACK. AND THIS VARIANCE IS CONSISTENT WITH THE HOMES ON THIS STREET.**

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

**BY NOT ALLOWING THE VARIANCE, THIS WILL DEPRIVE THE RIGHTS ENJOYED BY OTHER PROPERTIES. THE NORTH NEIGHBOR HAS A 4.9' SIDE SETBACK, WHILE THE SOUTH NEIGHBOR HAS A 5' SIDE SETBACK.**

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.

**OUR REQUEST FOR A 5'11" SIDE SETBACK ON THE NORTH PROPERTY LINE IS THE MINIMUM VARIANCE REQUIRED AND MATCHES THE EXISTING SIDE SETBACK. THE REAR 30' SETBACK IS THE MINIMUM REQUIRED TO ALLOW FOR A FUNCTIONAL ADDITION AND IS CONSISTENT WITH MANY HOMES IN THE SAME ZONING.**

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

**THE PROPOSED VARIANCES IF APPROVED, ARE CONSISTENT AND IN HARMONY WITH MANY OTHER SIMILAR HOMES AND PROPERTIES ADJACENT TO THIS STRUCTURE.**

ZONING MAP

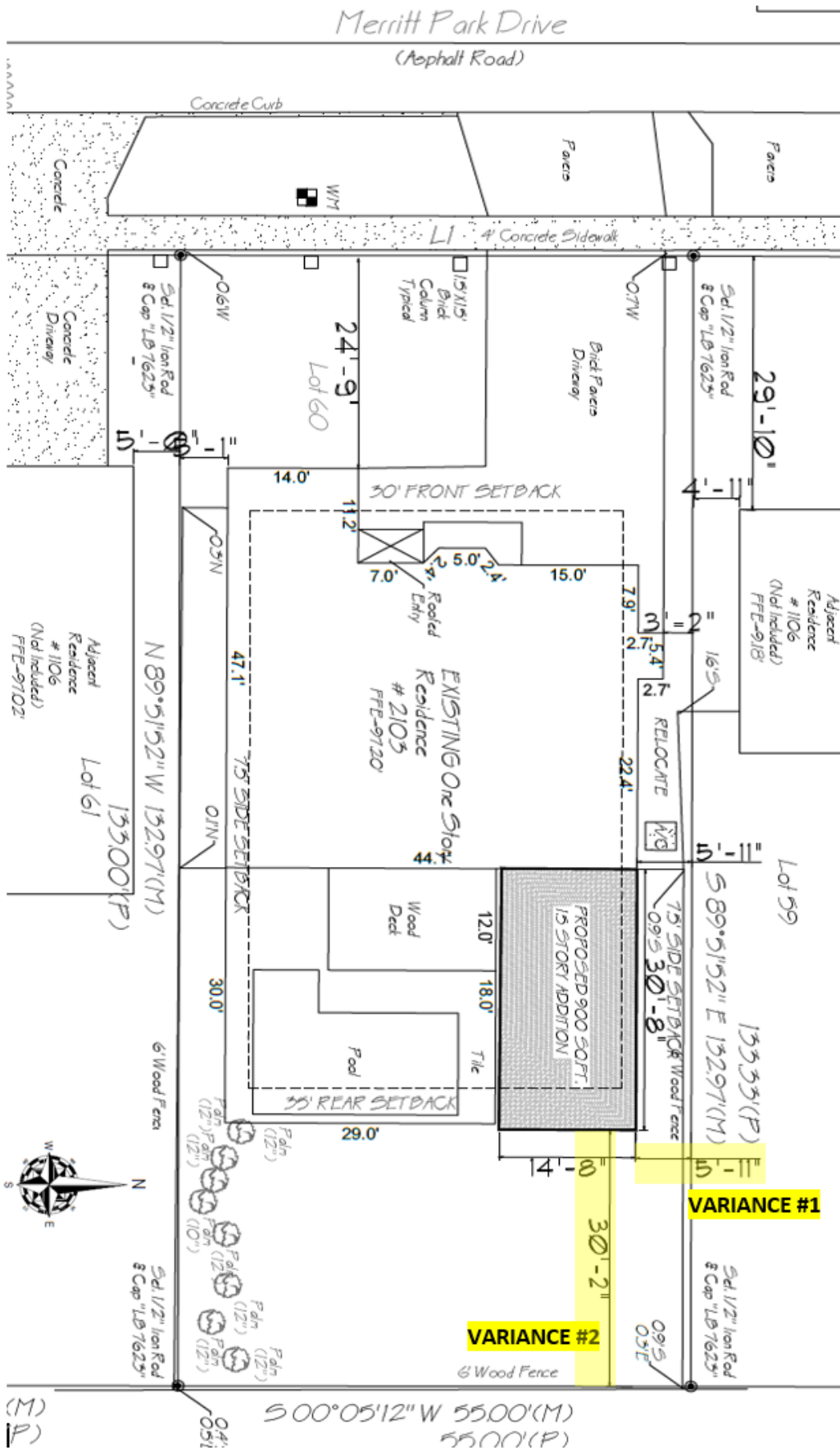


AERIAL MAP

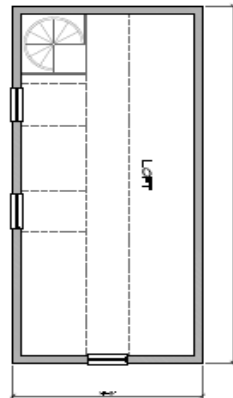
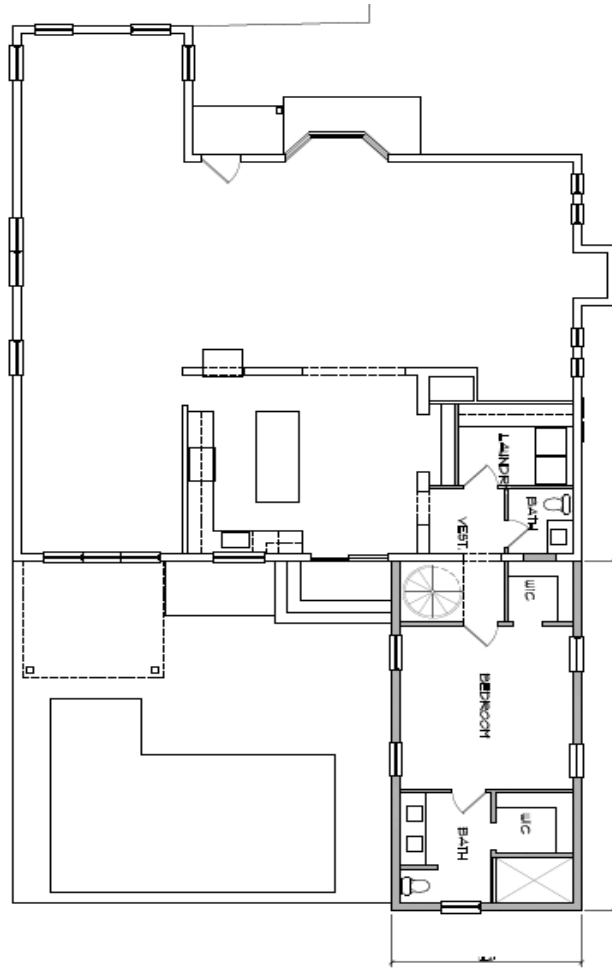




**SITE PLAN**

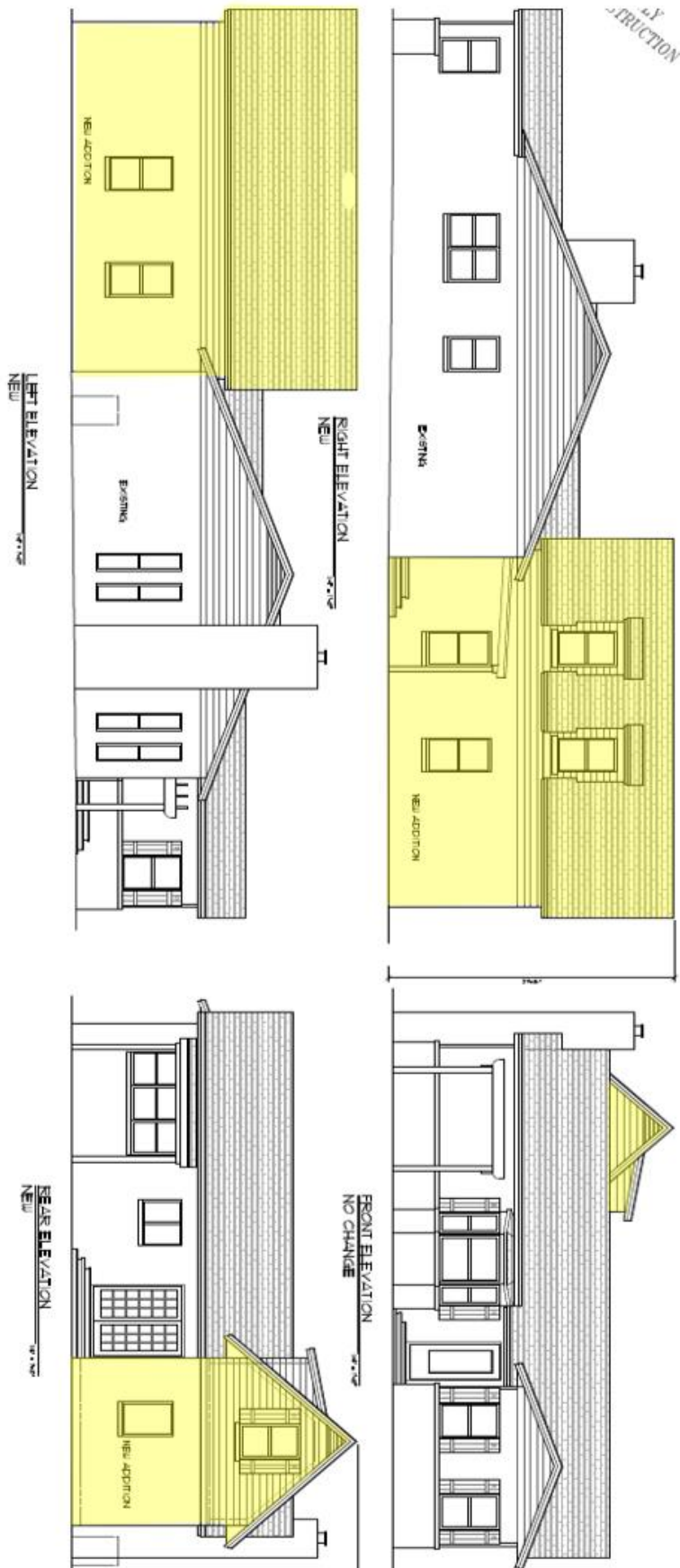


FLOOR PLAN



LEFT FLOOR PLAN  
\* Also see FT.

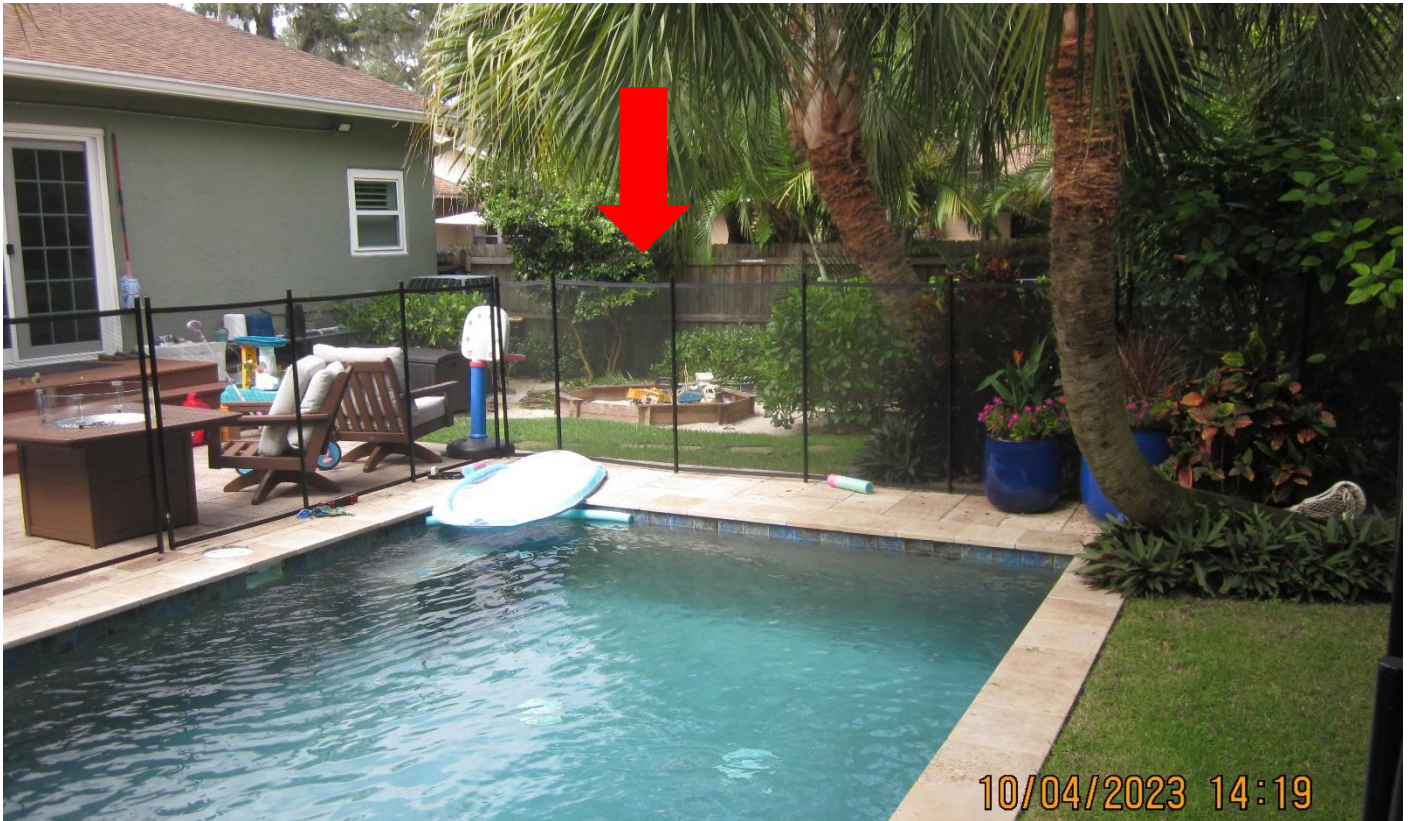
ELEVATIONS



**SITE PHOTOS**



**Front from Merritt Park Dr. facing east**



**Proposed location of addition facing north**

**SITE PHOTOS**



**Proposed location of addition facing west**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 02, 2023**

Commission District: **#1**

Case #: **VA-23-11-107**

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

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** JOSEPH MACRINA, DINA MACRINA

**OWNER(s):** JOSEPH MACRINA

**REQUEST:** Variance in the PD zoning district to allow an addition to a residence with a west front setback of 17 ft. in lieu of 25 ft.

**PROPERTY LOCATION:** 6657 Doubletrace Ln., Orlando, FL 32819, east side of Doubletrace Ln., east of Dr. Phillips Blvd., west of Turkey Lake Rd., east of S. Apopka Vineland Rd.

**PARCEL ID:** 23-23-28-6270-01-220

**LOT SIZE:** +/- 0.13 acres (+/- 5,891 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 79

**DECISION:** Recommended **APPROVAL** of the Variance request in that the Board finds it meets that the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by Roberta Walton Johnson; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received September 29, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that two (2) comments were received in support, and no comments were received in opposition.

The applicant agreed with the staff presentation and noted that support from the homeowner's association was obtained.

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

The BZA discussed the request, noted that the property is constrained, stated justification for the six (6) criteria and unanimously recommended approval of the Variance by a 5-0 vote, with one absent and one seat vacant, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

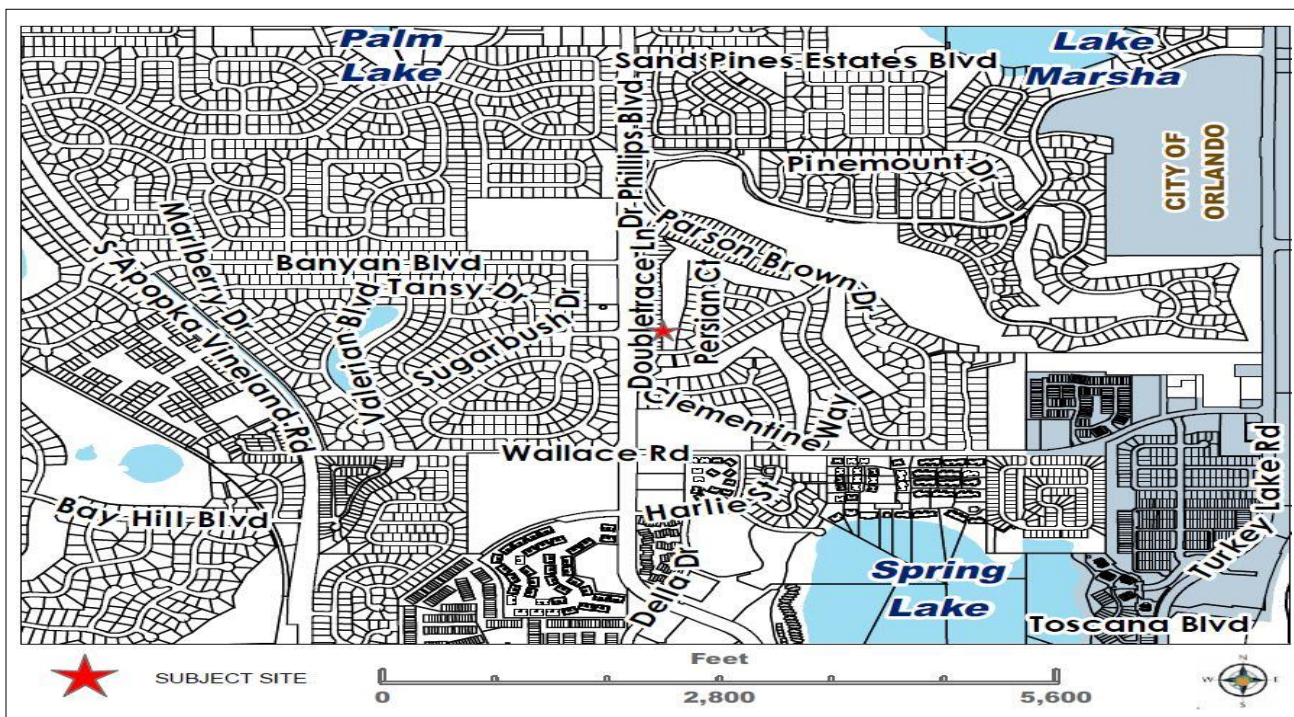
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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	Orange Tree Country Club PD	Orange Tree Country Club PD	Orange Tree Country Club PD	Orange Tree Country Club PD	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Golf course	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the Orange Tree Country Club Planned Development, which allows single-family homes and associated accessory structures. The Future Land Use is LDR, which is consistent with the zoning district.

The area surrounding the subject site consists of single-family homes, and a golf course to the east. The subject property is a 5,891 sq. ft. lot, located in the Orange Tree Country Club Plat, recorded in 1983, and is considered to be a conforming lot of record. It is developed with a 2,322 gross sq. ft. single-family home constructed in 1986. The property was purchased by the current owners in 2019.

The proposal is to construct a 442 sq. ft. addition to the front of the house, which involves adding a bedroom and expanding the garage closer to the street. The proposed addition will have a 17 ft. west front setback in lieu of 25 ft. requiring a Variance. The property has a 5 foot utility easement along the north, south and east property lines which is not impacted by the request.

Staff has reviewed the request and is recommending approval. The subject property is located on the extreme curve part of a cul-de-sac, and thus has a significantly smaller front yard, and less lot depth than all other adjacent properties on the same street. Specifically, each of the adjacent properties contain houses that extend out significantly further than the existing house on the subject property. The proposed addition will not extend out as far as the existing houses on neighboring lots. Further, the addition will not be noticeable from the road in comparison to other properties in the neighborhood.

As of the date of this report, 2 comments have been received in favor of the request from neighboring properties to the north and south. No comments were received in opposition to this request.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	15 ft.
Min. Lot Width:	60 ft.	60 ft.
Min. Lot Size:	Not specified in PD	5,891 sq. ft.



**Building Setbacks (that apply to structure in question)**

	PD Requirement	Proposed
Front:	25 ft.	17 ft. (West-Variance)
Rear:	0 ft.	14 ft. (East)
Side:	7.5 ft.	8 ft. (South) 7.5 ft. (North)

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**STAFF FINDINGS**


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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property include the configuration of the cul-de-sac, resulting in less lot depth than all other adjacent properties. Further, the location of the existing house constrains future improvements.

**Not Self-Created**

The request is not self-created as the owner is not responsible for the existing house in relation to the front property line.

**No Special Privilege Conferred**

Granting the requested Variance will not confer any special privilege since the proposed addition will not extend out as far as the existing houses on neighboring lots.

**Deprivation of Rights**

Without the requested Variance, the construction of a useable addition in a conforming location would be difficult.

**Minimum Possible Variance**

The requested Variance is the minimum necessary to construct the proposed addition in the only feasible location.

**Purpose and Intent**

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood, since the design of the improvement is consistent with the existing house and would be compatible with the surrounding area.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received September 29, 2023, 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: Joseph Macrina, Dina Macrina  
6657 Doubletrace Ln.  
Orlando, FL 32819

September 26<sup>th</sup>, 2023

Orange County Zoning Division  
201 South Rosalind Ave.  
1st Floor  
Orlando FL 32801

Re: Letter of Variance Request for the Macrina Residence  
Address: 6657 Double trace Ln Orlando FL  
Parcel ID: 23-23-28-6270-01-220

Respected board of Zoning Adjustments and planning staff,

Please allow this letter to serve as a request for a variance for an addition to the front side of an existing single-family home located in the Orange Tree Community in the Dr. Philips area.

We are asking for a variance to allow a **21'-7"** front setback on the south corner, and a **17'-0"** front setback on the north corner of the proposed addition, in lieu of the **25'-0"** front setback along the curved front side of the property. This addition would allow us to add an extra bedroom, and an accessible friendly bathroom to be able to have one of our elder parents live with us comfortably, as they need constant care and attention. It would provide the needed office space for one of us to be able to work from home while taking care of our elderly parent, and it would also allow us to maintain a usable garage for the home while still meeting the current impervious requirements by the county for our zoning district.

Our home is located at 6657 Doubletrace Ln. within the cul-de-sac at the end of the street. The typical lot size of the neighboring properties on our block is 150' deep by 60' wide, our lot is 110' deep by 60' wide, making ours the smallest lot on the block. The property's front-end is curved due to its location within the cul-de-sac radius, leaving us with a unique circumstance specific to our home that makes the needed addition unattainable without a variance approval.

We have presented the proposed addition to the Homeowner's Association and have gotten letters from our immediate neighbors on both sides indicating full support for the request. We are leaving the architectural aesthetic virtually the same as the current façade to make sure it harmoniously blends in with the rest of the neighborhood and meets the HOAs requirements.

We believe our request meets the 6 standards for variance approval as outlined below:

**Special Conditions and Circumstances:** As stated above, the size of the lot and its irregular shape compared to the neighboring properties meets these criteria.

**Not self-created:** The special circumstances for this variance are not self-created as the lot size and house placement are existing conditions.

**No special privilege conferred:** Approval of this variance request will not grant us any special privileges.

**Deprivation of Rights:** As mentioned above, our lot is the smallest on our street, leaving us with less room to work with for the needed addition for our family needs. This addition is unattainable without variance approval.

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## COVER LETTER

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**Minimum Possible Variance:** We are asking for a variance to allow a **21'-7"** front setback on the south corner and a **17'-0"** front setback on the north corner of the proposed addition, in lieu of the **25'-0"** front setback along the curved front side of the property. This addition would allow us to add an extra bedroom, and an accessible friendly bathroom to be able to have one of our elder parents live with us in a comfortable manner, as they need constant care and attention. It would also allow us to maintain a usable garage for the home, meet the parking spaces requirements, and the current impervious requirements by the county for our zoning designation.

**Purpose and Intent:** The request would allow us to update our home to suit the current needs of our family and would harmoniously blend in with the current neighborhood aesthetic standards as outlined by our homeowner's association by-laws.

We have included the following supporting documentation for your consideration:

- Site plan with proposed addition
- As-built Plan and Exterior elevation
- Proposed Floor Plan and Exterior elevation
- Letters of support from our neighbors
- Photos of the existing exterior and surroundings
- Letter of no objection from the HOA

Thank you for your consideration for this variance, your time, and your service to the Orange County Community.

Sincerely,

Dina and Joseph Macrina  
6657 Doubletrace Ln.  
Orlando, FL 32839  
407-202-9702

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**COVER LETTER**

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

The typical lot size of the neighboring properties on our block is 150'X 60', our lot 110'X60', making ours the smallest lot on the block. The property's front-end is curved due to its location within the cul-de-sac radius. Due to this size restriction and the unique shape of the lot, the needed addition not possible without a variance approval for the front setback.

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

The special circumstances for this variance are not self-created as the lot size and house placement are existing conditions.

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

Approval of this variance request will not grant us any special privileges.

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

our lot is the smallest on our street, leaving us with less room to work with for the proposed addition for our family needs. This addition is unattainable without variance approval.

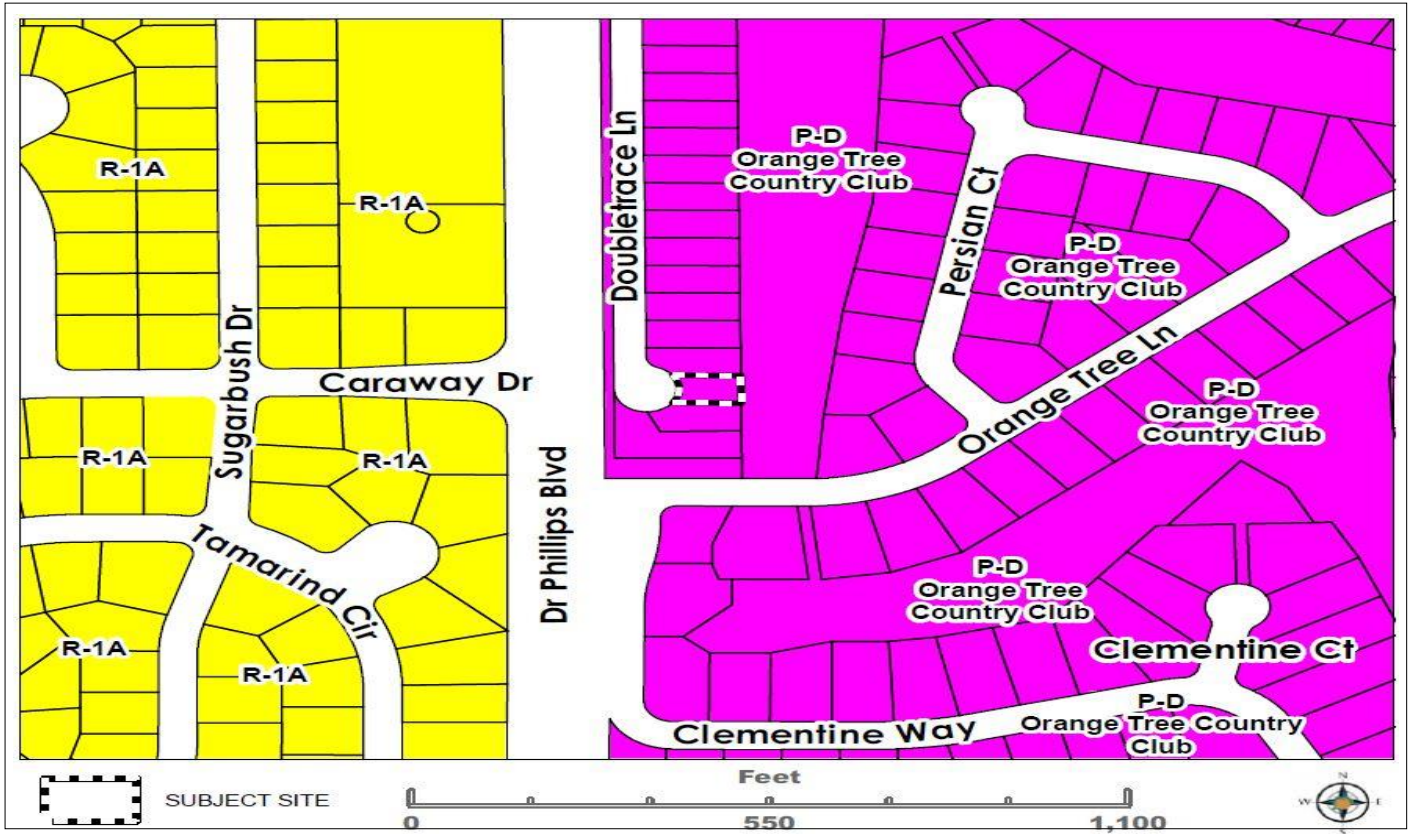
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

We are asking for a variance to allow a 21'-7" front setback on the south corner and a 17'-0" front setback on the north corner of the proposed addition, in lieu of the 25'-0" front setback along the curved front side of the property, for a 442 sq.ft. living space addition and a 373 sq.ft. garage addition to fit our current family needs.

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

The proposed addition was mindfully considered to blend in with the current neighborhood aesthetic standards as outlined by our homeowner's association by-laws. It would also allow us to maintain a usable garage for the home and still meet the current impervious requirements.

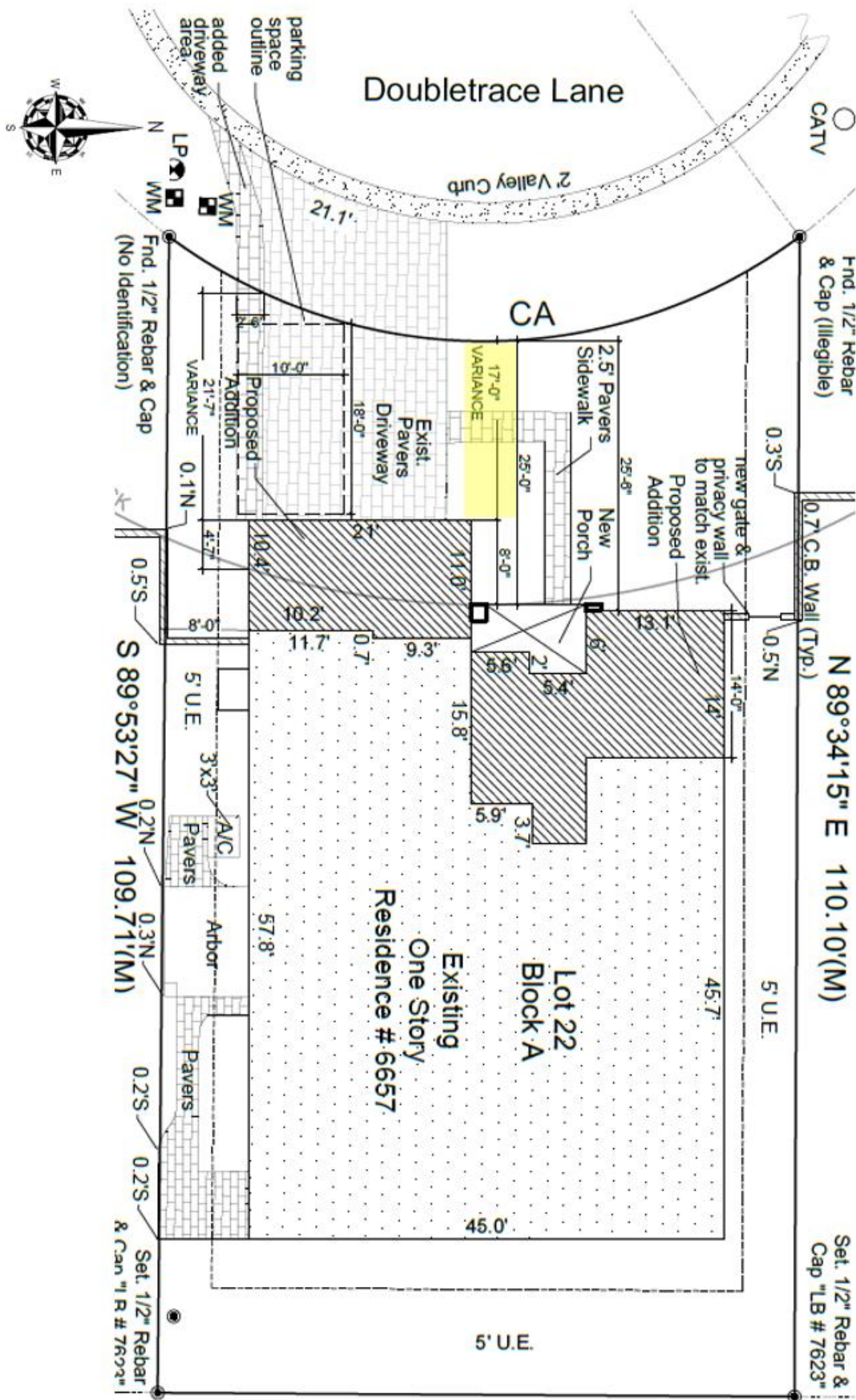
ZONING MAP



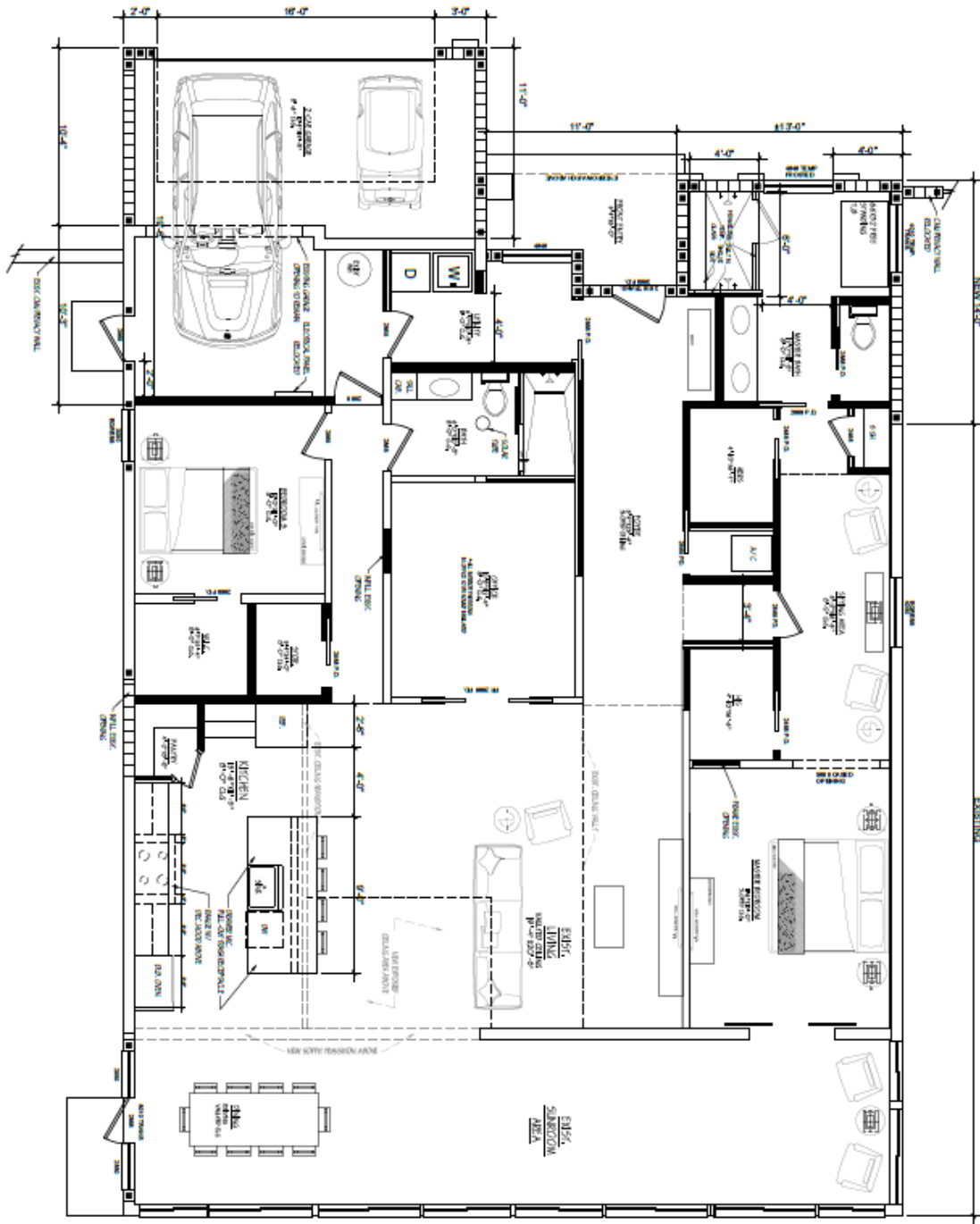
AERIAL MAP



SITE PLAN

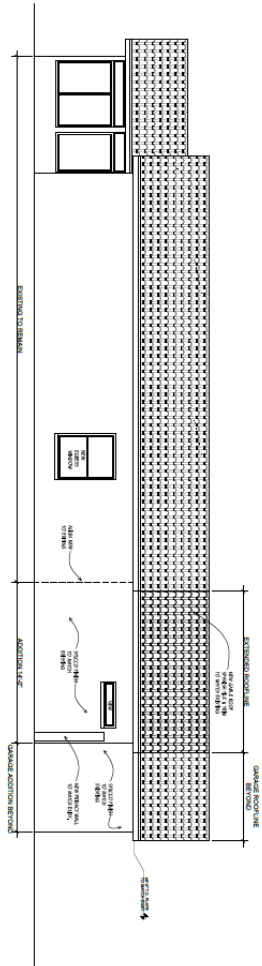


# FLOOR PLAN

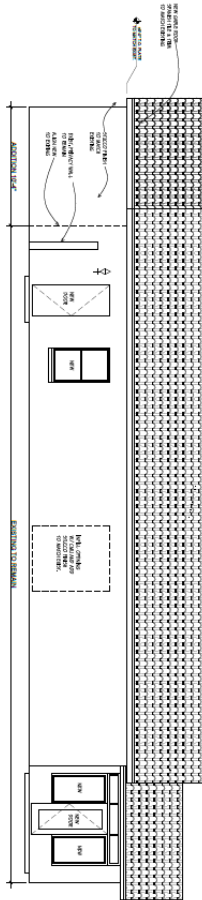




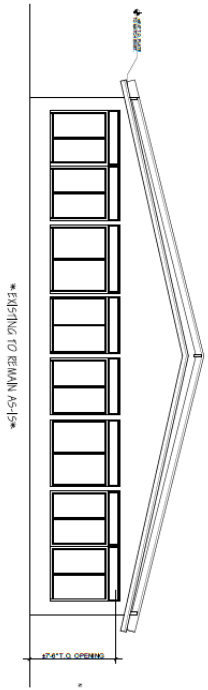
# ELEVATIONS



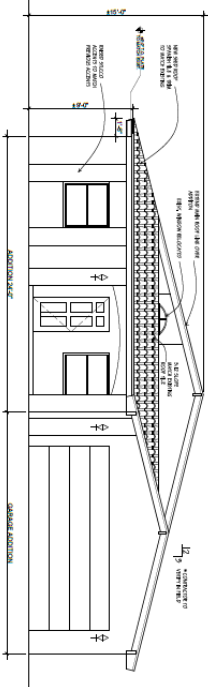
**SIDE ELEVATION - NORTH**  
 SCALE: 1/4" = 1'-0"  
 CONTRACTOR VERIFY ALL DIMENSIONS AT JOB SITE.



**SIDE ELEVATION - SOUTH**  
 SCALE: 1/4" = 1'-0"  
 CONTRACTOR VERIFY ALL DIMENSIONS AT JOB SITE.



**REAR SIDE ELEVATION - EAST**  
 SCALE: 1/4" = 1'-0"  
 CONTRACTOR VERIFY ALL DIMENSIONS AT JOB SITE.

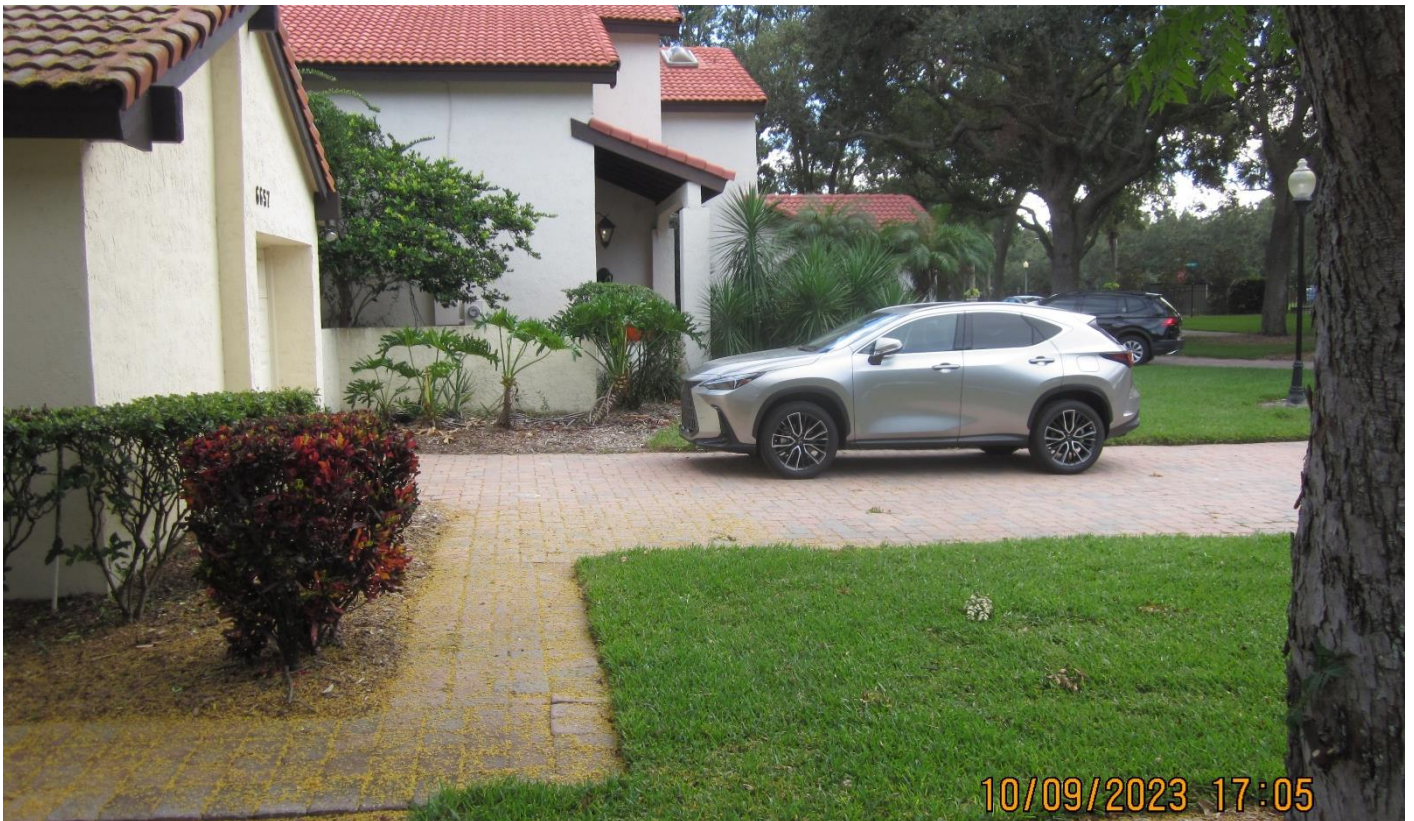


**FRONT SIDE ELEVATION - WEST**  
 SCALE: 1/4" = 1'-0"  
 CONTRACTOR VERIFY ALL DIMENSIONS AT JOB SITE.

**SITE PHOTOS**



**Front from Doubletrace Ln. facing east**



**Location of proposed addition facing north**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 02, 2023**

Commission District: **#4**

Case #: **SE-23-10-092**

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

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** MCGREGOR LOVE FOR AISHA CULTURAL CENTER

**OWNER(s):** AISHA CULTURAL CENTERS INC

**REQUEST:** Amendment to a Special Exception for an existing religious institution to remove any restriction on hours of operation.

**PROPERTY LOCATION:** 1311 Hancock Lone Palm Rd., Orlando, FL 32828, east side of Hancock Lone Palm Rd., west of N. Avalon Park Blvd., south of E. Colonial Dr., north of Waterford Chase Pkwy.

**PARCEL ID:** 24-22-31-0000-00-030

**LOT SIZE:** +/- 6 acres

**NOTICE AREA:** 750 ft.

**NUMBER OF NOTICES:** 166

**DECISION:** Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by Roberta Walton Johnson; unanimous; 5 in favor: Thomas Moses, John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan reflecting the prior Special Exception approval for SE-17-12-134\*, received July 28, 2023, 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).

\*Condition modified for clarity.

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. All previous conditions of approval for Special Exception request (SE-17-12-134) shall remained in effect, with the exception of condition #13, modifying the regular hours of operation as requested.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, photos of the site, and the history of the prior approval. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that 11 comments were received in support, and 5 comments were received in opposition.

The applicant spoke about the need for the requested removal of hours of operation restrictions, compared the request with other religious institutions in the area, and noted that the event hours of operation restriction would remain the same.

Orange County Transportation Planning stated that they had no issues with the request, as additional trips would be outside of peak hours.

Two neighbors spoke in favor of the request, discussed the variable prayer hours, and stated that a number of congregants live in the area and will be walking to the site. There was no one in attendance to speak in opposition to the request.

The BZA noted that most of the opposition to the initial request was about traffic impacts, stated that the requested removal of hours of operation restriction was similar to other religious institutions in the County, stated justification for the six (6) criteria and unanimously recommended approval of the Special Exception by a 5-0 vote, with one absent and one seat vacant, subject to the four (4) conditions in the Staff Report.

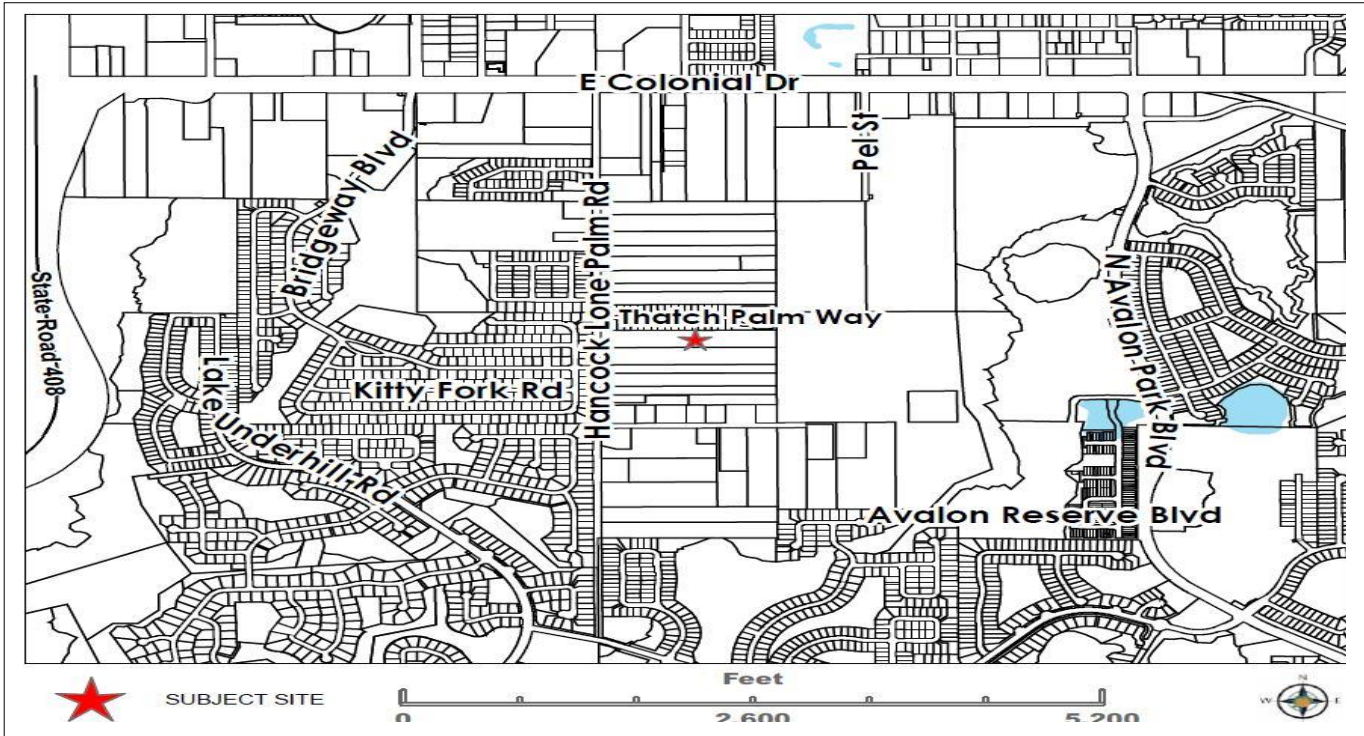
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#### **STAFF RECOMMENDATIONS**

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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the Special Exception, 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	Lone Palm PD	The Palms at Waterford PD	Colonial Sunflower PD	R-2
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Religious use	Single-family residential	Single-family residential	Single-family residential	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the A-2 Farmland Rural district, which allows agricultural uses, as well as mobile homes and single-family homes on larger lots. Religious institutions are also allowed through the special exception process. The Future Land Use is Low Medium Density Residential (LMDR) which is inconsistent with the A-2 zoning district; however, the subject parcel meets the requirements of Comprehensive Plan Policy FLU 8.2.5.2 which states if a proposed use is subject to a special exception a rezoning may not be required for properties with inconsistent Zoning and Future Land Use Map (FLUM) designations, if the proposed use is permitted only through the Special Exception process; and the zoning district required to correct the inconsistency between the Future Land Use Map (FLUM) and zoning designation also requires a Special Exception for the same use.

The subject property is 6 acres in size, is unplatted, and conforms with the zoning regulations for the district. The property is developed with a 4,000 gross sq. ft. building that was originally constructed in 1977 and

converted to a religious institution in 2019. The area surrounding the subject property is predominantly residential, with the exception of a property further north that was also developed as a religious use. The property directly to the north is being developed as a residential subdivision, with lots backing up to the northern property line of the subject site. The property directly to the south is proposed to be developed as a residential subdivision.

Previous Special Exception request (SE-17-12-134):

- February 2018: The Board of Zoning Adjustment recommended denial of the Special Exception for a religious use facility with ancillary uses (worshipping, social services, girls youth group, Monday evening gatherings, Sunday workshop, SAT program and family night); and denial of a Variance to allow unpaved parking spaces. The request for hours of regular operation were 8:00 a.m. to 8:00 p.m. daily. The recommendation was subsequently appealed.
- April, 2018: The Board of County Commissioners recommended approval of the request with a modified condition of approval for the extension of regular hours of operation from 8:00 a.m. to 10:00 p.m. daily.

The proposal is to amend the Special Exception request to remove any restriction on hours of operation, as stated by the applicant, in order to accommodate morning prayers as early as 5:30 a.m. for certain members.

Staff has reviewed the request and is recommending denial. The applicant is not being deprived of the right to continue to use the property for a religious use, as approved and developed. Further, the Board of County Commissioners approved the request with an additional two hours of operation in the evening extending the closing time from 8:00 p.m. to 10:00 p.m. for regular operations. The property directly to the north is being developed as a 27 lot residential subdivision, which is partially built, and the parking lot of the subject property is directly adjacent to the rear of the single-family residential homes. The property directly to the south is proposed to be developed as a 76 lot residential subdivision. The removal of any restrictions on hours of operation in this predominantly residential area has the potential to disturb adjacent residential areas outside of the previously approved hours. The applicant has referenced a previous Special Exception approval on the property to the north (SE-16-12-166) that was approved without a restriction on hours. This action took place in 2016, prior to the construction of many additional residential units, and the character of the area has changed significantly over the years.

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

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## STAFF FINDINGS

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### **SPECIAL EXCEPTION CRITERIA**

#### **Consistent with the Comprehensive Plan**

The Future Land Use is Low Medium Density Residential and with the approved Special Exception, the project is consistent with the Comprehensive Plan.

#### **Similar and Compatible with the Surrounding Area**

The proposal to amend the previous approval to allow for unlimited hours is not similar and compatible with the surrounding area which is predominantly residential.

**Shall Not Act as a Detrimental Intrusion into a Surrounding Area**

The proposal to allow unlimited hours of operation would constitute a detrimental intrusion into the area as this site directly abuts existing and proposed single-family residences to the north, and directly abuts proposed single-family residences to the south, as well as existing single-family residences in the overall area. The parking area abuts the rear yards of the adjacent single-family homes.

**Meet the performance standards of the district**

The subject property meets the performance standards of the district.

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

The proposal could produce additional noise, vibrations, and glare if the site is allowed to operate with unlimited hours, adjacent to single-family residences.

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

The existing landscaping buffer is in compliance with Section 24-5 of Orange County Code, and no additional vegetation is proposed or required.

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**CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan received July 28, 2023, 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. All previous conditions of approval for Special Exception request (SE-17-12-134) shall remain in effect, with the exception of condition #13, regarding hours of operation, which is hereby deleted.

C: McGregor Love  
215 N. Eola Drive  
Orlando, Florida, 32801



MCGREGOR T. LOVE

Senior Associate

mcgregor.love@lowndes-law.com

215 North Eola Drive, Orlando, Florida 32801-2028

T: 407-418-6311 | F: 407-843-4444

MAIN NUMBER: 407-843-4600



September 28, 2023

**VIA EMAIL**

Orange County Zoning Division  
Attn: Nick Balevich  
201 South Rosalind Avenue, 1<sup>st</sup> Floor  
Orlando, Florida 32801

Nick.Balevich@ocfl.net

**Re: Special Exception SE-23-10-092 – 1311 Hancock Lone Palm Road  
(Parcel ID # 24-22-31-0000-00-030)**

To Whom It May Concern:

This firm represents Aisha Cultural Centers, Inc. (“Owner”), the owner of the property located at 1311 Hancock Lone Palm Road, Orlando FL 32828, Parcel ID 24-22-31-0000-00-030 (the “Property”). The Property consists of an existing building of approximately 4,000 square feet on 6 acres and is located on the east side of Hancock Lone Palm Road, south of East Colonial Drive and north of Waterford Chase Parkway in unincorporated Orange County, Florida. According to the Orange County Comprehensive Plan, the Property has a Future Land Use designation (“FLU”) of LM, Low Medium Density Residential and a zoning of A-2, Farmland Rural District. A general depiction of the location with site conditions is below:





Orange County Zoning Division  
September 28, 2023  
Page 2

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Special exception request SE-17-12-134 was filed for a religious institution and a variance for unpaved parking for a proposed house of faith (Project) which was denied by the Orange County Board of Zoning Adjustment at a public hearing on 2/1/2018. Subsequently, an appeal to the denial was approved with conditions by the Orange County Board of County Commissioners on April 10, 2018 to allow a religious use facility with ancillary uses to include worshipping, social services, girls youth group, Monday evening gatherings, Sunday workshop, SAT program and family night, and a variance was granted to allow unpaved parking spaces in lieu of paved. The conditions of that approval are:

1. Development in accordance with the site plan dated October 16, 2017 and all other applicable regulations.
2. Compliance with state standards of the development permit and obtaining all other state or federal permits before commencement of development.
3. Any deviations to the plans shall be resubmitted and reviewed and addressed by the Board of Zoning Adjustment.
4. Driving aisles and required handicapped spaces shall be paved.
5. Construction plans shall be submitted within two (2) years of final approval or the approval becomes null and void.
6. There shall be no more than four (4) outdoor special events per calendar year between the hours of 8:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events must be reviewed and approved by the Orange County Fire Marshall's office.
7. There shall be no impacts to the approved Conservation Areas without Orange County approval.
8. A six (6) foot high block wall shall be constructed along the front (west) property line.
9. All required permits shall be obtained before operating as a religious facility.
10. Access, drainage and roadway improvements and concurrency management shall be determined by the Public Works Department.
11. A type D landscape buffer shall be provided along with the north property line and a type C landscape buffer shall be provided along the south property line.
12. A six (6) foot high vinyl fence along the north and south property lines abutting the parking areas and proposed development shall be installed.
13. Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m.

This special exception is requesting the removal of Condition No. 13. Apart from the hours restrictions contain within Condition No. 6, the Owner will not be subject to any hours of operation restriction. In particular, this request is necessary to accommodate morning prayer, which is typically held between 5:30 AM – 7:30 AM and attended by a discreet number of members prior to work. Notwithstanding, this request is for the removal of all hours of operation restrictions.

Section 38-78 of the LDC details the specific criteria that must be met for all special exception requests. In this case, all of the criteria have been met as is discussed in more detail below.

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

The proposed use of the property and proposed hours of operation are consistent with the goals, objectives and policies of Orange County's Comprehensive Plan. The property is zoned A-2 which is a permitted use with a special exception. The future land use designation in the Urban Residential – Urban Service Area recognizes low- to medium-density residential development which is consistent with the Comprehensive Policy Plan. In addition, use of the property as a religious facility will also further the Comprehensive Policy Plan Goal FLU2, which encourages efficient use of infrastructure and infill development within the Urban Service Area.

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

Property located 400 linear feet to the north is zoned A-2 and has been approved with a special exception as the Soul Quest Ayamiasca Church of Mother Earth (the "Soul Quest SE"). **The Soul Quest SE was approved without a general hours of operation condition.** Immediately adjacent property to the north is zoned P-D and consists of a newly approved subdivision for single family homes. Property to the south consists of undeveloped residential property. Property to the west is zoned R-2 and consists of single- family homes in the Bridge Water subdivision. And property to the east is zoned P-D for the Deerwood subdivision of manufactured homes.

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

Owner intends to provide additional prayer programs for its membership. The additional hours would not bring more traffic to the area but rather reduce the amount of traffic over the additional hours for programs to support its members.

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

Use of the property as a religious facility is in support of performance standards and requirements as specified in Article X and Article XII of the LDC, respectively. Operating with no restricted hours of operation is similar to the approved conditions of the religious facility at 1371 Hancock Lone Palm Road currently permitted under special exception permit SE-16-12-166.

Orange County Zoning Division  
September 28, 2023  
Page 4

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

The proposed hours of operation will be strictly used by the church members on the church property and not affect the adjacent surrounding residential uses. As such, the proposed use will produce similar noise, vibration, dust, odor, glare, and heat production as those permitted uses.

***(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 existing property includes walls, fences and landscaping for the property that were installed due to requirements set forth in the 2018 special exception. Additionally, this request for unrestricted hours of operation does not request changes to the existing landscape or buffer yards in order to remain consistent with requirements of Section 24-5 and not impact any adjacent uses.

As illustrated above, the proposed use meets all of the required standards for a special exception that are set forth in the LDC. In support of this special exception request, enclosed please find the site plan as permitted by SE-17-12-134.

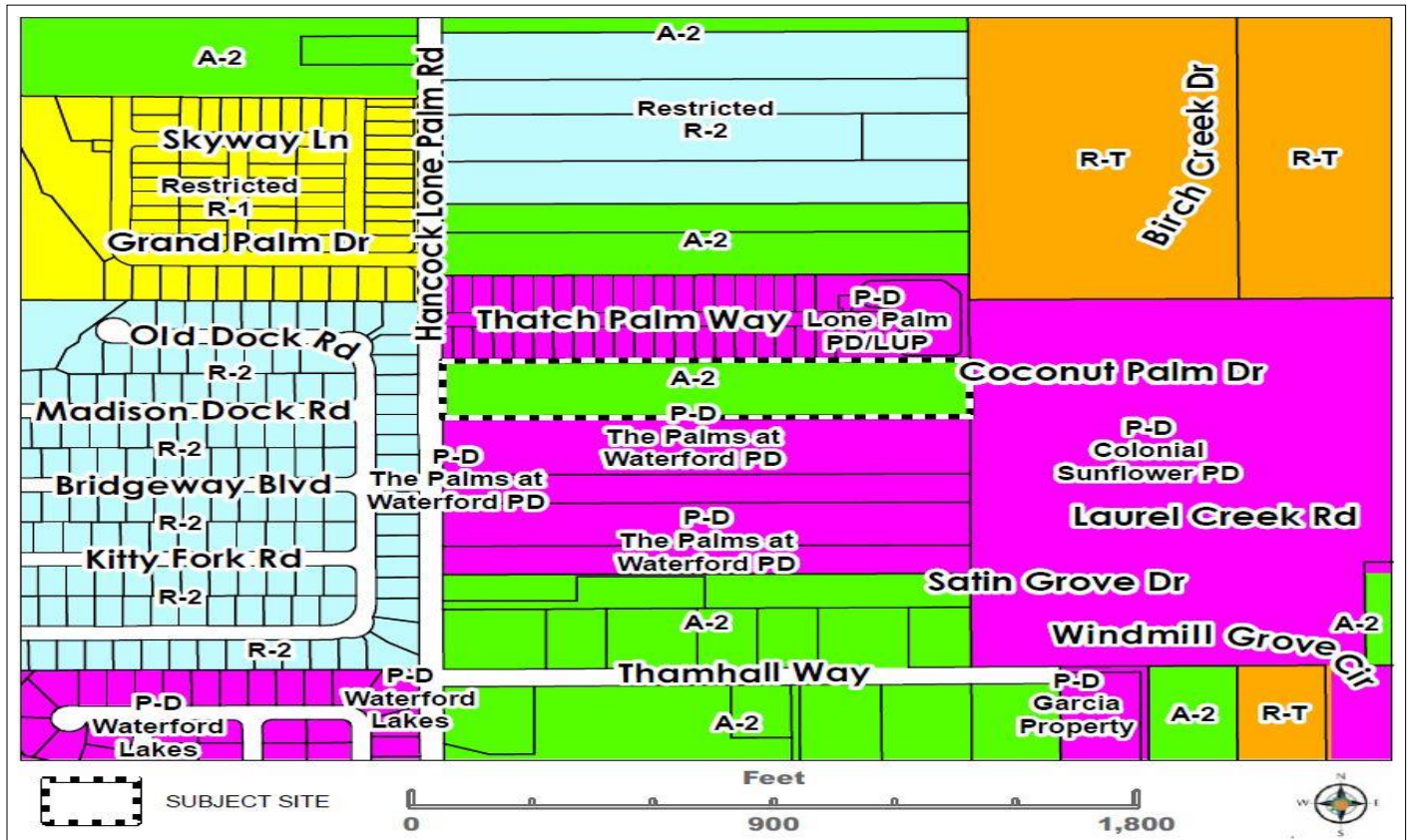
Please do not hesitate to contact me if you have any questions or require any further information.

Very truly yours,

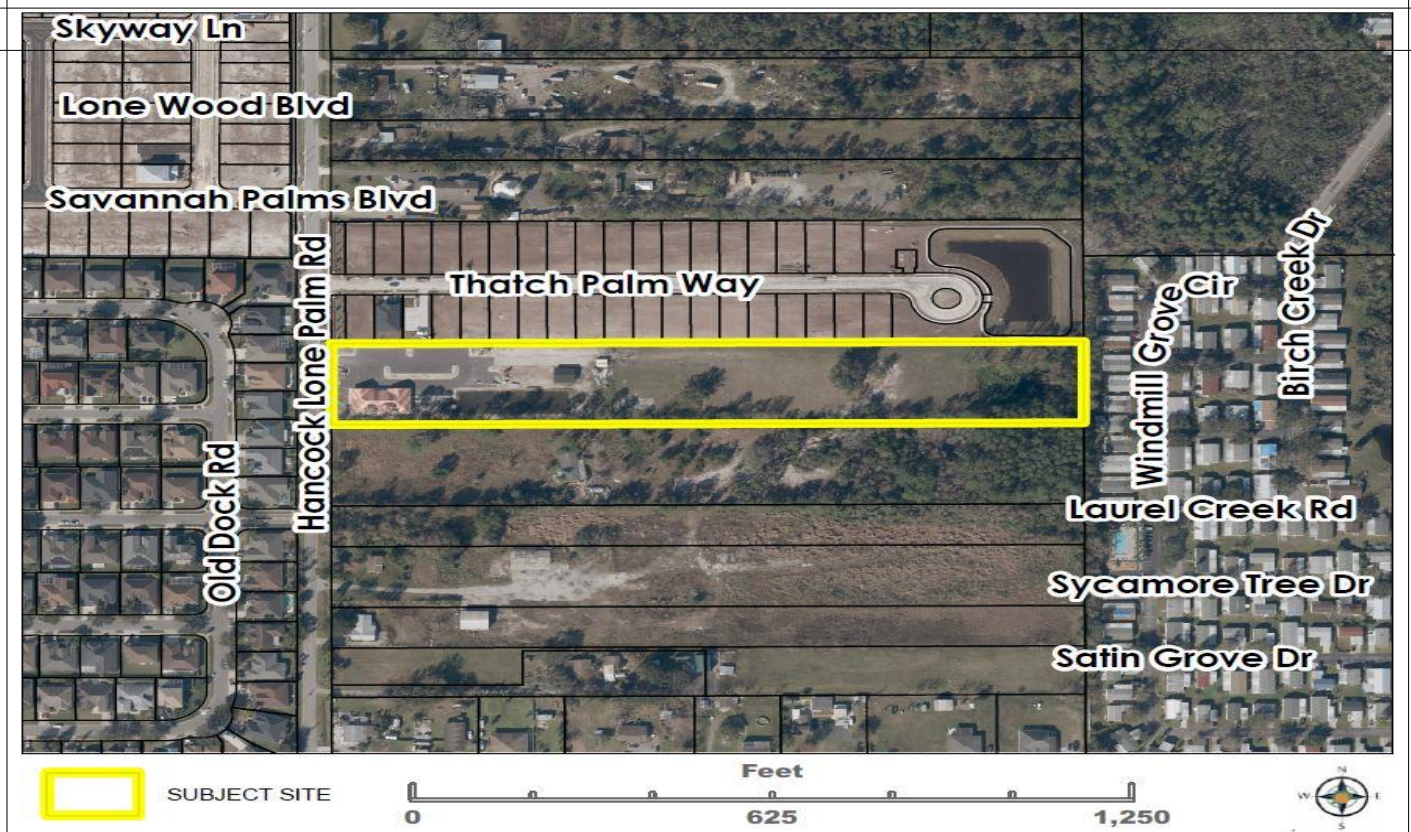
A handwritten signature in blue ink, appearing to read 'McGregor T. Love', with a long horizontal flourish extending to the right.

McGregor T. Love

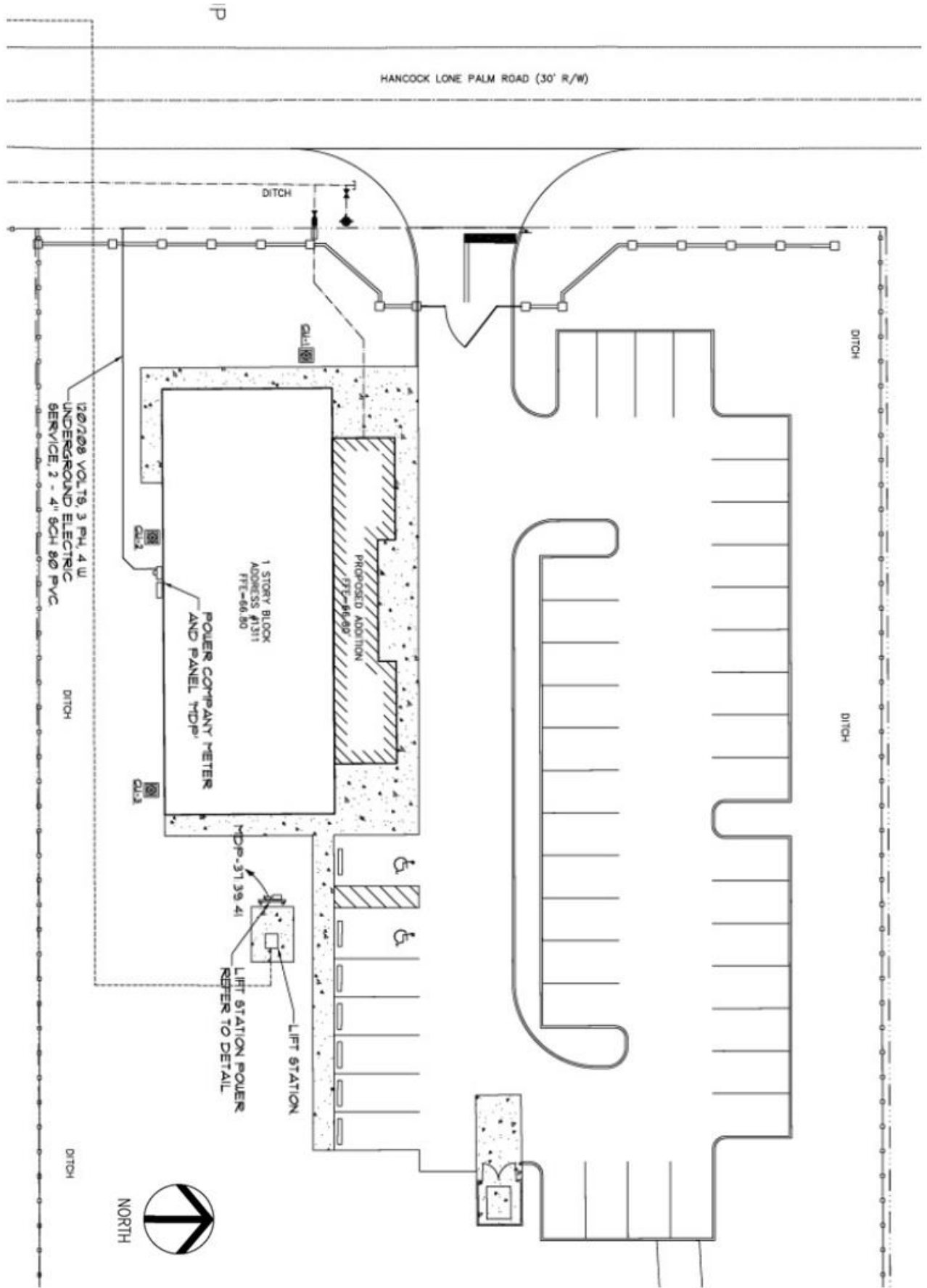
ZONING MAP



AERIAL MAP



SITE PLAN (DEVELOPED PORTION)



**SITE PHOTOS**



**Property from Hancock Lone Palm Rd. facing east**



**Adjacent homes to the north**

**SITE PHOTOS**



**Adjacent neighborhood to the north**



**Adjacent homes to the west**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 05, 2023**

Commission District: **#5**

Case #: **SE-23-06-029**

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

**Ted.Kozak@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** RICK BALDOCCHI FOR TRINITY PREPARATORY SCHOOL

**OWNER(s):** TRINITY PREPARATORY SCHOOL OF FL INC

**REQUEST:** Amendment to an existing Special Exception and Variances in the R-1A zoning district as follows:

- 1) Amendment to a Special Exception for a private school to allow for an additional 30,000 sq. ft. expansion, including new classrooms and offices.
- 2) Variance to allow a north front setback of zero in lieu of 25 ft.
- 3) Variance to allow 282 parking spaces in lieu of 384 parking spaces.

**PROPERTY LOCATION:** 5700 Trinity Prep Ln., Orlando, FL 32817, west side of Trinity Prep Ln., west side of Lake Burkett, east side of Lake Martha, south of Aloma Ave., east of Hall Rd., north of University Ave., west of S. R. 417.

**PARCEL ID:** 01-22-30-0000-00-032

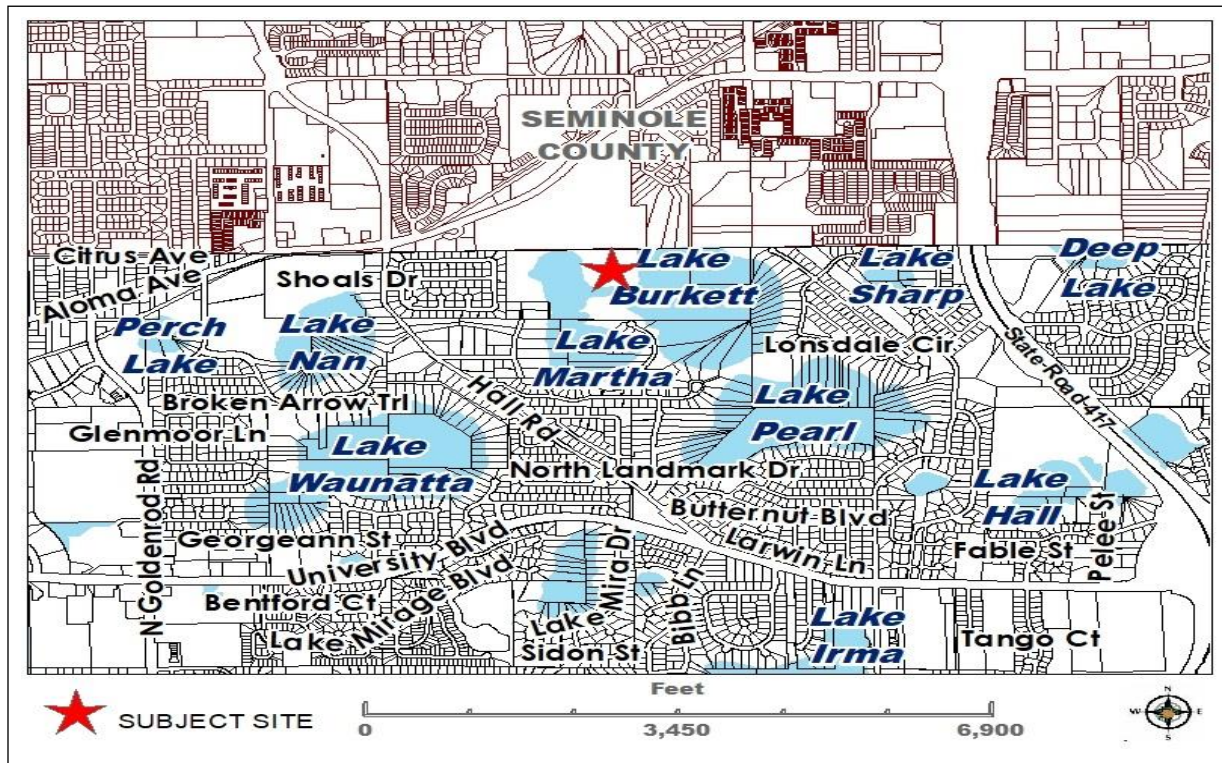
**LOT SIZE:** +/- 55.3 acres (+/- 46.5 acres upland)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 119

CONTINUED TO THE 12/07/23 BZA MEETING

## LOCATION MAP







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