



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

December 2, 2021

Zoning Division

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

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

BZA Staff

| | |
|-----------------|---------------|
| Ted Kozak, AICP | Chief Planner |
| Nick Balevich | Planner II |
| Laekin O'Hara | Planner I |
| Jenale Garnett | Planner I |
| Michael Rosso | Planner I |

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
DECEMBER 2, 2021**

| <u>PUBLIC HEARING</u> | <u>APPLICANT</u> | <u>DISTRICT</u> | <u>BZA RECOMMENDATIONS</u> | <u>PAGE #</u> |
|-----------------------|--------------------------------|-----------------|----------------------------|---------------|
| VA-21-12-126 | Alex Francois | 6 | Approved w/Conditions | 1 |
| VA-21-12-127 | Jaime Rodriguez | 4 | Continued to 1/6/22 | 14 |
| VA-21-12-129 | Brently Mohler | 5 | Approved w/Conditions | 15 |
| VA-21-12-119 | Joel Hancock | 5 | Approved w/Conditions | 27 |
| VA-21-10-101 | Charlie Novell | 5 | Approved w/Conditions | 39 |
| VA-21-11-117 | Nick Asma | 3 | Approved w/Conditions | 55 |
| VA-21-12-123 | Joseph Perez | 3 | Denied | 68 |
| VA-21-12-128 | Air Van Billboard (Mary Solik) | 4 | Denied | 83 |

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 January 11, 2022.

ORANGE COUNTY ZONING DISTRICTS

Agricultural Districts

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

Residential Districts

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

Non-Residential Districts

- P-O** Professional Office District
- C-1** Retail Commercial District
- C-2** General Commercial District

C-3 Wholesale Commercial District

I-1A Restricted Industrial District

I-1/I-5 Restricted Industrial District

I-2/I-3 Industrial Park District

I-4 Industrial District

Other District

P-D Planned Development District

U-V Urban Village District

N-C Neighborhood Center

N-A-C Neighborhood Activity Center

SITE & BUILDING REQUIREMENTS

Orange County Code Section 38-1501. Basic Requirements

| 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. | | | | | | |

| 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.) |
|----------|--|----------------------------|---|---|--|--|--|--------------------|
| 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.) ^m | Min. living area (sq. ft.) | Min. lot width (ft.) | Min. front yard (ft.) ^a | Min. rear yard (ft.) ^a | 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 ^f | 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 | ^a |
| C-3 | 12,000 | 500 | 125 on major streets (see Art. XV); 100 for all other streets ^g | 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 | ^a |

| 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

| | |
|--------------|---|
| ^a | 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. |
| ^b | Side setback is 30 feet where adjacent to single-family district. |
| ^c | 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. |
| ^d | For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet and the duplex lot size is 8,000 square feet. For detached units the minimum duplex lot width is 90 feet and the duplex lot size is 9,000 square feet with a minimum separation between units of 10 feet. Fee simple interest in each half of a duplex lot may be sold, devised or transferred independently from the other half. For duplex lots that: <ul style="list-style-type: none"> (i) are either platted or lots of record existing prior to 3/3/97, and (ii) are 75 feet in width or greater, but are less than 90 feet, and (iii) have a lot size of 7,500 square feet or greater, but less than 9,000 square feet are deemed to be vested and shall be considered as conforming lots for width and/or size. |
| ^e | Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets. |
| ^f | Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets. |
| ^g | Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets. |
| ^h | 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. |
| ^j | 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. |
| ^k | 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%. |
| ^m | 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: **DEC 02, 2021**

Commission District: **#6**

Case #: **VA-21-12-126**

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

Laekin.O'Hara@ocfl.net

GENERAL INFORMATION

APPLICANT(s): **ALEX FRANCOIS**

OWNER(s): **ALEX FRANCOIS, LEONISE ORELUS**

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

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

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

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

NOTICE AREA: **500 FT**

NUMBER OF NOTICES: **172**

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

1. Development shall be in accordance with the site plan dated received October 22, 2021, and elevations dated received July 29, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

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

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

The applicant agreed with the staff presentation and noted the need for the addition.

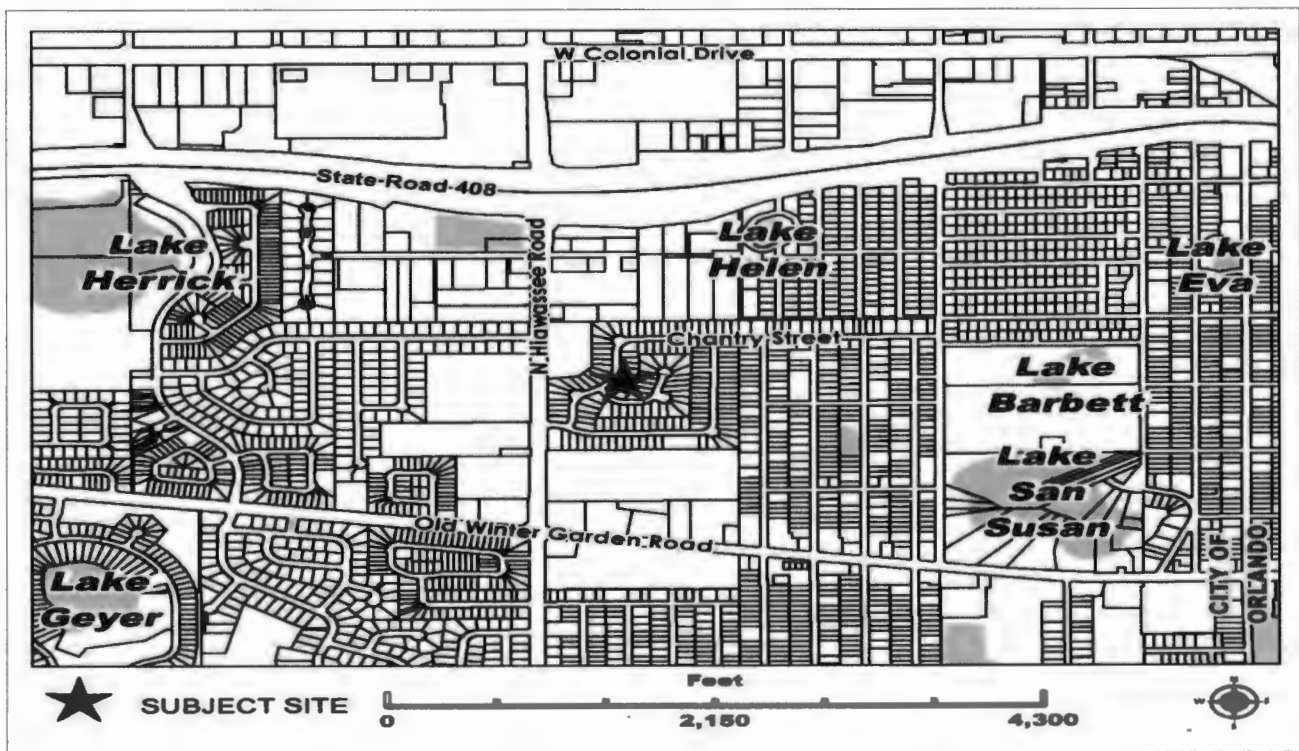
There was no one in attendance to speak in favor or in opposition to the request.

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

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

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

The proposal is to construct a 1 story, 15 ft. x 43 ft. (645 sq. ft.) addition at the rear of the existing dwelling to allow for two additional bedrooms, a covered patio and a study. The addition is proposed to be 17 ft. from the east rear property line in lieu of 25 ft., requiring a Variance. The 25 ft. rear setback is met on the southern corner of the addition, however due to the angled property line the setback is not met on the northerly portion of the addition. The existing single-family home was constructed with a 4.9 ft. south side setback, in lieu of the required 5 ft., however an administrative waiver has been granted for that setback, per County Code Sec 38-1508 which allows for an administrative waiver of up to 3 percent of the required side yard for existing development.

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|---------------------|
| Max Height: | 35 ft. | 14.5 ft. (addition) |
| Min. Lot Width: | 45 ft. | 49.1 ft. |
| Min. Lot Size: | 4,500 sq. ft. | +/- 6,922 sq. ft. |

Building Setbacks (that apply to structure in question)

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

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

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

Not Self-Created

The request is not self-created since the owners are not responsible for the existing location of the house.

No Special Privilege Conferred

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

Deprivation of Rights

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

Minimum Possible Variance

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

Purpose and Intent

Approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The addition is one-story, and therefore will not be significantly visible from any of the surrounding properties, thereby limiting any quantifiable negative impact to surrounding property owners.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated received October 22, 2021 and elevations dated received July 29, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. The addition shall match the existing home in material and color.

C: Alex Francois
6626 Chantry St.
Orlando, FL 32835

COVER LETTER

Alex Francois
6626 Chantry St
Orlando, Florida 32835

To the Board of Zoning Adjustment

Re: Variance request

This application is for a request for a variance from the requirement to add two bedrooms, a study room, and an open patio at the rear side of my house, at 6626 Chantry St, Orlando, FL 32835. The addition dimensions are 15'x 43'. The minimum rear setback for a RSTD R-2 single family is 25 feet. The proposed addition will be 17 feet from the rear side of the property line; hence, the required rear setback of the zoning district is not met. Therefore, I am requesting a variance to allow me to build the proposed addition with the 17 feet rear setback. Me and my family currently live there, I would like to build this addition for my aging mom who currently resides in Boston, where the weather is not quite appropriate for her health and safety, and my 18 years old daughter whom we would like to have her own space and privacy. I believe this request meets the six standards for variance approval as outlined below:

1. Special Conditions and circumstances:

My mom is 72 years old living in the cold in Boston. She usually comes down to Florida for winter to spend time with her grandkids, also to avoid the winter cold in Boston. My mom has health conditions (blood pressure, pain...). As time goes by, the family has always had the idea to move her from Boston to a warm, and safe place. My mom gets along with my family so well, especially with my 3 kids. We believe the best option is to live with my family. I currently live at 6626 Chantry St, Orlando, FL 32835 with my wife and my 3 kids. The family 3 bedrooms has barely spaces for the 5 of us, knowing that the kids are growing up fast. We need more spaces. My wife and I agree that my 18 years old daughter needs her own space, and privacy. Unfortunately, housing prices are skyrocketing now, we can't afford a bigger house. We believe adding to the existing house would be the best solution. Therefore, we are requesting to build the proposed addition to allow my daughter to have her own room, and a study room as she's going to college soon, and my mom to have her room and a patio so she can spend some time, and breath some fresh air under the surveillance of the family.

2. Not self-created:

My resident is zoned a RSTD R-2 single family. The surrounding properties are also zoned a RSTD R-2 single family. Few of my neighbors have added square footage to the rear side of their property. The proposed addition will be consistent with the pattern of surrounding development and will be compatible with the surrounding area.

COVER LETTER

3. No special privilege conferred:

The proposed addition will be 645 SF and will only be occupied by my daughter and my mom. My mom is 72 years old. She won't necessarily leave her home very often. The use will not act as a detrimental intrusion into a surrounding area.

4. Deprivation of rights:

The proposed addition is to allow my daughter to have her own room, and a study room as she's going to college, and my mom to have her room and a patio so she can spend some quality time and take some fresh air outside under the surveillance of the family. We have no intention to build to develop or violate any restrictions. Upon approval of this request, the proposed addition shall function according to the permitted uses.

5. Minimum possible variance:

As the required rear setback is 25ft from the property line to the property, we unfortunately do not have enough land to build the proposed addition. However, my mom is 72 years old, she won't necessarily leave her home very often, and my 18 old daughter is a very responsible kid, therefore there should be no concern with noise, activity, vibration, dust, odor, heat producing and other characteristics that are not consistent with the surrounding uses of the zoning district.

6. Propose and intent:

Our purpose is to be able to offer a better space for living for my aging mom, and more space and commodity to my daughter. Living in a warm weather is more beneficial for my mom now, as living in the cold in Boston is harmful for her wellbeing. We want her to spend the rest of her days with the family. There's no reason to believe the proposed addition would be injurious or detrimental to our neighborhood or public welfare.

In conclusion, we are hoping that we can be approved to build the proposed addition following the guidelines of the constructions law established. The County has, in the past, approved similar variances in established neighborhoods and residential areas. We would like to keep our family as closed and united as possible. Please see the attached site plan and the drawings of the proposed addition.

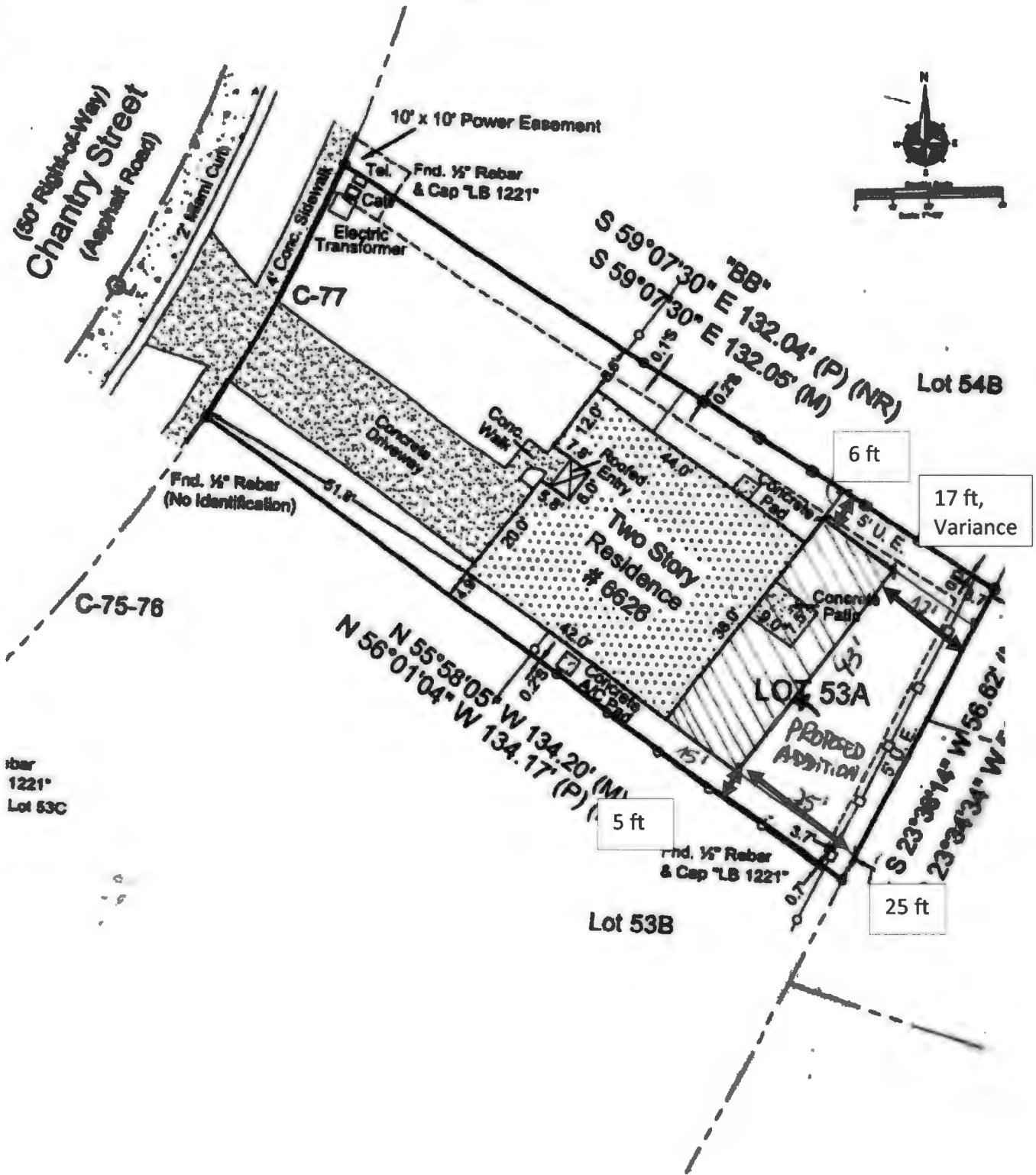
ZONING MAP



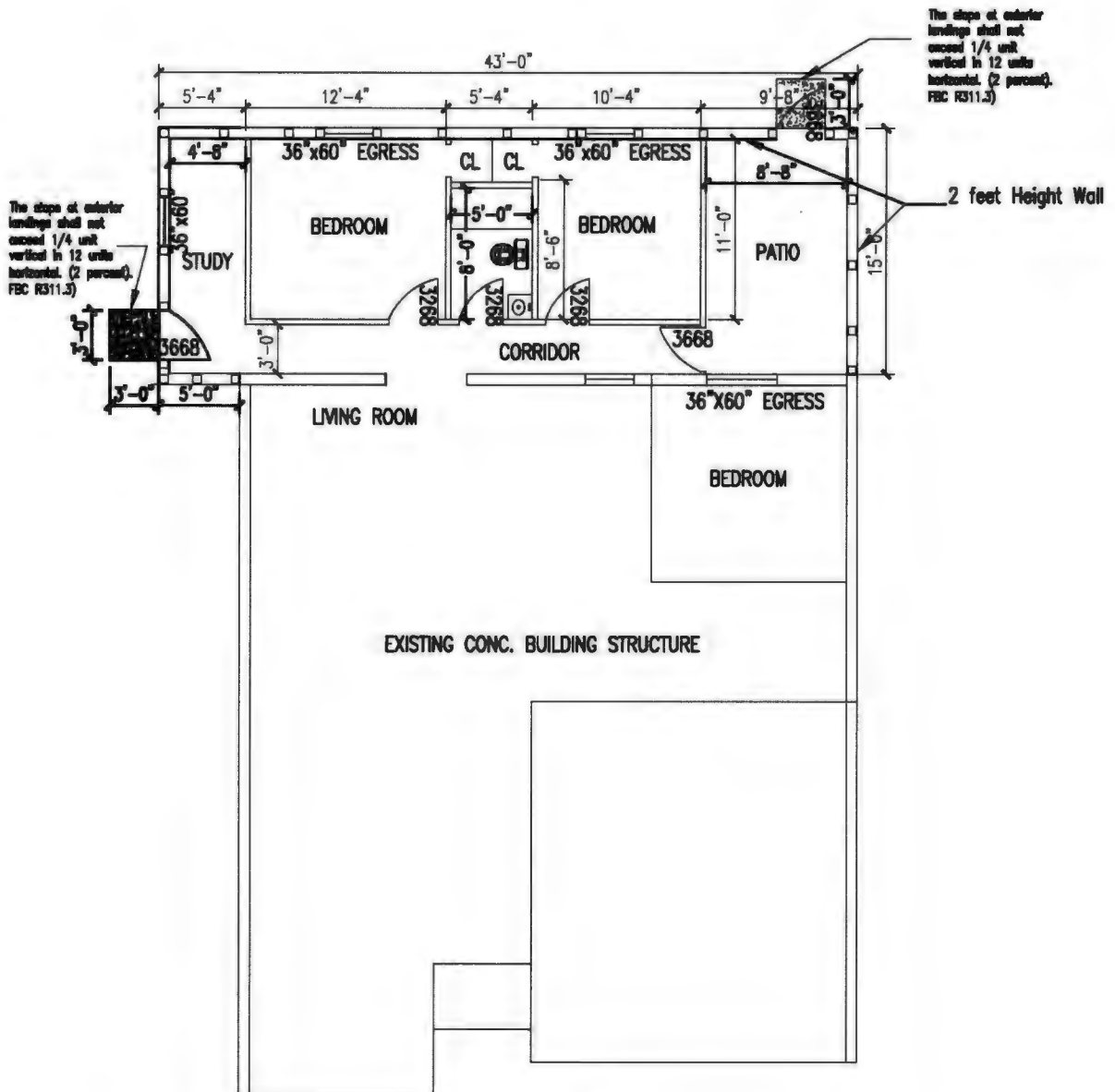
AERIAL MAP



SITE PLAN



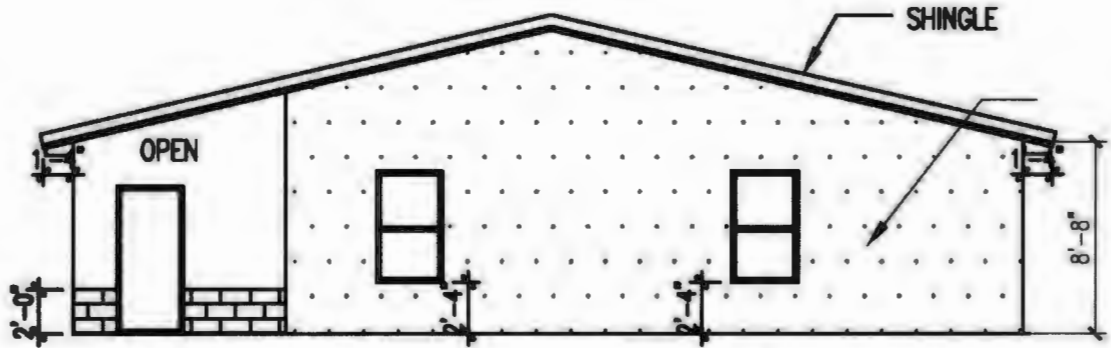
FLOOR PLAN



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

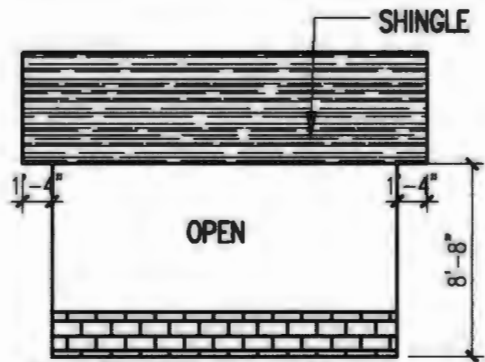


ELEVATIONS



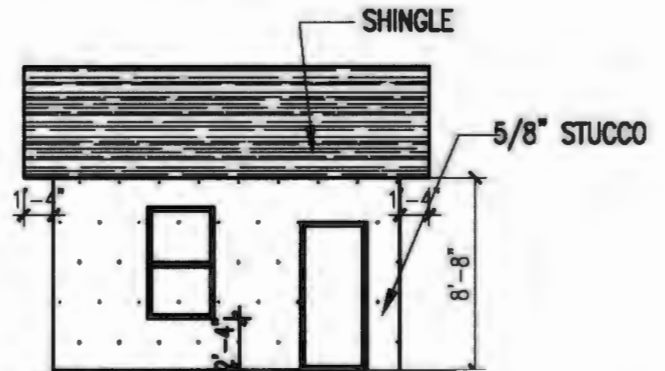
Front Elevation Through Rear (EAST)

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



Left Elevation (NORTH)

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



Right Elevation (SOUTH)

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

SITE PHOTOS



Front from Chandry St. facing east



Location of proposed addition facing south

SITE PHOTOS



Location of proposed addition facing west



Rear yard, facing north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 02, 2021**

Commission District: **#4**

Case #: **VA-21-12-127**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JAIME RODRIGUEZ

OWNER(s): JOSE A LOPEZ

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

1) To allow an existing 336 sq. ft. detached accessory structure (outdoor kitchen) with a rear setback of 3 ft. in lieu of 5 ft.

2) To allow the existing residence to remain with an east side setback of 4 ft. in lieu of 5 ft.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 12418 Woodbury Cove Dr., Orlando, FL 32828, south side of Woodbury Cove Dr., south of E. Colonial Dr., west of East-West Expressway, east of Woodbury Rd.

PARCEL ID: 30-23-29-8554-06-040

LOT SIZE: +/- 0.13 acres (5,788 sq. ft.)

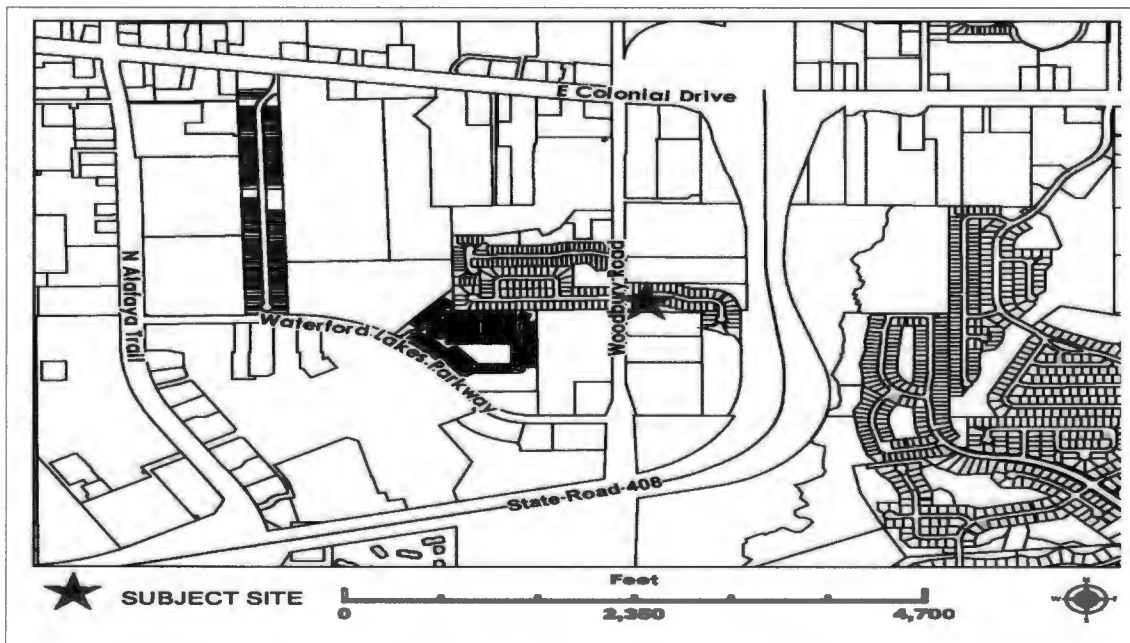
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 85

STAFF RECOMMENDATIONS

THIS CASE WAS CONTINUED TO THE JANUARY 6, 2022 BZA HEARING DATE

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 02, 2021**

Commission District: **#5**

Case #: **VA-21-12-129**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): BRENTLY MOHLER

OWNER(s): JANIE NICHOLE BRATCHER, BRENTLY ANDREW MOHLER

REQUEST: Variance in the P-D zoning district to allow an addition (covered patio) with a rear setback of 10 ft. in lieu of 15 ft.

PROPERTY LOCATION: 4249 Pacifica Drive, Orlando, Florida, 32817, east side of Pacifica Dr., north of University Blvd., west of Rouse Rd., east of N. Dean Rd.

PARCEL ID: 05-22-31-8421-00-980

LOT SIZE: +/- 0.2 acres (8,886 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 178

DECISION: Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 7 in favor and 0 opposed):

1. Development shall be in accordance with the site plan and elevations dated received October 28, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

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

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

The applicant clarified the requested building area and agreed with the staff presentation.

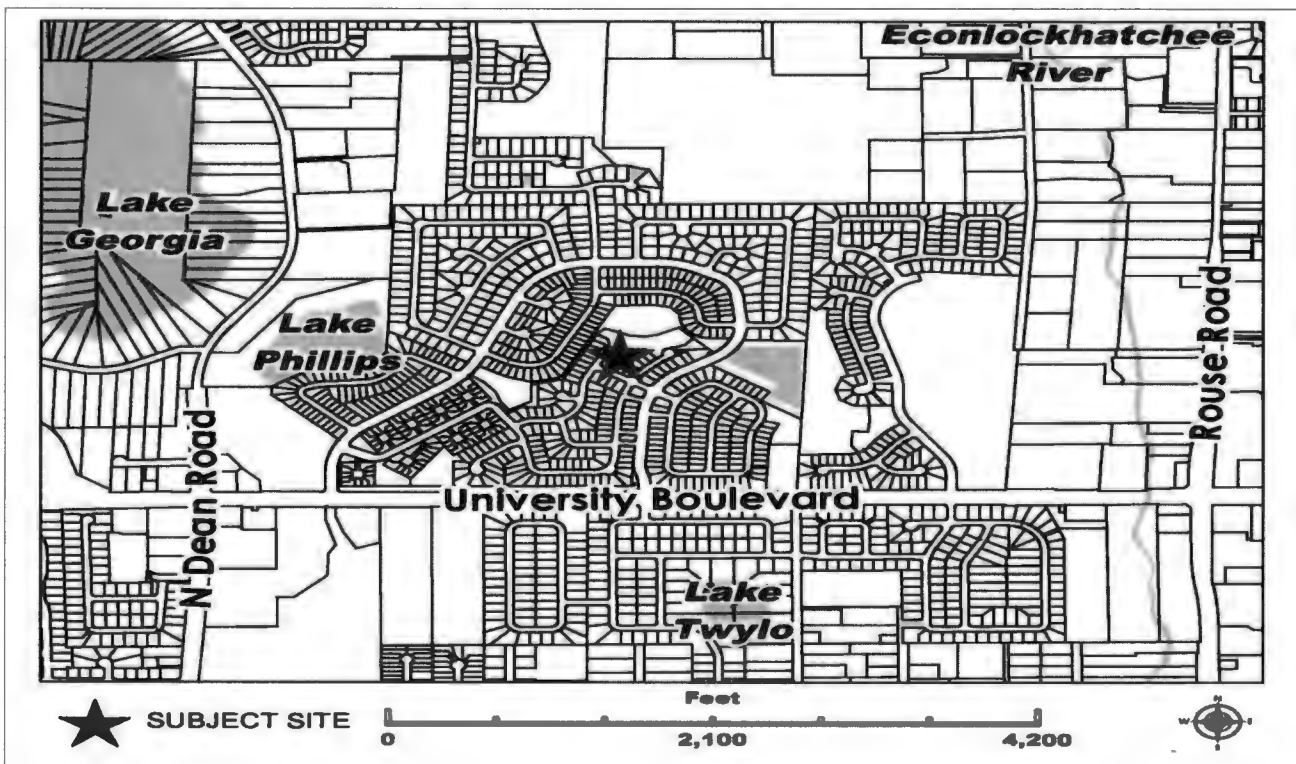
There was no one present to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the variance by a 7-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|---------------------------|------------------|---------------------------|---------------------------|---------------------------|
| Current Zoning | Pegasus Place PD | Pegasus Place PD | Pegasus Place PD | Pegasus Place PD | Pegasus Place PD |
| Future Land Use | LDR | LDR | LDR | LDR | LDR |
| Current Use | Single-family residential | Open space tract | Single-family residential | Single-family residential | Single-family residential |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Pegasus Place Planned Development (PD) District, which allows single-family homes.

The area around the subject site consists of single-family homes, and open space to the north. The subject property is a 0.2 acre lot, located in the Suncrest Villas Phase Two Plat, recorded in 1994, and is considered to be a conforming lot of record. It is developed with a 2,375 gross sq. ft. single-family home, constructed in 1996. The applicant purchased the property in 2020.

The applicant is proposing to construct a 13 ft. x 24 ft., 312 sq. ft. covered patio addition to the house, over an existing concrete pad, of which a triangular 7 ft. x 9 ft., (31.5 sq. ft.) portion will extend into the rear yard setback, located 10 feet from the east rear property line in lieu of 15 ft., requiring a variance. The lot has a triangular shape, with an irregular rear property line. If the rear property line was straight, then the variance would not be required.

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. | 8 ft. |
| Min. Lot Width: | 50 ft. | 54 ft. |
| Min. Lot Size: | 5,000 sq. ft. | 8,886 sq. ft. |

Building Setbacks (that apply to structure in question)

| | Code Requirement | Proposed |
|--------|--------------------------|--|
| Front: | 20 ft. | 40 ft. (West) |
| Rear: | 15 ft. | 10 ft. Addition (East – Variance) |
| Side: | 10 ft. between buildings | 9 ft. existing home (North) 8 ft. existing home (South) |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to the subject property are its configuration and angle at which the house was constructed in relation to the property lines, and the angle of the rear property line, which renders any addition difficult without a variance.

Not Self-Created

The request is not self-created since the owners are not responsible for the configuration and location of the home in relation to the rear property line. The home was constructed over 41 years ago in its current location, and due to the configuration of the lot, any upgrades to the residence is difficult without the need for a variance.

No Special Privilege Conferred

Granting the requested variance will not confer any special privilege conferred to others under the same circumstances since meeting the literal interpretation of the code would prohibit construction along the rear of the house beyond a small unusable expansion along the north part of the rear of the house.

Deprivation of Rights

Without the requested variance, improvement to the home of a reasonable size would be difficult.

Minimum Possible Variance

The requested variance is the minimum necessary to construct any improvements at the rear of the property, due to the irregular shape of the lot and only a small 31.5 sq. ft. portion will encroach into the rear setback.

Purpose and Intent

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.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated received October 28, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. The addition shall match the existing home in material and color.

C: Brently Mohler
4249 Pacifica Drive
Orlando, FL 32817

COVER LETTER

Brently Mohler
4249 Pacifica Drive
Orlando, FL 32817

Variance to Rear Setback Cover Letter

To Board of Zoning Adjustment,

This document submitted on the 13th of October 2021, shall lay out a variance request for the property located at 4249 Pacifica Drive, Orlando, FL 32817. This request shall pertain to a proposed covered patio area, attached to the rear of the single-family home that currently stands at the listed address.

The rear setback is listed as 15 feet, as provided by the zoning department, and I am requesting that a variance be provided to adjust this to 10 feet for the purposes of an addition in the way of a covered patio. Not that only a small corner of the proposed addition encroaches into the setback (see attached drawing). The addition will be comprised of a concrete slab, CMU (cinder block) columns, and a structural wooden roof with interlocking metal roofing material. The proposed dimensions for the entire structure are 15 feet deep (from the house toward property line) and 28 feet wide, with a 10 foot overall height at the attachment point to the home. The overall area of the proposed structure would encompass 420 square feet. With the current setback at 15 feet, the structure would encroach on the rear setback line by approximately 5 feet, reducing the setback to 10 feet from the property line. The HOA has pre-approved my plans and has no objection to the structure.

The variance standards are met in the following areas:

1. Special conditions exist here because the property is awkwardly shaped, and the proposed structure will fit on all areas of the property except the one corner where it purportedly encroaches upon the property line.
2. This condition is not self-created, as the property is strangely shaped, and relief should be granted so that the land may be freely enjoyed.
3. There is no special privilege being conferred with this request, that could not be bestowed upon other lands in the same zone.
4. There shall be no deprivation of rights from any other properties with the granting of this request.
5. The minimum possible variance shall be a setback of 10 feet from the property line, and this will provide reasonable use of the land and structure.
6. This request is not detrimental to the welfare of the public, nor injurious to the neighborhood, and is harmonious with the purpose and intent of zoning regulations.

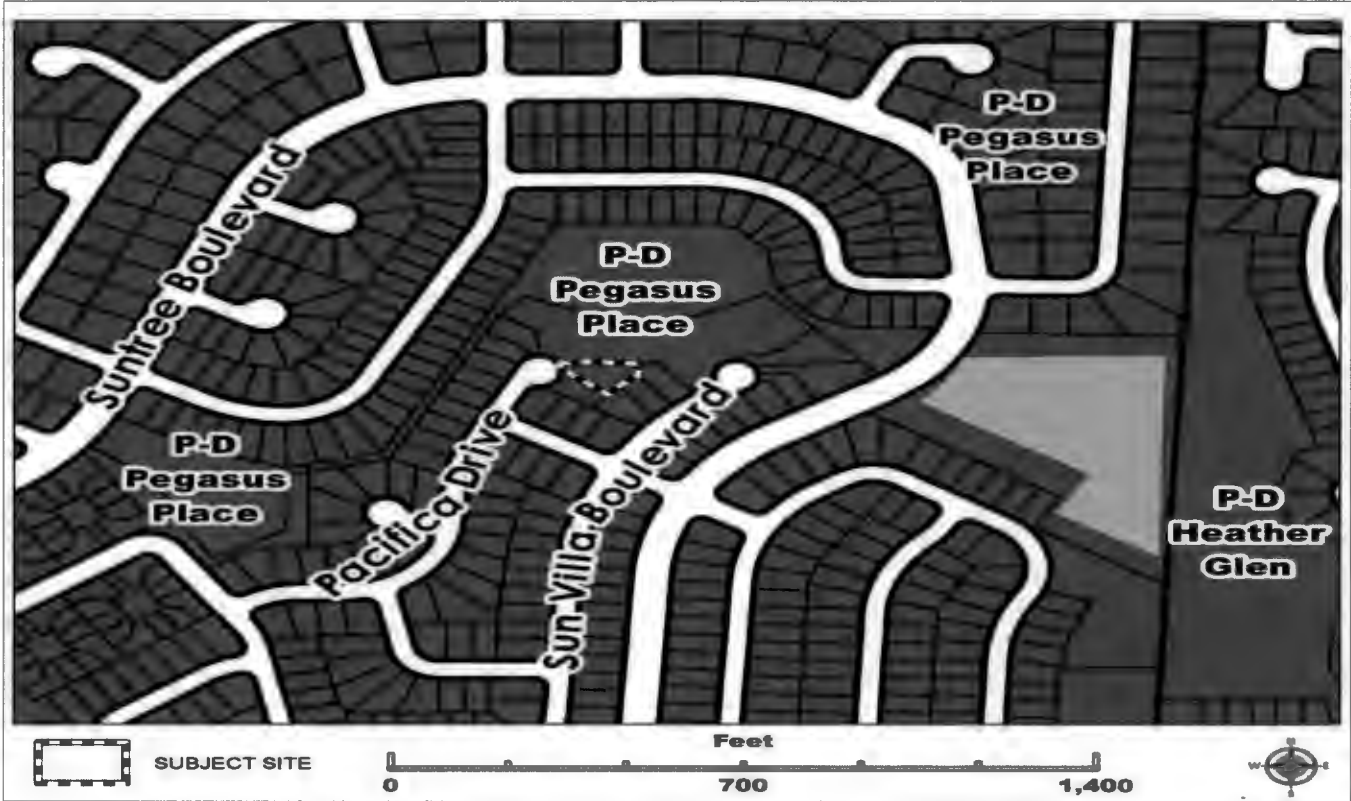
A detailed survey with the setback line has been attached, as well as the rest of the plans for the proposed structure. I respectfully request that you grant this variance, as it will allow the enjoyment and reasonable use of the land without detriment to the surrounding properties.

Respectfully,

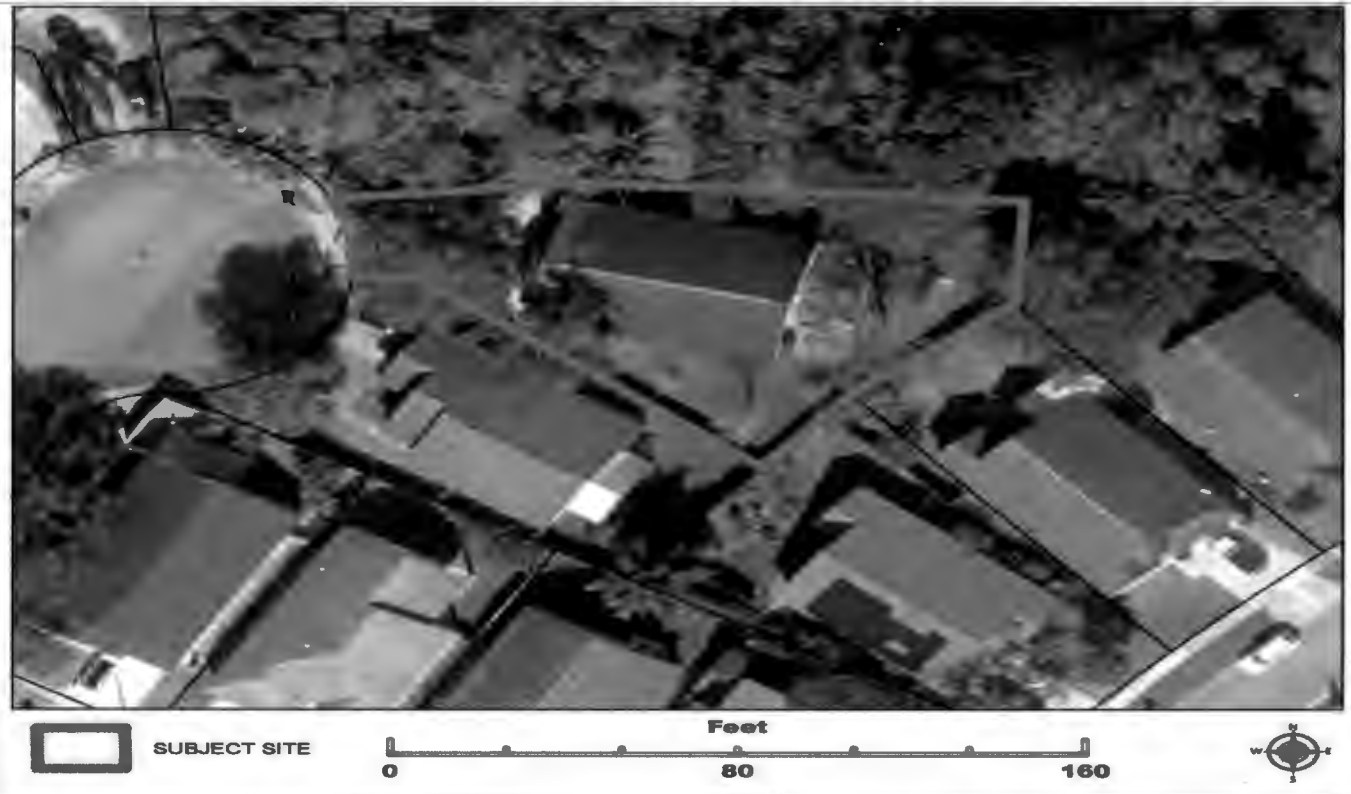
Brently Mohler

Brently Mohler

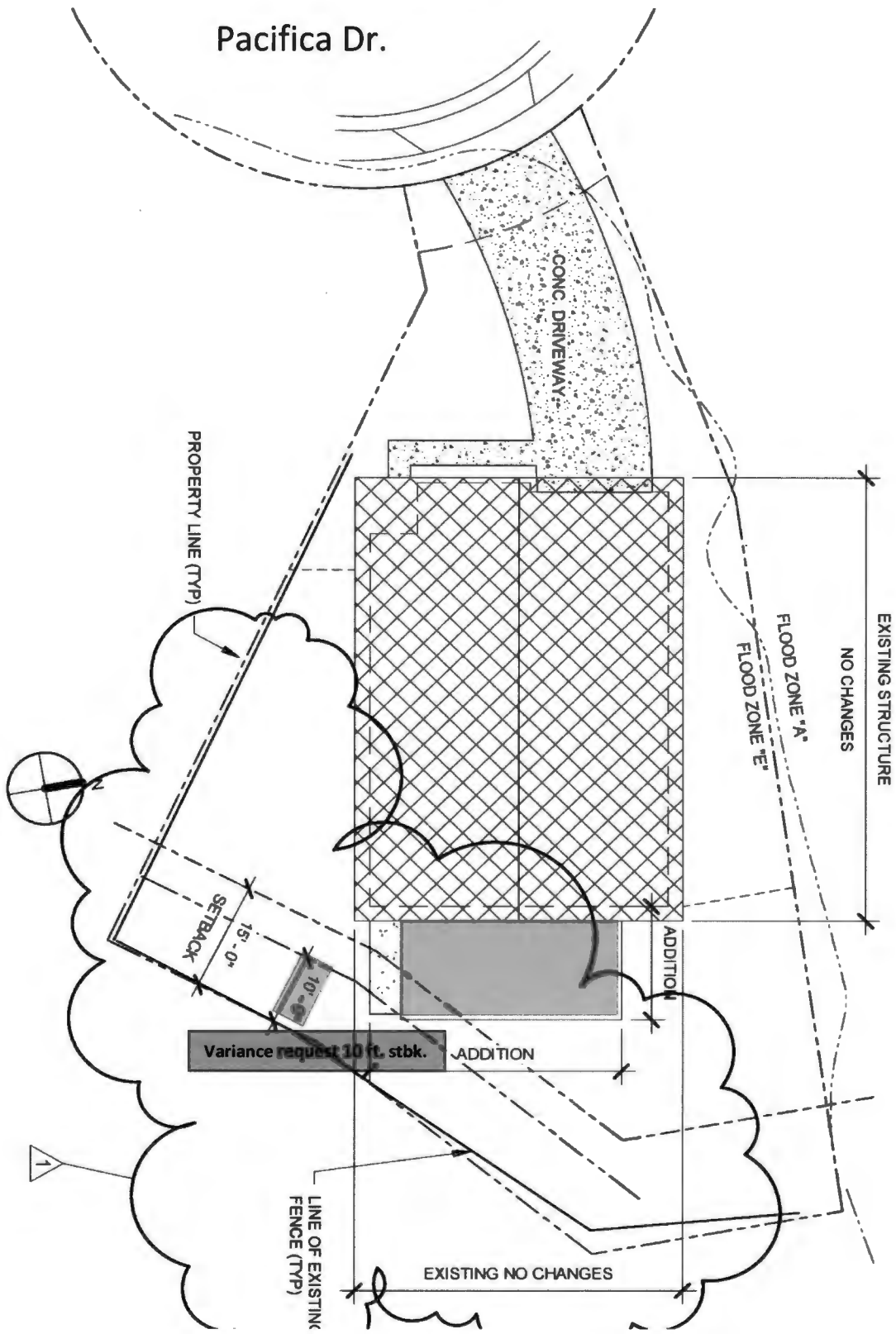
ZONING MAP



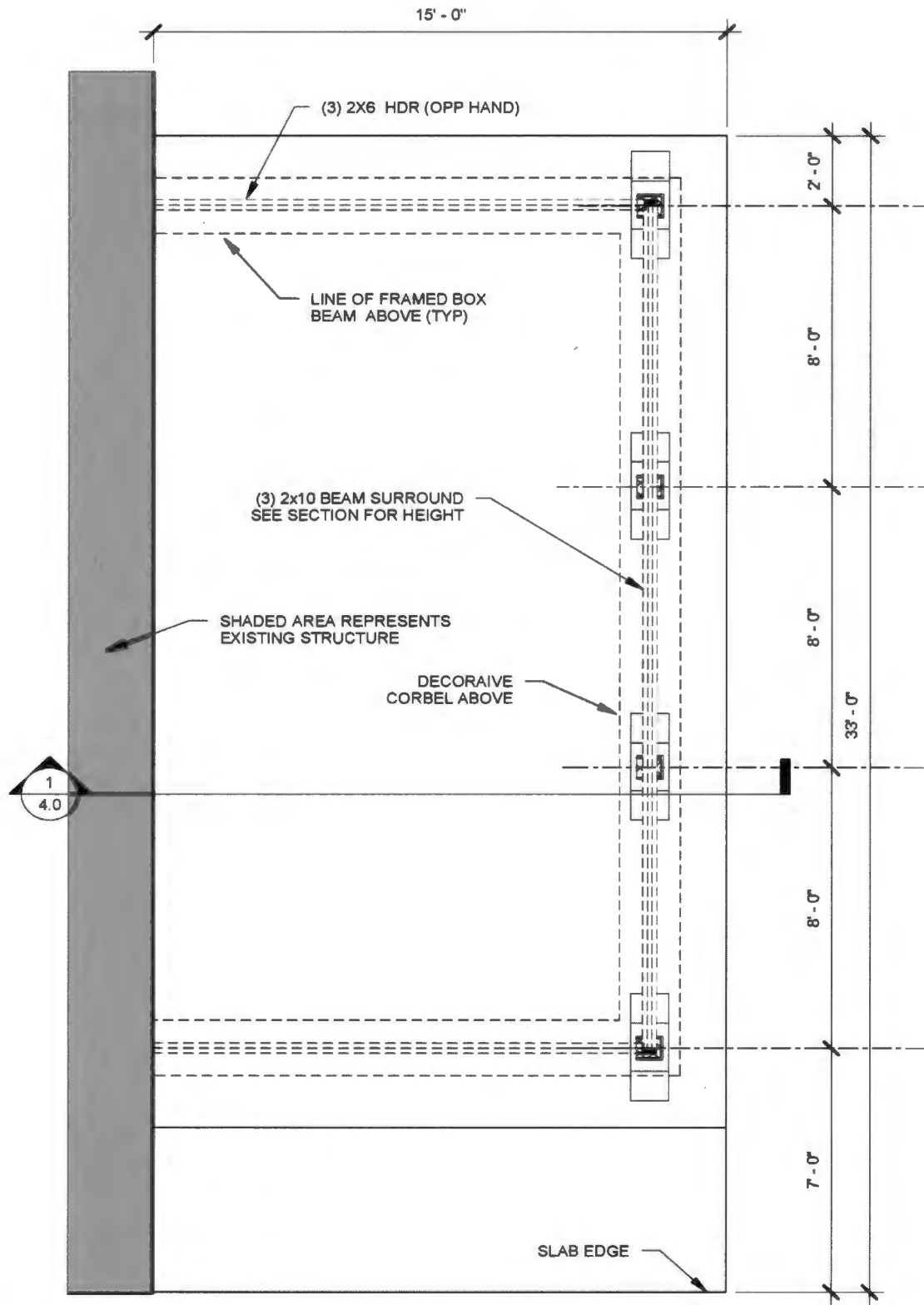
AERIAL MAP

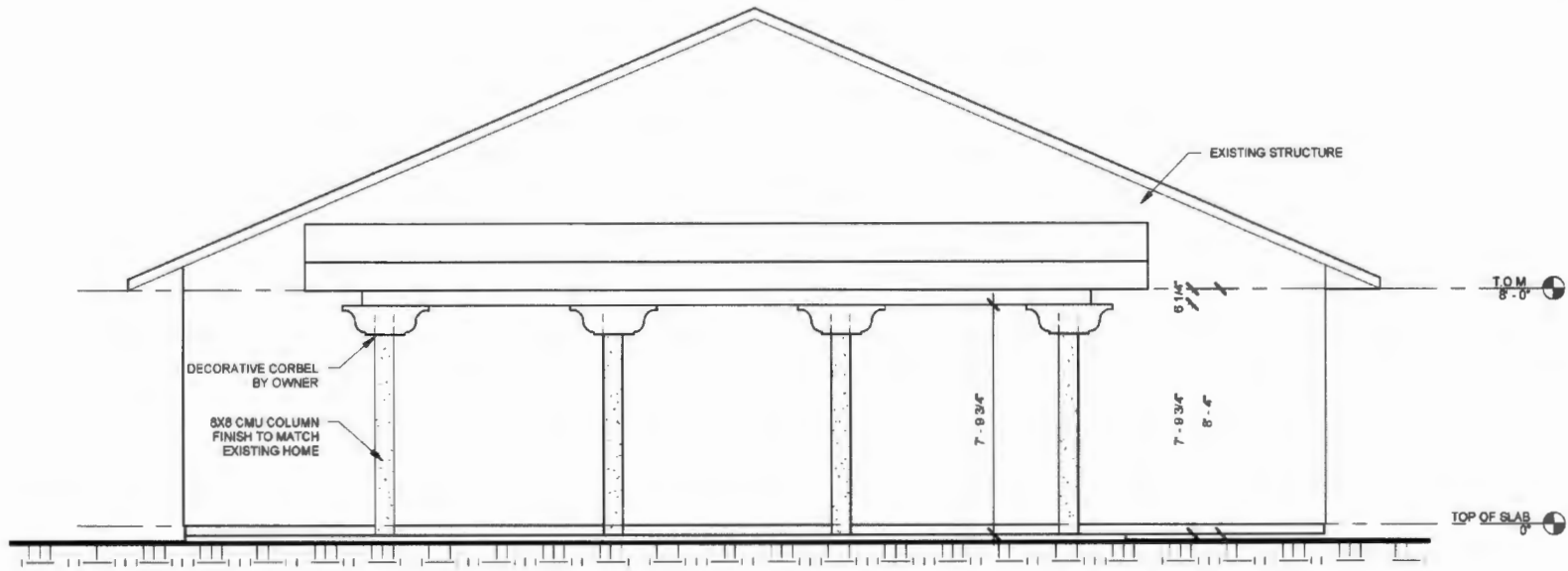


SITE PLAN

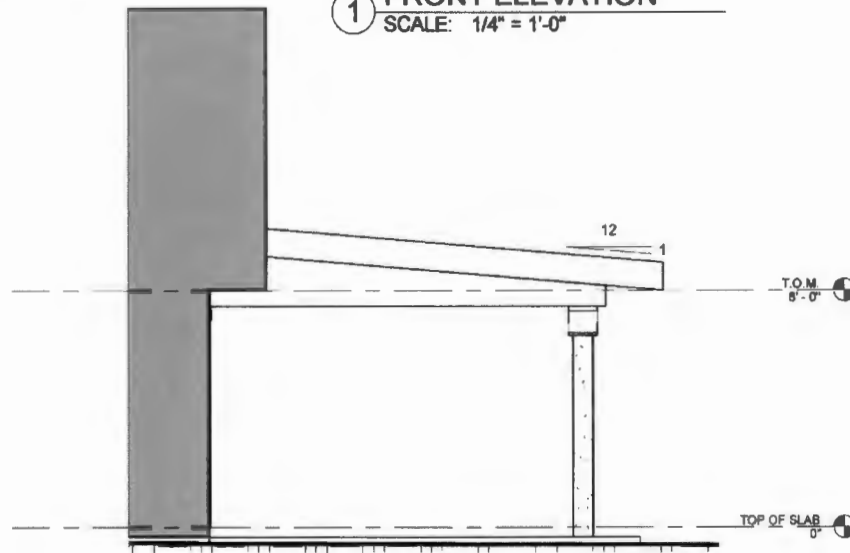


FLOOR PLAN





① FRONT ELEVATION
SCALE: 1/4" = 1'-0"



② LEFT ELEVATION
SCALE: 1/4" = 1'-0"

SITE PHOTOS



Front from Pacifica Dr. facing east



Patio location facing south

SITE PHOTOS



Patio location facing west



Patio location facing north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 02, 2021**

Commission District: **#5**

Case #: **VA-21-12-119**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JOEL HANCOCK

OWNER(s): JOEL HANCOCK, RACHEL STREVER

REQUEST: Variance in the R-1A zoning district to allow an addition (covered porch) with a setback from the Normal High Water Elevation (NHWE) of 41 ft. in lieu of 50 ft.

PROPERTY LOCATION: Northeast side of Cool Water Ct., south side of Lake Waunatta, west of Hall Rd., east of N. Goldenrod Rd.

PARCEL ID: 01-22-30-4795-00-150

LOT SIZE: +/- 0.65 acres (28,434 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 134

DECISION: Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 7 in favor and 0 opposed):

1. Development shall be in accordance with the site plan dated October 28, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the residence is no closer than 41 feet from the normal high water elevation of Lake Waunatta.

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 in support and no comments were received in opposition.

The applicant stated that they had nothing to add.

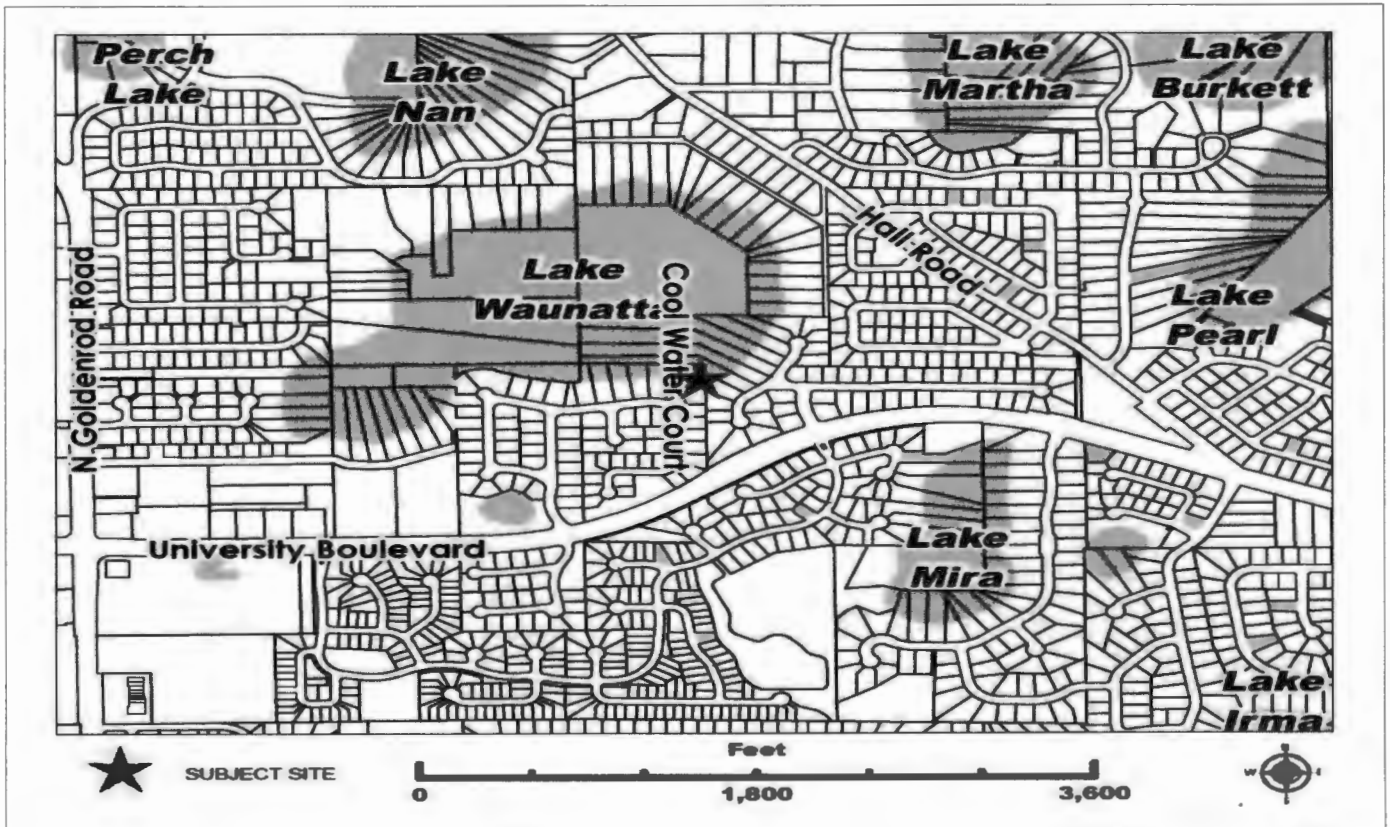
There was no one present to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the variance by a 7-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|---------------------------|---------------|---------------------------|---------------------------|---------------------------|
| Current Zoning | R-1A | Lake Waunatta | R-1A | Lost Lake Village P-D | R-1A |
| Future Land Use | LDR | Lake Waunatta | LDR | LDR | LDR |
| Current Use | Single-Family Residential | Lake Waunatta | Single-Family Residential | Single-Family Residential | Single-Family Residential |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on lots a minimum of 7,500 square feet. The future land use is LDR, which is consistent with the R-1A zoning district.

The area around the subject site consists of single-family homes, some of which are lake front. The subject property is a 28,434 sq. ft. lot (21,594 sq. ft. upland) located in the Lake Waunatta Woods Unit 2 Plat, recorded in 1976, and is considered to be a conforming lot of record. The property has a 5 ft. utility easement along the west property line, a 7.5 ft. utility easement along the south property line, and 7 ft. utility easement along the east property line. None of these easements are affected by the variance request. The property is located on Lake Waunatta, and is uniquely situated on a street corner bulb out, which encroaches into the south-west corner of the property, resulting in a smaller front area available to meet the front setback, which made it necessary to place the house closer to the rear/NHWE than on a rectangular lot. The property is developed with a 4,112 gross sq. ft. single-family home, constructed in 1980, and a swimming pool and shed, constructed in 2020. The owner purchased the property in 2020.

A permit (B20022667) has been submitted for approval of an existing 325 sq. ft. covered porch, which was installed without permits, which is on hold pending the outcome of the request. The covered porch is located 41ft. from the NHWE, and is required to meet the 50 ft. NHWE setback, as it is considered part of the primary residence, requiring a variance.

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

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

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|----------------|
| Max Height: | 35 ft. | 10 ft. |
| Min. Lot Width: | 50 ft. | 131 ft. |
| Min. Lot Size: | 7,500 sq. ft. | 28,434 sq. ft. |

Building Setbacks (that apply to structure in question)

| | Code Requirement | Proposed |
|--------|------------------|---|
| Front: | 25 ft. | 31.7 ft. (South) |
| Rear: | 30 ft. | 50.9 ft. Existing house (North) 41 ft. Covered porch (North) |
| Side: | 7.5 ft. | 20 ft. (East) 22.5 ft. (West) |
| NHWE: | 50 ft. | 41 ft. Covered porch (North - Variance) |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to the subject property are its location on a street corner bulb out, which encroaches into the south-west corner of the property, resulting in a smaller front area available to meet the front setback, causing the placement of the house to be closer to the rear/NHWE, making any addition to the rear, difficult without a variance.

Not Self-Created

The request is not self-created since the owners are not responsible for the configuration of the lot and location of the house or the NHWE line, making any rear addition difficult without the requested variance.

No Special Privilege Conferred

Due to the configuration of the house and the lot, and the setback to the NHWE, granting the requested variance will not confer any special privilege conferred to others under the same circumstances.

Deprivation of Rights

Without the requested variance, a useable sized rear addition would not be possible.

Minimum Possible Variance

Given the configuration of the property, and location of the NHWE line, the requested variance is the minimum possible. Further, the addition is for an open porch and not an increase in livable area.

Purpose and Intent

Approval of the requested variance will allow improvements and upgrades to the site which will be in harmony with the purpose and intent of the Zoning Regulations, will not be detrimental to adjacent properties and will maintain the existing character of the neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated October 28, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the-residence is no closer than 41 feet from the normal high water elevation of Lake Waunatta.

C: Joel Hancock
4059 Cool Water Court
Winter Park, FL 32792

C: Keith Thomas Jones
4100 Maverick Court
Sanford, FL 32771

COVER LETTER

SUNSHINE SCREEN ENCLOSURES, INC
4100 MAVERICK COURT
SANFORD, FL 32771
407 688 0786
407 302 6155 FAX
WWW.SUNSHINESCREENENCLOSURES.COM

To: Orange County BZA

Subject: Variance Request – Joel Hancock 4059 Cool Water Ct. Winter Park, FL 32792 .

To Whom it May Concern:

Based on the existing setback of 50' to the Normal High Water Mark, we are requesting that it be reduced by 10' to a 40' Normal High Water Mark setback to allow the existing Patio Cover (Composite Roof Panels) to remain. We are requesting this because the current setback requirement for a solid roof Patio cover attached to the single family residence is 50' from the Normal High Water Mark Line and the existing patio cover is currently 40' from that mark.

The Patio Cover material is Composite Roof Panels (Structural foam sheeted with aluminum) and they are supported with two Aluminum Carrier Beams (2"x9" & 2"x7") & four Aluminum Posts (3"x 3")The Roof size is 15' Wide x 12' 6" Long & 25' 10" x 4' 6" Long with a total square footage of 313 Square Feet.

We believe this variance should be granted as discussions with the orange county zoning technicians have indicated that if this were a free standing patio cover (not attached to the house) we could go as close as 30' to the Normal High Water Mark Line, which is the same distance that the pool contractor was allowed to install the New Pool Deck. This variance is required because of the Normal High Water Mark as all yard setbacks have been met:
50' Setback to left property line, 23' setback to right property line & 177' to rear setback line.

Special Conditions:

This variance request is not due to any special conditions. The property does not have any peculiarities that exist, nor is it any different from the adjacent properties of my neighbors.

Not Self-Created:

This request for Variance is not due to any self-created circumstances associated with the property.

No Special Privilege Conferred:

This request for variance does not make any requests that ask for special privileges for the property that would not be potentially granted to the neighbors if they made a similar request.

COVER LETTER

Deprivation of Rights:

This request for variance would grant the right to keep improvements made to the home and property that would be the right of any homeowner in Orange County.


Minimum Possible Variance:

This request for variance is the minimum distance to allow for the Patio Cover to remain.

Purpose & Intent:

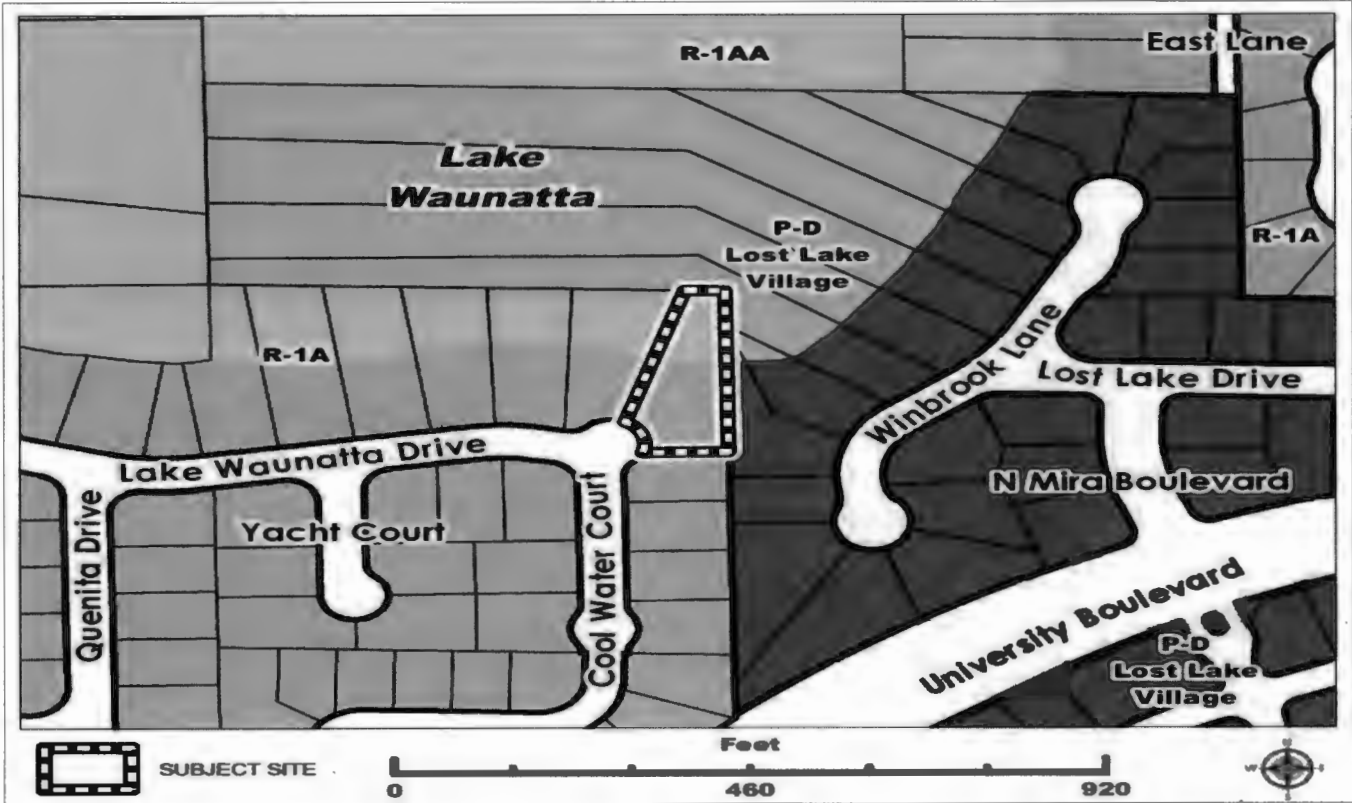
This request does not risk injury or detriment to the neighborhood or general public welfare.

Thank You for your consideration

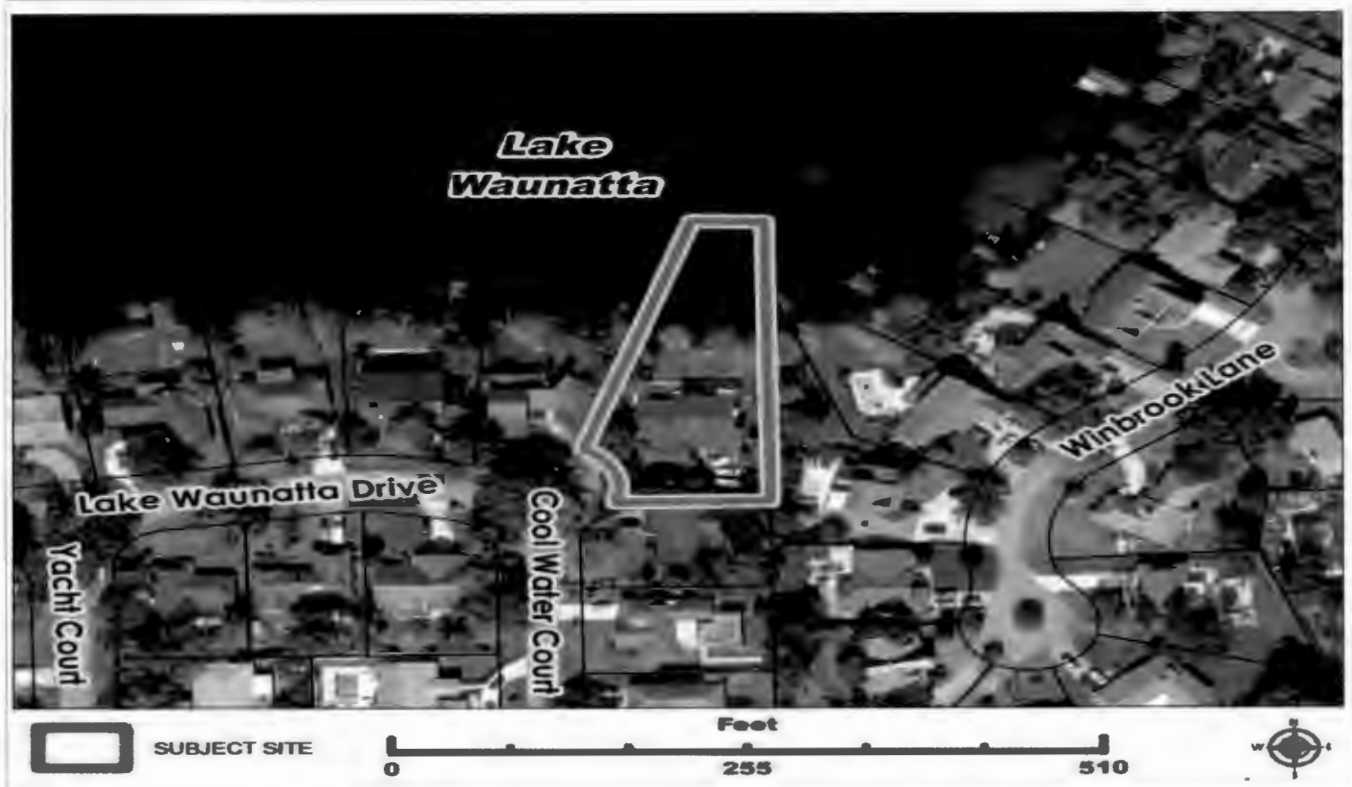


Keith Jones
President
Sunshine Screen Enclosures
4100 Maverick Court
Sanford, Fl. 32771
407-688-0786
keith@sunshinescreenenclosures.com

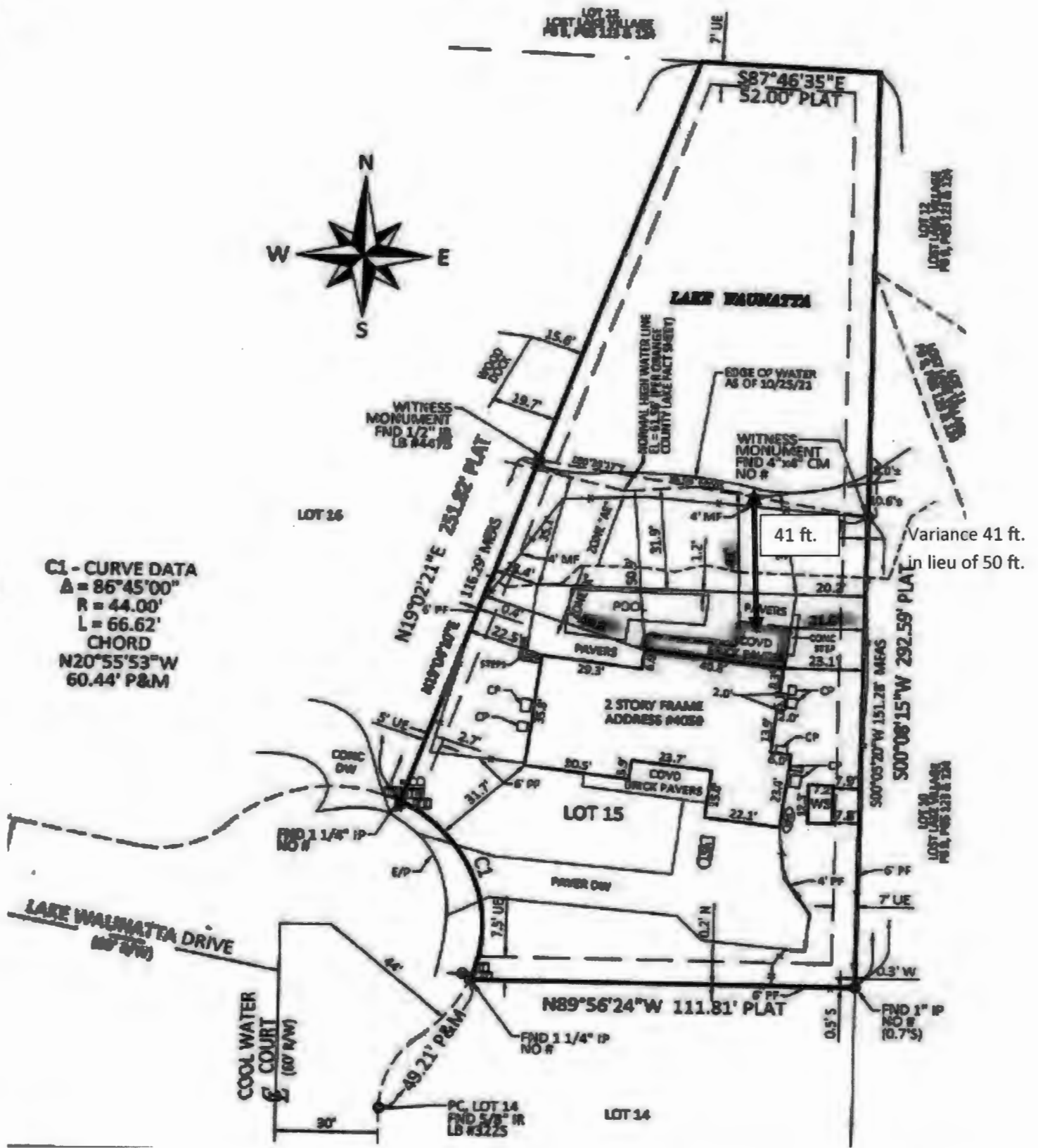
ZONING MAP



AERIAL MAP



SITE PLAN



Variance 41 ft. in lieu of 50 ft.

SITE PHOTOS



Covered porch facing east



Covered porch facing east

SITE PHOTOS



Covered porch facing south



Covered porch facing west

SITE PHOTOS



Front from Cool Water Ct. facing north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 02, 2021**

Commission District: **#5**

Case #: **VA-21-10-101**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): CHARLIE NOVELL

OWNER(s): CHARLIE NOVELL

REQUEST: Variances in the R-1 zoning district for the construction of a single-family residence as follows:

- 1) To allow a 10.5 ft. Normal High Water Elevation (NHWE) setback in lieu of 50 ft.
- 2) To allow a 10.5 ft. east rear setback in lieu of 20 ft.

PROPERTY LOCATION: West side of N. Dean Rd., east side of Lake Georgia, east of Central Florida Greenway, north of University Blvd.

PARCEL ID: 05-22-31-0000-00-064

LOT SIZE: 2.47 acres (0.44 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 105

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 7 in favor and 0 opposed):

1. Development shall be in accordance with the site plan dated November 10, 2021 and elevations dated September 11, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the residence is no closer than 10.5 feet from the normal high water elevation of Lake Georgia.

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 twelve (12) comments were received in support and one (1) comment was received in opposition.

The applicant confirmed ownership of the property and had nothing to add to the staff presentation.

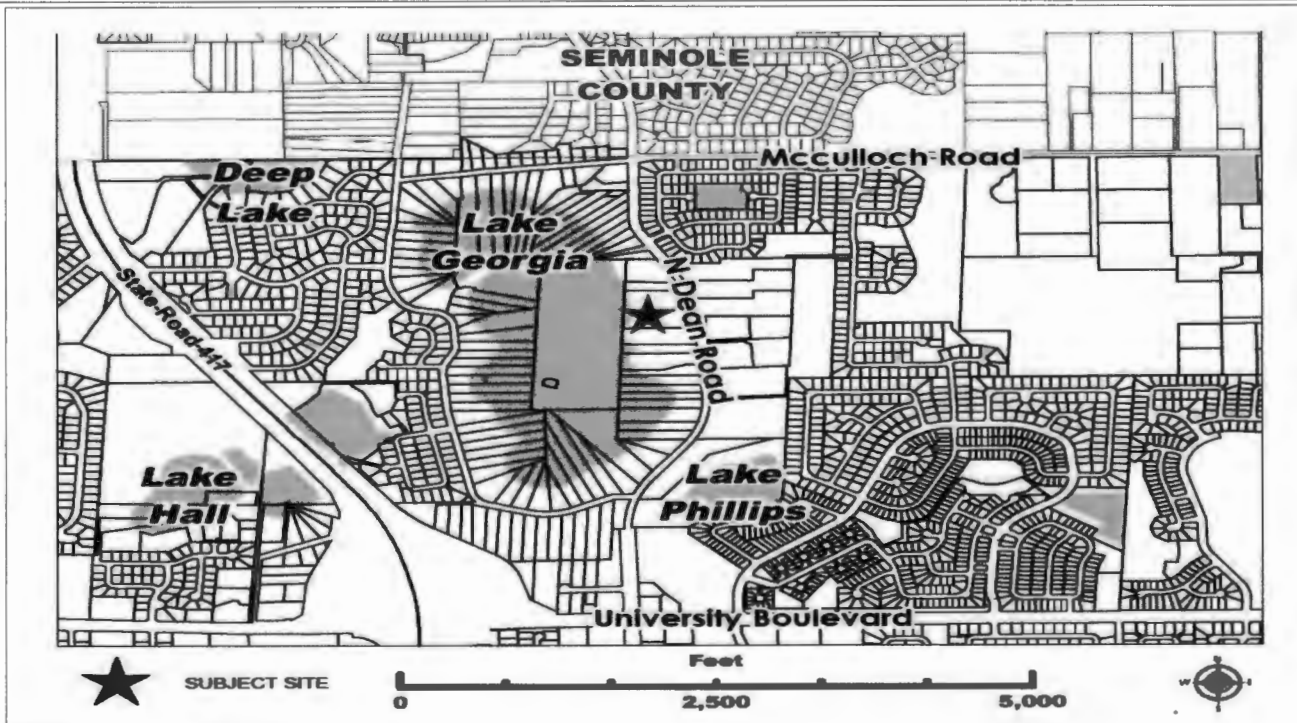
There were two (2) in attendance to speak in favor of the request and there was no one in attendance to speak in opposition.

The BZA noted that the request minimized the impact of the proposal and unanimously recommended approval of the variance by a 7-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|----------|--------|--------|---|--------------|
| Current Zoning | R-1 | R-1 | R-1 | R-1A, R-CE-2 | Lake Georgia |
| Future Land Use | LDR | LDR | LDR | LDR | Lake Georgia |
| Current Use | Vacant | Vacant | Vacant | Vacant, Single-Family Residential | Lake Georgia |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on a minimum 5,000 square ft. lot. The future land use is LDR, which is consistent with the R-1 zoning district.

The area around the subject site consists of single-family homes, many of which are lake front. The subject property consists of +/-2.47 acres of land, of which +/- 0.44 acres is upland. The remainder of the parcel is either wetland or submerged property under Lake Georgia. The property is currently vacant.

The parcel, which was created through a Lot Split (LS-16-04-027) in 2016, is heavily wooded. The proposal is to construct a two-story, 26 ft. high, single-family residence with a total of 2,739 gross sq. ft. which meets the north, south and east setbacks. A 10.5 ft. Normal High Water Elevation (NHWE) setback is being requested in lieu of 50 ft., requiring Variance #1, and a 10.5 ft. west rear setback is being requested in lieu of 20 ft., requiring Variance #2. A Variance on the adjacent parcel to the north with similar circumstances was requested and approved in March, 2021 (VA-21-01-128).

This property is also subject to meeting the Major Street setback which requires setbacks from the centerline of a road based on the road’s functional classification. In the case of N. Dean Rd., the classification is Minor Urban Arterial, which requires a 60 ft. setback from the centerline. The centerline is equidistant from each edge, leaving 30 ft. of right-of-way west of the centerline, which requires a 30 ft. setback for the house. The proposed two-story single-family residence meets the 30 ft. setback.

A Conservation Area Determination (CAD) has been completed (CAD-21-03-068) which establishes the wetland boundary and wetland buffer on the property due to its proximity to Lake Georgia. Based on the CAD, the proposed home will be over 77 feet landward of the wetland line and therefore EPD has no objection to the requested variance.

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. | 26 ft. |
| Min. Lot Width: | 50 ft. | 197.49 ft. |
| Min. Lot Size: | 5,000 sq. ft. | 2.47 acres (0.44 acres upland) |

Building Setbacks (that apply to structure in question)

| | Code Requirement | Proposed |
|---------------|---------------------------------|-----------------------------------|
| Front: | 20 ft. | 30 ft. (East) |
| Major Street: | 60 ft. (from street centerline) | 60 ft. (East) |
| Rear: | 20 ft. | 10.5 ft. (West – Variance #2) |
| Side: | 5 ft. | 20 ft. (North) 111 ft. (South) |
| NHWE: | 50 ft. | 10.5 ft. (West - Variance #1) |

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are its depth and allowable buildable area, which renders an appropriately-sized residence difficult without variances.

Not Self-Created

The request is not self-created since the owners are not responsible for the configuration of the lot and location of the NHWE line and Major Street setbacks, making any development of a residence difficult without the requested variances.

No Special Privilege Conferred

Due to the configuration of the lot, and the setback to the NHWE and Major Street, granting the requested variances will not confer any special privilege conferred to others under the same circumstances.

Deprivation of Rights

Without the requested variances, an appropriately sized residence will not be able to be constructed.

Minimum Possible Variance

Given the configuration of the property, and location of the NHWE line, the requested variances are the minimum possible. Further, the footprint of the house has been minimized and therefore the impact has been reduced significantly by proposing a 2-story structure.

Purpose and Intent

Approval of the requested variances will allow the site to be developed with a residence, which will be in harmony with the purpose and intent of the Zoning Regulations, will not be detrimental to adjacent properties and will maintain the character of the neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated November 10, 2021 and elevations dated September 11, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the-residence is no closer than 10.5 feet from the normal high water elevation of Lake Georgia.

C: Charlie Novell
5824 N. Dean Rd.
Orlando, FL 32817

C: Yohannes Michael Marsie-Hazen
572 Carey Way
Orlando, FL 32825

COVER LETTER

CN Prestige Contracting
LLC

September 11, 2021

5824 North Dean Road
Orlando FL, 32817

Orange County Board of Zoning
Adjustment
201 S Robinson Street
Orlando FL, 32018

Dear Board Members,

I would like for you to consider my request to build my new residential home within the 50 foot normal high water elevation setback as required in Section 38-1501 (a). The home will be situated on Lake Georgia, a small spring fed lake on the east side of Orange County. The vacant lot (Parcel # 05-22-31-0000-00-064) is 2.47 acres off of North Dean Road. This is a lake front lot, therefore there are wetlands and a normal high water elevation (NHWE) line which dictate my rear setbacks. The main dictating factor of this variance request is the location of the NHWE. The current NHWE on record with Orange County Environmental Protection Division is set at 58.5 feet above sea level. This is believed to be an inaccurate elevation based on years of recorded water levels in Lake Georgia, and on an evaluation by a Biological Engineer. The actual seasonal high is approximately 54 feet elevation based on this evidence. As you can see on the site map (Attachment A) the rear of the house is over 430 feet from the actual lake water on this property. The design of the home has greatly taken into account the CAD verified wetland line, and keeping a maximum distance to preserve the natural biological habitat in place. The parcel is located on North Dean Road, a two-lane section of roadway identified as a minor arterial that is expected to be widened to a 4 lane road in the near future. Therefore we do not want to request a front yard set back variance, as the house is already much closer to Dean Rd than any other existing property and any closer would be a safety concern. Because of this road classification I must set my front building line 60 feet from the existing centerline of Dean Road. Due to these two competing setbacks from the front and rear, I only have only 2,465 square feet of buildable area on this lot, and therefore I am requesting a variance to build 10 feet 6 inches from the Normal High Water Elevation Line, a variance from the required 50' setback as noted in Section 38-1501 (a).

COVER LETTER



The lot is zoned R1 and has a Low-Density Residential Future Land Use. No overlays govern this property.

The home is proposed to sit 77 feet 6 inches from the wetland line, and 10 feet, 7 inches from the normal high water elevation line as shown in Attachment A. This home will have a concrete stem-wall construction so that no additional fill will be required outside the footprint of the building, reducing the impact to the property. The house will have a modern ranch theme as indicated in Attachment B.

Size and Dimension Criteria

| | Code requirements | House dimensions |
|----------------------------|-------------------|---------------------|
| Minimum Lot Area | 5,000 square feet | 107,723 square feet |
| Minimum Living Area | 1,000 square feet | 2,739 square feet |
| Minimum Front Yard Setback | 20 feet | 30 feet |
| Minimum Rear yard setback | 20 feet | 432 feet 9 inches |
| Minimum side yard setback | 5 feet | 20 feet |
| Max building height | 35 feet | 26 feet 1 inch |

COVER LETTER

| | | |
|--|--|------------------|
| Lake Setback | 50 feet from the normal high water elevation contour | 10 feet 6 inches |
| Dean Road Minor Arterial Setback (Section 38-1603) | 60 feet | 60 feet |

Please allow me to further explain how I meet all of the six criteria for the variance.

1. **Special Conditions and Circumstances:** This property is unique in that it has a few competing issues. The parcel itself is long at over 700 feet, and fairly wide, with 210 feet of road frontage on North Dean Road. At this time this segment of North Dean Road is still a two lane roadway, however a set of conceptual plans show Orange County's intentions to widen this section, and will require a piece of my property in order to construct as they have presented.

Additionally, the road widening project will bring an increase in traffic volumes. At the time of the study, traffic volumes along this segment of Dean Road were 16,500 vehicles a day. Once this road widening project is complete, engineers are anticipating that number to increase to 33,700 cars a day. Because Dean Road is considered a minor arterial, a 60' building setback from the centerline of the road is required as stated in Section 38-1603. The front of the house is designed to meet this criteria currently, however it is difficult to tell in the conceptual plans if the centerline will shift closer to my house with the roadway widening project.

The main dictating factor of this variance request is the location of the NHWE. The current NHWE on record with Orange County is set at 58.5'. This is believed to be an inaccurate elevation based on years of recorded water levels in Lake Georgia, and on an evaluation by a Biological Engineer. The actual seasonal high is approximately 54' elevation based on this evidence. As you can see on the site map (Attachment A) the rear of the house is over 400' from the actual lake water on this property. The design of the home has greatly taken into account the CAD verified wetland line, and keeping a maximum distance to preserve the natural biological habitat in place.

Due to these two competing issues, I have identified where my buildable area could be based on the required setbacks as illustrated in the various sections of code. This is demonstrated in Attachment C. That said, I have identified where the largest portion of my house would fit into that area, therefore reducing the variance necessary to build my home.

2. **Not Self-Created:** I did not create this hardship onto myself. I purchased this legal lot of record hoping to build my dream home on a single family entitled property. The Land Development Regulations which govern this property limit

COVER LETTER

the buildable area and therefore a variance would be necessary to build a single-family home as entitled.

3. **No Special Privilege Conferred** – By approving this variance request, you will not be bestowing on me a special privilege that is otherwise denied in the Orange County Code of Ordinances. By granting me this variance request, you will be allowing me to build a single-family residential home on an R-1 zoned and entitled land.
4. **Deprivation of Rights** – As illustrated in Attachment C, in order to meet the 60 foot minor arterial setback and stay 50 feet from the normal high water elevation, would give me 2,465 square feet to build a house, which is unrealistic. Therefore, a variance would be needed in order to construct a home on this property, and by not approving this variance would deprive me of my rights to construct a single-family home on a property with full R-1 entitlements.
5. **Minimum Possible Variance:** This request is the minimum variance that I would like to request. Based on Attachment A, I would need a 10 foot, 6 inch setback variance from the normal high-water elevation in order to meet Section 38-1603's 60 foot minor arterial road setback and stay well off of the wetland line and preserve the natural habitat, therefore this is the minimum variance I could request.
6. **Purpose and Intent:** Approval of this zoning variance would be in harmony with the surrounding single-family homes on the lake and the surrounding community. Additionally, this variance will not be injurious to the neighborhood or detrimental to public welfare. As illustrated in table 1 below, many of the homes positioned on the lake have similar setback from Dean Road and Lake Georgia:

| Address | Distance from Lake | Distance from Dean Road |
|------------------|--------------------|-------------------------|
| Proposed House | 418 feet | 30 feet |
| 5616 N Dean Road | 50 feet | 110 feet |
| 5584 N Dean Road | 130 feet | 65 feet |
| 5768 N Dean Road | 180 feet | 150 feet |
| 5800 N Dean Road | 165 feet | 75 feet |
| 5804 N Dean Road | 184 feet | 47 feet |

Table 1: Setbacks as measured from Google Earth (approximate)

Approving this variance will bring another single-family lake front homeowner to the community who builds quality homes and works throughout the region. Several neighbors have reviewed the site plan and have supported the proposed house location as illustrated in Attachment D.

COVER LETTER

Thank you for your consideration and I look forward to answering any questions you may have regarding my request.

Warm Regards,

Charlie Novell
Owner and General Contractor
CN Prestige Contracting LLC

Attachments

Attachment A: Site Plan and Survey showing Normal High Water Elevation Line, 100 year flood elevation and finished floor elevation

Attachment B: Architectural Elevations to scale *NEED BUILDING HEIGHT

Attachment C: Location Map with Setbacks *

Attachment D: Neighborhood Support Signatures

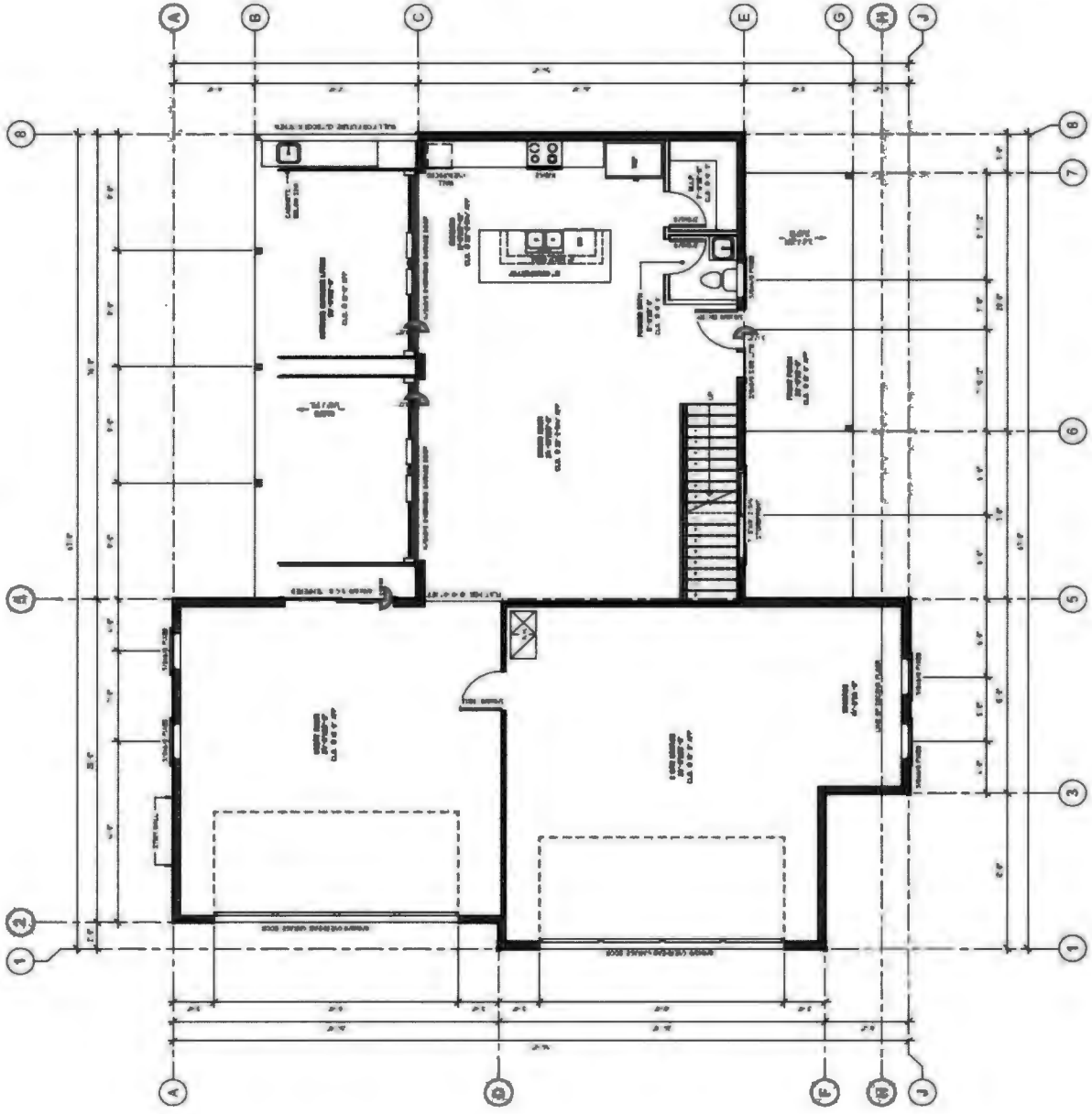
ZONING MAP



AERIAL MAP

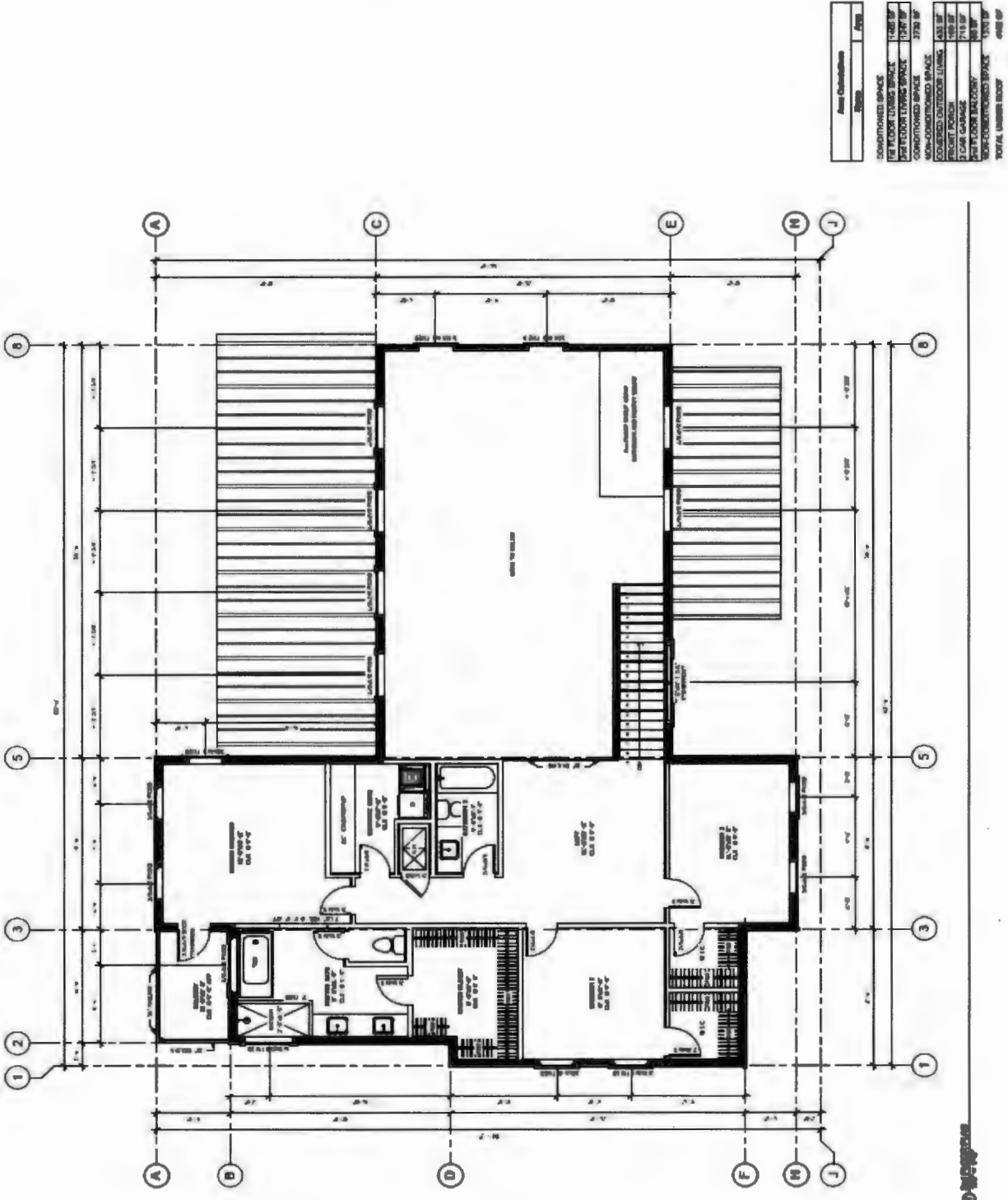


FIRST FLOOR PLAN

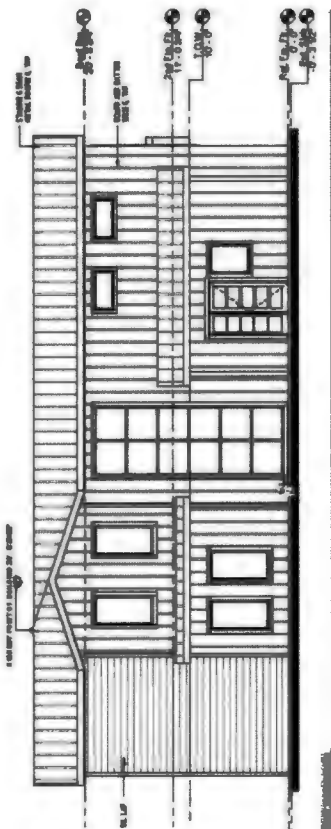


| Room Description | Area |
|------------------------|---------|
| CONDITIONED SPACE | |
| 1st FLOOR LIVING SPACE | 1465 SF |
| 2nd FLOOR LIVING SPACE | 1547 SF |
| CONDITIONED SPACE | 2732 SF |
| NON-CONDITIONED SPACE | |
| COVERED OUTDOOR LIVING | 142 SF |
| FRONT PORCH | 110 SF |
| BACK PORCH | 110 SF |
| SCREENED PORCH | 110 SF |
| NON-CONDITIONED SPACE | 370 SF |
| TOTAL UNDER ROOF | 4102 SF |

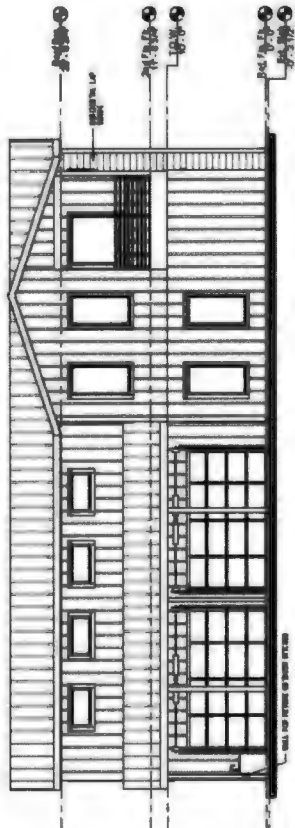
SECOND FLOOR PLAN



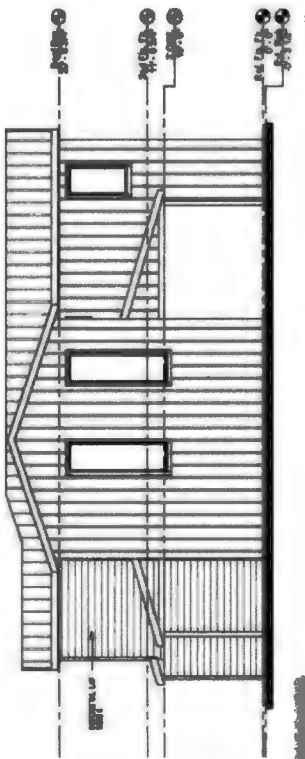
ELEVATIONS/PERSPECTIVES



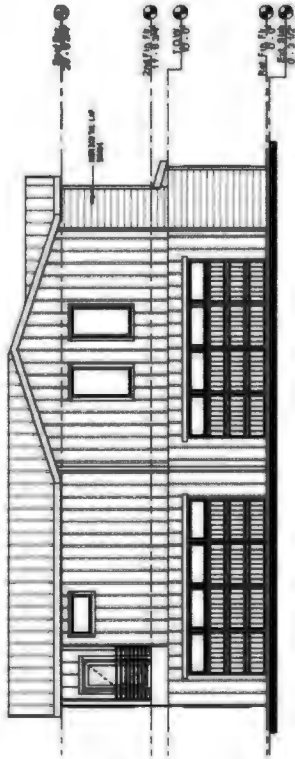
FRONT ELEVATION



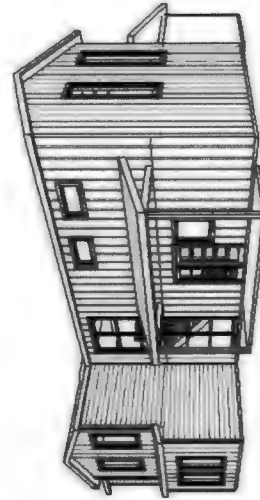
REAR ELEVATION



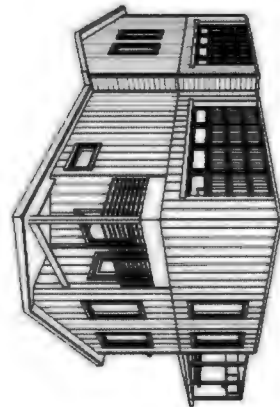
RIGHT ELEVATION



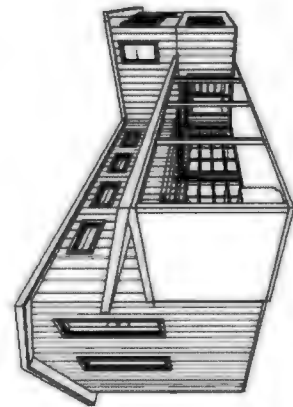
LEFT ELEVATION



FRONT PERSPECTIVE



REAR PERSPECTIVE



REAR PERSPECTIVE

SITE PHOTOS



Front from N. Dean Rd. facing west



Interior of property facing west towards Lake Georgia

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 02, 2021**

Commission District: **#3**

Case #: **VA-21-11-117**

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

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): **NICK ASMA**

OWNER(s): **LENDSEY D PHILLIPS**

REQUEST: **Variance in the R-1A zoning district to allow a lot width of 73.75 ft. in lieu of 75 ft.**

PROPERTY LOCATION: **4534 Simmons Rd., Orlando, FL 32812, south side of Simmons Rd., north of Hoffner Ave., west of S. Semoran Blvd., east of Conway Rd.**

PARCEL ID: **17-23-30-0000-00-020**

LOT SIZE: **73.75 ft. x 132.5 ft. +/- 0.22 acres (9,773 sq. ft.)**

NOTICE AREA: **500 ft.**

NUMBER OF NOTICES: **104**

DECISION: Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 7 in favor and 0 opposed):

1. Development shall be in accordance with the lot dimensions provided on the site plan date stamped "received October 28, 2021", subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in support or in opposition at the time the staff booklet and power point presentation had been completed, but noted that one (1) comment was received in opposition on the afternoon prior to the hearing.

The applicant agreed with the staff recommendation and had nothing more to add.

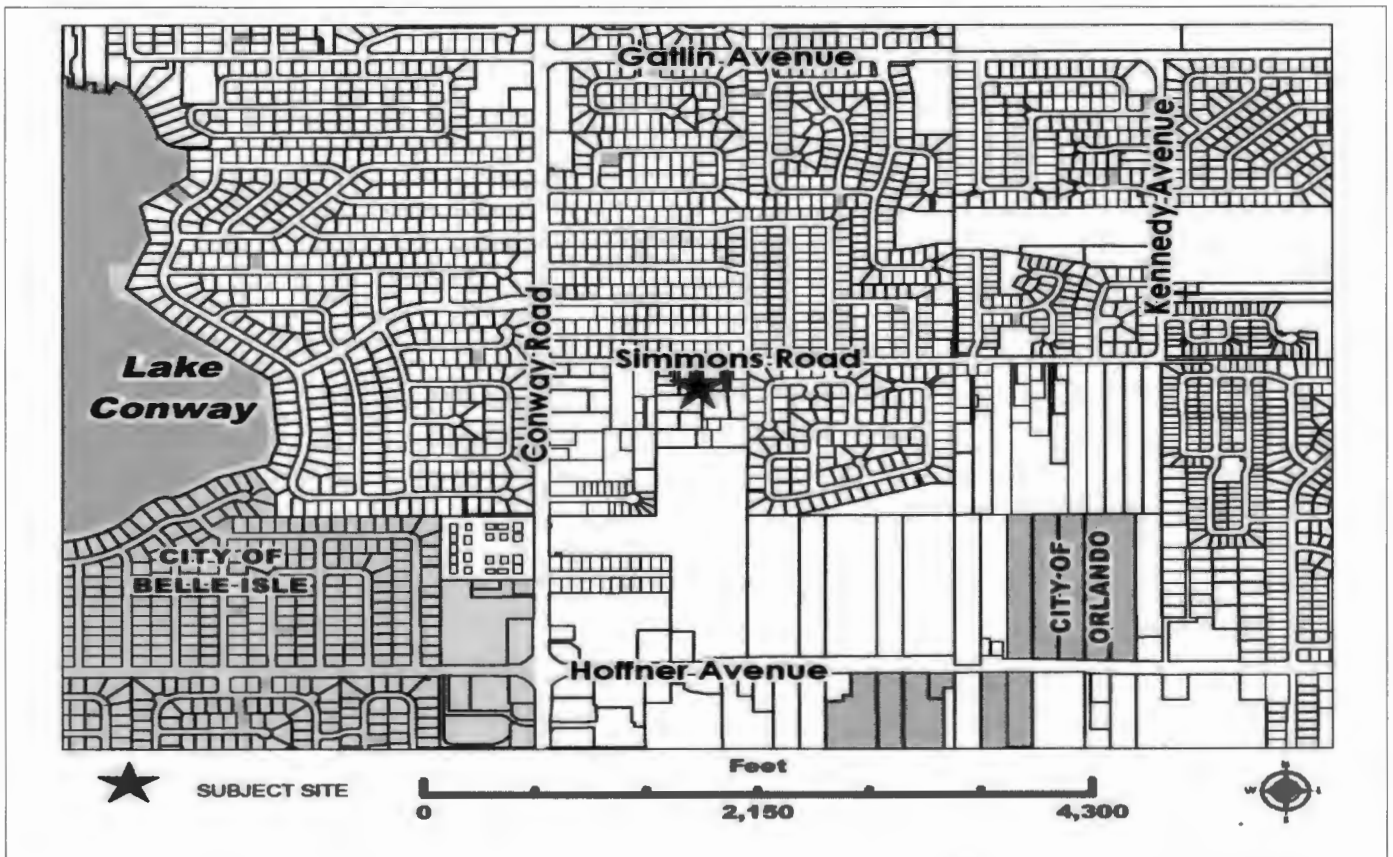
There was no one present to speak in favor or in opposition to the request.

The BZA discussed the comment in opposition, noted that without the requested variance the lot cannot be developed and unanimously recommended approval of the variance by a 7-0 vote, subject to the three (3) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 sq. ft.

The area around the subject site consists of single-family homes developed on similar sized lots as the proposal. The subject property is a 9,773 sq. ft. vacant parcel. The applicant purchased the property in 2016.

The applicant is proposing to construct a single story 1,967 gross sq. ft. single-family home on the property which complies with all zoning requirements, including all setbacks and lot area. The parcel is 73.75 feet wide, while R-1A zoning requires a minimum lot width of 75 ft., requiring a Variance. Access to the property is via a 20 ft. wide easement to Simmons Road. Per Orange County Code Sec. 38-1502 (b) the county engineer may permit access for safe and adequate ingress or egress via a recorded permanent easement of at least twenty (20) feet in width. The Orange County Engineering Division has stated that they have no objection to access through this easement.

As of the preparation of this report, staff had not received any correspondence in favor or in opposition to the request.

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|---------------------|
| Min. Lot Width: | 75 ft. | 73.5 ft. (Variance) |
| Min. Lot Size: | 7,500 sq. ft. | 9,773 sq. ft. |

Building Setbacks (that apply to structure in question)

| | Code Requirement | Proposed |
|--------|------------------|------------------------------------|
| Front: | 25 ft. | 30 ft. (North) |
| Rear: | 30 ft. | 42.4 ft. (South) |
| Side: | 7.5 ft. | 11.4 ft. (West) 12.3 ft. (East) |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The existing parcel width is a consideration of special condition and circumstance. The property is undevelopable without the variance for lot width.

Not Self-Created

The lot was created prior to 1955 and therefore the owners are not responsible for the existing lot width, since the property was purchased in 2016, the substandard aspect of the lot is not self-created.

No Special Privilege Conferred

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

Deprivation of Rights

Without the requested width variance, the owners will be deprived of the ability to construct a residence on the parcel.

Minimum Possible Variance

The requested variance is the minimum necessary to construct any improvements on the property, due to the lot width.

Purpose and Intent

Approval of this request will be in harmony with the purpose and intent of the Code, which is to allow infill development of lawfully constructed residences. The proposed home will not be detrimental to the neighborhood as the proposed the residence will be consistent with the predominant construction of similar sized single-family residences on small lots in the area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the lot dimensions provided on the site plan date stamped "received October 28, 2021", subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Nick Asma
884 S. Dillard St.
Winter Garden, Florida 34787

COVER LETTER



Asma & Asma, P.A.

Attorneys and Counselors at Law

William N. Asma
bill.asma@asmapa.com

C. Nick Asma
nick.asma@asmapa.com

October 25, 2021

Orange County Government
Zoning Department
201 S. Rosalind Avenue
Orlando, FL 32801

**Re: Variance Request, 4534 Simmons Road, Orlando, Florida,
Parcel ID No.: 17-23-30-0000-00-020**

To Whom It May Concern:

This law firm represents Lendsey D. Phillips, the owner of the property located at 4534 Simmons Road, Orlando, Florida (the "Real Property"). The purpose of this letter is to provide a detailed cover letter in accordance with the variance request packet, a completed copy of which is enclosed herein with the fee of \$638.00. Our client desires to build a single-family home on this property, plans for which are also included in this packet with a previously prepared site plan. This variance request is due to the substandard nature of Mr. Phillips' lot as it was conveyed to him which, per the code, makes the lot presently unbuildable. The Real Property is currently zoned residential R-1A. However, the lot width is only 73.75 feet. Orange County Code Sec. 38-1501, R-1A requires a minimum lot width of 75 feet.

In Summer 2017, Mr. Phillips applied for a building permit, which was denied in August 7, 2017 from the Zoning Manager, Carol Knox. Based on our understanding of the situation, a variance from code requirements is the proper avenue of obtaining a remedy in this situation, as Ms. Knox's determination was in keeping with code requirements. Additionally, an appeal of her decision to BZA was not filed at the time. If this understanding of the situation is incorrect, please alternatively advise and permit this letter and application packet to serve as an appeal of that decision.

The proposed single-family home will be a single-story home with 2,497.45 total square feet (1,391 sq ft under air). It would maintain proper setbacks on all sides, with 11.4 feet on the western side, 12.3 feet on the eastern side, 42.4 feet on the southern rear, and 30.0 feet on the northern front. Orange County Code requires 20 feet in the front yard, 7.5 feet in the side yards, and 25 feet in the rear. The proposed structure meets all of these criteria.

884 S. Dillard Street | Winter Garden, FL 34787 | P: 407.656.5750 • F: 407.656.0486

COVER LETTER

Orange County Government
Zoning Department
September 9, 2021
Page two

This request meets the variance criteria of the Orange County Code for the following reasons:

1. **Special Conditions:** Special Conditions exist due to the narrow nature of the lot and the lots in the surrounding neighborhood. Based on our title work and conversations with the County in prior correspondence with Joel Prinsell and Carol Knox, we believe the narrow nature of this lot dates back to 1960. We have been informed by Ms. Knox that this does not entitle it to an exemption from code requirements, as the substandard lot was not created by or authorized by an Orange County Parcel Split. However, given that all of the lots surrounding Mr. Phillips have been developed with small single-family homes, we believe that this creates a special condition pertaining solely to Mr. Phillips' lot.
2. **Not Self-Created:** Mr. Phillips acquired this lot in 2016 under the belief that it was buildable with a single-family home. Mr. Phillips did not create its sub-standard size or location.
3. **No Special Privilege Conferred:** All lots surrounding Mr. Phillips' Real Property have been developed with homes and are of similar narrow shape. Permitting Mr. Phillips to build on his parcel would not create or confer a special privilege.
4. **Deprivation of Rights:** Mr. Phillips' Real Property is zoned R-1A. Pursuant to Orange County Code, its lot width is smaller than the minimum requirement by 2.5 feet. Prohibiting Mr. Phillips from building on his Real Property would deprive him of his use and enjoyment thereof.
5. **Minimum Possible Variance:** Mr. Phillips requests a variance from the lot size requirement of 2.5 feet in order to build a single-family home on the Real Property, and plans to build a single-family home on the parcel in keeping with all setback requirements and height restrictions otherwise applicable to the parcel.
6. **Purpose and Intent:** The Real Property is zoned R-1A and surrounded by single family homes. Mr. Phillips intends to build a single-family home, which would be in keeping with the surrounding use and not be injurious to the neighborhood.

We look forward to working towards a resolution of this variance request. Please contact me with any issues with this application or questions that you may have.

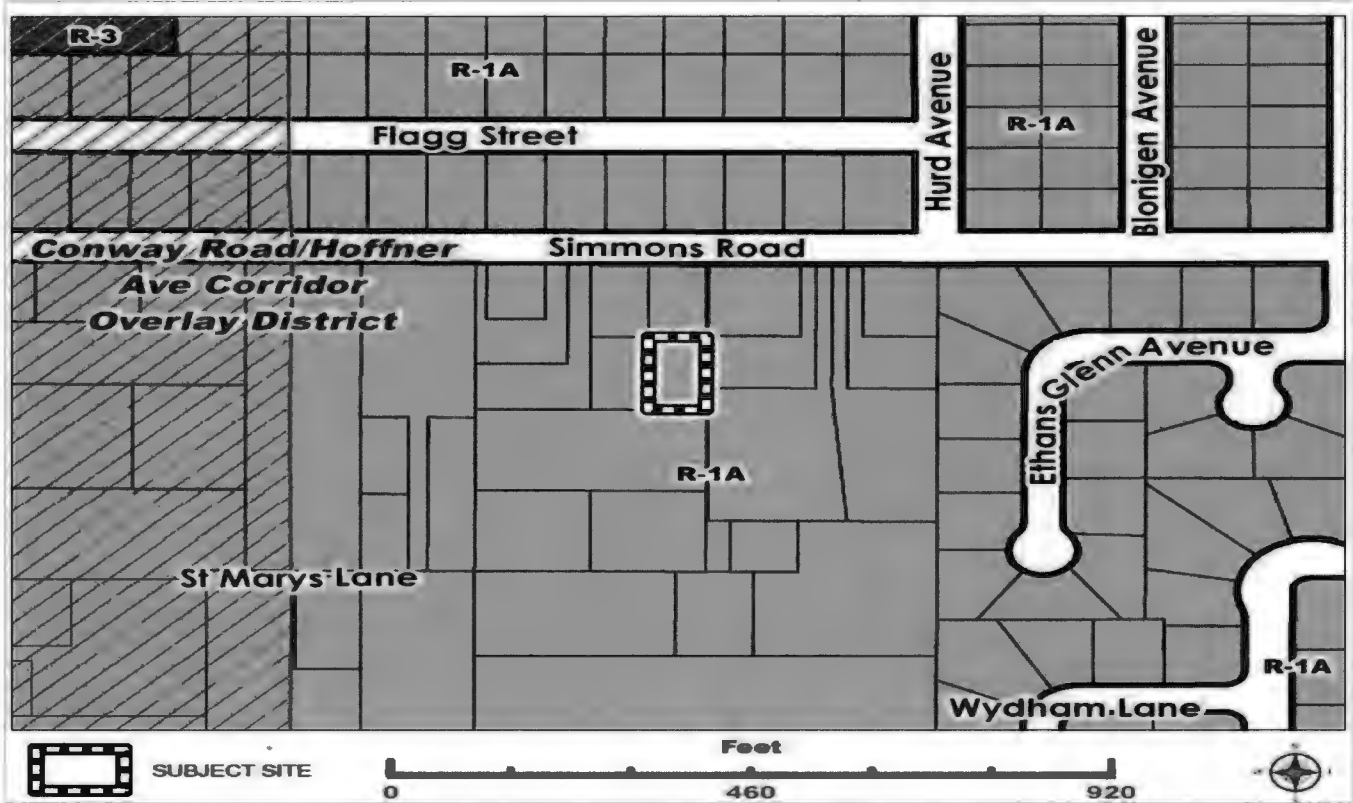
Sincerely,



Nick Asma

CNA:sm
Enclosure

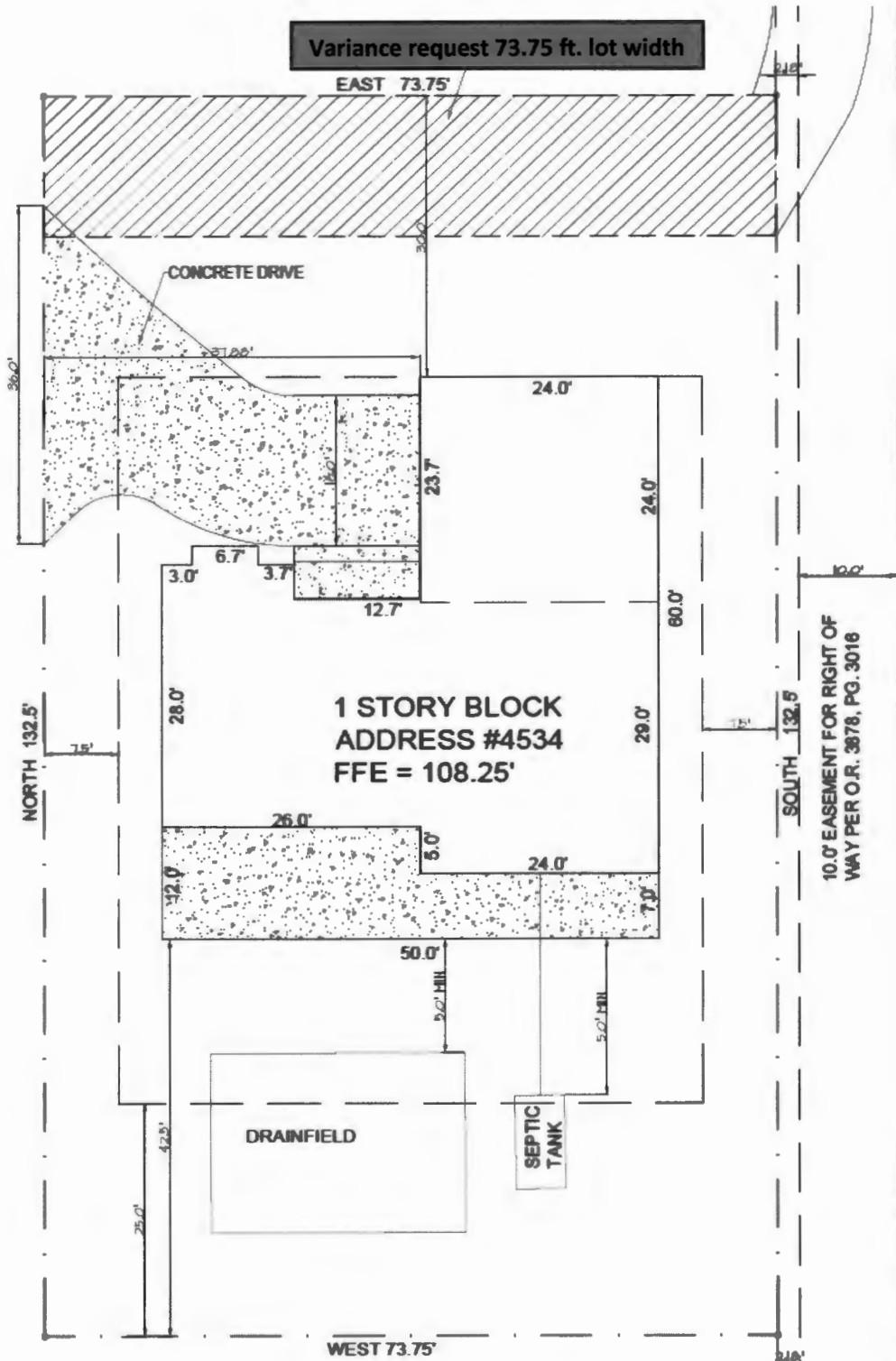
ZONING MAP



AERIAL MAP



SITE PLAN

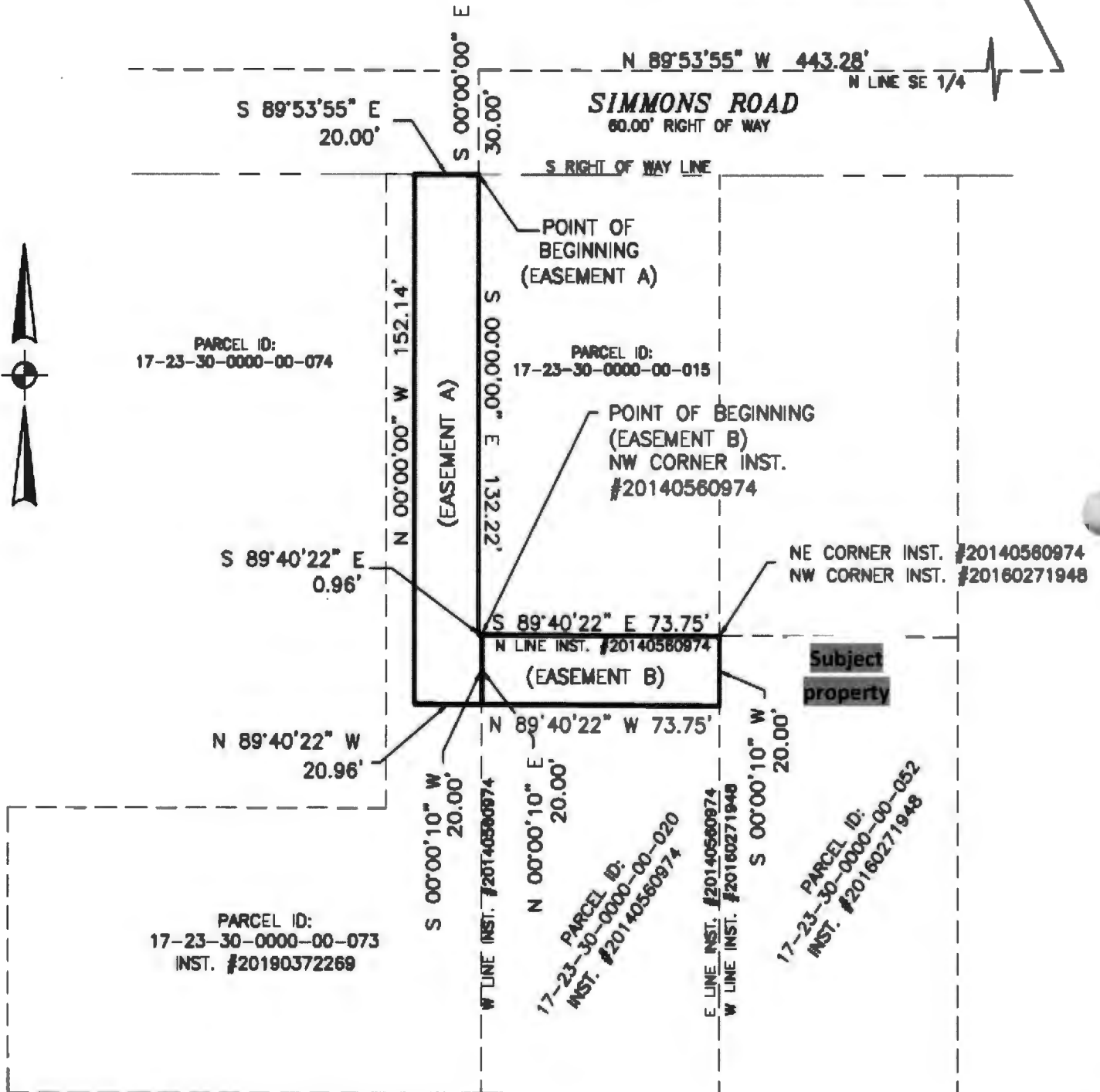


SITE PLAN
SCALE: 1"=10'-0"

RECEIVED
By Orange County

EASEMENT GRAPHIC

POINT OF COMMENCEMENT
NE CORNER OF SE 1/4 OF SECTION
17, TOWNSHIP 23 S, RANGE 30 E



SITE PHOTOS



20 ft. easement from Simmons Rd. facing south



Property facing south

SITE PHOTOS



Property facing east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 02, 2021**

Commission District: **#3**

Case #: **VA-21-12-123**

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

Michael.Rosso@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JOSEPH PEREZ

OWNER(s): HENRY NGUYEN, LIEU PHAM, DAVID NGUYEN, MAI CHU

REQUEST: Variance in the R-1 zoning district to allow an addition with a south rear setback of 6.2 ft. in lieu of 20 ft.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 7649 Bear Claw Run, Orlando, FL 32825, southeast corner of Bear Claw Run, north of Valencia College Ln., west of N. Chickasaw Trl., east of N. Goldenrod Rd.

PARCEL ID: 23-22-30-1343-00-690

LOT SIZE: +/- 0.13 acres (5,814 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 157

DECISION: Recommended **DENIAL** of the Variance request in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (4 in favor and 3 opposed).

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.

The applicant, Jose Perez, spoke about how the owners are not fluent in English and so they were unaware about zoning requirements or the need to obtain building permits. Mr. Perez also discussed the six variance criteria, and how he believed the request met them all. He also provided a letter of no objection from three homeowners in the Bear Claw Run neighborhood, and a letter of approval from the homeowner's association.

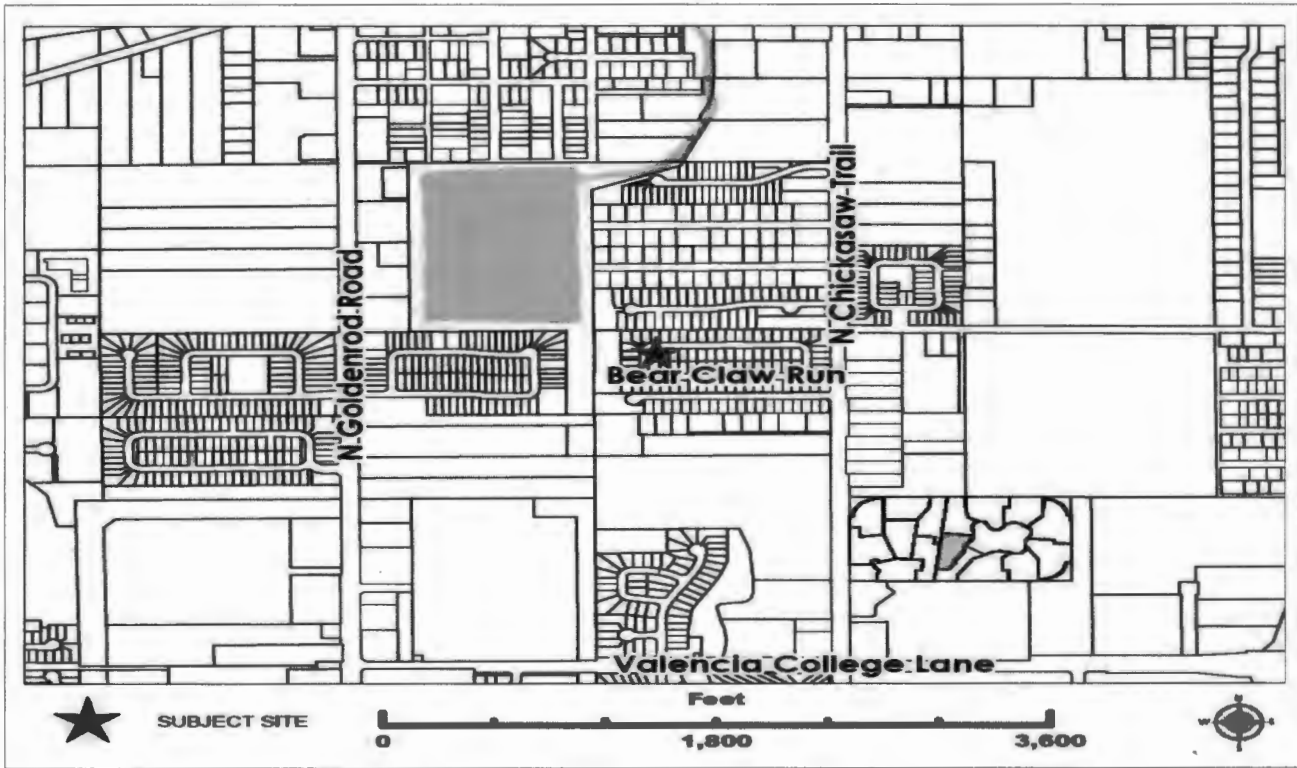
The granddaughter of one of the owners, who lives at the residence in question, spoke in favor of the request. She discussed how the owners built the addition themselves and that they did not understand the need to apply for a building permit. There was no one in attendance to speak in opposition to the request.

The BZA made a motion to recommend approval of the variance, which failed by a 3-4 vote. The BZA subsequently made a motion to recommend denial of the variance, which passed by a 4-3 vote.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on a minimum of 5,000 sq. ft. lots. The future land use is LMDR, which is consistent with the R-1 zoning district.

The subject property is 5,814 sq. ft. in size, was platted in 2004 as Lot 69 of the Chickasaw Place Plat, and is a conforming lot of record. There is a 10 ft. utility easement abutting the north and west property line, and a 5

ft. utility easement abutting the south and east property lines. The property was purchased by the current owners in 2005, and is developed with a 2-story, 3,230 sq. ft. single-family home, constructed in 2005, with a 1-story, 600 sq. ft. unpermitted addition at the rear of the residence, constructed in 2021. Additionally, a

significant portion of the rear and side yards have been paved with concrete, some of which is in the easements. The concrete pavers were never permitted and go up to the south (rear) and east (side) property lines. Development Engineering has a policy which prohibits pavers, concrete, and vertical construction in utility easements. Therefore, in order for an approved paver permit to be obtained, all pavers would have to be removed from the rear and side utility easements.

Code enforcement cited the property owner on April 12, 2021 (CE#: 588837) for a large addition to the rear of this residence, built without permits. There is an approved permit (B09005225) from 2009 for an 8 ft. by 40 ft. screen room (solid aluminum roof with screen sides), with a 13.2 ft. setback on the rear of the residence. This met code as a screen room can extend up to 13 ft. into the required rear yard, allowing a screen room on this lot to be 7 ft. from the rear property line. However, there are no permits for the enclosed addition as it exists today. What currently exists on the property is not a screen room, but rather a 15 ft. by 40 ft. enclosed addition, and additions must comply with the principle building setbacks. The existing addition encroaches 13.8 ft. into the 20 ft. rear setback, requiring a variance for a 6.2 ft. rear south setback in lieu of 20 feet. A building permit, B21010332, for the addition has been submitted, and is on hold pending the outcome of this variance request.

Despite encroaching into the rear setback, visibility of the addition as proposed is partially obscured from the adjoining lots due to the 6 ft. high opaque fence. However, based on aerial images, there do not appear to be any other additions which encroach into required setbacks in the entire Bear Claw Run neighborhood. Furthermore, there have not been any variances granted for setbacks in the neighborhood.

While the request meets some of the standards for variance criteria, it does not meet all of the standards. Therefore, staff is recommending denial of this request.

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

District Development Standards

| | Code Requirement | Proposed |
|-----------------|------------------|-------------------|
| Max Height: | 35 ft. | 10 ft. (addition) |
| Min. Lot Width: | 50 ft. | 60 ft. |
| Min. Lot Size: | 5,000 sq. ft. | 5,814 sq. ft. |

Building Setbacks (that apply to structure in question)

| | Code Requirement | Proposed |
|--------------|------------------|--|
| Front: | 20 ft. | 20 ft. (North) |
| Rear: | 20 ft. | 6.2 ft. addition (South - Variance) 21.2 ft. existing residence (South) |
| Side Street: | 15 ft. | 15 ft. existing residence & addition (West) |
| Side: | 5 ft. | 5 ft. existing residence & addition (East) |
| | | |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The placement of the existing home right on the front and side setbacks, and just 21.2 ft from the rear setback, eliminates the possibility of constructing any living area addition to the home.

Not Self-Created

The need for the variance is self-created, as the addition was constructed by the current owners without a permit.

No Special Privilege Conferred

Granting the variance as requested would confer special privilege as there do not appear to be any other additions which encroach into required setbacks in the entire Bear Claw Run neighborhood.

Deprivation of Rights

There is no deprivation of rights as the existing residence could continue to be enjoyed as originally constructed. Furthermore, although a code compliant living area addition could not be constructed on the property, a screen room up to 14 ft. by 40 ft., or 560 sq. ft., could be constructed which complies with code requirements, as it would encroach less than the maximum 13 ft. into the rear setback.

Minimum Possible Variance

The request is the minimum possible as a code compliant addition could not be constructed on this property given the size and location of the original residence.

Purpose and Intent

Approval of the requested variance would not be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. Even with the 6 ft. tall opaque fence, the addition is still partially visible from the surrounding properties. Furthermore, as previously mentioned, there do not appear to be any other additions which encroach into required setbacks in the entire Bear Claw Run neighborhood.

CONDITIONS OF APPROVAL

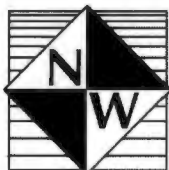
1. Development shall be in accordance with the site plan dated October 25, 2021 and elevations dated October 11, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the addition within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to issuance of a building permit for the addition, all concrete pavement shall be removed from the utility easements in the side and rear yards and a permit shall be obtained for any remaining concrete in the rear and side yards of the property.
6. The addition shall match the existing home in material and color.

C: Joseph Perez
415 Hager Drive
Ocoee, FL 34761

C: David Nguyen
2823 Cabernet Circle
Ocoee, FL 34762

C: Henry Nguyen, Lieu Pham & Mai Chu
7649 Bear Claw Run
Orlando, FL 32825

COVER LETTER



Nieto-Whittaker Surveying LLC.

1728 N. Ronald Reagan Blvd
Longwood, FL 32750
Office: 407-636-8460 Fax 407-636-8461
LB No. 7744
r.nieto6025@bellsouth.net

October 11, 2021

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

**RE: Application to the Board of Zoning Adjustment for a variance to setback requirements
7649 Bear Claw Run, Orlando, Florida 32825
Orange County Property Appraiser Parcel ID 23-22-30-1343-00-690**

Gentlemen:

Enclosed please find the following:

1. Completed Application form for a Variance, fully executed and notarized, including an Agent Authorization Form;
2. Note: payment of the \$638.00 application fee will be forwarded separately.
3. A digitally signed and sealed plot plan showing the structures on the property and the relationship of the structures to the rear setback line and the property lines;
4. A copy of Code Violation Notice Dated April 12, 2021 issued by Code Compliance Officer Mark Mcswain.
5. A copy of Orange County Permit Number F09000737 issued on May 26, 2009 for the installation of a 6' vinyl fence
6. A copy of a Screen Master work Order dated July 21, 2009 for the construction of a 40' X 8' screen room enclosed with 3" thick foam core walls.
7. A copy of Orange County Permit Number B09005344 issue on July 28, 2009 for the installation of an 8' X 40' concrete slab
8. Letter of No Objection signed by adjacent neighbors.
9. Letter of No Objection from the Home Owners Association (Alteration Application).
10. A sketch prepared by a Florida licensed Professional Engineer showing architectural elevation views of the three sides of the addition.

BACKGROUND

In May of 2009 Mr. Nguyen obtained a permit for and installed a vinyl fence in the rear yard of the property. A few months later he contracted with Screen Master on July 21, 2009 for the installation of a screened room that would be enclosed with 3" thick foam core panels. The following week he obtained a permit for a 40' X 8' concrete slab that the Orange County Inspector signed off on as complete on August 5, 2009.

At a later date, Mr. Nguyen extended the concrete slab by an additional 7 feet to the south and also extended the foam panel roof to the south by 7 feet. Foam panel walls were constructed to enclose the

COVER LETTER

area under the new roof. Two windows were enclosed in the south facing wall. No additional permits were obtained for the latter construction.

In April of 2021 Mr. Nguyen received a Code Violation Notice concerning an unpermitted addition to the rear of the residence. The notice requires that Zoning Approval and applicable permits be obtained for the rear addition or that the addition be reverted back “to the previously permitted screen enclosure.”

VARIANCE APPROVAL IS REQUESTED FOR THE FOLLOWING ITEMS, TOGETHER OR INDIVIDUALLY:

1. Encroachment of the unpermitted 7-foot slab extension into the rear 20-foot setback;
2. Encroachment of the unpermitted 7-foot foam panel roof into the rear 20-foot setback;
3. Encroachment of the unpermitted 7-foot foam panel walls into the rear 20-foot setback.

REASON FOR THE VARIANCE:

The Variance is being requested pursuant to the Corrective Action Required specified in the Code Violation Notice.

TYPE OF CONSTRUCTION:

The visible concrete floor slab thickness varies between 6-1/2” to 1-1/4”
The roof is 3-inch-thick foam core panels.
The walls are 3-inch-thick foam core panels.

DIMENSIONS AND AREA:

The area not previously permitted measures 7 feet by 40 feet, and contains a total of 280 square feet. The previously permitted screen enclosure measures 8 feet by 40 feet and contains 320 square feet. The previously permitted screen enclosure together with the construction not previously permitted measures 15 feet by 40 feet, and contains 600 square feet. The construction that was not previously permitted encroaches an additional 7 feet into the rear 20 foot set back, and extends to within 6.15 feet of the rear property line. The total encroachment into the 20-foot rear set back is 13.85 feet, including both permitted and not previously permitted construction. The addition is 5 feet from the east property line and 15 feet from the west property line. The vertical distance from the exterior surface to the bottom of the foam panel roof varies from 8 feet 10 inches to 9 feet 9-1/4 inches.

VARIANCE CRITERIA

1. **Special Conditions and Circumstances** – The approvals being requested do not adversely impact any other properties.
2. **Not Self-Created** – The existing violation was not consciously created by the owner. They are hampered by cultural and language barriers and a lack of knowledge and familiarity with the local applicable laws, regulations and norms. They looked at their survey and saw the five-foot

COVER LETTER

easement along the rear line and believe they could use the area up to the easement line. They were not familiar with the concepts of setbacks.

3. **No Special Privilege Conferred** – To the best of our knowledge all other lands, buildings or structures in this same zoning district have the right to pursue similar variances that will be reviewed and evaluated on the basis of the merits of those requests, in a similar manner to the way this request is being reviewed and evaluated. Therefore, there is no special privilege involved.
4. **Deprivation of Rights** – If the owners are required to remove the construction that was not previously permitted, they would incur unnecessary and undue hardship. The construction in question is not creating any adverse impacts on neighboring properties as evidenced by the letters of no objection that have been submitted with this application. There is not an expressed need to remove the construction in question, and requiring the removal would cause an undue hardship on them by depriving them of the ability to use and enjoy the material benefits of the area in question, including the ability to join with family and friends in a protected setting.
5. **Minimum Possible Variance** – Applicant is not seeking approval of a variance to increase the currently existing improvements. The variance being sought is the minimum variance that will make possible the reasonable use of the land and structure.
6. **Purpose and Intent** – Approval of the variance will not be injurious to the neighborhood or detrimental to the public welfare as evidenced by the letters of no objection that have been submitted with this application.

DETAILED SITE SURVEY

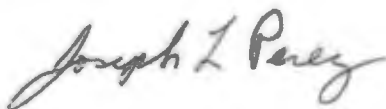
Please see attached survey showing the existing structures with the rear setback line and ties to the lot lines and to the setback line.

ARCHITECTURAL ELEVATIONS

Please see attached sketch showing elevation views of the exterior walls of the existing addition.

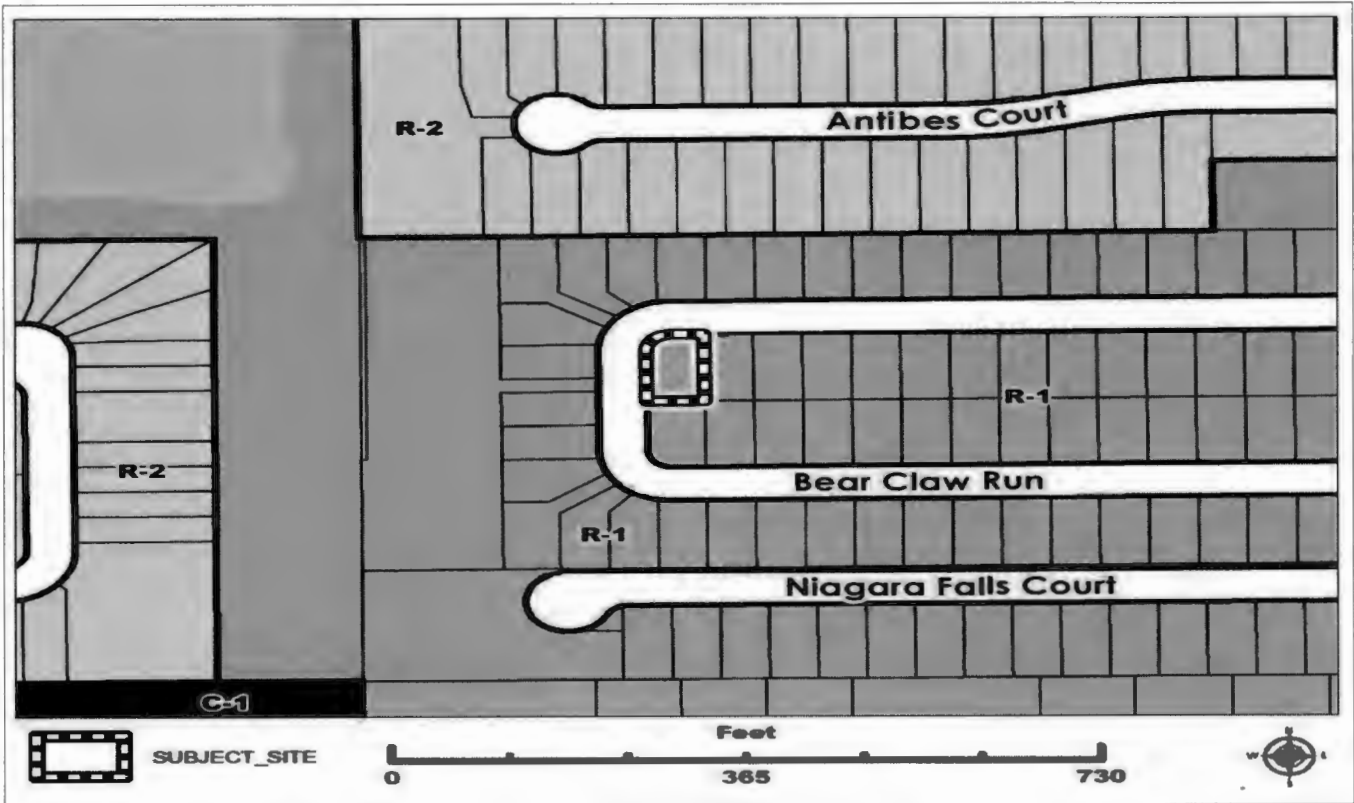
We thank you for your consideration, and request that you let us know if you need any additional information.

Sincerely,

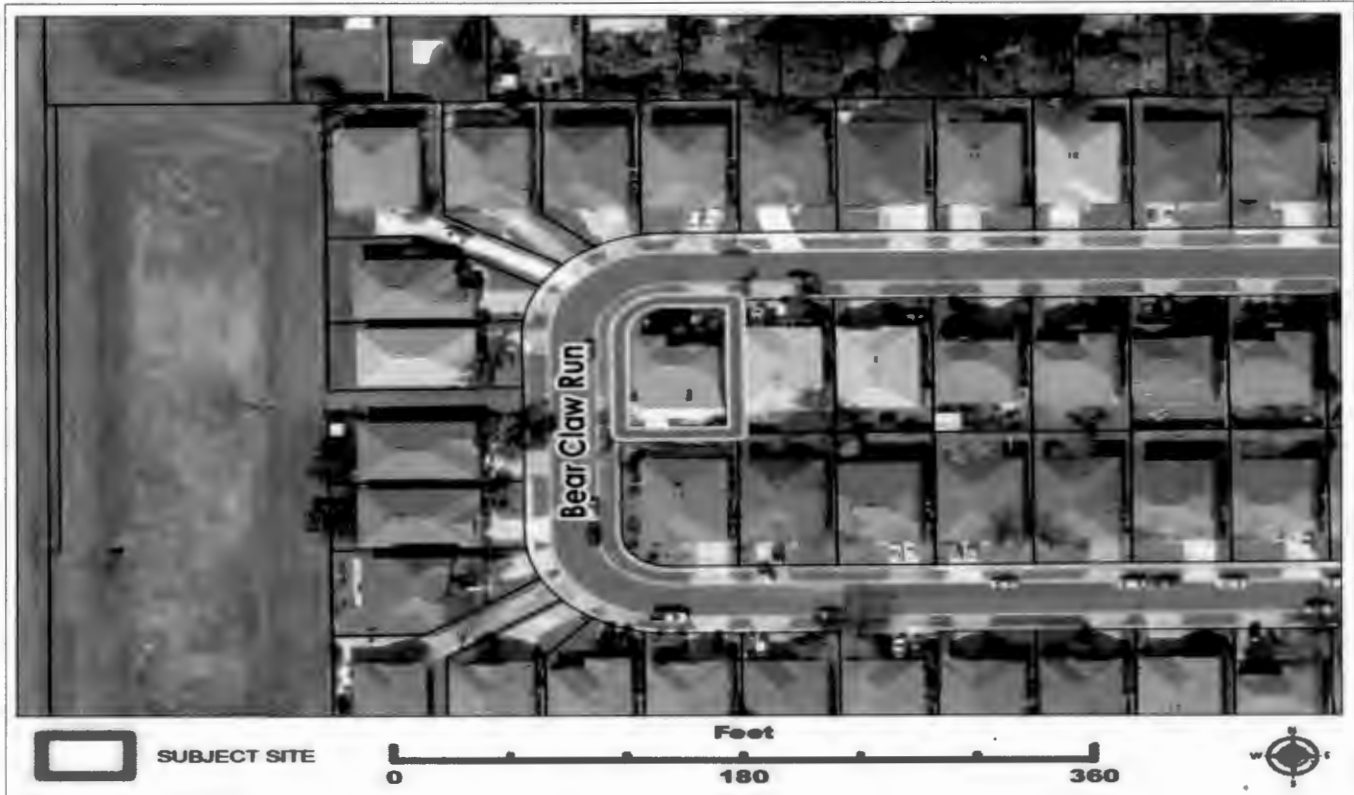


Joseph L. Perez, P.E., P.L.S.
Nieto Whittaker Surveying LLC
415 Hager Drive
Ocoee, Florida 34761
(321) 230-4420 (C)
jlperetz@pesengsurv.com
jlperetz@nietowhittakersurveying.com

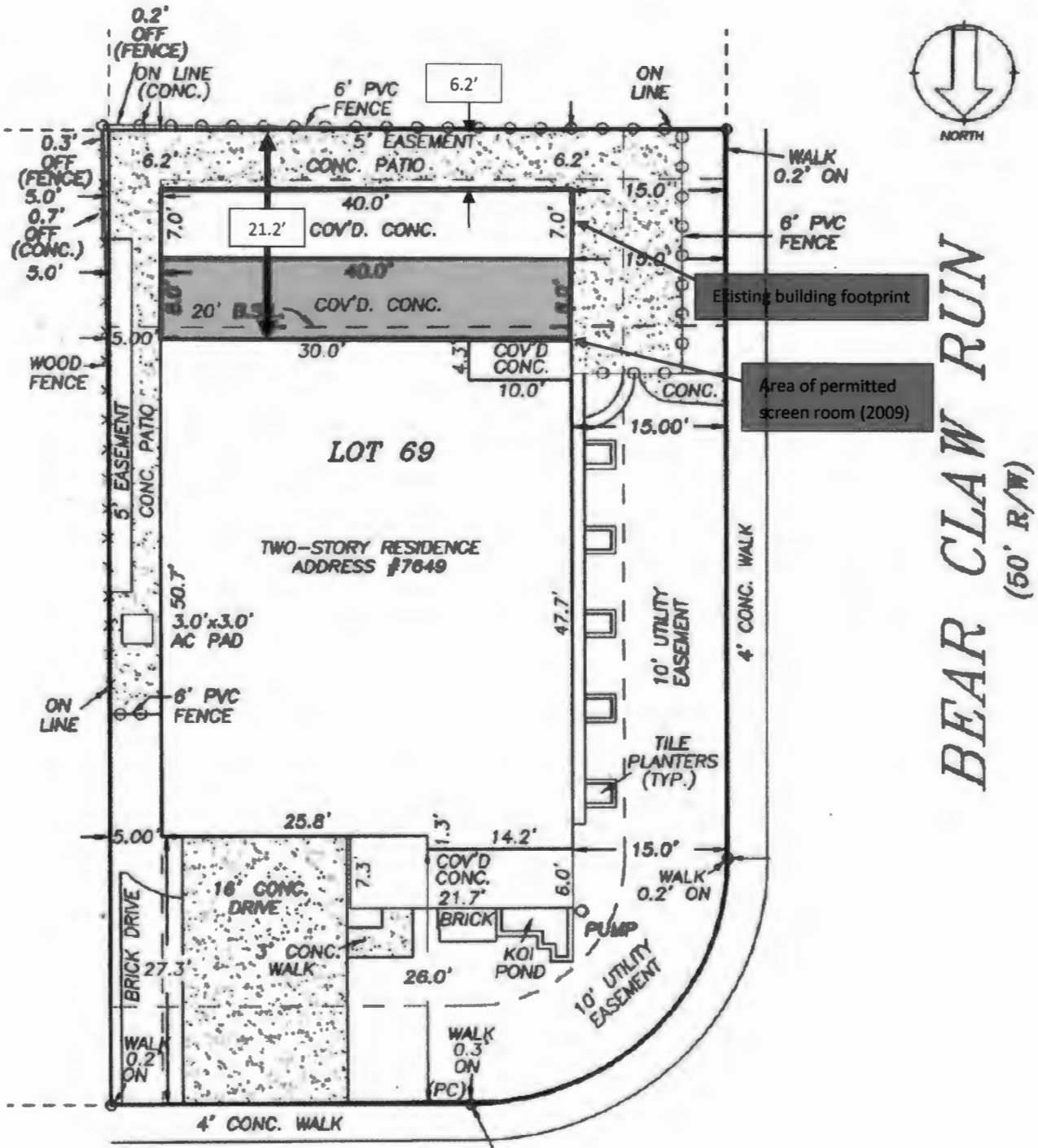
ZONING MAP



AERIAL MAP

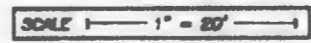


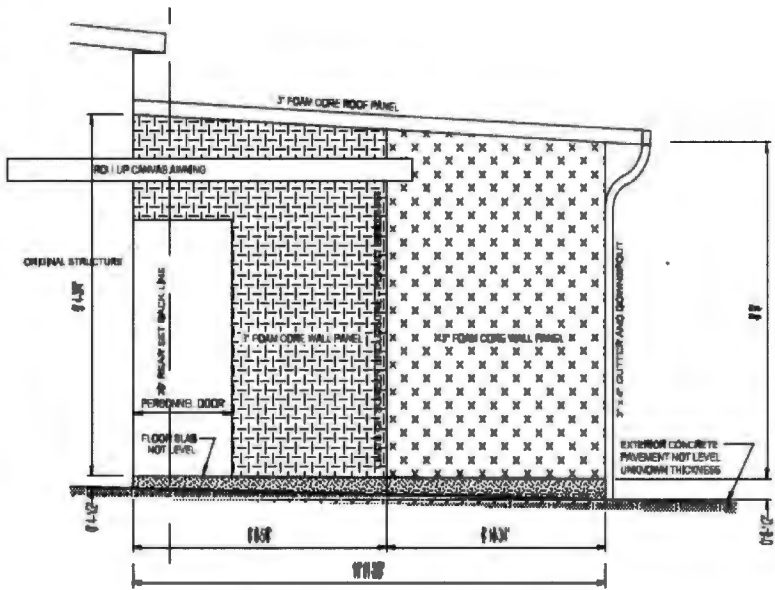
SITE PLAN



BEAR CLAW RUN
(50' R/W)

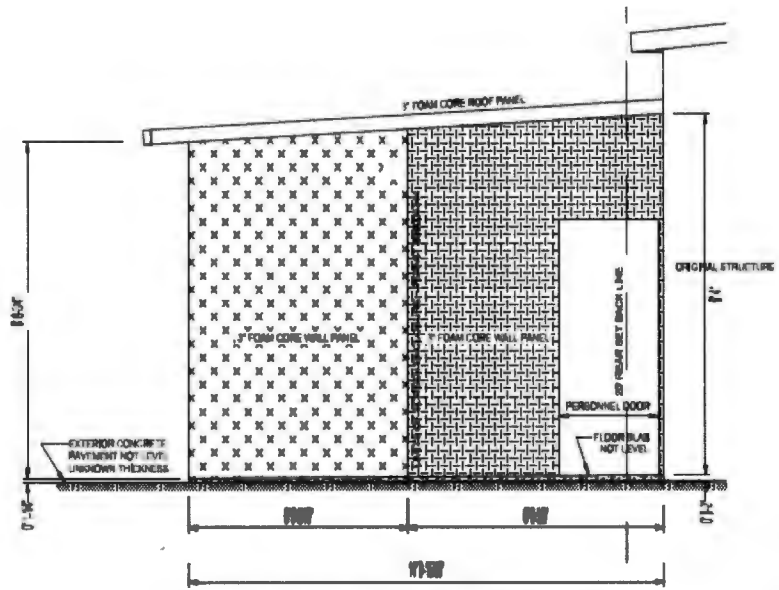
BEAR CLAW RUN
(50' R/W)





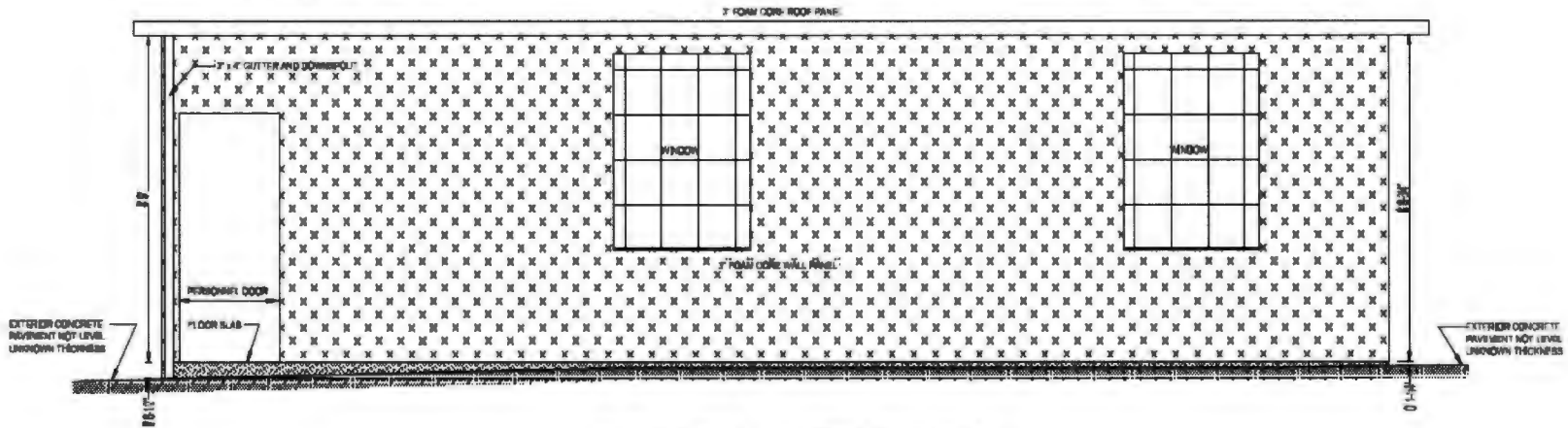
WEST ELEVATION

SCALE: 1/4" = 1'



EAST ELEVATION

SCALE: 1/4" = 1'



SOUTH ELEVATION

SCALE: 1/4" = 1'

ELEVATIONS

SITE PHOTOS



Facing south towards front of subject property



Side yard, facing south towards addition

SITE PHOTOS



Side yard, facing northeast towards addition (note concrete pavement)



Rear yard, facing east towards addition (note concrete pavement)

SITE PHOTOS



Side yard (east), facing north towards front of property (note concrete pavement)



Side yard (west), facing south towards rear of property

SITE PHOTOS



Rear yard of neighboring property to the south, facing northeast (view of the addition for that neighbor)

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 02, 2021**

Commission District: **#4**

Case #: **VA-21-12-128**

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

Ted.Kozak@ocfl.net

GENERAL INFORMATION

APPLICANT(s): **MARY SOLIK**

OWNER(s): **AIR VAN INC.**

REQUEST: **Variances in the I-4 zoning district to allow the construction of a billboard sign as follows:**

1) **To allow 50 ft. in height in lieu of a maximum of 40 ft.**

2) **To allow a 672 sq. ft. billboard sign not adjacent to a limited access highway in lieu of a maximum of 400 sq. ft.**

PROPERTY LOCATION: **10615 Rocket Blvd., Orlando, FL 32824, east side of Rocket Blvd., south of Taft Vineland Rd. and east of Florida's Turnpike.**

PARCEL ID: **11-24-29-7356-00-030**

LOT SIZE: **+/- 2.43 acres**

NOTICE AREA: **1,500**

NUMBER OF NOTICES: **54**

DECISION: Recommended **DENIAL** of the Variance requests in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (6 in favor and 1 opposed).

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan and sign specifications, the location of the two nearest billboards in the area and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that the applicant has obtained a permit to allow the installation of a code compliant billboard in the same location as proposed. Staff noted that no comments were received in support or in opposition.

The applicant stated that the proposal complies with the intent of the sign code and further stated that the property was uniquely situated along a frontage road, not the turnpike.

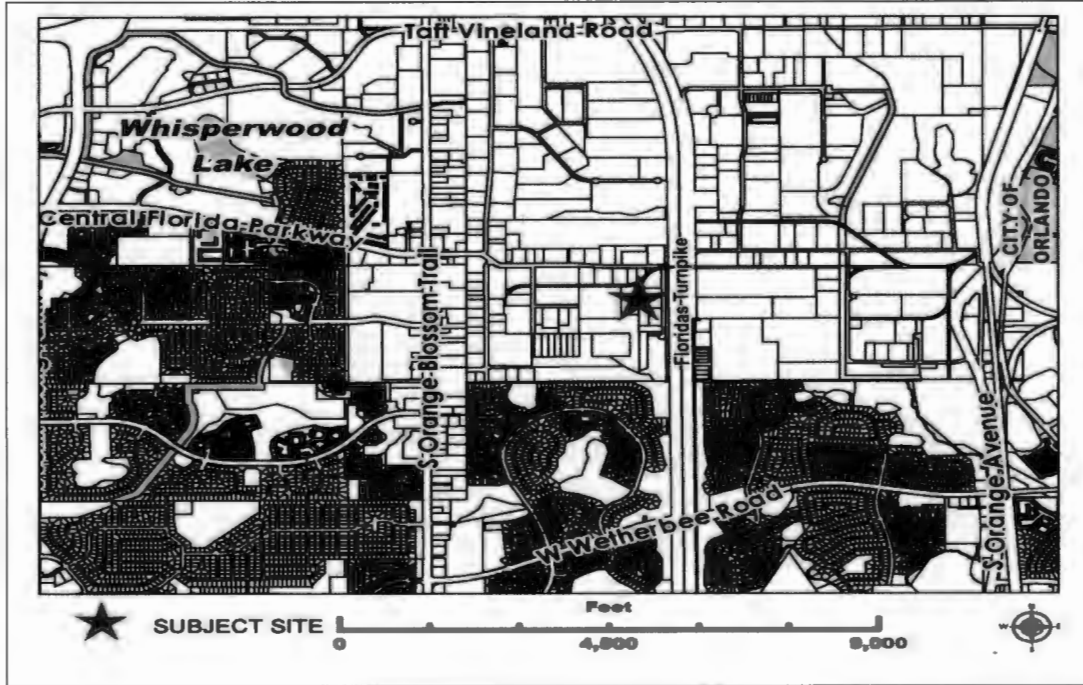
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the intent of the billboard sign code requirements and inquired about the history and the increasing strictness of the billboard sign code over time, including the difference of separation requirements between billboards located adjacent to limited access roads and non-limited access roads, and expressed concerns about deviating from size and height requirements of the billboard sign code. The BZA recommended denial of the variance by a 6-1 vote.

STAFF RECOMMENDATIONS

Denial, however, should the BZA find that the applicant has satisfied the criteria necessary to grant the variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

| | Property | North | South | East | West |
|-----------------|------------------------------------|------------------------------|-----------|-------------------------|-------------------------------------|
| Current Zoning | I-4 | I-4 | I-4 | I-4 | I-4 |
| Future Land Use | IND | IND | IND | IND | IND |
| Current Use | Warehouse and Carvana distribution | Automotive repair, Warehouse | Warehouse | Freight service company | Rocket Blvd. and Florida's Turnpike |

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the I-4, Industrial district, which allows the most intensive industrial uses. Billboards are permitted in the I-4 zoning district, subject to compliance with the standards of code.

The subject property is 2.43 acres in size, and is comprised of portions of Lots 2 and 3 of the Regency Industrial Park plat, recorded in 1974. The property consists of a total of two warehouse buildings totaling 15,220 sq. ft. currently being used for Carvana vehicle distribution. The subject site is located on, and is adjacent to Rocket Boulevard. West of Rocket Boulevard is the Florida Turnpike, with a fairly significant buffer of mature trees along

the side of the Turnpike between Rocket Boulevard and the paved lanes of the Turnpike, further providing a clear separation between Rocket Boulevard and the Turnpike.

In 2020 an application was submitted for the subject site for a billboard with 672 sq. ft. of sign area per face. At that time the applicant was notified that a billboard with a maximum of 400 sq. ft. per sign face was permitted, as the site is adjacent to Rocket Boulevard, which is not a limited access highway. The permit request was revised to meet code, and on December 21, 2020, a permit was issued for a 400 sq. ft., 40 ft. high billboard sign on the subject site. That sign has not been constructed.

The request is to construct a 672 sq. ft., 50 ft. high, electronic message copy (EMC) billboard sign along the west side of the property adjacent to Rocket Boulevard. Orange County Sign Code Section 31.5-126(c) allows for the maximum height of any billboard to be 40 feet, with the height measured from finished grade level to the top of the highest sign face. The height is proposed to be 50 ft. in lieu of 40 ft., requiring Variance #1. Orange County Sign Code Section 31.5-126(h) allows for any billboard not adjacent to a limited access highway a maximum allowable copy area of 400 sq. ft. for the sign faces which are visible from one direction. The billboard copy area is proposed to be 14 ft. high by 48 ft. wide, for a total of 672 sq. ft., in lieu of 400 sq. ft., requiring Variance #2. All of the other requirements of the billboard code will be met with the proposed request.

While the Code allows for billboards, the provisions are intentionally restrictive. Over the years the code has become increasingly more restrictive with respect to billboards. Further, the County's standard practice over the past 20-30 years has been to add a prohibition on any new billboards for any rezoning to commercial or industrial or PD that is approved to further restrict the allowable locations of billboard in the county and further limit the total number of billboards. Furthermore, the code is intentional in delineating the allowable sq. ft. per sign face by whether the billboard is located on a limited access highway, such as I-4 or the Florida Turnpike, or adjacent to a road that does not have limited access. In this case, while the proposed billboard location is in the

vicinity of the Florida Turnpike, the site of the billboard is located adjacent to Rocket Boulevard, and as such should meet the requirements tied to billboards on a non-limited access highway.

The applicant has provided two other billboards in the surrounding area as justification for why this billboard should obtain the two requested variances, however each case for a variance request is based on its own unique set of facts. Furthermore, the billboard examples provided are not fair comparisons. The billboard at 1756 Cypress Lane Drive is a code compliant billboard as it adjacent to the Turnpike, therefore 672 sq. ft. per face is allowed. In addition, that billboard is 40 ft. in height, which is the maximum allowed by code. The billboard located at 11403 Rocket Boulevard is a non-conforming billboard built around 1987, when the code allowed for a maximum height of 50 ft. and 672 sq. ft. in area for non-limited access highways, so it was built in accordance with code, and became non-conforming as a result of code changes over the years.

As of the date of the writing of this report, no correspondence has been received in favor or in opposition to the request.

District Development Standards

| | Code Requirement | Proposed |
|-------------|------------------|----------------------|
| Max Height: | 40 ft. | 50 ft. (Variance #1) |

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

| | Code Requirement | Proposed |
|--------|------------------|------------------------------------|
| Front: | 15 ft. | 15 ft. (West) |
| Rear: | 15 ft. | 318 ft. (East) |
| Side: | 5 ft. | 132 ft. (South) 120 ft. (North) |

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances particular to this site relative to the distance of the building from the adjacent right-of-way. Further, a building permit on the property has been issued to allow for the construction of a billboard meeting code requirements without the need for any variances.

Not Self-Created

The need for the variances is self-created since there is the ability to install a billboard which meets code, as evidenced by the issued permit for a billboard on this site.

No Special Privilege Conferred

Approval of the request will grant the applicant special privilege denied to others since there are other options to modify the proposal to match the approved building permit.

Deprivation of Rights

Since there are alternatives, which will eliminate the need for the variances, denying the request will not deprive the applicant the ability to install a billboard sign.

Minimum Possible Variance

Since there are alternatives to installing the sign, the variances would not be the minimum possible.

Purpose and Intent

The purpose of the sign code is to ensure that a consistent amount of signage is permitted for all properties and to avoid sign clutter. Approval of the requested increased signage area and height would not be in harmony with the purpose and intent of the Zoning Regulations and will be detrimental to the surrounding area, as the request is significantly larger than that of billboard requirements.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and sign specifications dated October 13, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the billboard within 2 years of final action on this application by Orange County, or this approval is null and void. The Zoning Manager may extend the time limit if proper justification is provided for such an extension.

C: Mary Solik, Esq.
121 S. Orange Ave., Suite 1500
Orlando, FL 32801

COVER LETTER



October 13, 2021

Orange County Zoning Division
Board of Zoning Adjustment
201 S. Rosalind Ave. 1st Floor
Orlando, FL 32801

Re: 10621 Rocket Blvd.: Air Van, Inc. Variance Application

To Whom it May Concern:

This firm represents Air Van, Inc. the owner of the property located at 10615 Rocket Blvd., Orlando, FL 32824. On behalf of Air Van, Inc. I submit this Variance Justification Statement to support the application submitted herewith.

VARIANCE JUSTIFICATION STATEMENT

The property located at 10615 Rocket Blvd. is a 2.43 acre industrially zoned tract developed with over 100,000 square feet of warehouse space. The subject property is located on the east side of Rocket Blvd., an Orange County roadway with 70' of ROW. In the subject neighborhood Rocket Blvd. runs in a north/south direction for a distance of approximately 6,500' and dead ends on the south end. The western ROW line of Rocket Blvd. abuts the limited access ROW line of the Florida Turnpike. In 2020 Air Van, Inc. applied for a building permit for 50' high billboard with 672' square feet of copy area per face intended to be viewed from the Florida Turnpike. The Orange County Code allows for 672' of copy area per face for any billboard adjacent to a limited access highway (Section 31.5-126(g)) and 400' of copy area per face for billboards that are not adjacent to a limited access highway (Section 31.5-126(h)). The Orange County Code also limits billboard height to 40' (Section 31.5-126(c)). All other dimensional and performance criteria in the Orange Code for offsite signs were met by Air Van, Inc. The Orange County Building Department determined that the proposed Air Van billboard was not adjacent to the Florida Turnpike and issued a building permit for a 40' high sign with 400' of copy area per face. Building Permit No. B20006260, with an assigned address of 10621, is still a valid permit held by Air Van, Inc., though not constructed, and a billboard meeting these dimensional standards could be constructed today without variance approval. Air Van, Inc., however, contends that its proposed billboard is adjacent to the Florida Turnpike and seeks variance relief from the 400' sign face limitation being imposed by the intervening Rocket Blvd. ROW. Due to the difference in grade between the Air Van, Inc. property and the grade of the Florida Turnpike, Air Van, Inc. is also seeking a 10' height variance from Section 31.5-126(c) of the Orange County Code.

SPECIAL CONDITIONS AND CIRCUMSTANCES:

The Air Van, Inc. proposed billboard is clearly intended to serve the traveling public on the Florida Turnpike. In this particular area the location of the local service road, Rocket Blvd., butted up against the limited access ROW line of the Turnpike, precludes the availability of any privately owned property

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COVER LETTER

abutting the limited access ROW on which to place a billboard which would allow for 672' square feet of copy area in lieu of the 400' square foot of copy area. A 14' x 48' sign face (672' of copy area) is an industry standard size for a billboard serving a limited access highway. As for the requested height increase the Florida Turnpike is significantly elevated from the grade of the Air Van, Inc. property.

NOT SELF-CREATED:

See above. The variance request for the additional sign copy area stems from the Building Department determination that the intervening Rocket Blvd. ROW causes the proposed billboard to not be "adjacent" to a limited access highway. The height variance request is the result of existing topographical conditions.

NO SPECIAL PRIVILEGE CONFERRED:

All the private property adjacent to Rocket Blvd. in the subject area is similarly situated.

DEPRIVATION OF RIGHTS:

Denying this variance would deprive Air Van, Inc. of rights enjoyed by two existing billboards in the subject neighborhood which meet separation requirements. There is an existing billboard at 11403 Rocket Blvd., south of the subject property, which has a sign face copy area of 672' and is also located on the east side of Rocket Blvd. The second billboard in the area is on the west side of the Florida Turnpike, due west of the Air Van, Inc. property. This billboard is located at 1756 Cypress Lake Drive and is 14' x 48' (672 square feet of copy area per face).

MINIMUM POSSIBLE VARIANCE:

The 10' height variance is the minimum amount necessary to bring the top of the proposed billboard up to the crown of the Florida Turnpike. The increase in the sign face copy is no more than would be allowed under the Code if the Rocket Blvd. ROW were not public property.

PURPOSE AND INTENT:

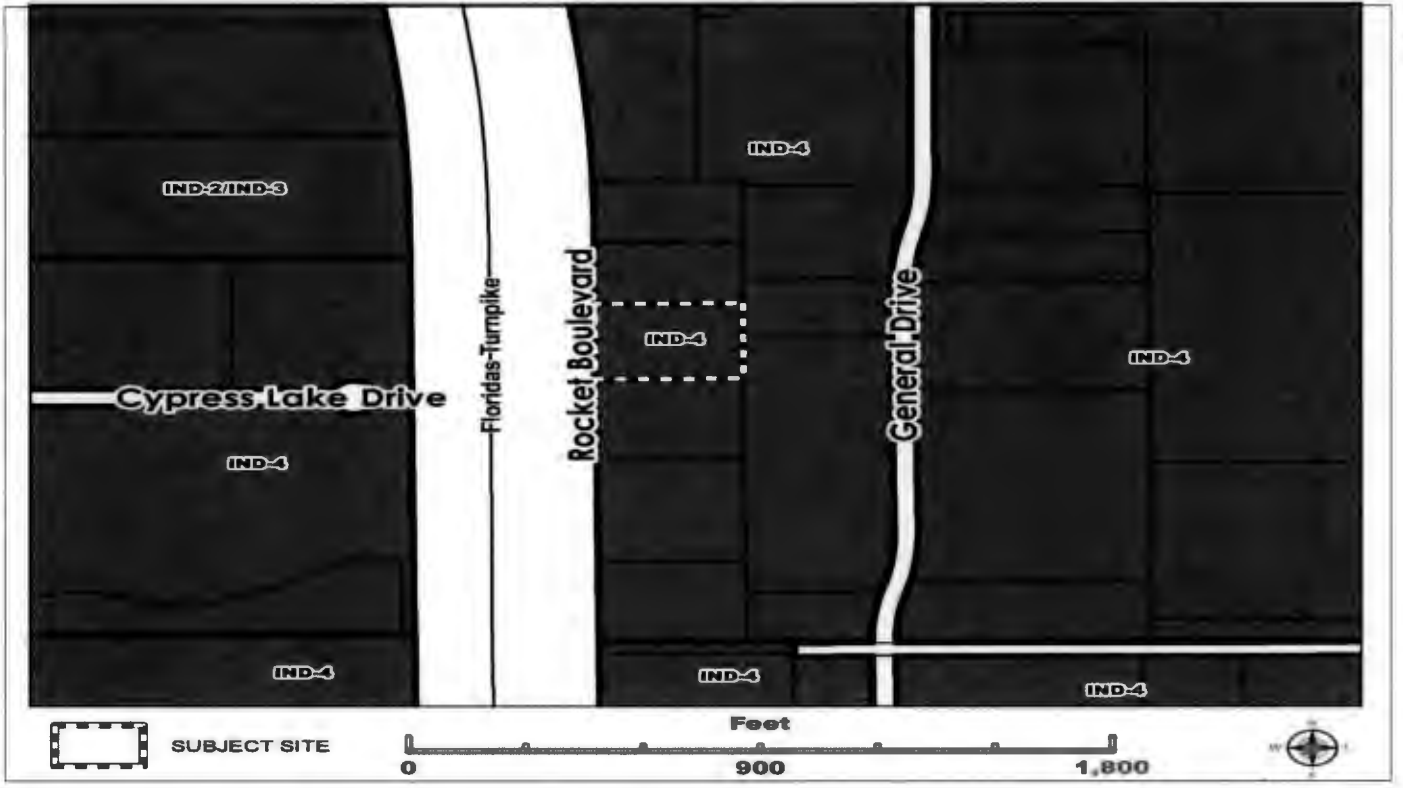
Allowing a 672 square foot copy area per sign face would meet the stated purpose and intent for billboards adjacent to limited access highways. Increasing the height by 10' would allow for the minimum sight visibility required for the safety of the traveling public.

On behalf of Air Van, Inc. we appreciate your consideration of this request.

Very truly yours,


Mary Doty Solik, Esq.

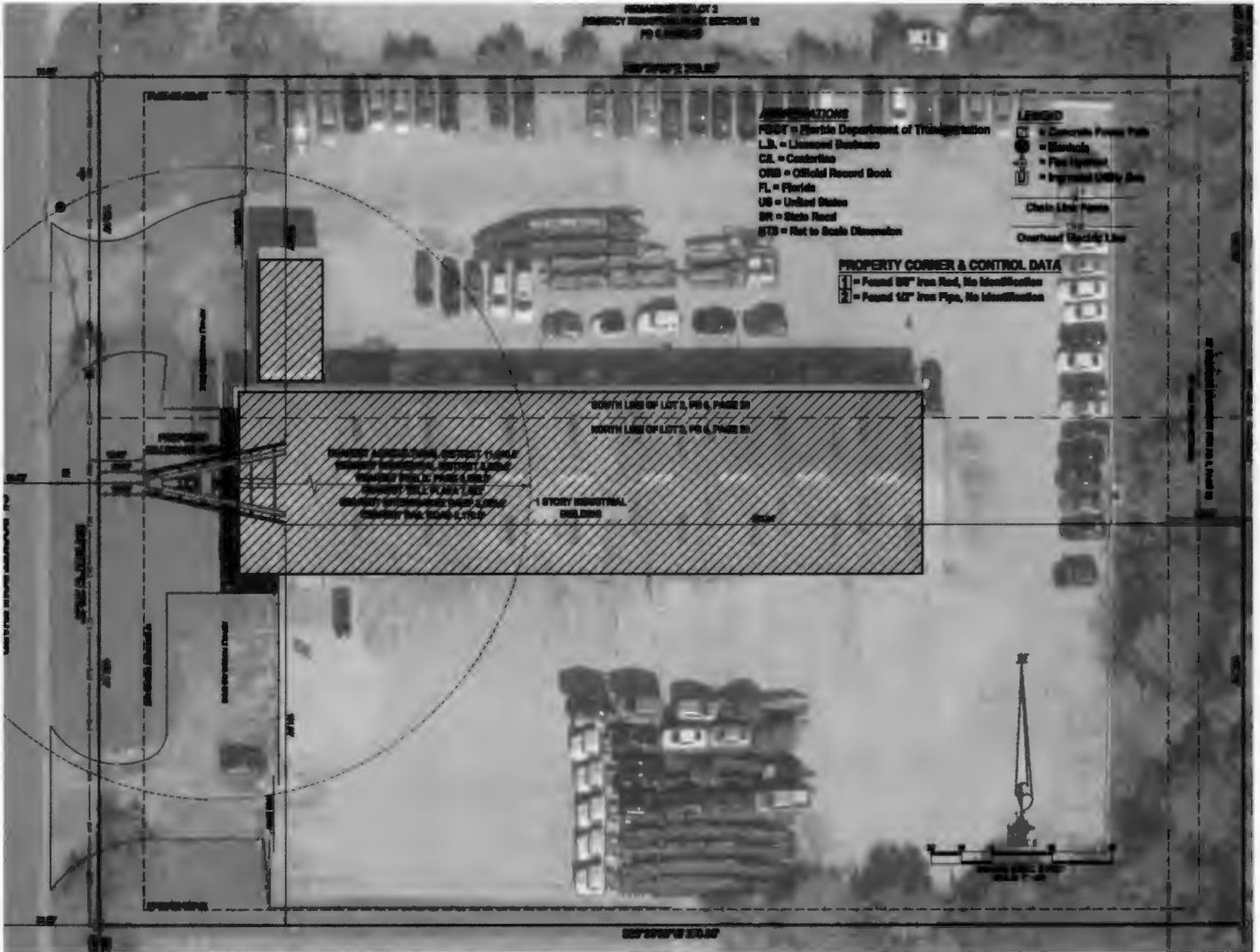
ZONING MAP



AERIAL MAP

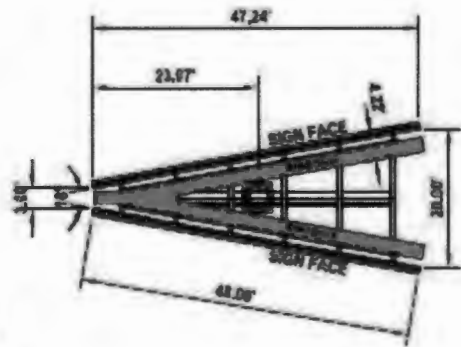
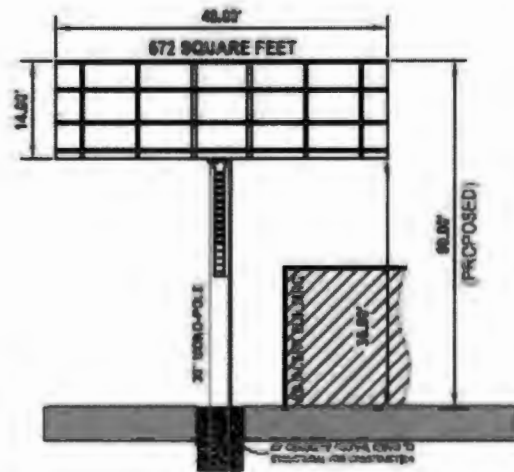


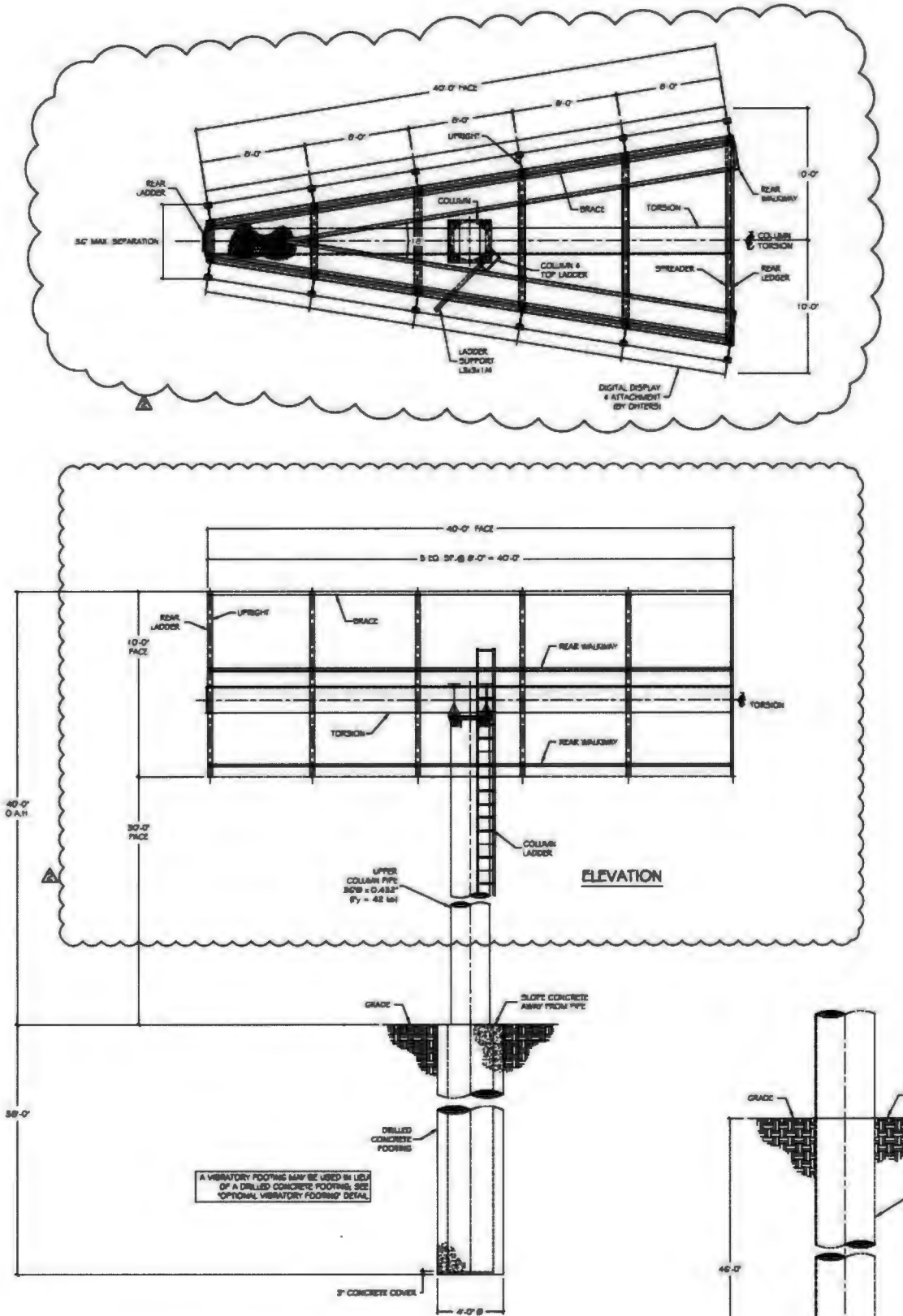
SITE PLAN AND BILLBOARD SPECIFICATIONS



PROFILE VIEW SCALE 1" = 20'

PLAN VIEW SCALE 1" = 20'





SITE PHOTOS



Facing south along Rocket Blvd. towards proposed billboard on the left, Turnpike on right



Facing north along Rocket Blvd. towards proposed billboard location

SITE PHOTOS



Facing northeast towards subject property and proposed billboard along Rocket Blvd.



Facing south along Rocket Blvd. towards proposed billboard on the left, Turnpike on right



BOARD OF ZONING ADJUSTMENT