



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

December 3, 2020

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)

ORANGE COUNTY GOVERNMENT

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

BZA Staff

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

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
DECEMBER 3, 2020**

<u>PUBLIC HEARING</u>	<u>APPLICANT</u>	<u>DISTRICT</u>	<u>BZA RECOMMENDATIONS</u>	<u>PAGE #</u>
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ORANGE COUNTY ZONING DISTRICTS

Agricultural Districts

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

Residential Districts

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

Non-Residential Districts

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

Other District

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

SITE & BUILDING REQUIREMENTS

Orange County Code Section 38-1501. Basic Requirements

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
A-1	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-2	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-R	108,900 (2½ acres)	1,000	270	35	50	25	35	<i>a</i>
R-CE	43,560 (1 acre)	1,500	130	35	50	10	35	<i>a</i>
R-CE-2	2 acres	1,200	250	45	50	30	35	<i>a</i>
R-CE-5	5 acres	1,200	185	50	50	45	35	<i>a</i>
R-1AAAA	21,780 (1/2 acre)	1,500	110	30	35	10	35	<i>a</i>
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	35	<i>a</i>
R-1AA	10,000	1,200	85	25 <i>h</i>	30 <i>h</i>	7.5	35	<i>a</i>
R-1A	7,500	1,200	75	20 <i>h</i>	25 <i>h</i>	7.5	35	<i>a</i>
R-1	5,000	1,000	50	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
R-2	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Two dwelling units (DUs), 8,000/9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	30	5 <i>h</i>	35	<i>a</i>
	Three DUs, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-3	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5	35	<i>a</i>
	Two DUs, 8,000/9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Three dwelling units, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10	35	<i>a</i>
R-T	7 spaces per gross acre	Park size min. 5 acres	Min. mobile home size 8 ft. x 35 ft.	7.5	7.5	7.5	35	<i>a</i>
R-T-1								
SFR	4,500 <i>c</i>	1,000	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
Mobile home	4,500 <i>c</i>		Min. mobile home size 8 ft. x 35 ft.	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 3, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-11-107**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): NICOLE DEEB

OWNER(s): PETER ZACHMAN, NICOLE DEEB

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

- 1) To permit an existing 6 ft. high fence to remain in the front yard (south) setback in lieu of a 4 ft. high fence.
- 2) To allow a 6 ft. fence within the clear view triangle area from the right-of-way line.

This is the result of Code Enforcement.

PROPERTY LOCATION: 5600 Birr Ct., Orlando, Florida, 32809, north end of Birr Ct., on the southwest side of Lake Conway, north of Hoffner Ave.

PARCEL ID: 24-23-29-0700-00-080

LOT SIZE: 0.58 acres (25,265 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 63

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

1. Development shall be in accordance with the site plan dated September 16, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain a permit for the fence within 45 days of final action on this application by Orange County or this approval becomes null and void.

SYNOPSIS: Staff described the property, the surrounding area, and the specifics of the request, including the code enforcement history and the location of the existing fencing. Staff noted that two (2) commentaries were received in support and no commentaries were received in opposition. Staff reviewed the six (6) criteria and explained the reasons for recommending denial.

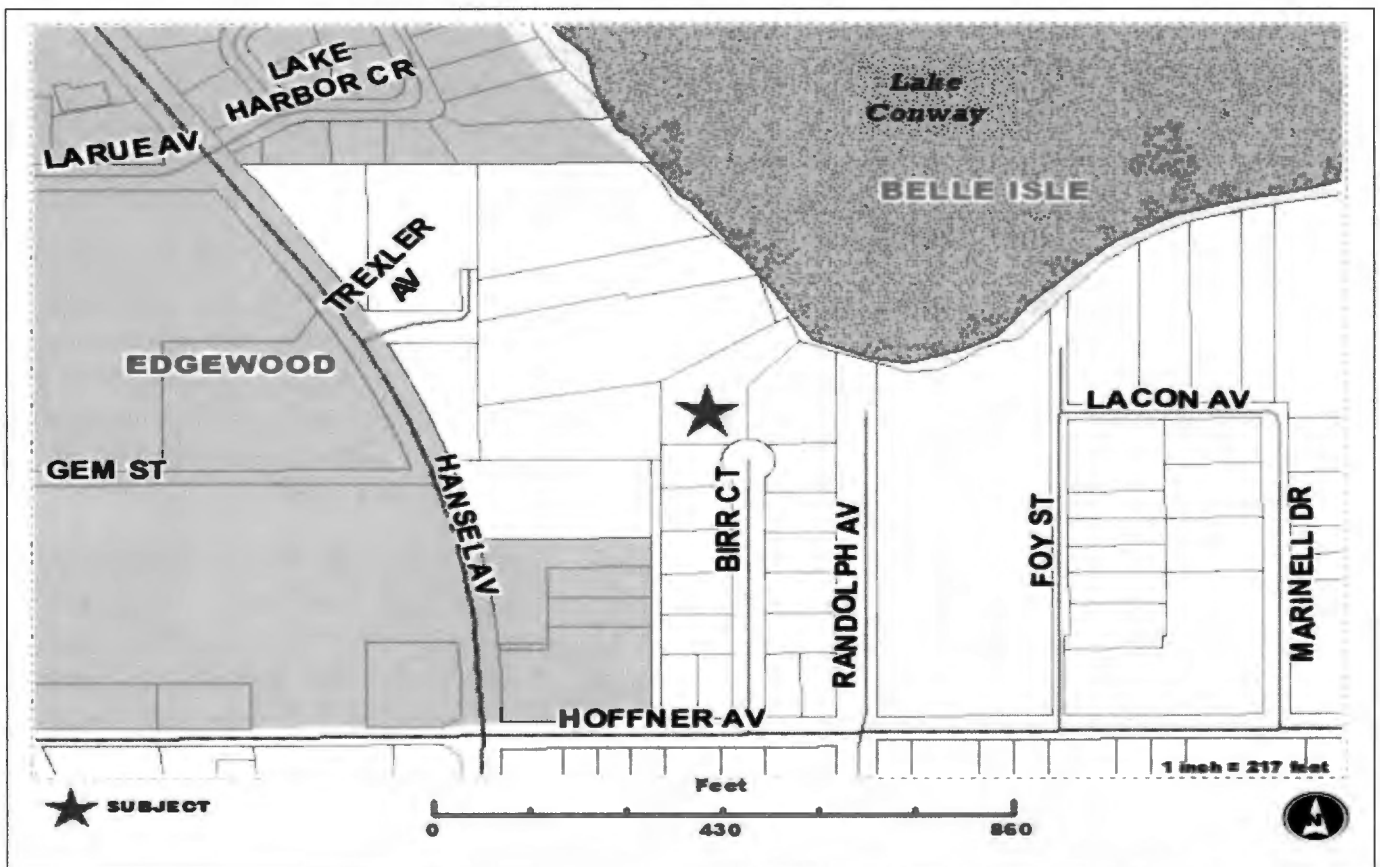
The applicant explained the reasons for the fencing request, including the negative affects of headlights from vehicles with boat trailers attempting to turn around at the terminus of Birr Cout. The applicant stated that the fence contractor failed to obtain permits and now understands that permits are required for any future home improvements.

There was no one in attendance in support or opposition to the request. The BZA recommended approval of the variances by a 5-1 vote, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	Lake Conway	R-1A	R-1A	R-1A
Future Land Use	LDR	Lake Conway	LDR	PR/OS	LDR
Current Use	Single-family residence	Lake Conway	Single-family residence	Stormwater detention pond and County Park	Single-family residence & Stormwater retention pond

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

The subject property consists of a 0.58 acre lot created through the Birr Court plat, recorded in March 1955. The property is developed with a 2,580 sq. ft. single-family residence with an attached two-car garage. The home was constructed in 1964. There is also an in-ground pool, which according to historical aerial photographs, has been in existence since at least 1971. No permits from that era are available in the County's records for these improvements. The applicant purchased the property in October 2019.

In June 2020, code enforcement cited the owner (Incident #573264) for installation of six (6) ft. tall opaque PVC fencing in the front yard without a permit. The applicant applied in July 2020, for an after-the-fact fence permit (F20013070), for a six (6) ft. high fence in the front yard setback, which cannot be issued without the requested variances. The fencing in question consists of 24 ft. of fence along the south front property line, and two (2) segments forming the southeast corner of the yard with six (6) ft. along the south property line and 12 ft. extending north along the east property line.

Per Sec. 38-1408 Fences and walls (g)(1), fencing located within the front yard setback in all residential and office zoning districts except R-CE, R-CE-2 and R-CE-5, are to be limited to no more than four (4) ft. in height. Furthermore, Sec. 38-1408 (a), requires a 15 ft. corner triangle, commonly refer to as the "clear view triangle." The purpose of the clear view triangle area for the driveway is to ensure adequate site distance visibility. This provision is similar to sight distance triangle requirements, which are required at intersections in order to provide clear sight vehicular visibility.

To the east of the subject property is a County owned parcel used for stormwater management. To the east of the Birr Court subdivision is Randolph Ave., which dead ends into Lake Conway. The northern 550+ ft. of the Randolph Ave. right-of-way is used for the Woodmere boat ramp. The applicant states that the need for the increased height of the front yard fence is due to the boat ramp. They state that vehicles towing trailers, especially large trucks, make wrong turns onto Birr Ct. rather than Randolph Ave., and take a considerable

amount of time negotiating the end of the cul-de-sac, resulting in bright lights shining into their windows at night and in the morning hours. The neighbor immediately to the south submitted a letter of support.

District Development Standards

	Code Requirement	Proposed
Max Height:	4 ft. (Fence in front yard)	6 ft. (Fence in front yard)
Min. Lot Width:	75 ft.	105 ft. (At building line)
Min. Lot Size:	7,500 sq. ft.	25,289 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft.	35 ft. (Southeast)
Rear:	30 ft.	58 ft. (Northwest)
Side:	7.5 ft.	9 ft. (South)/23 ft. (East)
NHWE	50 ft.	180+ ft.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances for the requested variances since there are other options to lower the height by two (2) ft. without impacting the functionality of the single-family site. A four (4) ft. high fence will serve the same purpose, and prior residents lived for decades without a six (6) ft. high fence. If a permit was submitted prior to installation, the fence could have been installed in compliance with the code. There are no special conditions or circumstances that would support blocking the clear view triangle on the subject site as well as the site to the south.

Not Self-Created

The fence was installed without a permit. Had the applicant obtained the required permit, the permitted height of the fence would have been identified, and the clear view triangle could have been maintained. This is a self-created hardship.

No Special Privilege Conferred

No other homes on Birr Ct. have fences in excess of four (4) ft. in height in their front yards or blocking the clear view triangle, and the majority of homes on the street have no fencing in the front yard. This would be granting a special privilege not granted to others in the same circumstances. Approval of the variance as requested confers special privilege that is denied to other properties in the same area and zoning district, as the applicant could have installed the fence in a conforming height and location.

Deprivation of Rights

Deprivation of rights is not a consideration since the applicant will be able to utilize the property as a single-family residence with a fence height less than that proposed, and located outside of the clear view triangle.

Minimum Possible Variance

The applicant has the option to lower the fence to four (4) ft., so this is not a minimum possible variance. If the fence was located 15 ft. back from the front property line, the variance for the clear view triangle would not be needed.

Purpose and Intent

Approval of this request will not be in harmony with the purpose and intent of the zoning regulations and would be detrimental to the neighborhood. The purpose and intent of the fence height limitation is to maintain a more open visible appearance in front yards, and to prevent the "canyon" effect where one drives down a street with a monotonous view of tall fencing, which is also a visibility issue. The purpose of the clear site triangle is to provide unhindered sight visibility for safety.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated September 16, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain a permit for the fence within 45 days of final action on this application by Orange County or this approval becomes null and void.

C: Nicole Deeb
5600 Birr Ct.
Orlando, FL 32809

COVER LETTER

To Whom it May Concern:

This is a unique lot set at the end of street on Birr Ct. There is only one neighbor to the south, the other lot to the west is a county owned drainage pond surrounded by a 6ft fence. Just by nature of our shape of the lot, the "front" and "side" of the home are uniquely the same (south facing) property line. It has been determined by the zoning department the last 25ft of the south property line closest to the street is considered "front" of the home, as such only a 4ft high fence is allowed by code. We are respectfully requesting a variance to accomplish our goal of creating a consistent front privacy fence on the south property line. Birr Ct is the street running directly parallel to Randolph Ave off Hoffner, where the very busy Randolph ave Public boat ramp sits. On busy boat days the ramp area backs up and the public uses Birr ct as a pick/drop off as it is in such close proximity to Randolph ave. Our reason for wanting a fence with a gate in general is because some people with boat trailers can't make the tight turn around the Birr Ct cul de sac, and pull into our private driveway (private drive signs posted) instead of making a multi-point turn around. People are also dropped off on Birr Ct and wander through our driveway trying to make their way to the water. By granting this reasonable variance on this unique lot would let us enjoy reasonable use of the home. There is an old 85ft long fence running from the east which ends halfway down the driveway, the variance would allow us the additional 35 ft to complete the fence line. This would be a continuous 125ft, 6ft high quality white vinyl fence with decorative caps connecting the 6ft high county owned chain link fence to the west and the county owned 6ft high rock wall to the east, set back from the neighbor's property line by 1ft. Completed by a licensed and insured contractor Fred Fox of "Sgt York Property Maintenance". We asked our neighbor Vikki Cooper permission and she is in support of the fence addition and wrote a letter of no objection which is attached. This is the minimum possible to make use of the current driveway while maintaining a beautiful straight-line front facing fence aesthetic from the street.

In short, the six conditions set forth to qualify for a variance are satisfied as follows:

1. Special Conditions and Circumstances:

Our lot location at the end of Birr ct is uniquely shaped with both the "front" and "side" of the lot being the same south facing property line. The lot is also unique in its location and proximity to the public boat ramp.

2. Not Self-Created:

We did not create the lot in this shape, and have no control over the location of the public boat ramp or people using Birr ct for pickup/dropoff.

3. No Special Privilege Conferred:

Our goal of this variance is to simply preserve our privacy of the lot and maintain reasonable use of our home.

4. Deprivation of Rights:

Our reason for requesting the 6ft fence high as opposed to a 4ft fence and the reason for the variance request is to add the necessary privacy to prevent trespassing to the

public boat ramp, as well as block all the headlights from the increased traffic down Birr ct. It is not uncommon for a truck and trailer to spend 10 minutes attempting to control their boat trailer in the tight cul de sac with their very bright headlights flooding out our windows early in the morning. We believe this fence will also help prevent people who are dropped off on Birr ct from trespassing as they make their way to the water.

5. Minimum Possible Variance:

The fence is placed setback an extra 1ft on our property to maintain a straight fence line between the two county owned fences on either side. We are only asking for an increase of 2ft in fence height, from the allowed 4ft to 6ft. This extra 2 feet will enable the fence to block the bright headlights from the large boat hauling trucks. We do not need an 8ft fence to accomplish this.

6. Purpose and Intent:

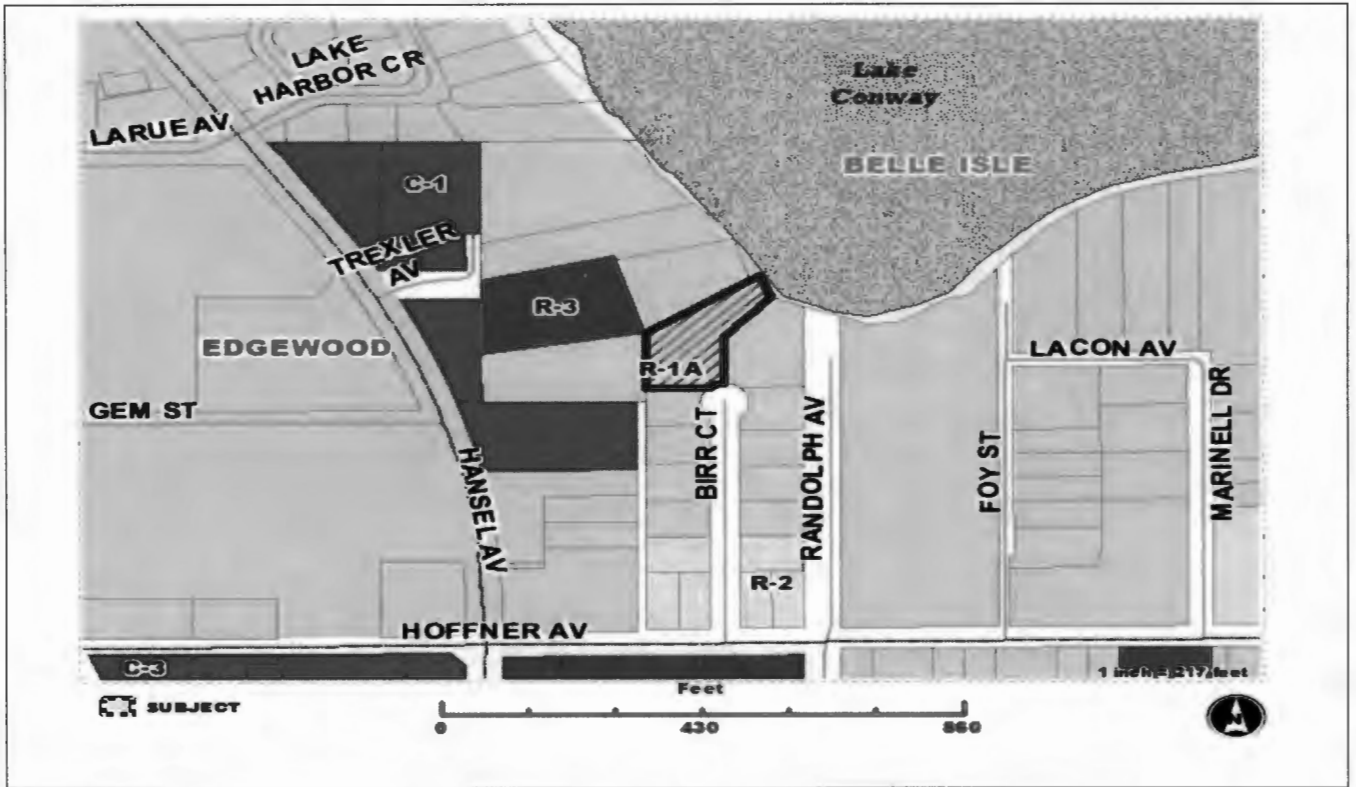
We are at the end of the cul-de-sac and the addition of this fence will not block any other properties visibility or public use in any way and the 6ft white vinyl aesthetic is in harmony with the area. In addition, our Neighbor who shares the south facing property line with us wrote a letter of no objection in support of the fence.

Please let me know if you have any questions or require additional information. Thank you very much for your time.

Best regards,

Nicole Deeb and Peter Zachman
Owners, 5600 Birr Ct, Orlando FL 32809

ZONING MAP



AERIAL MAP



SURVEY

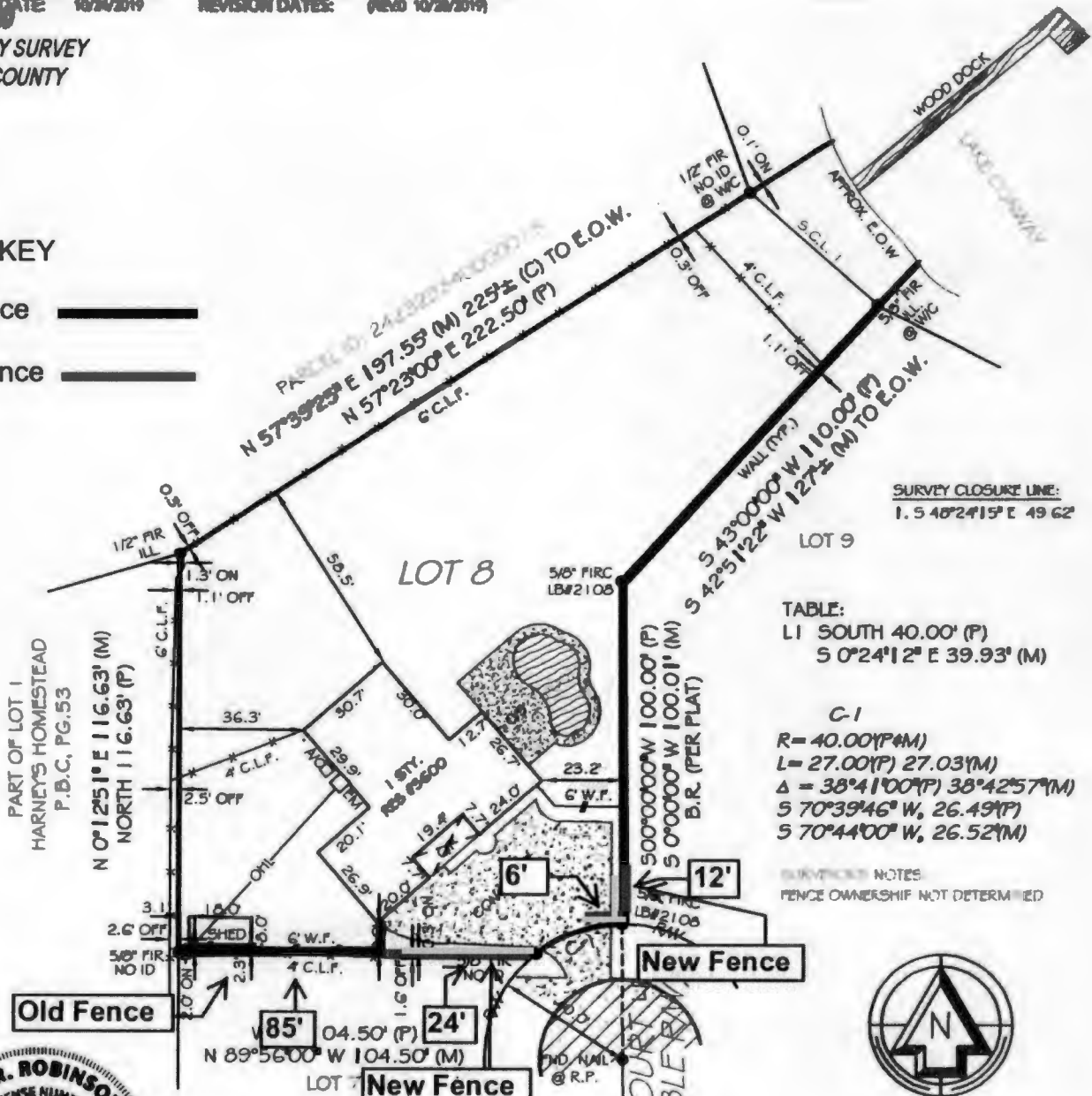
FIELD BOOK DATE: 10/24/2019 REVISION DATES: (NONE) 10/28/2019

**BOUNDARY SURVEY
ORANGE COUNTY**

KEY

Old Fence

New Fence

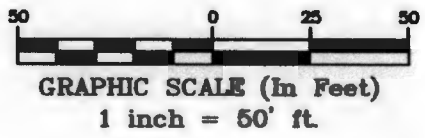


SURVEY CLOSURE LINE:
1. S 1°54'24.15\"/>

TABLE:
L1 SOUTH 40.00' (P)
S 0°24'12\"/>

C-1
R = 40.00'(P) 4M)
L = 27.00'(P) 27.03'(M)
Δ = 38°41'00\"/>

SURVEY NOTES:
FENCE OWNERSHIP NOT DETERMINED



PHILLIP R. ROBINSON
LICENSE NUMBER: 7190
I hereby certify that this Boundary Survey of the hereon described property has been made under my direct supervision to the best of my knowledge and belief, it is a true and accurate representation of the survey that meets the Standards of Practice set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17 of the Florida Administrative Code.
PHILLIP R. ROBINSON
STATE OF FLORIDA PROFESSIONAL SURVEYOR & MAPPER
LICENSE NO. 7190

SITE PHOTOS



Subject property looking west



Subject property looking northwest from Birr Ct.

SITE PHOTOS



View from supporting neighbor's property looking west from Birr Ct.



Section of fence in violation looking west from driveway

SITE PHOTOS



Section in violation in southeast corner of property looking east



Existing vegetation along easterly property line looking northeast

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 03, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-12-109**

Commission District: **#2**

GENERAL INFORMATION

APPLICANT(s): JULIAN RAMIREZ, IRIS SOTO (CRISTINE ROSENHAIM)

OWNER(s): JUAN RAMIREZ, IRIS SOTO

REQUEST: Variances in the A-1 zoning district for the construction of a 3,041 sq. ft. single-family residence as follows:

- 1) To allow a 8,100 sq. ft. of lot area in lieu of 21,780 sq. ft. (1/2 acre)
- 2) To allow a north rear setback of 22.5 ft. in lieu of 50 ft.

PROPERTY LOCATION: 3413 Fudge Rd., Apopka, FL 32712, north side of Fudge Rd, north of W. Orange Blossom Trl.

PARCEL ID: 36-20-27-5754-02-110

LOT SIZE: 60 ft. x 135 ft./ 0.18 acres (8,100 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 100

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

1. Development shall be in accordance with the site plan and elevations dated September 21, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain a building permit within two (2) years of final action by Orange County on this application, or this approval shall be null and void.

SYNOPSIS: Staff described the applicant's proposal for the subject property, including the site plan and the requested square footage of the proposed one-story home. Staff explained the plat history and the lot sizes, the zoning in place at the time of recordation, and the history of approved variances within the surrounding subdivision pertaining to setbacks and lot sizes. Staff noted that there had been no correspondence in favor or opposition received for this request. Staff reviewed the six (6) criteria and the reasons for the recommendation for approval of variance #1 since the owner is not responsible for the platting of the lot, nor the Zoning District, and denial of variance #2 since this is new construction and there are alternatives pertaining to the location, size, and the number of stories of the new house respective to the rear property line.

The agent for the applicant explained the reasons for the setback request which is necessitated by the need for a one-story house.

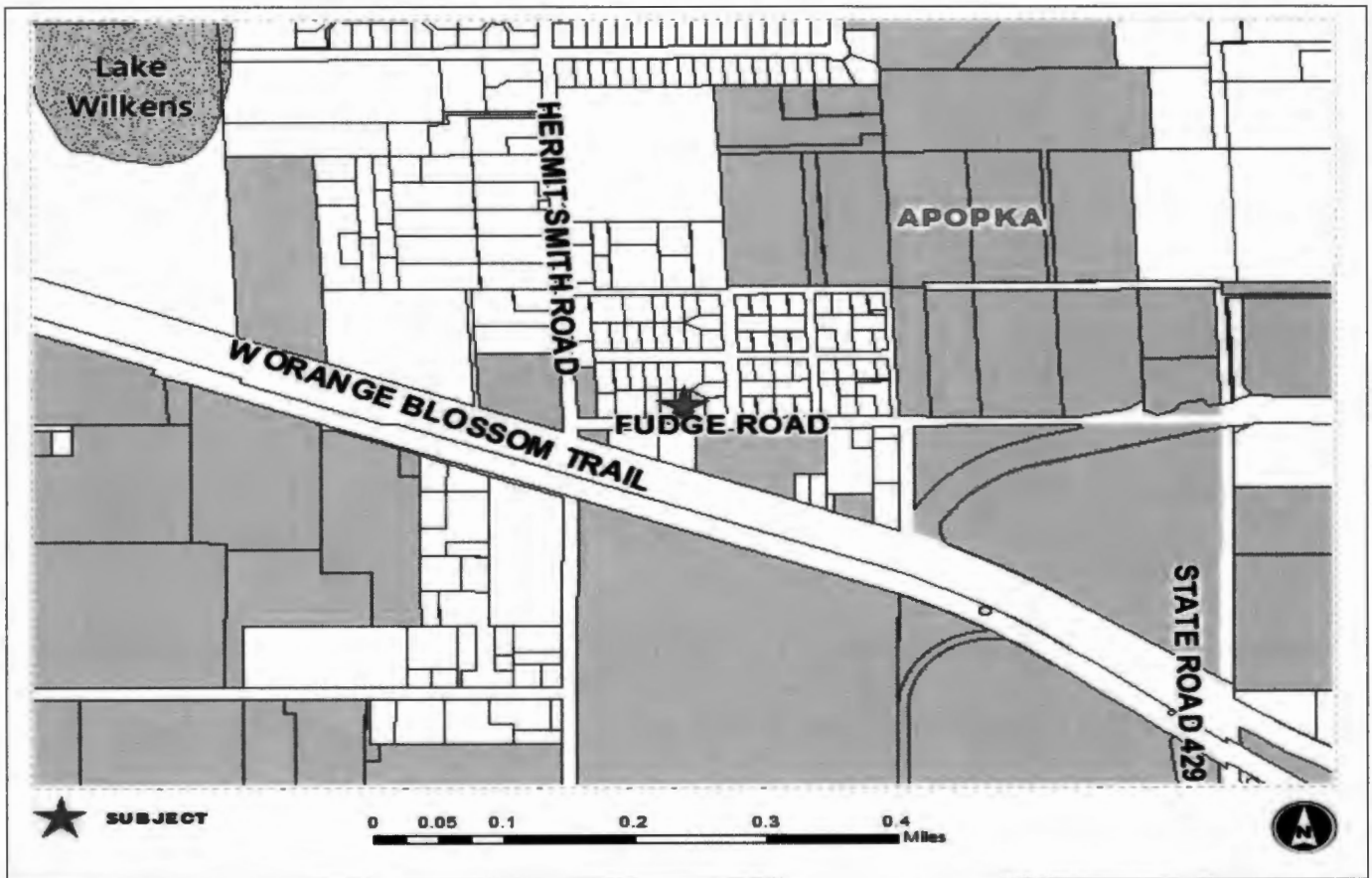
There was no one present to speak in favor or opposition to the request.

The BZA concluded that there were sufficient criteria to justify approval of the variances in that the special conditions and circumstances and recording the subdivision with non-conforming lots deprived the applicant the full use of the property; the applicant is not responsible for the current configuration of the lot because the platting created the non-conformity; there is no special privilege conferred in that the county set a precedent by approving 3 variances for the reduction of rear setbacks, one being 22.99 feet; without the approval of variance #2, the applicant would be deprived of the right to construct the desired home; the non-conforming lot size was established by the plat and therefore variance #2 would be the minimum variance required to construct the applicant's home; and the purpose and intent of the approval of variance #2 would be consistent with prior approved variances for front, side and rear setbacks in order to cure non-conforming lot configurations for residents to develop lawfully created lots and parcels; and unanimously recommended approval of the variances by a 6-0 vote, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval of Variance 1, and denial of Variance 2, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-1 Citrus Rural zoning district, which allows agricultural uses, mobile homes, and single-family with associated accessory structures on larger lots.

The subject property consists of a 60 ft. x 135 ft. lot created through the Morrison's Subdivision First Addition plat, which was recorded in 1966. A single-family residence was located on the property until mid 2014 when it was demolished (B14006207).

The applicant intends to develop the property with a single-story 3,041 sq. ft. single-family home with an attached two-car garage. The applicant's current proposal meets the front and side setbacks, but requires a variance (#2), for a 22.5 ft. rear setback in lieu of 50 ft.

While the subdivision appears to have been designed to meet R-1, Single-Family Dwelling District standards, the property is zoned A-1. The difference in setbacks requirements is significant. The R-1 setbacks are 25 ft. front and rear, and six (6) ft. sides. In the A-1 zoning district the front setback is 35 ft., the rear is 50 ft., and the sides are 10 ft.

At the time of platting, the subject property was zoned A-1. The County code at the time required a minimum lot area of 10,000 sq. ft., and a minimum of 85 ft. of lot width in the A-1 zoning district, but the plat did not meet these requirements at the time of recordation and most lots were platted at 60 ft. wide, containing 8,100 sq. ft. of lot area. Since the lots in the Morrison's Subdivision First Addition plat were legally recorded containing a 60 ft. width, for the past 50 years new construction has only required a variance (#1) for the substandard size since the parcels are legal, but non-conforming, lots of record.

Staff reviewed the history of past BZA requests. Since the 1970s, variances have been approved for 19 properties in the area to develop as substandard lots. In addition, nine (9) properties were approved with variances for reductions in front, rear, and/or side setbacks.

The three (3) lots immediately to the east were all granted variances for a 25 ft. front setback, and variances for 47 ft., 46 ft., and 22.99 ft. rear setbacks in 1978.

In order to reduce or eliminate the setback variance, staff discussed with the applicant the option to propose a two-story structure or reducing the footprint. The applicant indicated that the construction of a two-story home is not desired, and the large footprint is needed.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	15 ft.
Min. Lot Width:	100 ft.	60 ft.
Min. Lot Size:	0.5 acres/21,780 sq. ft.	0.18 acres/8,100 sq. ft. (Variance #1)

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

	Code Requirement	Proposed
Front:	35 ft.	35 ft.
Rear:	50 ft.	22.5 ft. (Variance #2)
Side:	10 ft.	10 ft. (East & West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1

The lot is 135 ft. deep, generally rectangular in shape and does not have any natural impediments, such as wetlands or hydric soils. However, without the variance for the lot size, this lot would be undevelopable.

Variance #2

There are no special conditions or circumstances, as the applicant could reduce the footprint of the home, or propose a two-story design in order to meet County Code.

Not Self-Created

Variance #1

The applicant is not responsible for the platting of the lot, nor the Zoning District. The substandard aspect of the lot is not self-created.

Variance #2

The applicant is proposing a very large floor plan with over 3,000 sq. ft. of floor area. The applicant could reduce the floor area, or go to a two-story design to accommodate the needed sq. footage while still meeting code. By choosing such a large single story floor plan, the need for the variance becomes self-created.

No Special Privilege Conferred

Variance #1

Other nonconforming lots have been developed in the subdivision with single-family residences. Therefore, granting approval of the variance to allow development of the lot will not grant a special privilege.

Variance #2

Granting the variance will grant a special privilege since the applicant has alternatives pertaining to the location, size, and number of stories of the new house respective to the rear property line.

Deprivation of Rights**Variance #1**

Without the variance for lot size, the lot will be undevelopable, which would deprive the applicant of the use of the property.

Variance #2

Deprivation of rights is not a consideration since the applicant can still construct a single-family home with a smaller footprint or two-stories high.

Minimum Possible Variance**Variance #1**

The lot size is established by the plat. Therefore, granting the lot size variance will be the minimum possible variance.

Variance #2

Since the applicant could redesign the home to have a footprint which meets the rear setback by either reducing the square footage, or going to a two-story height in a manner that meets Code, the request is not the minimum possible variance.

Purpose and Intent**Variance #1**

The granting of the variance for the lot size will be consistent with the purpose and intent of the Code, which is to allow development of lawfully created lots and parcels.

Variance #2

The granting of the variance for the rear setback will be contrary to the purpose and intent of the County Code, and will be detrimental to the neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated September 21, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency.

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

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain a building permit within two (2) years of final action by Orange County on this application, or this approval shall be null and void.

C: Cristine Rosenhaim
144 Ancona Ave.
Debary, FL 32713

COVER LETTER

September 16, 2020

To: Orange County
Board of Zoning Adjustment - BZA
Variance Application

From: Cristine Rosenhaim (Authorized Agent)
Juan Manuel Ramirez & Iris Soto (Owners)

Ref. 3413 Fudge Rd, Apopka, FL 32712
Parcel ID: 36-20-27-5754-02-110
Property Description: MORRISONS SUB FIRST ADDITION 1/95 LOT 11 BLOCK B

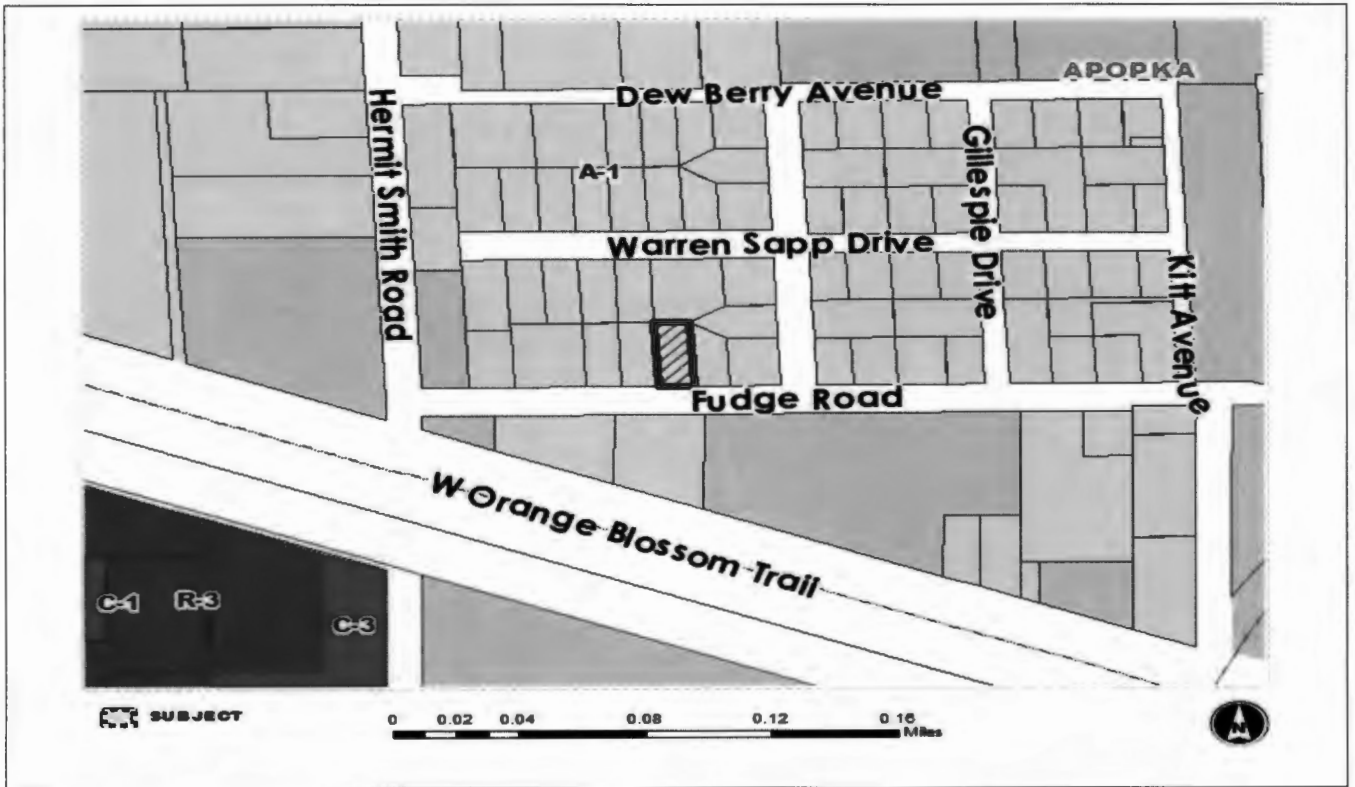
We are planning to build a new residence (ours) in the land describe above and in order to do that it is necessary that a variance to be granted. The criteria for the requested variance as follow:

1. Special Conditions and Circumstances: The reference property is zoned A-1 and its actual size is 0.19 acres (8074 sq ft +/-), making it a non-conforming lot in accordance with its minimum zoning requirements.
2. Not Self-Created: The lot was plat and not modified in size since then:
Document # 1966P001095 Recording Date 06/30/1966 12:00:00 PM
3. No Special Privilege Conferred: Almost **none** of the residences built on the same neighborhood meet the setbacks required by their zoning district (A-1), suggesting that many of them had a variance granted in the past.
4. Deprivation of Rights: Complying with the required A-1 setbacks on a small property makes difficult if not impossible to develop a residential project that fit our minimal family needs.
5. Minimum Possible Variance: We are requesting the possibility to build a new residence in this non-conforming land lot as well the reduction of the rear setback from 50 feet to 20 feet
6. Purpose and Intent: To build a new residential building that comply with my family minimal basic needs.

We appreciate the attention to this important matter. Any question or comments please contact me at 386 574 0401 or e-mail omegadesignarch@gmail.com

Cristine Rosenhaim
Authorized Agent

ZONING MAP



AERIAL MAP



SITE PLAN

E
 REVENTER
 R
 A
 ENCHMARK
 RNER OF RECORD



GRAPHIC SCALE: 1"=30'

BLOCK B
 LOT 4

BLOCK B
 LOT 5

BLOCK B
 LOT 6

BLOCK B
 LOT 8

BLOCK B
 LOT 12

BLOCK B
 LOT 11

BLOCK B
 LOT 10

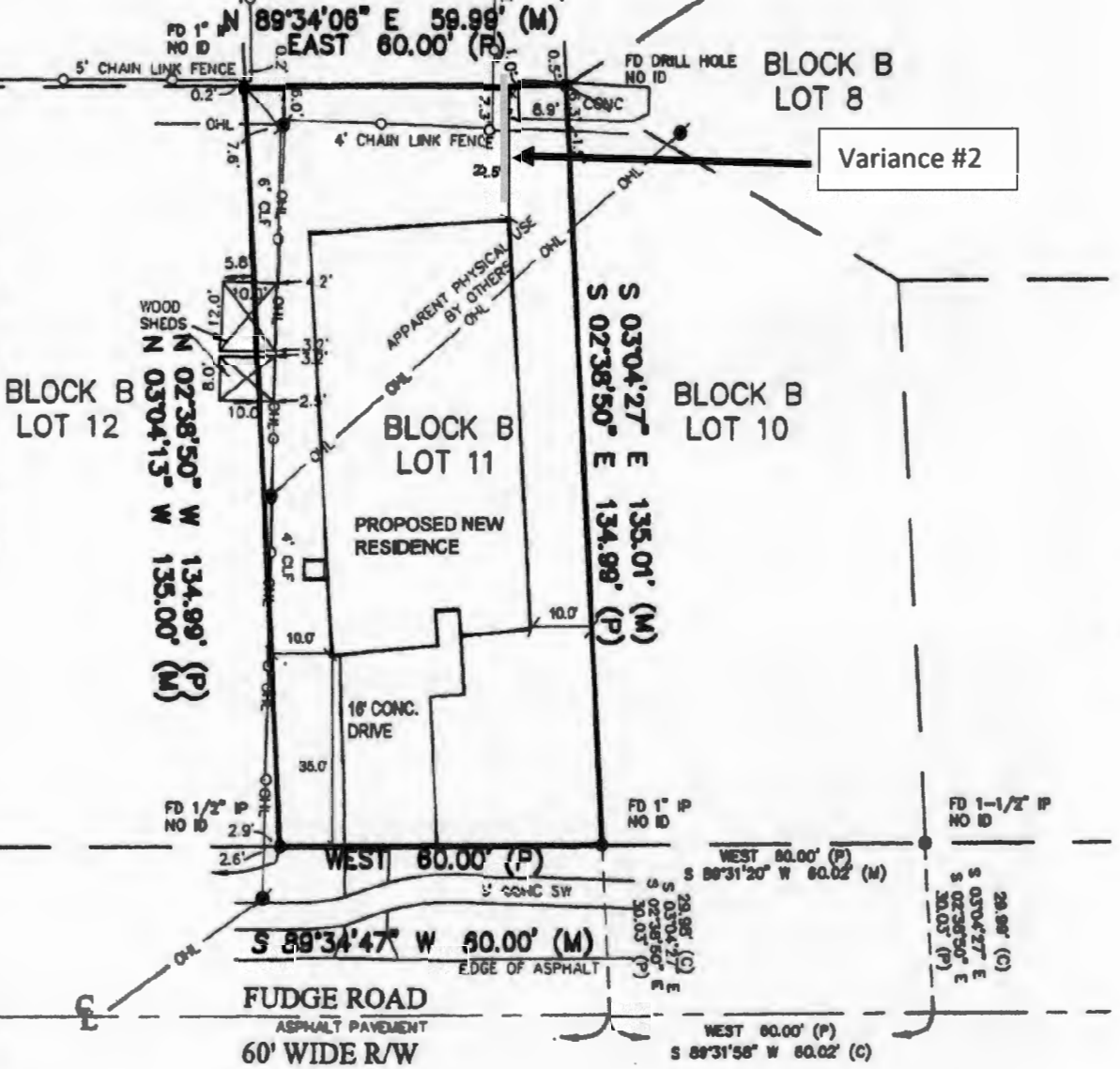
Variance #2

PROPOSED NEW
 RESIDENCE

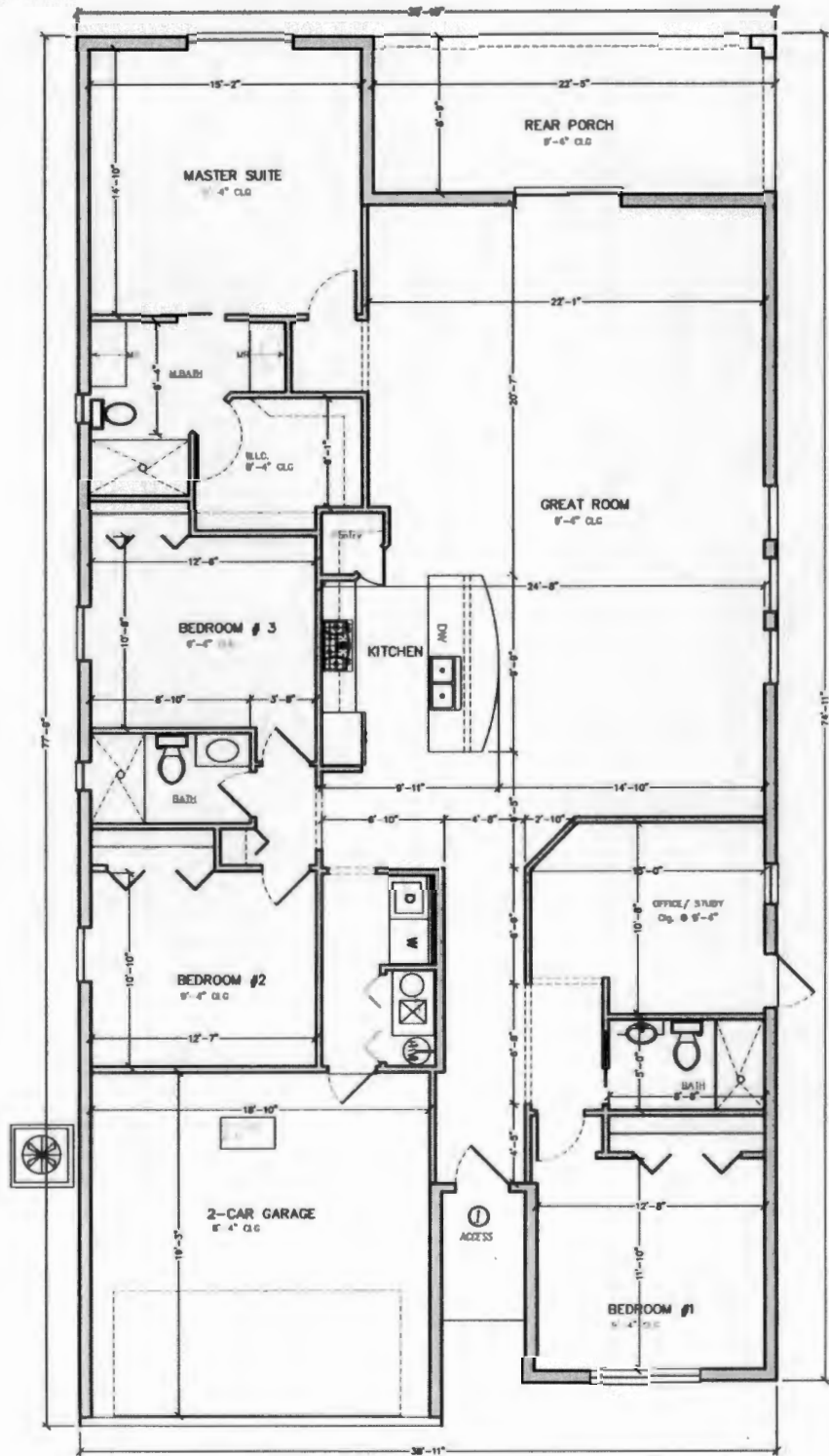
16' CONC.
 DRIVE

FUDGE ROAD
 ASPHALT PAVEMENT
 60' WIDE R/W

WEST 485.03' (P)
 1°31'58" W 484.97' (C)
 BASIS OF BEARINGS



FLOOR PLAN



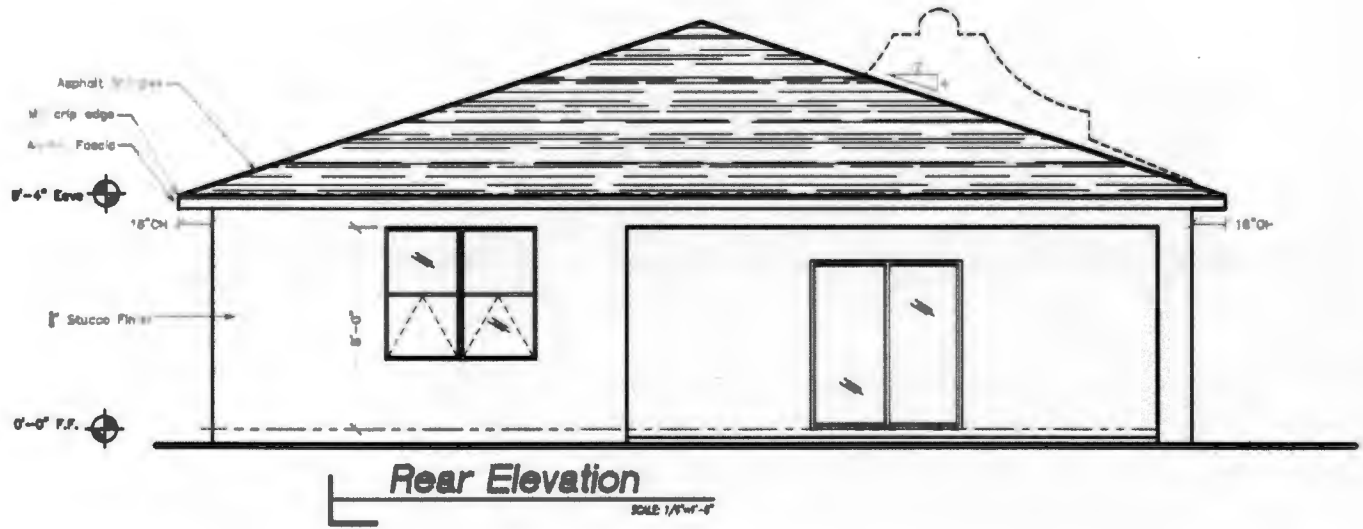
Floor Plan

SCALE: 1/8"=1' 0"

3413 Fudge Rd. Apopka, FL 32712

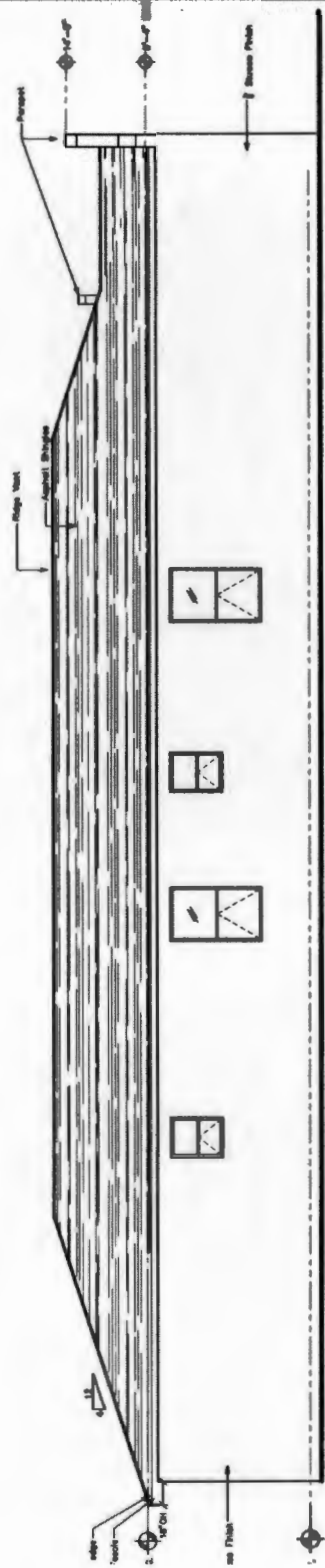


Front Elevation
3413 Fudge Rd. Apopka, FL 32712



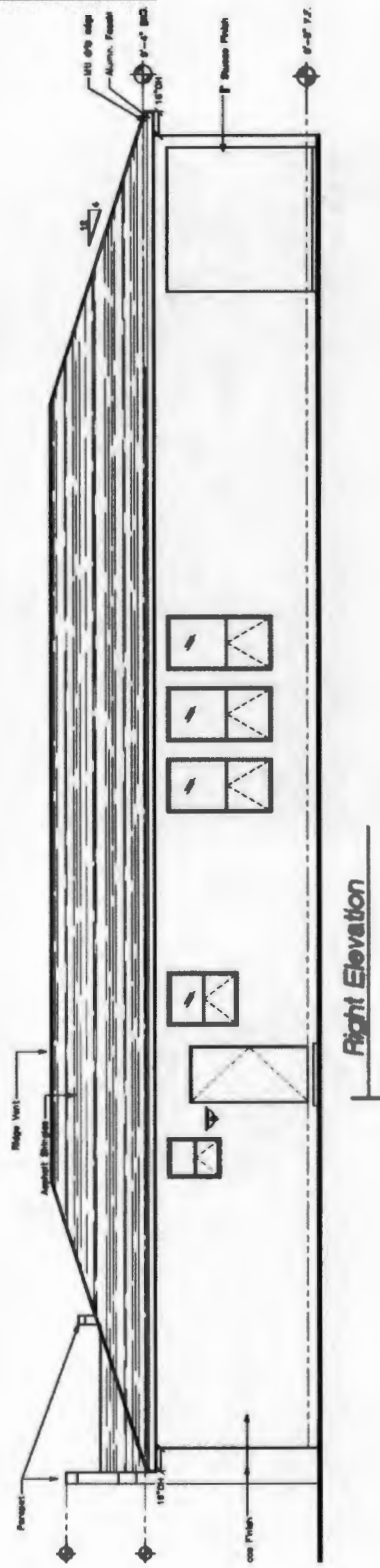
FRONT/REAR ELEVATIONS

SIDE ELEVATIONS



Left Elevation

3413 Fudge Rd. Apopka, FL 32712



Right Elevation

SITE PHOTOS



Subject property looking northeast



Subject property looking north

SITE PHOTOS



Subject property looking northwest

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 03, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-12-119**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): SHELBY WALKER

OWNER(s): SHELBY WALKER

REQUEST: Variance in the R-1AA zoning district to allow a covered porch with a north rear setback of 32 ft. in lieu of 35 ft.

PROPERTY LOCATION: 9219 Buttonwood Street, Orlando, Florida, 32825, northeast corner of Buttonwood St. and Charleswood Ave., south of Lake Underhill Rd., and west of S. Econlockhatchee Trl.

PARCEL ID: 31-22-31-1990-00-320

LOT SIZE: 0.31 acres

NOTICE AREA: 600 ft.

NUMBER OF NOTICES: 149

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; 6-0 and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated October 14, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain a building permit within two (2) years of final action on this application by the County, or this approval shall be null and void.

SYNOPSIS: Staff described the property, including the site size, site conditions and street orientation, and the history of the subject property, which was developed with a home until 2013. Staff noted that the applicant provided two (2) letters of support from the homeowners to the east and north, and from the HOA. Staff provided an analysis of the six (6) criteria, and the reasons for a denial recommendation because new construction allows the opportunity to meet current code setback requirements.

The applicant indicated that she initially assumed that the house plans met Zoning Code setback requirements, but there are more restrictive setbacks based upon the time the subdivision was platted, prior to 1997. She asserted that there are other houses in the neighborhood with similar setbacks, the request is minimal and is only proposed for a porch, and not living area, and that if she was allowed to meet the newer required setback requirements, a variance would not be needed.

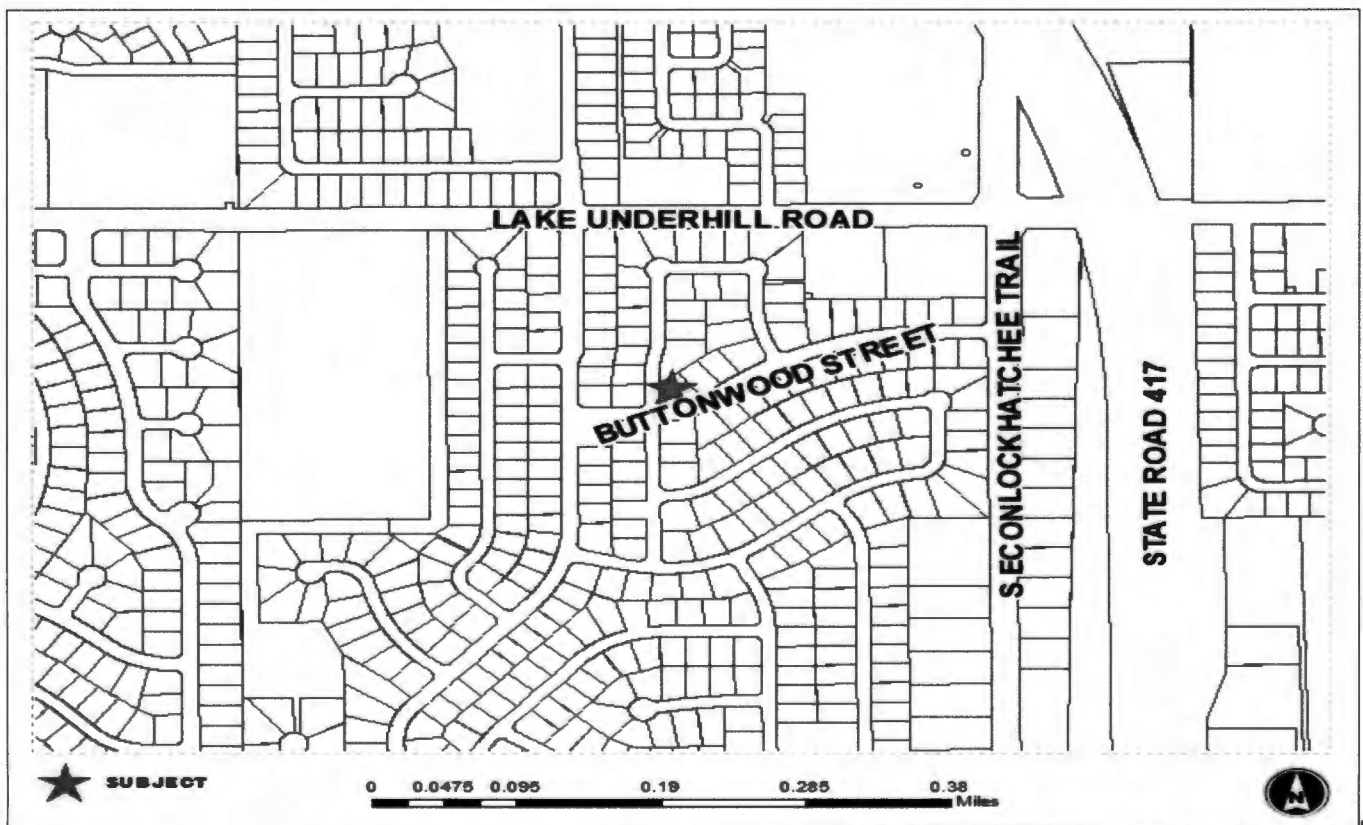
The BZA clarified with staff the difference between the different setback requirements based upon the time the plat was recorded.

No one was in attendance to speak in support or opposition to the request. The BZA unanimously recommended approval of the variance by a 6-0 vote, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA find that the applicant has satisfied the criteria required 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-1AA	R-1AA	R-1AA	R-1AA	R-1AA
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Vacant	Single-family residence	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1AA, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on lots a minimum of 10,000 sq. ft. or greater.

The subject property consists of an irregularly shaped lot with 0.31 acres (13,895 sq. ft.) of lot area. The lot was created through the Deerwood Unit 2 plat, recorded in late 1979. The site had been developed with a single-family home up until 2013 when the structure was demolished (B13002685).

The applicant is proposing to construct a new single-family home on the property with a total of 2,161 sq. ft. of floor area, including an attached two-car garage, and a 160 sq. ft. covered porch on the rear of the home. The proposed covered porch encroaches three (3) ft. into the rear setback with a 32 ft. setback in lieu of 35 ft.

Per code, the front of a residential lot is the narrowest portion of the lot abutting a street. Using this definition, the code would consider Charleswood Ave. as the front of the subject property. However, code provides that in cases of a reverse frontage lot, the determination of a front yard shall be made by the Zoning Manager. In this case, the Zoning Manager has determined that Buttonwood St. would be the lot frontage for the purpose of zoning, as it would allow for a larger buildable area and would create consistency with the orientation of the adjacent lot to the east.

The applicant desires to have a covered porch as opposed to a screen room. The porch is similar in design to a lanai with a permanent roof. Both of the most impacted neighbors to the north and east have provided letters of support, as has the HOA.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	15 ft.
Min. Lot Width:	85 ft.	147 ft.
Min. Lot Size:	10,000 sq. ft.	13,933 sq. ft.

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

	Code Requirement	Proposed
Front:	30 ft. (Buttonwood St.)	30 ft. (South)
Rear:	35 ft.	32 ft. (North, variance)
Side:	7.5 ft.	20.7 ft. (East)
Sidestreet:	15 ft. (Charleswood Ave.)	24.7 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

As new construction, the applicant has the ability to design a house which will comply with the required rear setbacks. There are no special conditions and circumstances specific to this property.

Not Self-Created

As new construction, the applicant could design a home with or without a covered porch that better utilizes the buildable area while also meeting the setback requirements. Therefore, the request is a self-created hardship.

No Special Privilege Conferred

Granting the requested variance would confer special privilege which is denied to others constructing new homes in the same area and district, as the applicant may eliminate the variance by reducing or modifying the footprint to meet Code requirements.

Deprivation of Rights

Deprivation of rights is not a consideration since without the variance the applicant will still be able to construct a single-family residence which meets County Code requirements.

Minimum Possible Variance

Since this is new construction, the house could be designed to meet County Code, this is not the minimum possible variance.

Purpose and Intent

The purpose and intent of the code is to ensure uniform development standards throughout a given community. The granting of the requested variance would be allowing non-uniform development which would be contrary to the purpose and intent, in that it would not be consistent with the Code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated October 14, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain a building permit within two (2) years of final action on this application by the County, or this approval shall be null and void.

C: Shelby Walker
9014 Calwood Ct.
Orlando, FL 32825

COVER LETTER

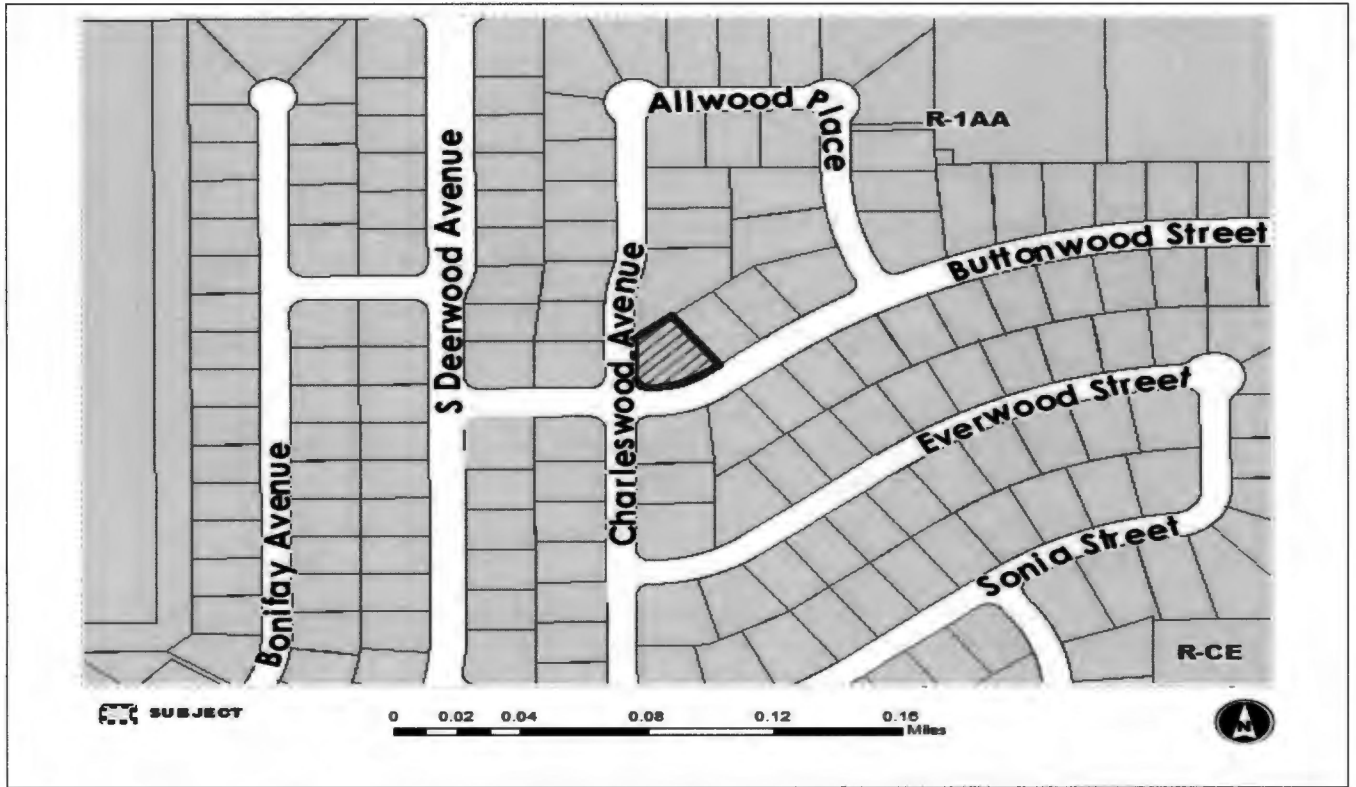
To whom it may concern;

I am in the process of obtaining permits to build a 1500 sq ft single family home at 9219 Buttonwood Street, Orlando, FL. In the process, we discovered that this lot has big setbacks for the size of the lot (35' rear and 30' front). The trussed porch would violate current setbacks by 3 feet. The porch will be a hipped truss roof attached to the roof of the proposed house. It will be built on a concrete slab with brick pavers on top of the concrete and have 9' tall ceiling and a ceiling fan and lights.

1. I am requesting a variance of 3 feet from the rear 35 foot setback. This is needed because the setbacks on this lot are very restrictive due the size of the lot. It's a corner lot and odd shaped. (We had to work to get a 1500 sq ft house to fit on the lot)
2. The house has not been built and we are trying to put a modest 16X10 trussed porch on the rear of the house.
3. The houses around us are closer to the rear and front lines than this house will be (they were built to older rules).
4. I don't feel the 3 foot variance would cause us or anyone in the future harm or damages to the properties use and/or values.
5. The 3 feet is the minimum we could request. We twisted the house and moved as far forwars as possible.
6. I feel that the trussed porch will add value, and be a more enjoyable backyard in Florida. Also, the adjoining neighbors have signed letters stating that it would not bother them and/or adversely affect them. (Letters attached)

Thank you,
Shelby Walker

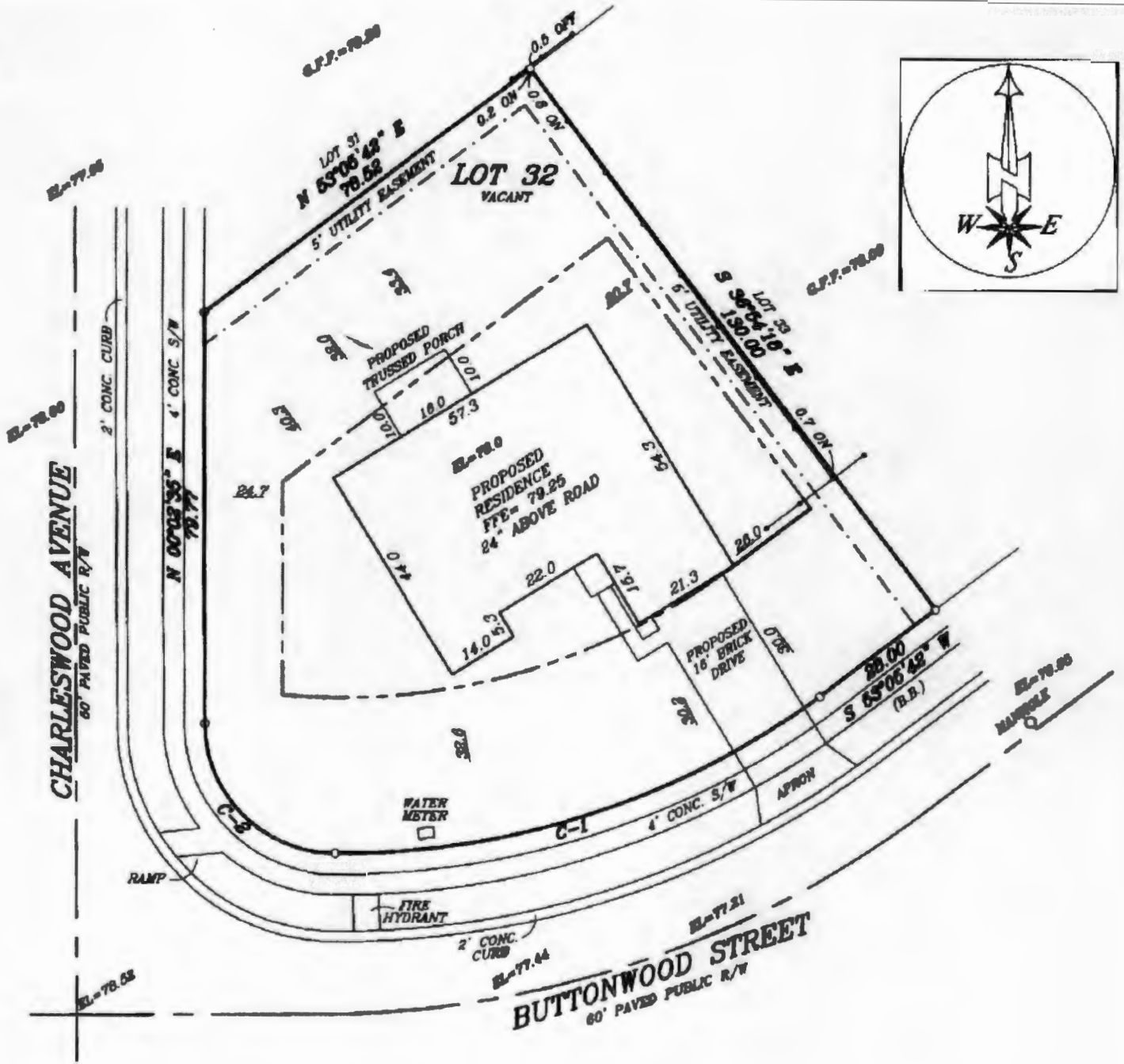
ZONING MAP

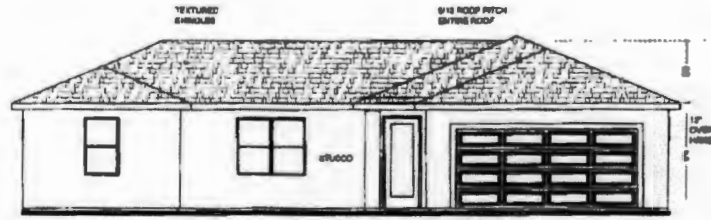


AERIAL MAP

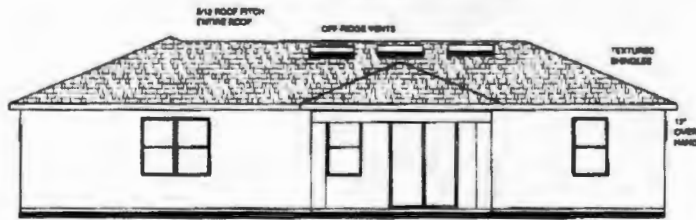


SITE PLAN

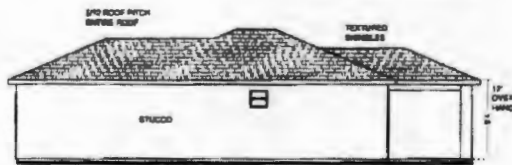




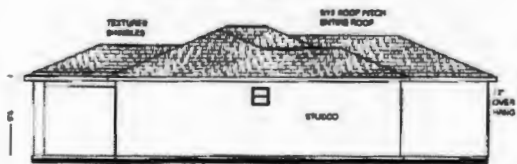
FRONT ELEVATION 1/4" = 1'-0"



REAR ELEVATION 1/4" = 1'-0"



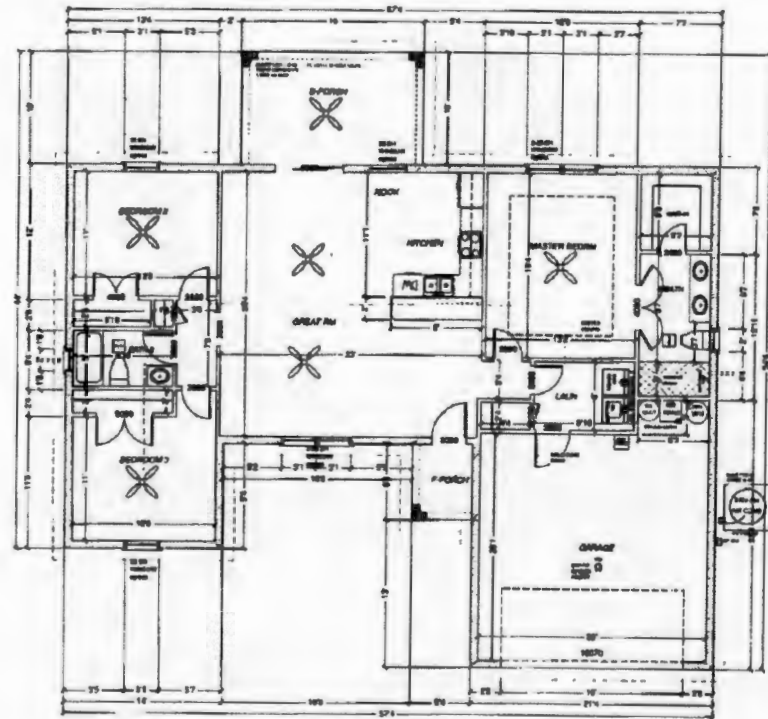
RIGHT ELEVATION 3/16" = 1'-0"



LEFT ELEVATION 3/16" = 1'-0"

PROJECT CALCS:
 1,497 SF AC
 SPACE
 160 SF B-PORCH
 36 SF F-PORCH
 468 SF GAR
 TOTAL SF =
 2,161

HUGH GRIFFITH - designer
 1360 GRAND CAYMAN DR
 MERRITT ISLAND, FL 32952
 321-698-2303
 email ... griffithplans@yahoo.com
 website... griffithplans.com



FLOORPLAN 1/4" = 1'

walker prelim-1 aug3 2020

SITE PHOTOS



Subject property looking northwest from Buttonwood St.



Subject property looking west from Buttonwood St.

SITE PHOTOS



Subject property looking east from Charleswood Ave.



Northerly property line looking northwest from Charleswood Ave.

SITE PHOTOS



Subject property looking northwest from the corner of Charleswood Ave. and Buttonwood St.



Easterly property line looking northwest from Buttonwood St.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 03, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-12-116**

Commission District: **#2**

GENERAL INFORMATION

APPLICANT(s): MARIA PARKER

OWNER(s): MASON ALAN PARKER

REQUEST: Variance in the R-CE-2 zoning district to allow the construction of a single-family residence on 1.81 acres in lieu of 2 acres.

PROPERTY LOCATION: 4106 Dorwood Drive, Orlando, Florida, 32818, west side of Dorwood Dr., west of N. Apopka Vineland Rd., north of A D Mims Rd.

PARCEL ID: 10-22-28-0000-00-043

LOT SIZE: 266 ft. x 297/1.81 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 62

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; 6-0 and 1 absent):

1. Development shall be in accordance with the site plan dated October 14, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff briefly described the property, including the history of the property and the zoning district. Staff discussed the original size of the property when it was purchased by the family and how it met the minimum parcel size requirements at the time. Staff stated that the County obtained the eastern 30 ft. of the property for the construction of Dorwood Drive in 1957, which reduced the parcel size below the 2 acre threshold as required by the zoning district. Staff noted that correspondence from five (5) property owners was

received supporting the request, and none in opposition. Staff addressed the six (6) variance criteria and the reasons for the recommendation of approval of the request.

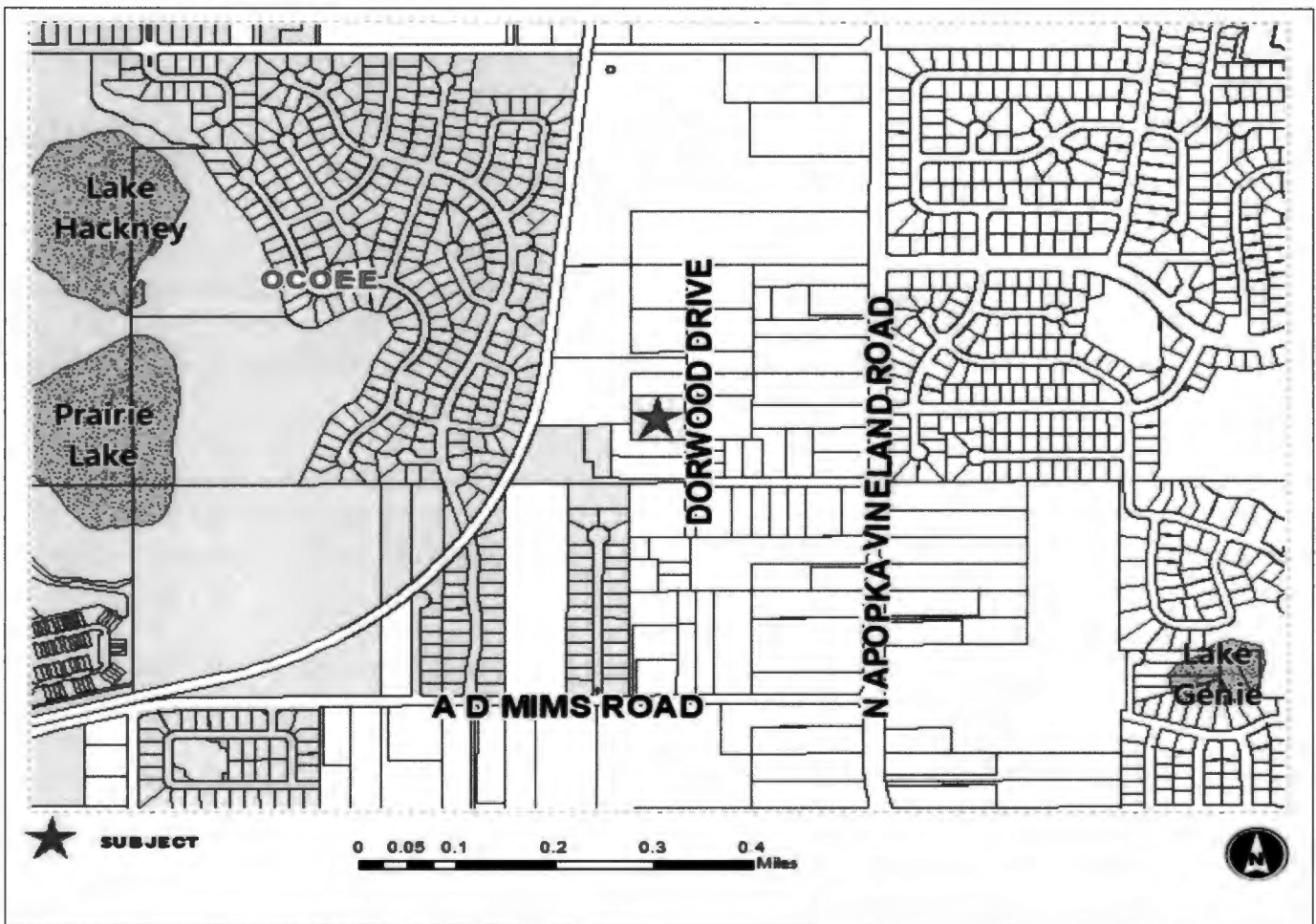
The applicant noted their agreement with staff and that they wanted to establish their permanent residence on the property.

No one was in attendance to speak in favor or opposition to the request. The BZA unanimously recommended approval of the variance with a 6-0 vote, subject to the three (3) conditions in this staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-CE-2	R-CE-2	R-CE	R-CE-2	A-1 & R-CE
Future Land Use	RS 1/1	RS 1/1	RS 1/1	RS 1/1	RS 1/1
Current Use	Vacant	Single-family residence	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-CE-2, Country Estate, which allows for primarily single-family development on two (2) acre lots and certain rural uses.

The subject property consists of 1.81 acres of undeveloped land. The property was rezoned from R-1A to R-CE-2 in 1981. The applicant is the heir of the prior owner who purchased the property in 1955.

The property is located within the Clarcona Rural Settlement. Rural Settlements are designated by the Comprehensive Plan to provide protection to areas of the County with a unique character which the residents wish to preserve. The Rural Settlement designation provides limitations on certain land uses, such as commercial or institutional. However, this designation typically does not restrict traditional residential development.

According to the legal description, in 1955 there was a 30 ft. easement across the east side of the property which was later converted to a right-of-way for the installation of Dorwood Dr. The current survey shows that the parcel has a depth of 297 ft., compared to the original 330 ft. depth. If 30 ft. of depth were included, the resulting parcel area would be approximately two (2) acres.

The property to the south of the subject property is zoned R-CE. Staff suggested that in order to match this district, the applicant may wish to rezone their property to R-CE instead of continuing the variance process. The applicant intends to construct a new single-family residence on the property, and the variance process would allow her to start construction in a more timely manner.

To the north of the subject property is a developed parcel which is also zoned R-CE-2, which is only 0.9 acres in size. To the southeast of the subject property, also in the R-CE-2 zoning district, are three (3) developed parcels just over 0.25 acres in size.

As of the writing of this report, staff has not received any correspondence regarding this application from those who were mailed notices. However, the applicant has proposed two letters of support from two property owners who live on the east side of Dorwood Dr. to the southeast of the subject property.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	19 ft.
Min. Lot Width:	250 ft.	266 ft.
Min. Lot Size:	2 acres	1.81 acres (Variance)

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

	Code Requirement	Proposed
Front:	45 ft.	113 ft. (East)
Rear:	50 ft.	112 ft. (West)
Side:	30 ft.	107 ft. (North)/94 ft. (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Based on staff research, it appears that 30 ft. of the subject property was acquired in June 1957, for the construction of Dorwood Dr. improvements. This is a special condition and circumstance.

Not Self-Created

Based on historical maps, the property was originally two (2) acres in size when the current owner's family purchased the property. Any subsequent reduction in land area is not the result of action by the applicant.

No Special Privilege Conferred

Given that there are several developed properties in the area zoned R-CE-2, which are significantly smaller in size than the subject property, granting the variance will not confer any special privilege denied to others in this area.

Deprivation of Rights

Deprivation of rights is not an issue. Without the variance, the applicant will be required to rezone the property to the R-CE zoning district in order to construct a residence. This could result in a delay in the start of construction.

Minimum Possible Variance

This is the minimum possible variance to allow the applicant to develop the property.

Purpose and Intent

Approval of this request will be in harmony with the purpose and intent of the Zoning Regulations, and will not be detrimental to the neighborhood. One of the purposes and intents of the code is to ensure consistency between a site's zoning and the underlying FLU. The FLU is RS 1/1, which allows a density of one (1) dwelling unit per acre. At just under two (2) acres, that purpose and intent are being met.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated October 14, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Maria Parker
3525 Calloway Dr.
Orlando, FL 32810

COVER LETTER

To Whom it may concern:

My name is Mason A Parker, I recently inherited the property at 4106 Dorwood Dr Orlando FL 32818 Property ID: 10-22-28-0000-00-043 which was purchased by my parents Peter and LouEllen Parker in 1956. At that point access to the property was a dirt road. In order to put a road in, the county took from our land which made the total size 1.8 Acres. It is currently zoned R-CE-2.

We are requesting a Variance of the 7,841 feet needed to build our Primary Residence.

The home will be built with concrete block.

The Total square footage of the home including the front porch, the back porch and the detached garage will be 3,840 square feet.

The dimensions will be 64'8" x 68'

The home will be 113' 7 ½" from the front/East road side of the property line

The home will be 111' 7" from the Back/West side of the property line

The home will be 106 1 ½" from the Right/North side of the property line

The home will be 94' 7 ½" from the Left/South of the property line

The proposed height is 18' 9 ½"

1. Special conditions and Circumstances: to the best of my knowledge when the property was purchased in 1956 it was two (2) acres, since then the road right of way was acquired to update 4106 Dorwood Dr.

2. Not Self-Created: I did not upgrade 4106 Dorwood Dr.

3. No Special Privilege Conferred: Numerous lots North & North East are far less than 2 acre and are developed.

4. Deprivation of Rights: We will have a 1.8 acre parcel of land that cannot be developed.

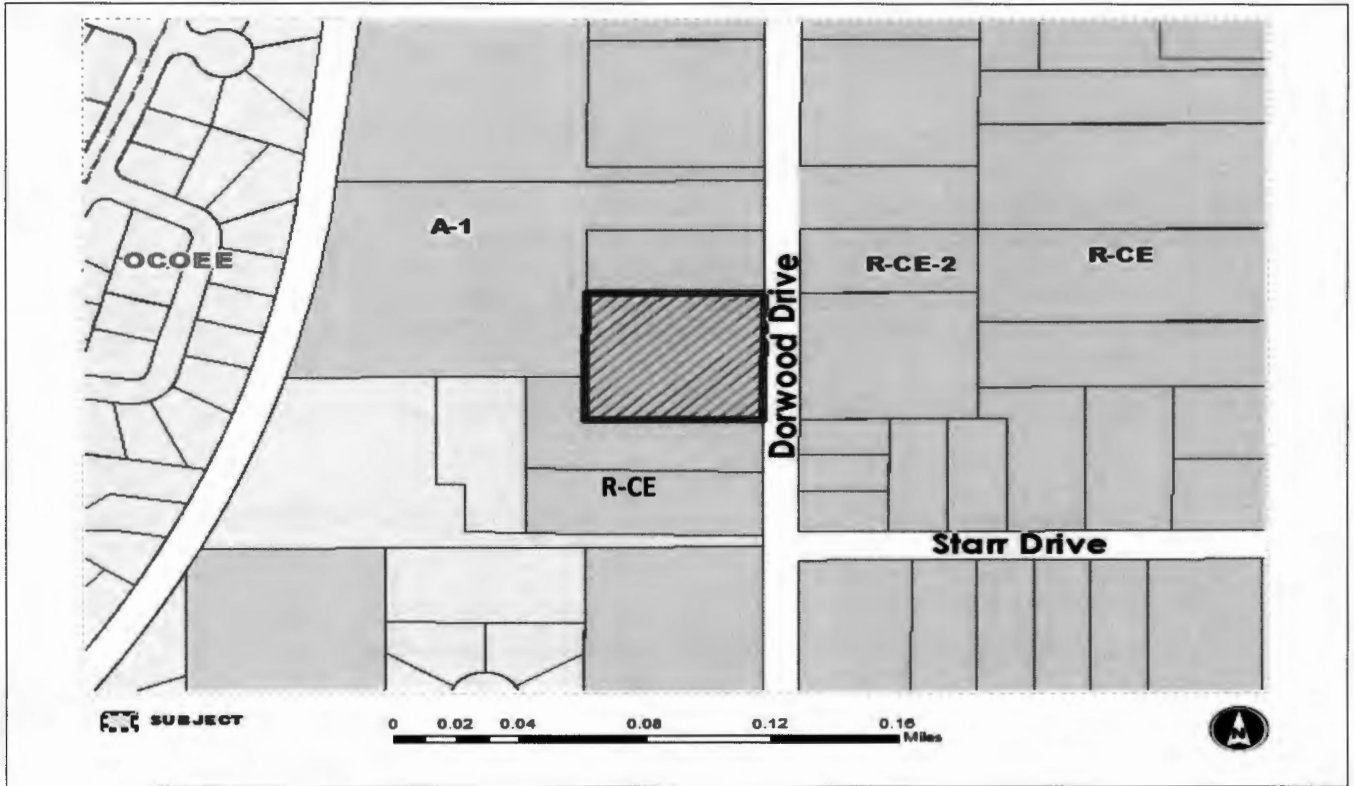
5. Minimum Possible Variance: This is the minimum variance required because I cannot obtain additional land.

6. Purpose and Intent: I will be building in accordance with Zoning, and I will meet all setbacks.

If you have any questions please feel free to call Mason Alan Parker at 407-394-4189 or email: AlanParker808@gmail.com

As an alternate number call Maria Parker 407-929-6224

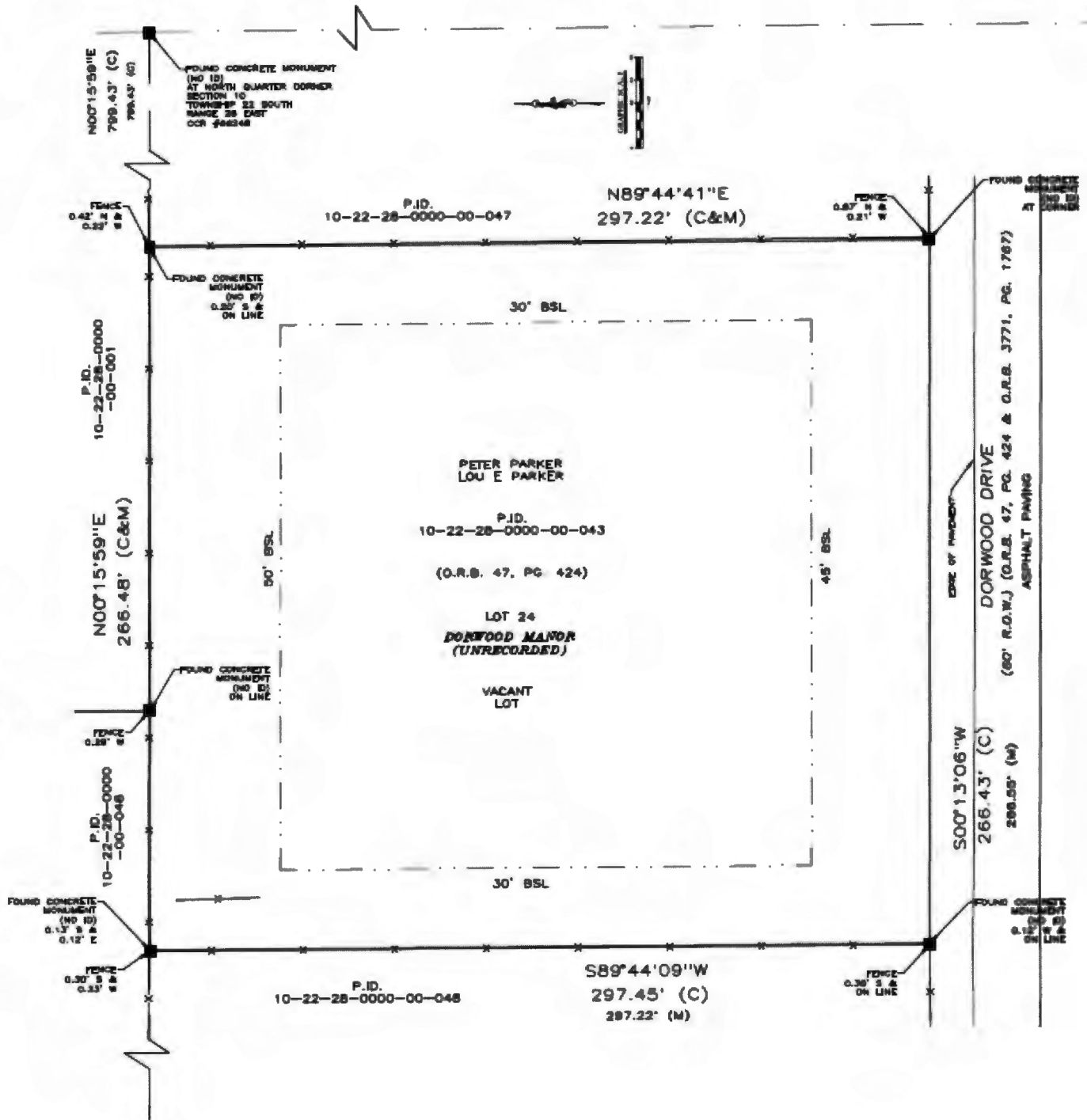
ZONING MAP



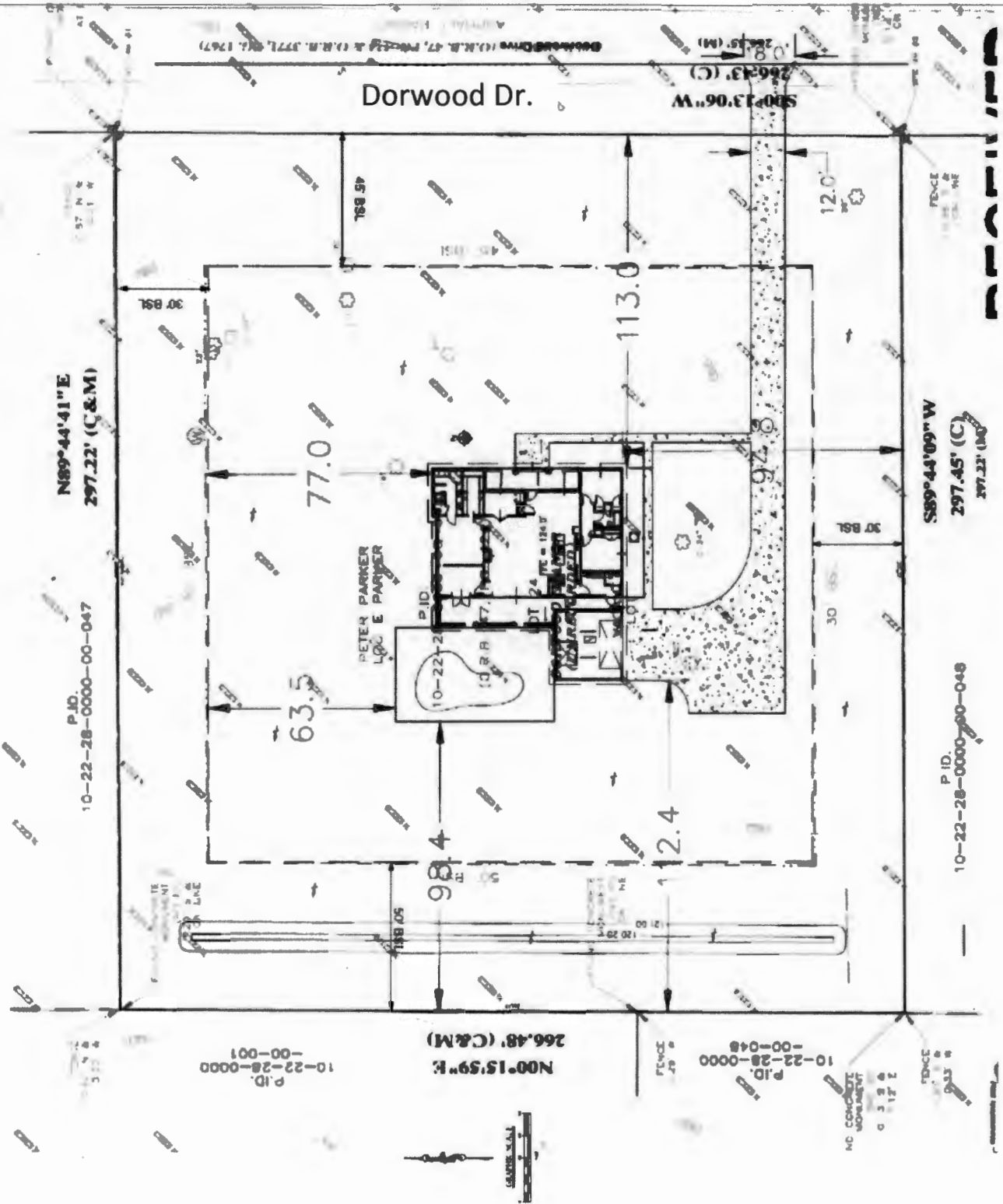
AERIAL MAP

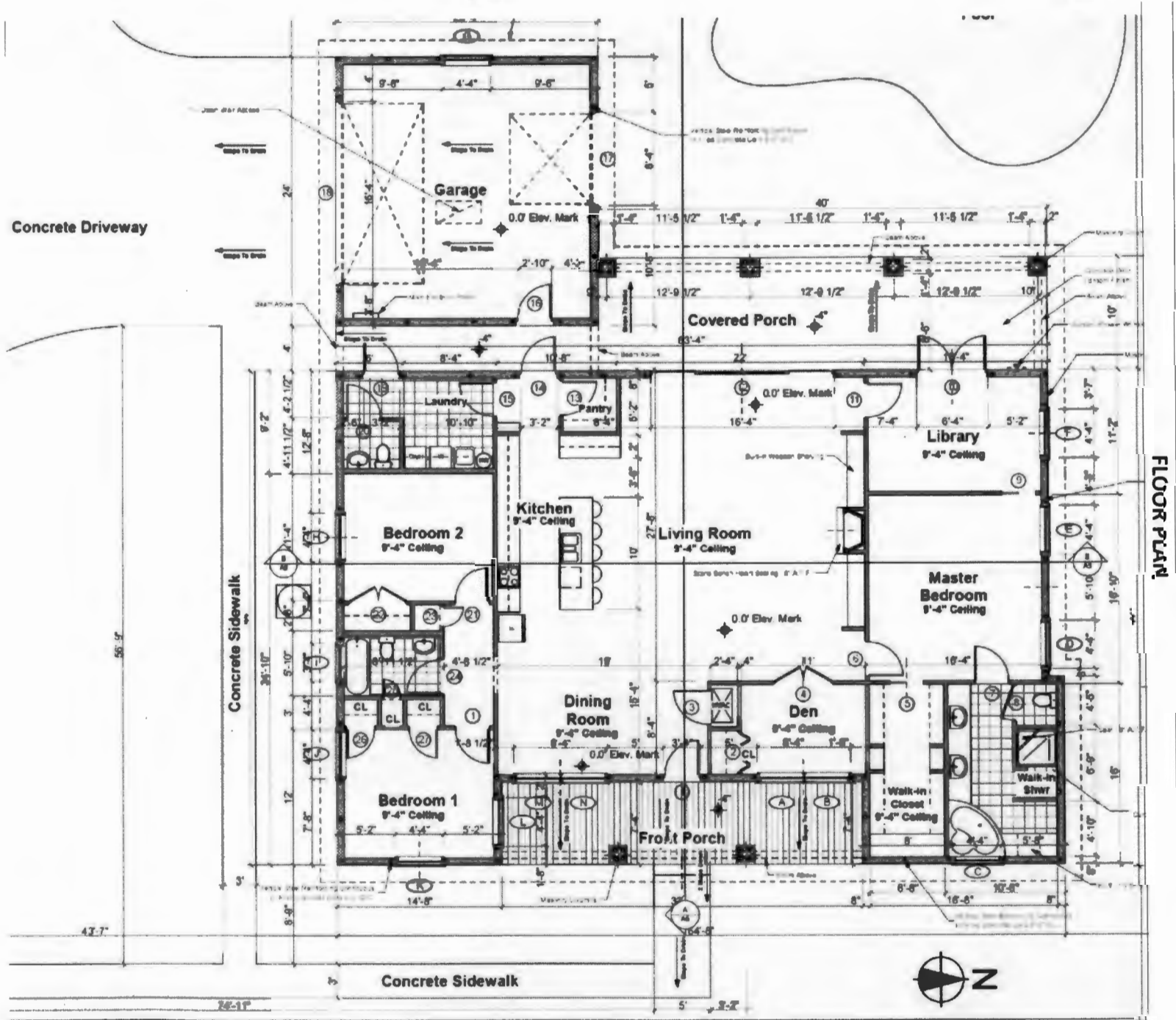


SURVEY



SITE PLAN







East Elevation

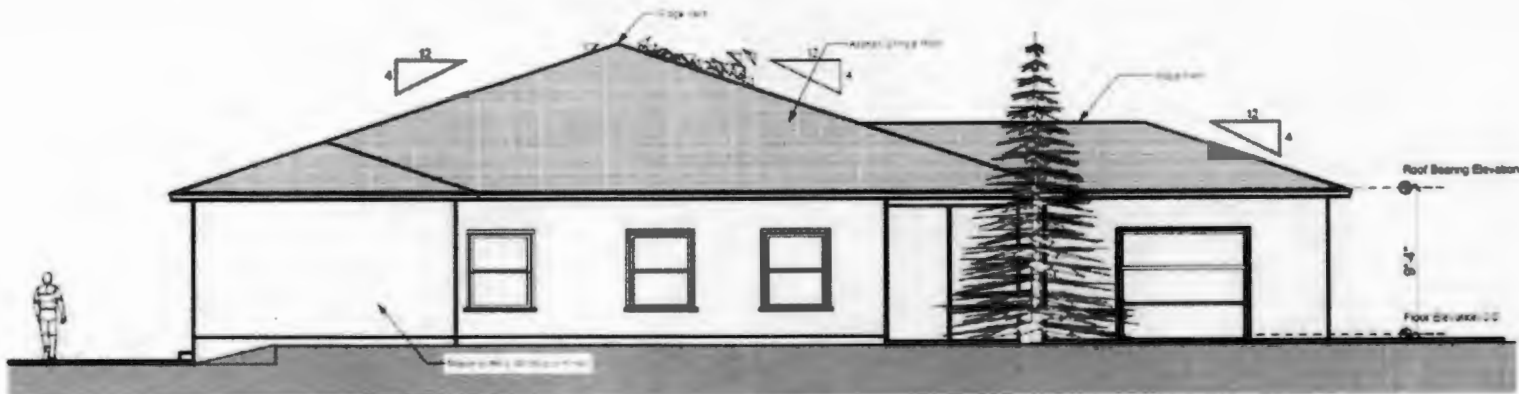
SCALE: 1/4" = 1'-0"



West Elevation

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

EAST/WEST ELEVATIONS



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



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

SITE PHOTOS



West side of property looking southwest from Dorwood Dr.



South center of site looking west from Dorwood Dr.

SITE PHOTOS



11/09/2020 12:15

North center of site looking west from Dorwood Dr.



11/09/2020 12:16

North end of site looking northwest from Dorwood Dr.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 03, 2020**
Case #: **VA-20-09-085**

Case Planner: **Nick Balevich**
Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): DANIEL KENNERLY

OWNER(s): JUDITH RENE NEWCOMB-RUST, RANDALL T RUST

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

- 1) To allow a 952 sq. ft. attached garage 11.5 ft. from the front property line in lieu of 30 ft.
- 2) To allow an existing 85 sq. ft. shed to remain 1.5 ft. from the east side property line in lieu of 5 ft.
- 3) To allow an existing 85 sq. ft. shed to remain 22 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.
- 4) To allow an existing 24 sq. ft. well house to remain 1.5 ft. from the NHWE in lieu of 35 ft.
- 5) To allow an existing pool to remain 15.5 ft. and an existing pool deck to remain 3.1 ft. from the NHWE in lieu of 35 ft.

PROPERTY LOCATION: 1558 Waterwitch Drive, Orlando, Florida, 32806, south side of Waterwitch Dr. on the north side of Lake Conway, south of Gatlin Ave.

PARCEL ID: 13-23-29-9068-00-330

LOT SIZE: 0.51 acres (22,216 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 79

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

1. Development shall be in accordance with the site plan and elevations dated November 9, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The exterior of the addition shall match the exterior of the existing house, including the roof materials and color.
5. The applicant shall obtain permits for all existing unpermitted improvements prior to obtaining permits for the proposed addition.
6. The applicant shall obtain permits for the proposed addition within 1 year of final action on this application by Orange County, or this approval is null and void.
7. 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 shed is located no closer than 22 feet, the well house is located no closer than 1.5 feet, the pool is located no closer than 15.5 feet, and the pool deck is located no closer than 3.1 feet from the Normal High Water Elevation (NHWE) of Lake Conway.

SYNOPSIS: Staff discussed the proposal, covering 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 no comments were received in opposition.

The applicant stated that the initial request was for the front setback, and that the other improvements were not installed by the current homeowner, since the pool and the sheds were existing in 2014 when the owner purchased the property. The applicant further stated that the owner maintains a 20 foot hedge along the property line, the adjacent homeowner has no objection, and that other homeowners in the area have provided letters in favor of this request.

The BZA inquired about other variances in the area and confirmed that other improvements were in place before the owner purchased the property. The applicant was also asked if he could build a 2nd story.

The applicant stated that the addition is for the homeowner's parents and the family needs the living area to be located on one floor. He added that he cannot build closer to the lake, and noted that the houses on both sides are closer to the front property line.

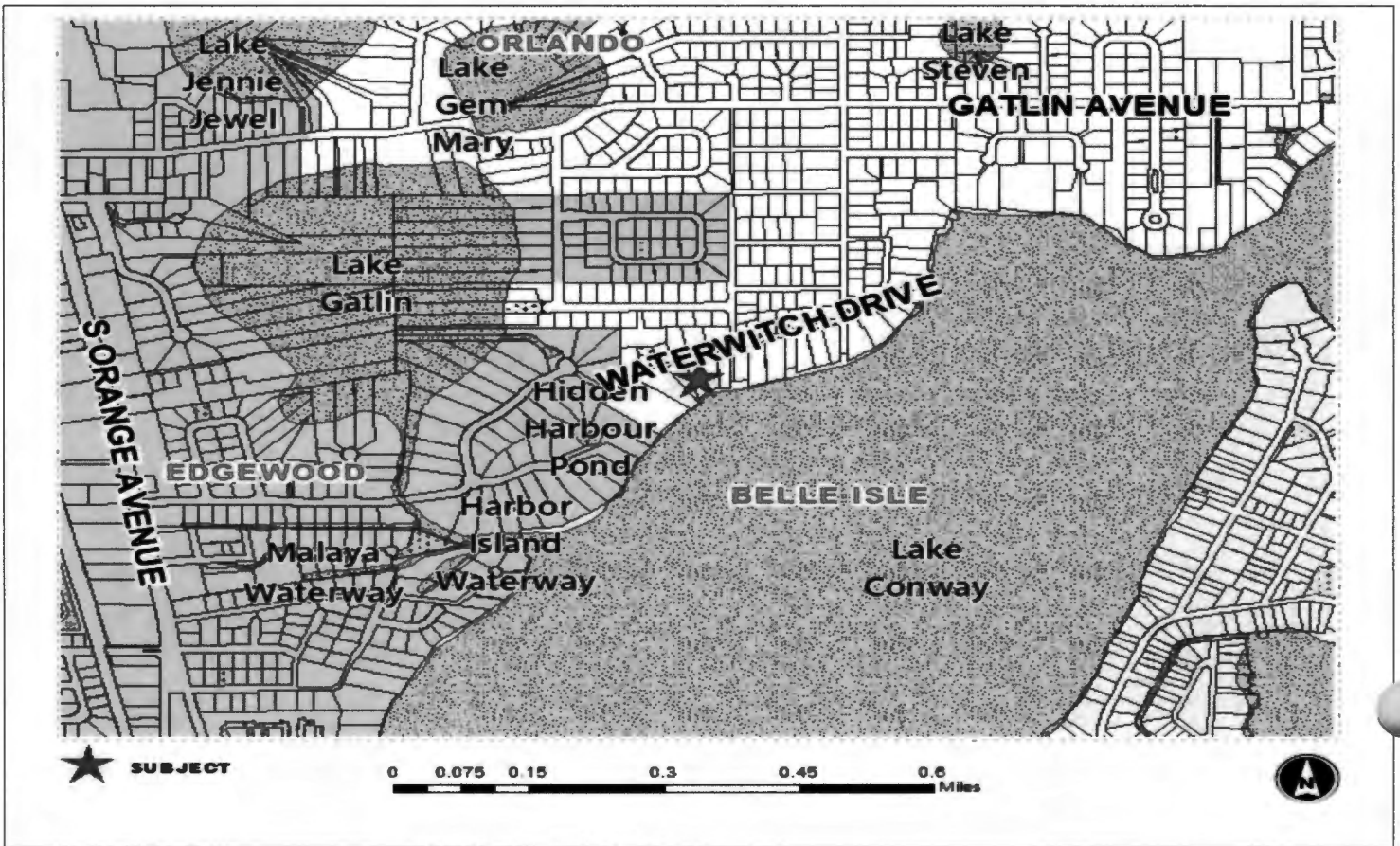
Staff confirmed that the houses on either side were constructed prior to the enactment of zoning in 1957.

There was no one in attendance to speak in favor or in opposition to the request. The BZA recommended approval of the variances by a 6-0 vote, subject to the seven (7) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is in the R-1AA, Single-Family Dwelling district, which allows single family homes and associated accessory structures on lots a minimum of 10,000 sq. ft. or greater.

The area consists primarily of lakefront single-family homes. The lot was platted in 1921 as part of the Waterwitch Club Plat, and is considered to be a conforming lot of record. It is developed with a 4,519 sq. ft. single-family home that was constructed in 1986, but the County has no record of a permit, and a swimming pool that was installed in 2010. The property also has 3 accessory structures in the rear, along the east property line. These are labeled on the site plan as: building #1 (85 sq. ft.), building #2 (70 sq. ft.), and building #3 (24 sq. ft.) Staff was unable to locate permits for the swimming pool, pool deck, or accessory structures. The applicant purchased the property in 2014.

The applicant is requesting a variance to allow a front setback of 11.5 ft. in lieu of 30 ft., to accommodate the conversion of the existing garage into a 952 sq. ft. Accessory Dwelling Unit (ADU), which complies with the size limitation of 1,000 sq. ft., and relocation of the garage in front of the ADU (variance #1). The existing home is 2 stories with a 1 story garage projecting north in the front. In lieu of converting the existing garage to the ADU and adding the garage in the front, all with 1 story, the applicant could add a 2nd story over the existing garage, which would eliminate the need for a front setback variance.

The applicant is also requesting variances to allow: an 85 sq. ft. shed to remain with a 1.5 ft. east side setback in lieu of 5 ft., and a 22 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 35 ft. (variances #2 and #3 respectively); and a 24 sq. ft. well house to remain 1.5 ft. from the NHWE in lieu of 35 ft. (variance #4); and to allow a pool deck to remain 3.1 ft. from the NHWE in lieu of 35 ft. (variance #5). All of these were built without permits.

The Orange County Environmental Protection Division has indicated to staff that there is no issue since the accessory structures are located outside of the NHWE.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.-Residence, 25 ft.-Accessory structures	18 ft.-addition, building #1-8 ft., building #2-7 ft., building #3-4 ft.
Min. Lot Width:	85 ft.	95.4 ft.
Min. Lot Size:	10,000 sq. ft.	22,216 sq. ft.

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

	Code Requirement	Proposed
Front:	30 ft.	11.4 ft. (north-variance #1 for addition to house)
Rear:	35 ft. (principal structure, house)	96.9 ft. (house-south)
Side:	7.5 ft. (house), 5 ft. accessory structure	10.1 ft. (house-west), 7.6ft. (house-east), 1.5 ft. (building #2-east)
NHWE:	35 ft.	22 ft. (building #1), 3.1 ft. pool deck, 15.5 ft. pool, variance #5), 1.5 ft. (building #3)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances, as the accessory structures and pool/deck were all installed without permits, and could have been installed in a manner that would not have required variances. The ADU and attached garage could be constructed in a manner that complies with setbacks, such as building the ADU over the garage.

Not Self-Created

The request for the variances for the existing conditions are self-created as a result of installation without permits. The requested addition to the residence for a new garage could be modified to comply with setback requirements.

No Special Privilege Conferred

Granting the variances as requested will confer special privilege that is denied to other properties in the same area and zoning district, as the applicant has the ability to meet county code by moving, removing, or modifying the deck, and the accessory structures that were installed without permits. Further, the proposed new construction could be modified such that a variance would not be needed.

Deprivation of Rights

The applicant is not being deprived of the right to enjoy the use of the property as a single-family residence. The owner has the opportunity to meet the deck, and accessory structure setback requirements, and to construct a home addition that complies with setbacks.

Minimum Possible Variance

Since the applicant has other available options, the requests for the deck, pool, and accessory structures are not the minimum possible variances. Also, the new attached garage could be modified, either by proposing a 2nd story or reducing the size of the new garage to lessen or eliminate the need for a front setback variance.

Purpose and Intent

Approval of the variances will not be in harmony with the purpose and intent of the Zoning regulations, and will be detrimental to the neighborhood, since the size and location of the improvements are not compatible with adjacent properties.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated November 9, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The exterior of the addition shall match the exterior of the existing house, including the roof materials and color.
5. The applicant shall obtain permits for all existing unpermitted improvements prior to obtaining permits for the proposed addition.
6. The applicant shall obtain permits for the proposed addition within 1 year of final action on this application by Orange County, or this approval is null and void.
7. 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 shed is located no closer than 22 feet, the well house is located no closer than 1.5 feet, the pool is located no closer than 15.5 feet, and the pool deck is located no closer than 3.1 feet from the Normal High Water Elevation (NHWE) of Lake Conway.

C: Daniel Kennerly
105 Drennen Rd. Suite A3
Orlando, FL 32806

Cover Letter for Variance request:

Parcel ID: 13-23-29-9068-00-330

Address:
1558 Waterwitch Drive
Orlando, FL 32806

Request is for relief from the current front setback on Waterwitch Drive for an addition to the home. The reason for the request is to accommodate an addition for the owners parents as they age and there is no where else to build on the lot. The addition will be built with block construction and is 952 square feet in size. The addition is approx. 36x22 and 18 feet to the peak of the roof. The front corners will be 14'8" and 11'5" from the property line and the current setback is either 25' or 30' depending on the time of plat. Justification for variance provided below.

The 2nd request is for the existing shed that has been on the property for over 30 years. This was in place when Mr. Rust purchased the property and on the survey from the purchase. The neighbor who built the residence on the east side of the property, remembers the shed being in place when he built in 1988. The neighbor to the west which the shed is encroaching on the property line has no issue with the placement of the shed. There is also a 10 foot high hedge between the shed and the west property line.

Two additional sheds on the property are show to either side of the old shed. These are not encroaching upon the side setbacks. The smaller is a pool pump shed that is only 3.6x6.5 and open on one side, set back from the property line 6 feet. The other is 7x10 and used for watersports equipment, set back from the property line 7 feet.

This is an addition to the home, considered an accessory dwelling unit. The addition will be accessed directly through the existing home and not be a separate dwelling unit. This will be for the homeowners parents, but still an integral part of the home. As an accessory dwelling unit, it completely complies with Sec. 38-1426(b).

Variance Criteria:

1. Special Conditions and Circumstances: The only area that can be built upon is in the front of the home toward the road. The house is two stories and in the rear the pool is built directly behind the home. The pool and the setback from the lake in regard to the high water mark mean the only area to build is in the front of the home. There is also no room to build directly across the entire front of the home as the front entrance is in the middle of the house as it is currently built.
2. Not Self-Created: Randy Rust is not the original owner of the property. He is trying to accommodate a need for the extra living area that has arisen for his family. His parents are aging and he would like to move them into his house so he can care for them.

3. **No Special Privilege Conferred:** Both homes on either side of the subject property are built within 12 feet of the property line. Neither home was built with a variance and the addition that were added in the 80s were not built with a variance.
4. **Deprivation of Rights:** Without a variance Mr. Rust will not be able to build the desired addition to his home. The addition is for his elderly parents and they cannot climb stairs and the garage also needs to be on the ground floor.
5. **Minimum Possible Variance:** The addition is following the building line of the existing home/garage and minimizes the encroachment into the setback.
6. **Purpose and Intent:** The existing front yard is large and the addition will still allow for adequate front yard for landscaping, driveway and front entry into the home. It will actually still have more front yard than either neighbor, even after the addition.

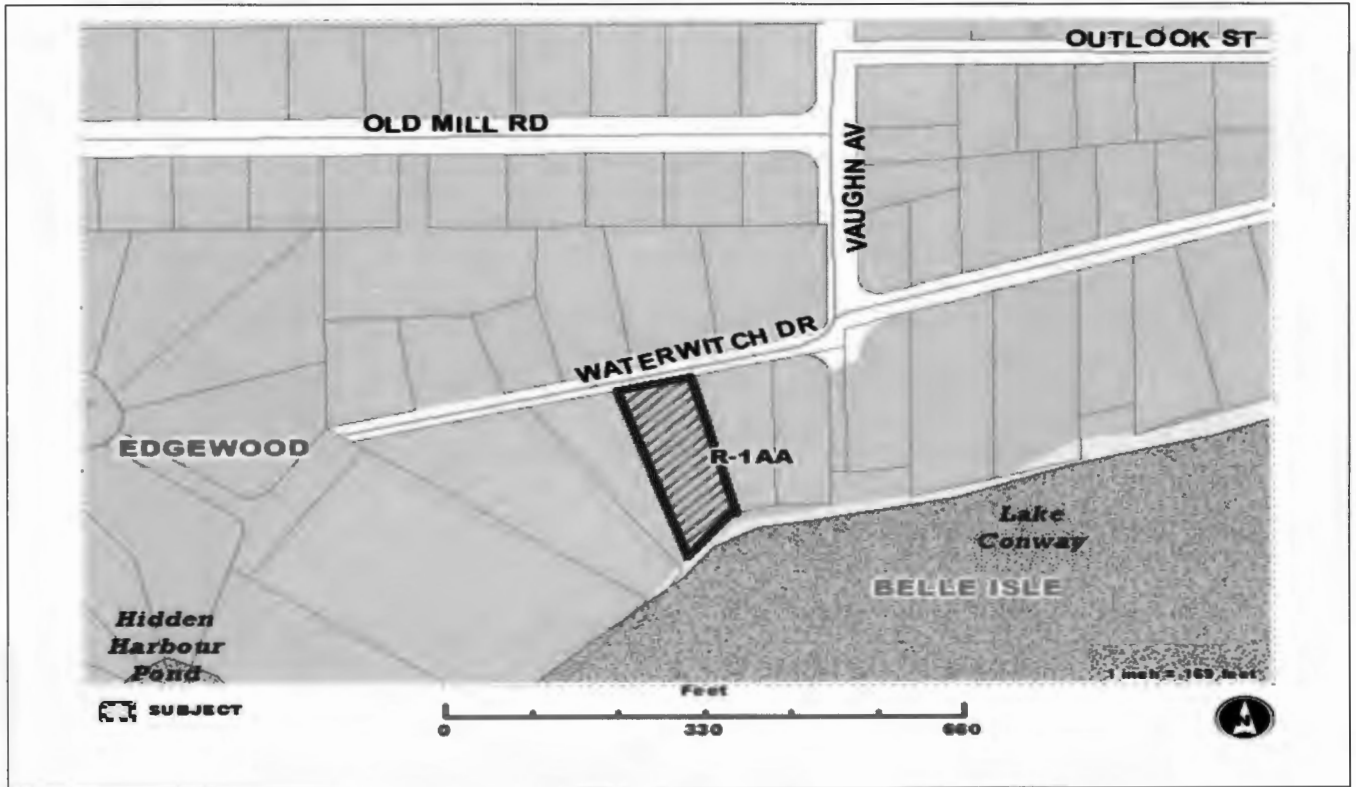
Variance Criteria: (for existing shed)

1. **Special Conditions and Circumstances:** This shed is original to the home and has been conveyed to each purchaser and there has never been any conflict involving title or neighbors.
2. **Not Self-Created:** Randy Rust is not the original owner of the property. He did not build the shed and has not moved the shed.
3. **No Special Privilege Conferred:** Other homes on the lakefront along Waterwitch Drive have sheds, some encroaching and others not encroaching upon the setbacks.
4. **Deprivation of Rights:** Mr. Rust purchased the property in good faith with all title work and surveys in place, previous work has been done and the county has never questioned the existing shed.
5. **Minimum Possible Variance:** As this is existing, it is only in the location it has resided for the past 34 years.
6. **Purpose and Intent:** To obtain a right to leave the shed in the location it has resided for 34 years. Harming no one, causing no conflict and allowing the owner to use it as he has since purchasing the property.

Thank you for your consideration.

Daniel Kennerly, Authorized Agent

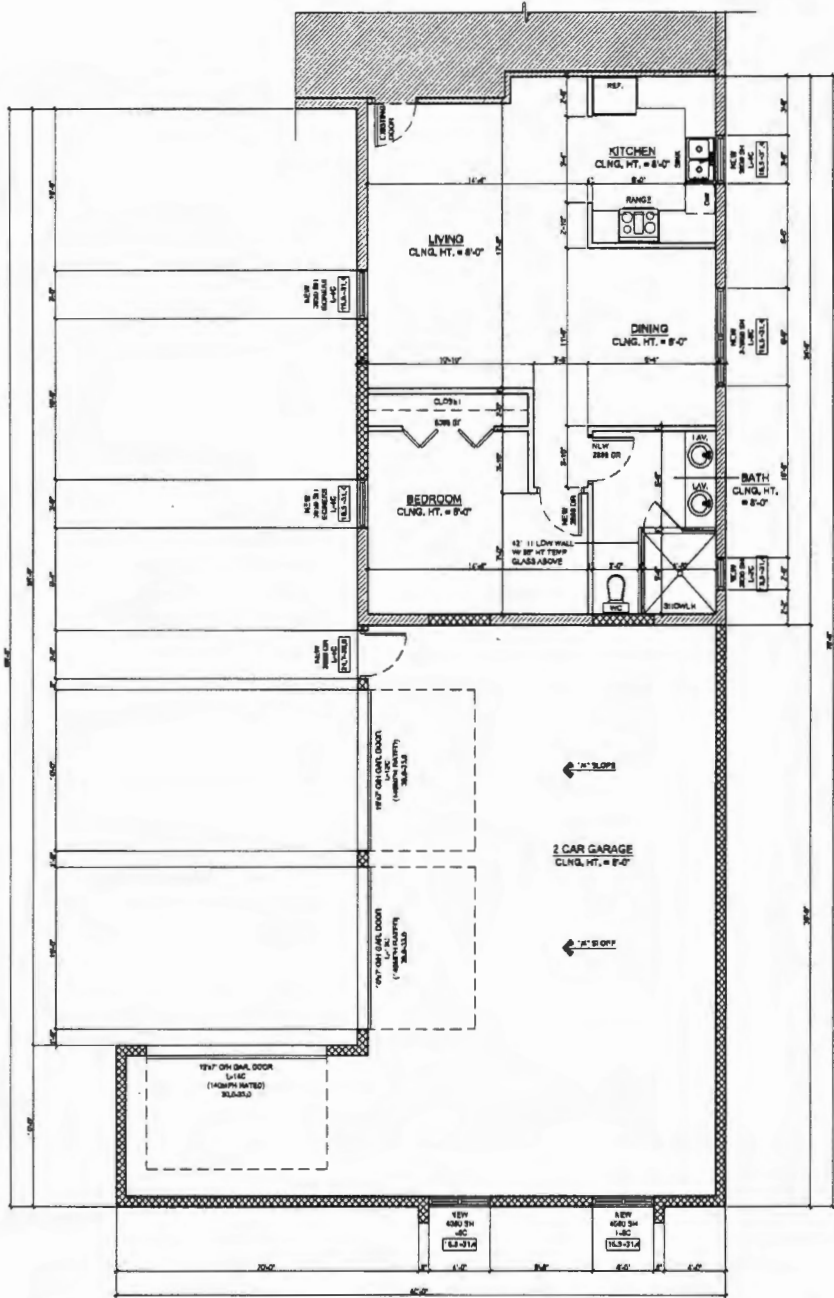
ZONING MAP



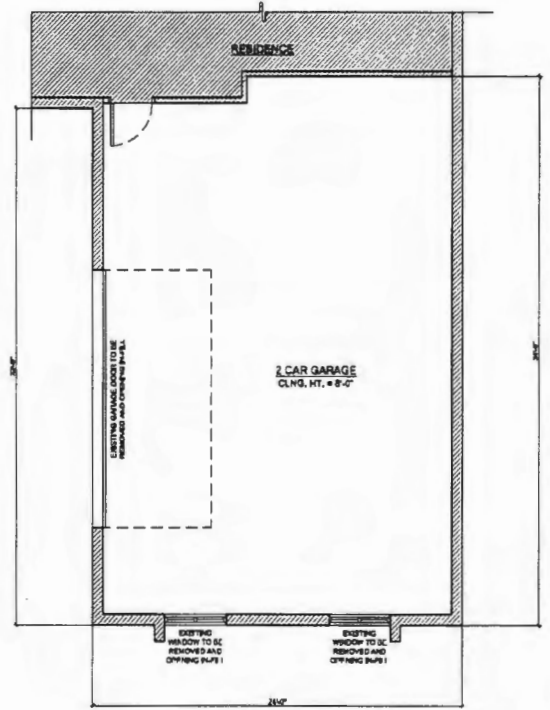
AERIAL MAP



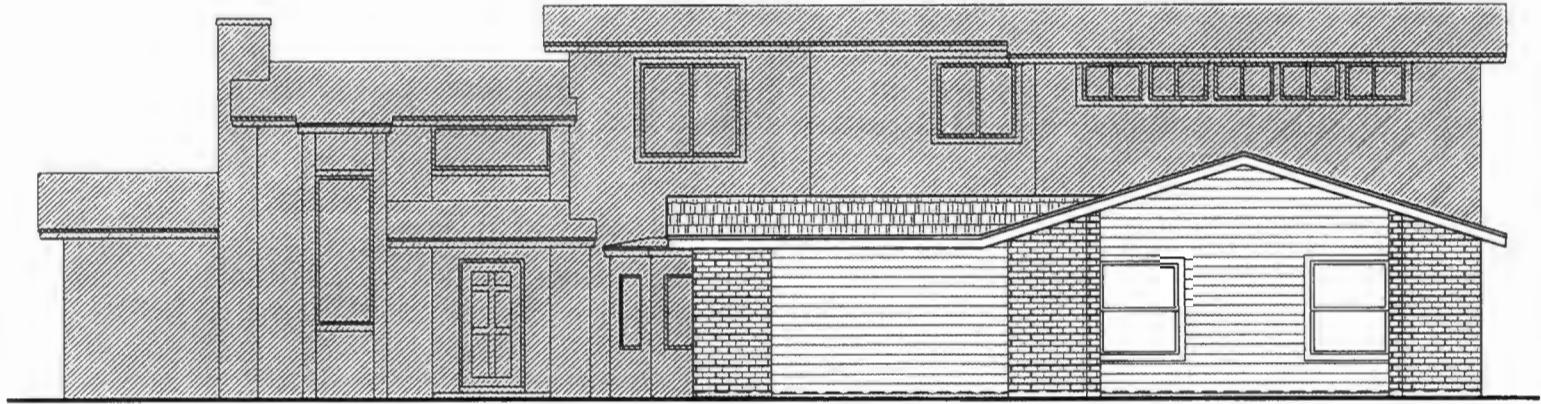
1 PROPOSED FLOOR PLAN
 A-1 SCALE: 1/4"=1'-0"



2 EXISTING FLOOR PLAN
 A-1 SCALE: 1/4"=1'-0"



FLOOR PLAN



1 PROPOSED FRONT ELEVATION
A-2 SCALE: 1/4"=1'-0"



2 PROPOSED LEFT ELEVATION
A-2 SCALE: 1/4"=1'-0"

SITE PHOTOS



Front from Waterwitch Dr. facing south



Front from Waterwitch Dr. looking west

SITE PHOTOS



Sheds in rear yard



Sheds from rear, looking north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 03, 2020**

Case Planner: **Nick Balevich**

Case #: **VA-20-12-115**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): BRUTUS ELGGENS

OWNER(s): BRUTUS ELGGENS, ALTIDOR MARJORY

REQUEST: Variance in the P-D zoning district to allow a covered sunroom 19 ft. from the rear (south) property line in lieu of 25 ft.

PROPERTY LOCATION: 12205 Bohannon Boulevard, Orlando, Florida, 32824, south side of Bohannon Boulevard, south of W. Wetherbee Rd., east of Florida's Turnpike

PARCEL ID: 23-24-29-8221-00-800

LOT SIZE: 0.17 acres (7,473 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; 6-0 and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated October 14, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The exterior of the addition shall match the exterior of the existing house, including the materials and color.

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

The applicant's contractor spoke, stating that they needed to center the proposed sunroom at the back of the house for egress.

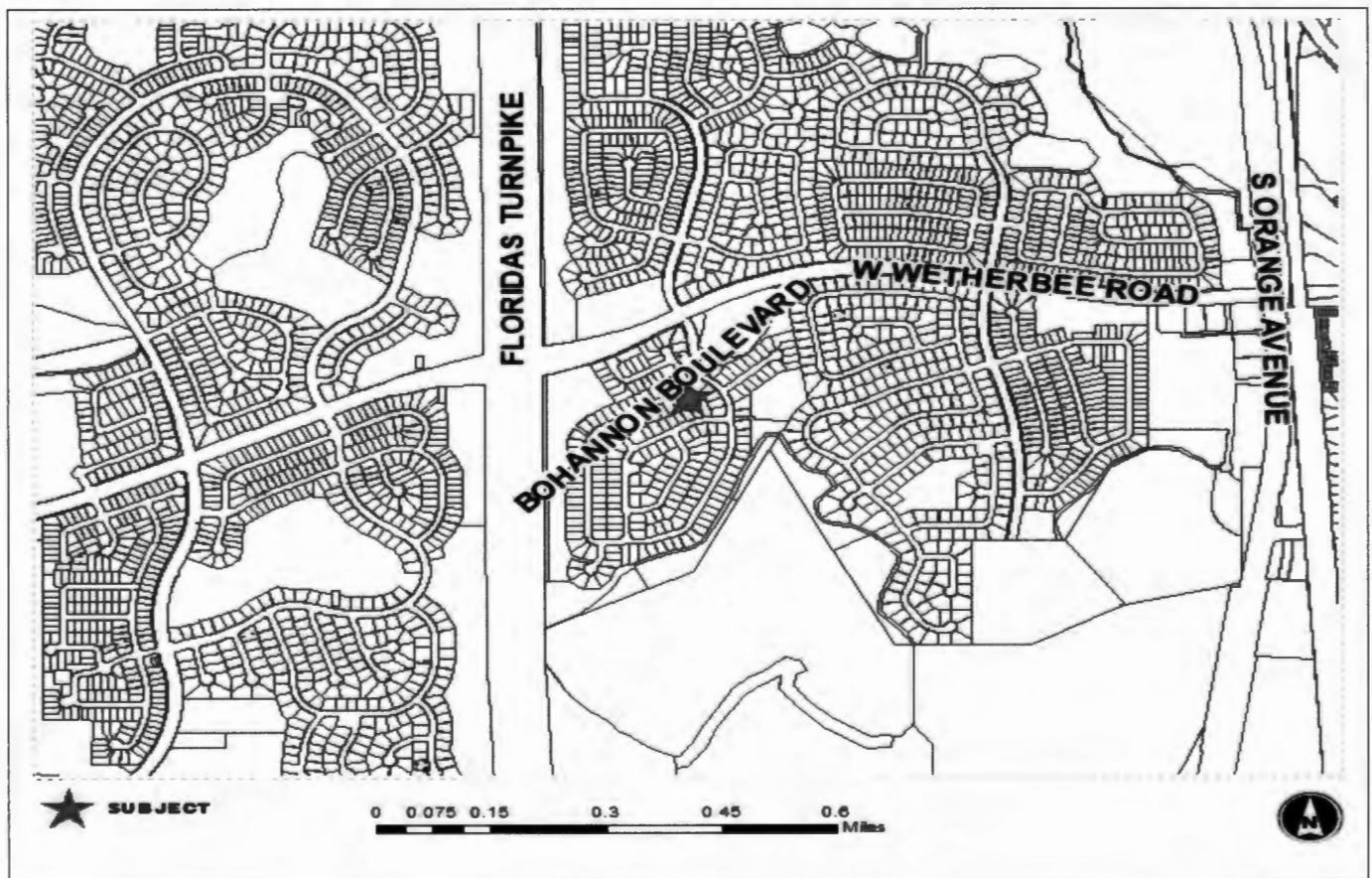
The BZA clarified the angle of the rear property line and the shape of the lot, and confirmed that the roof of the enclosure will not follow the roofline of the house.

There was no one in attendance to speak in favor or in opposition to the request. The BZA recommended approval of the variance by a 6-0 vote, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	P-D	P-D	P-D	P-D	P-D
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residence	Single-family residence	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Southchase PD. This PD allows single-family homes, multi-family, commercial and industrial uses.

The area around the subject site consists of single-family homes. The lot was platted in 1992 as part of the Southchase Phase B Village 8 Plat, and is considered to be a conforming lot of record. It is developed with a 2,419 sq. ft. single-family home that was constructed in 1994 (permit #B93022524). The current owner purchased the property in 2009.

The applicant is proposing to construct a 276 sq. ft. covered sunroom with a composite roof that will match the color of the house. The sunroom will be at the rear of the house, and is required to meet the same setback as the primary structure, thus the applicant is requesting a variance to allow a 19 ft. rear (south) setback in lieu of the required 25 ft.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	9.4 ft.
Min. Lot Width:	60 ft.	60 ft.
Min. Lot Size:	Not specified	7,473 sq. ft.

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

	Code Requirement	Proposed
Front:	20 ft.	27 ft. (North)
Rear:	25 ft.	19 ft. (South) Sunroom
Side:	6 ft.	8.7 ft. (East), 9 ft. (West)

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances, as the proposed addition could be shifted to the east or reduced in size in a manner to lessen the amount of variance requested, or eliminate the need for a variance.

Not Self-Created

The request for the variance is self-created and is the result of the request as submitted in the location requested.

No Special Privilege Conferred

Granting the variance as requested will confer special privilege that is denied to other properties in the same area and zoning district, as the applicant has the option to move or modify the proposed addition.

Deprivation of Rights

The applicant is not being deprived of the ability to construct an addition to the house, since the owner has the ability to meet the setback requirements.

Minimum Possible Variance

The request is not the minimum, since the addition could be shifted to the east or reduced in size to lessen the amount of variance requested, or eliminate the need for a variance.

Purpose and Intent

Approval of the variance will not be in harmony with the purpose and intent of the zoning regulations since it is not in character with the neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated October 14, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The exterior of the addition shall match the exterior of the existing house, including the materials and color.

C: Brutus Elggens
12205 Bohannon Blvd.
Orlando, FL 32824

COVER LETTER

Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor
Orlando, FL 32801

October 9, 2020

To Whom It May Concern,

This variance request is for a Category 3 Aluminum Sunroom at 12205 Bohannon Blvd., Orlando. The reason for this request is to build into the twenty-five-foot setback at this property. The proposed total square footage of this sunroom is 276 square feet. The sunroom will be 1 foot on the left side and 6 feet on the right side from the rear setback. The proposed height of the sunroom will be nine feet three inches. There are no issues with the side setbacks.

This request meets the variance criteria as follows:

1. **Special Conditions and Circumstances:** The rear property line is on a huge angle not parallel with the house.
2. **Not Self-Created:** The applicant did not create this hardship. By building to the setback the sunroom would be on a steep angle from six feet to eleven feet.
3. **No Special Privilege Conferred:** The applicant understands that this variance is only for this sunroom variance request.
4. **Deprivation of Rights:** Denial of this request would deprive the applicant of having a usable space to enjoy.
5. **Minimum Possible Variance:** This applicant would need a minimum variance of six feet on the right side and one foot on the left side to be square to the house. This would position the sunroom 19 feet and 24 feet from the property line.
6. **Purpose and Intent:** The purpose is to build a usable sunroom that is parallel with the back of the house. It will not have a negative impact on the neighborhood.

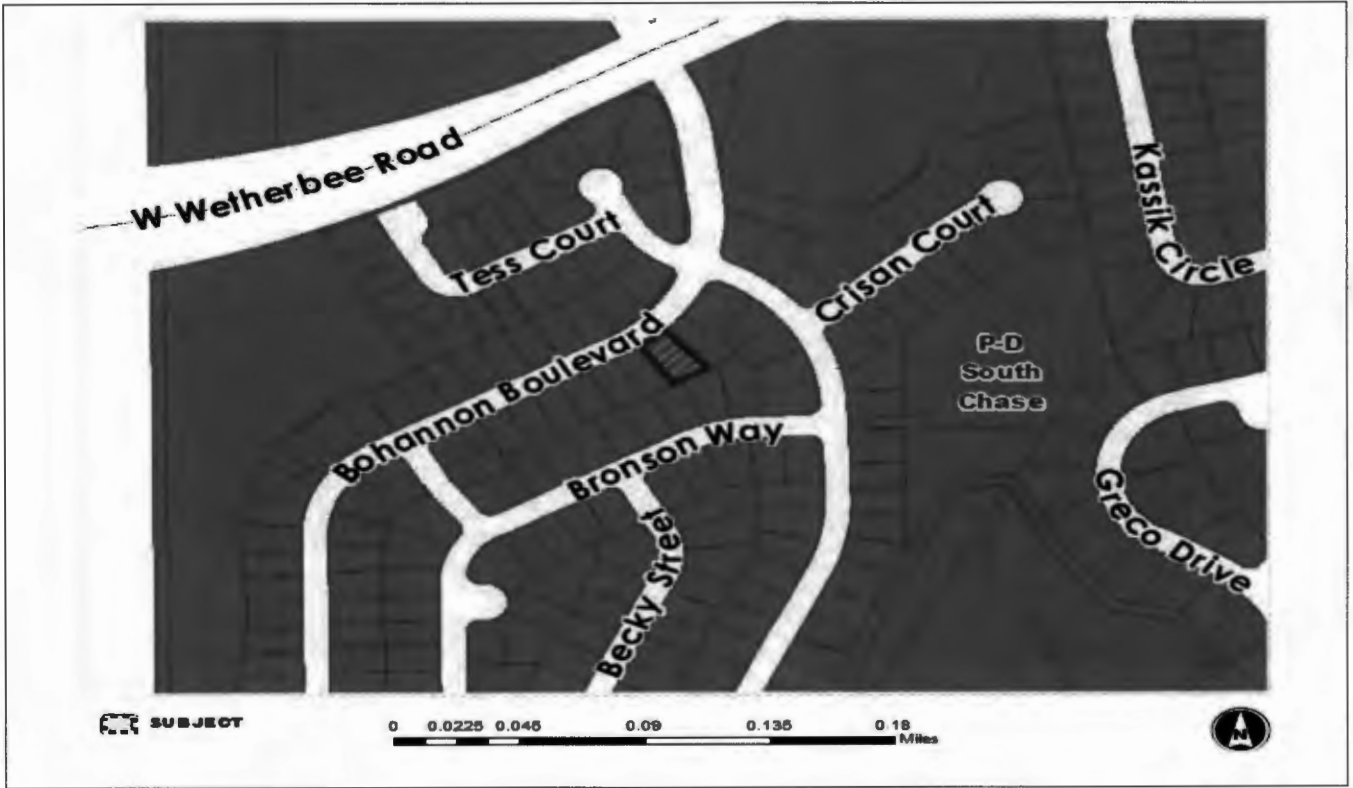
We appreciate your consideration of this variance request.

Sincerely,

Elgens Brutus



ZONING MAP



AERIAL MAP

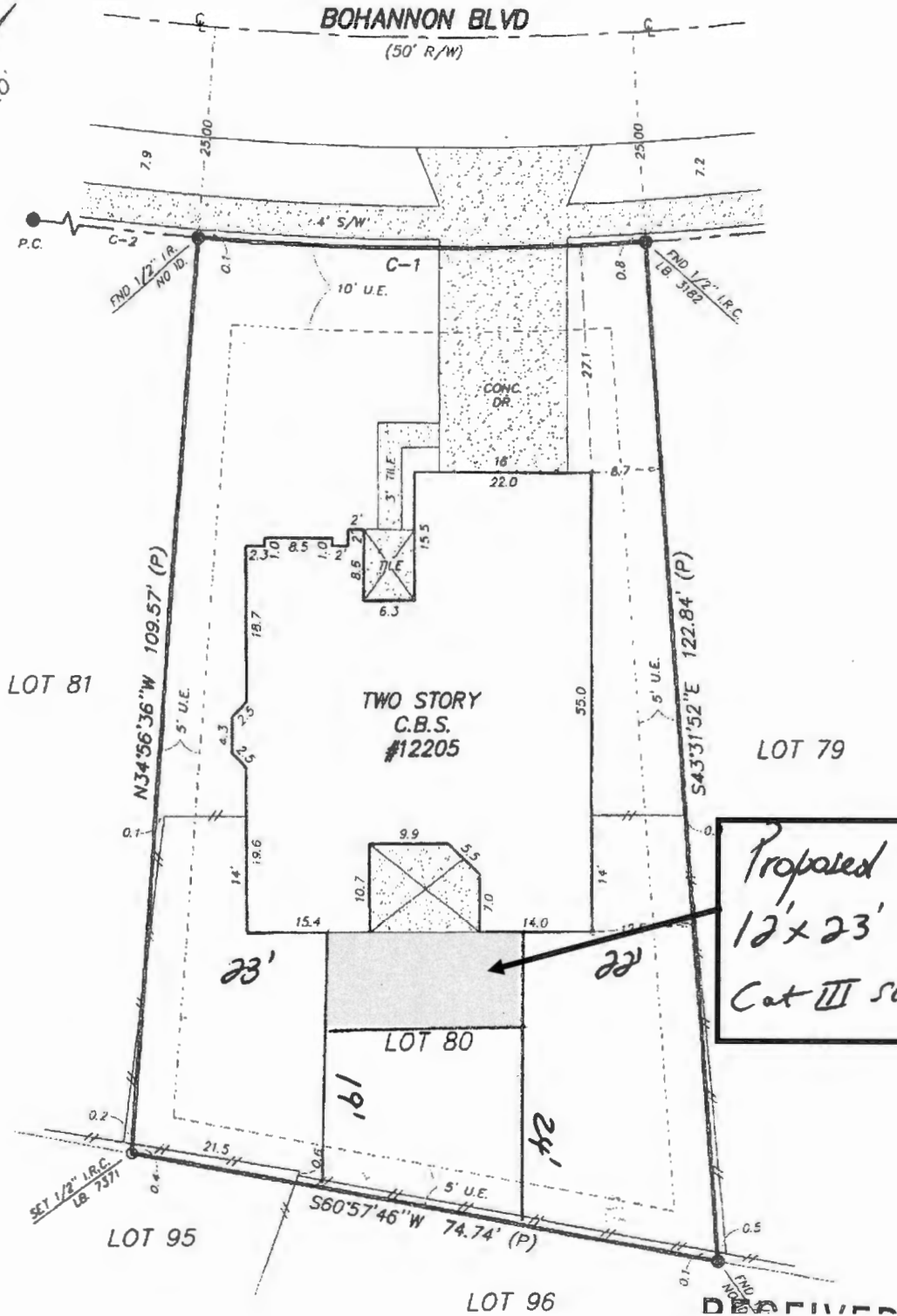


SITE PLAN

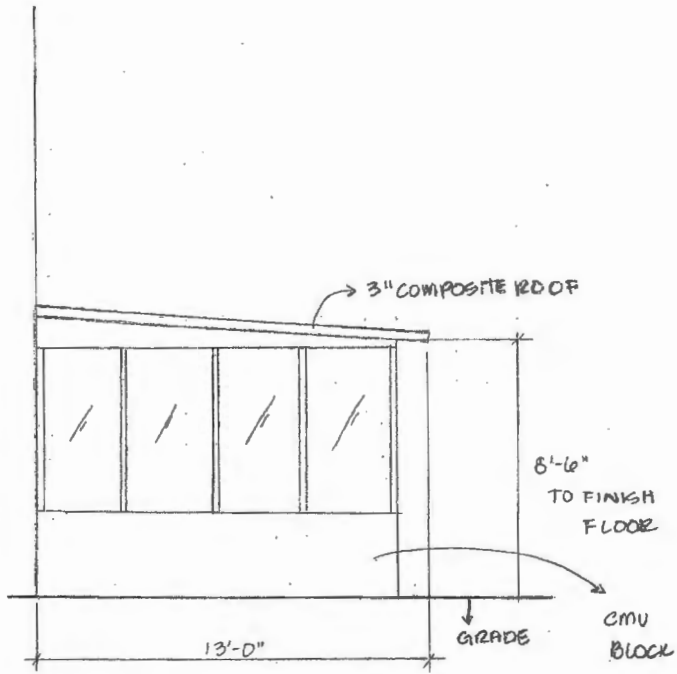
BOHANNON BLVD

(50' R/W)

SCALE: 1"=20'



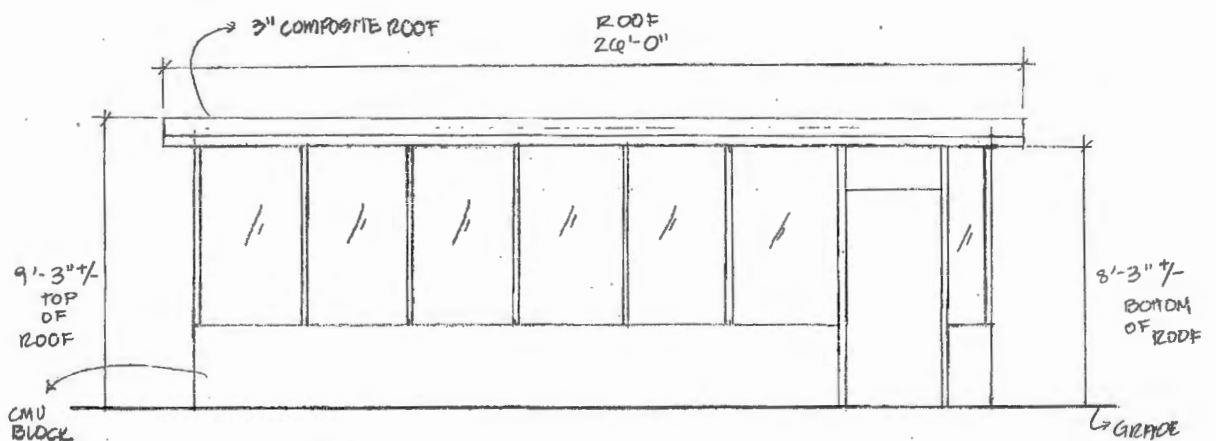
Proposed
12' x 23'
Cat III sunroom



SIDE VIEW
1" = 1'-0"
TYPICAL BOTH ENDS

BRUTUS - SUNROOM

12205 Bohannon Blvd
Orlando Florida



ELEVATION - FRONT
1" = 1'-0"

ELEVATIONS

SITE PHOTOS



Front from Bohannon Blvd.



Rear of home location looking west

SITE PHOTOS



Rear yard, sunroom location looking east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 03, 2020**

Case Planner: **Nick Balevich**

Case #: **VA-20-12-120**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): NAVIN NARESH LOKENATH

OWNER(s): ROBERT AND THERESA DAWSEY REVOCABLE LIVING TRUST

REQUEST: Variance in the P-D zoning district to allow a generator to be located 2.8 ft. from the east side property line in lieu of 10 ft.

PROPERTY LOCATION: 7821 Wandering Way, Orlando, Florida, 32836, south side of Wandering Way, west of S. Apopka Vineland Rd.

PARCEL ID: 10-24-28-6670-00-510

LOT SIZE: 0.16 acres (7,200 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 80

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; 6-0 and 1 absent):

1. Development shall be in accordance with the site plan dated November 9, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain a permit for the generator within 180 days of final action on this application by Orange County.
5. The applicant shall obtain a permit for the decorative wall and lighting within 90 days of final action on this application by Orange County.

SYNOPSIS: Staff discussed the proposal, covering 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 had nothing to add to staff's analysis.

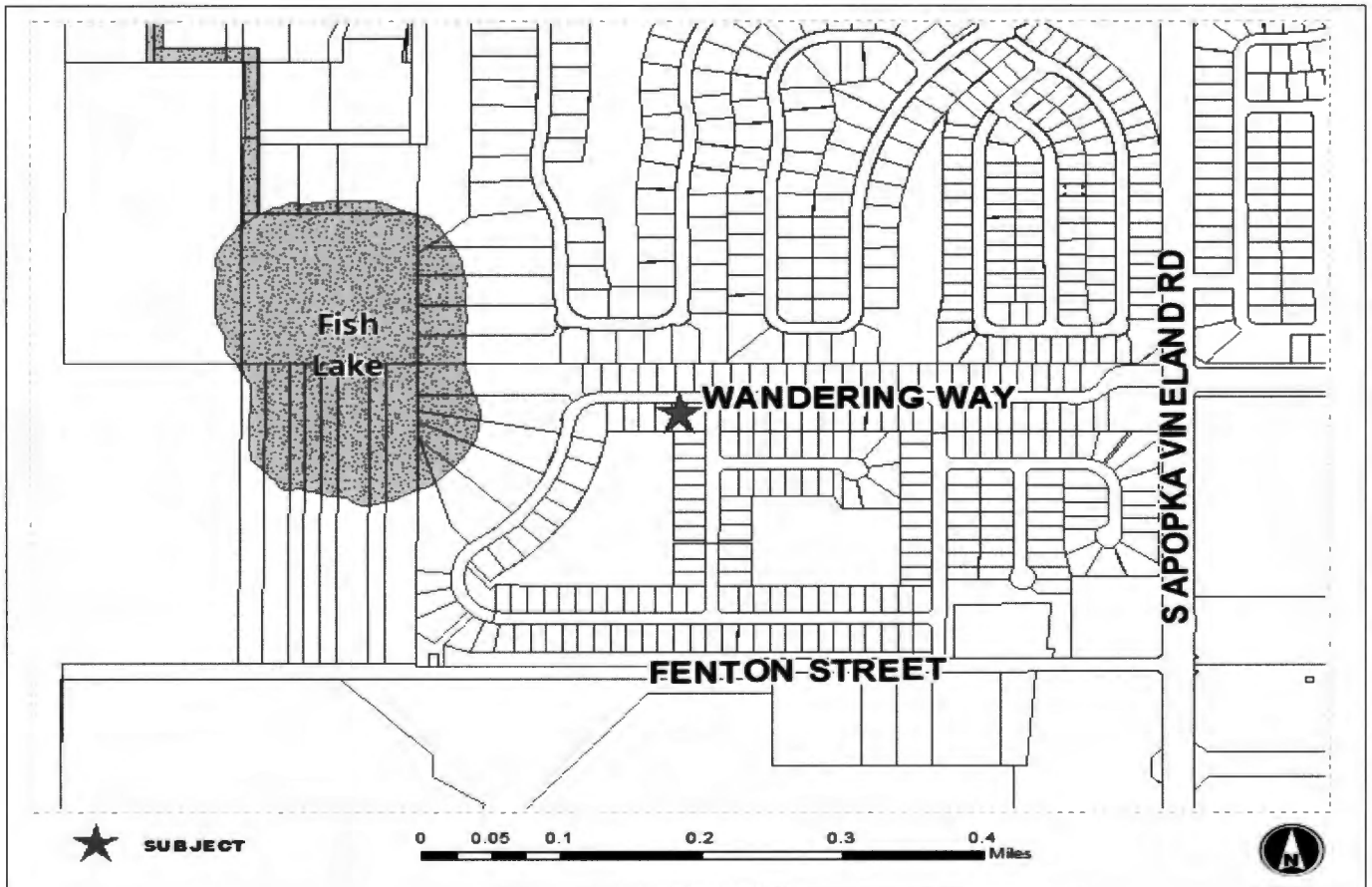
The BZA noted the constraints of the lot and the location of the electrical box.

There was no one in attendance to speak in favor or in opposition to the request. The BZA recommended approval of the variance by a 6-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	P-D	P-D	P-D	P-D	P-D
Future Land Use	PD- C/O/MDR/LDR/ Senior Living/CONS	PD- C/O/MDR/LDR/ Senior Living/CONS	PD- C/O/MDR/LDR/ Senior Living/CONS	PD- C/O/MDR/LDR/ Senior Living/CONS	PD- C/O/MDR/LDR/ Senior Living/CONS
Current Use	Single-family residential	Vacant	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Kerina Parkside PD. This PD allows single-family, multi-family, assisted living, office and commercial uses.

The neighborhood comprises of single-family homes and vacant lots. The lot was platted in 2018 as part of the Phillips Grove Plat, and is considered to be a conforming lot of record. It is developed with a 2,757 sq. ft. single family home that was constructed and purchased by the applicant in 2019.

The applicant is proposing to install a 4.04 ft. x 2.13 ft. generator 3 ft. from the side property line, adjacent to the house, where the generator requires a 10 ft. setback by the County Code Sec. 38-79(16). The generator will operate normally at 67 decibels (Db) noise level from a distance of 23 ft. The generator can be set to self-test weekly, bi-weekly or monthly at 57 Db., normal conversation is 50 Db. When the unit is operating at full power during a power outage, it operates at a level of approximately 67 Db, which is between the sound of conversation in a restaurant and a vacuum cleaner, or an a/c compressor.

The applicant is proposing to install the generator on the same side (east) of the property that the pool and A/C equipment are located. There is no other location on the property that a generator can be installed that would not require a variance.

The proposed generator location contains a drainage easement. However, Orange County Development Engineering has provided staff comments that this is a private easement dedicated to the Home Owner’s Association (HOA), deferring approval to the private entity. The applicant has submitted a letter from the HOA approving the location for the generator.

At the time of field visit, staff has noted a lighted decorative wall in the rear yard. No permit has been issued for this improvement.

District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	60 ft.	60 ft.
Min. Lot Size:	6,600 sq. ft.	7,200 sq. ft.

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

	Code Requirement	Proposed
Front:	20 ft. House	20.4 ft. House (North)
Rear:	20 ft. House	22.8 ft. House (South)
Side:	5 ft. House, 10 ft. when adjacent to house 5 ft. other sides and rear for Generator	5 ft. House (East and West), 2.83 ft. Generator (East)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to this property are the result of house and swimming pool/screen enclosure built to within 5 ft. of the side and rear property lines. Therefore, any proposed generator location will require a variance.

Not Self-Created

The applicant is not responsible for the configuration of the lot, the setbacks and the location of the house and pool enclosure.

No Special Privilege Conferred

The existing house and pool enclosure location renders the installation of a generator impossible without a variance since the site is constrained.

Deprivation of Rights

Without the requested variance, the applicant will not be able to place a permanent generator on their property.

Minimum Possible Variance

Due to the setbacks, the location of improvements and the lot configuration, the requested variance is the minimum possible.

Purpose and Intent

Approval of this request will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood. There is adequate separation between the generator and the neighboring residences to avoid adverse impacts.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated November 9, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain a permit for the generator within 180 days of final action on this application by Orange County.
5. The applicant shall obtain a permit for the decorative wall and lighting within 90 days of final action on this application by Orange County.

C: Navin Naresh Lokenath
52 Riley Rd. Suite 392
Celebration, FL 34747



State License # EC13006695

52 Riley Rd # 392 Celebration FL 34747 | Ph: (407) 739-2779 | Email: navin@navtekelectrical.com

COVER LETTER

To: The Board of Zoning Adjustment (BZA) Variances and Special Exceptions

Regarding: Robert and Theresa Dawsey 7821 Wandering Way

Please see enclosed application for variance at the above mentioned property for the purpose of installing a whole house standby generator in the side yard of the property.

The current zoning requires a minimum of 10ft setback for the generator in the side yard. Per the property survey, also attached, there is a total distance of 5 ft from the property structure to the property line in the side yard, which is a drainage easement. Our proposal is to install the generator sideways so that the shortest side of 2.125ft (25.5 inches) will protrude from the side of the house, thereby leaving 2.875 ft (34.5 Inches) to the property line. There is no spacing requirement between the generator and the house, per zoning.

Additionally, there is the air conditioner exterior unit which is installed on the same side of the house, within the said drainage easement and which takes up approximately the same amount of space as the proposed generator would.

Mr and Mrs. Dawsey's employment in high level computer programming requires them to have access to electrical power 24 hours a day. In the event of a power failure, they need to be able to have a back-up power source in order to continue their work. Additionally, Mr Dawsey has a medical condition which requires him to have highly perishable medical supplies immediately accessible. These are the primary reasons they need to have a generator. Additionally, upon a site visit I have determined that there is no physical space available in the front or back yard of the property to place the generator.

VARIANCE CRITERIA

1. Special Conditions and Circumstances –the other properties in the subdivision are not encumbered from maximizing use of side yards, which are special conditions and circumstances.
2. Not Self-Created – The current owners are not responsible for the configuration of the lot or orientation of the residence including the lot dimensions
3. No Special Privilege Conferred - Approval of the zoning variance requested will not confer special privilege that is denied to other properties in the same area and zoning district, as all the properties have AC units in the side yard with similar setbacks.



State License # EC13006695

52 Riley Rd # 392 Celebration FL 34747 | Ph: (407) 739-2779 | Email: navin@navtekelectrical.com

4. Deprivation of Rights - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of the ability to enjoy the property in a similar manner as others in the development through the addition of side yard amenities.

5. Minimum Possible Variance – This is the minimum possible variance to allow a generator unit of an appropriate size for this residence.

6. Purpose and Intent - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The generator unit will be installed alongside the current AC unit, at the same setback as the AC unit. The request was approved by the HOA (see enclosed letter of approval). The generator unit will be installed by a licensed electrical contractor with the proper permitting by the building department (permit # E20008142)

Current zoning standards:

	Zoning Requirement	Proposed
Minimum Setback in side yard	10ft	2.875ft (34.5 inches)
There are no spacing requirements between the generator and the principal building		

Thank you for your consideration.

Navin Lokenath
State Certified Master Electrician
Navtek Electrical Corporation

HOA APPROVAL



2100 S. Hiwassee Rd.
Orlando, FL 32835

07/24/2020

The Robert & Theresa Dawsey Rlt, Robert T / Theresa L Dawsey Co-Ttees
7821 Wandering Way
Orlando, FL, 32836

RE: Generator Installation

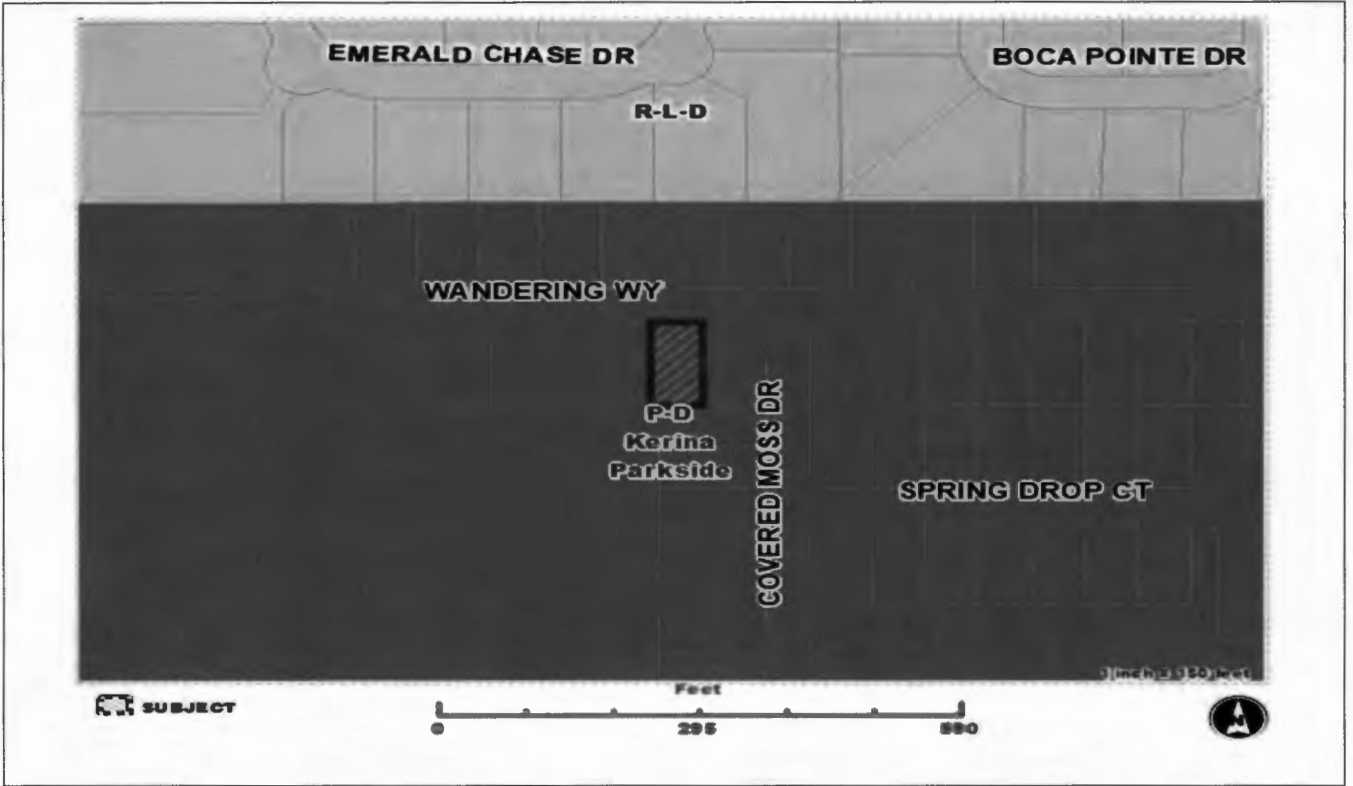
To Whom It May Concern:

The HOA at Phillips Grove approves the planned installation location on the side of the residence at 7821 Wandering Way, Orlando, FL 32836. The proposed location of the generator, despite being placed in a "private drainage easement," poses no issues with the installation, drainage or maintenance.

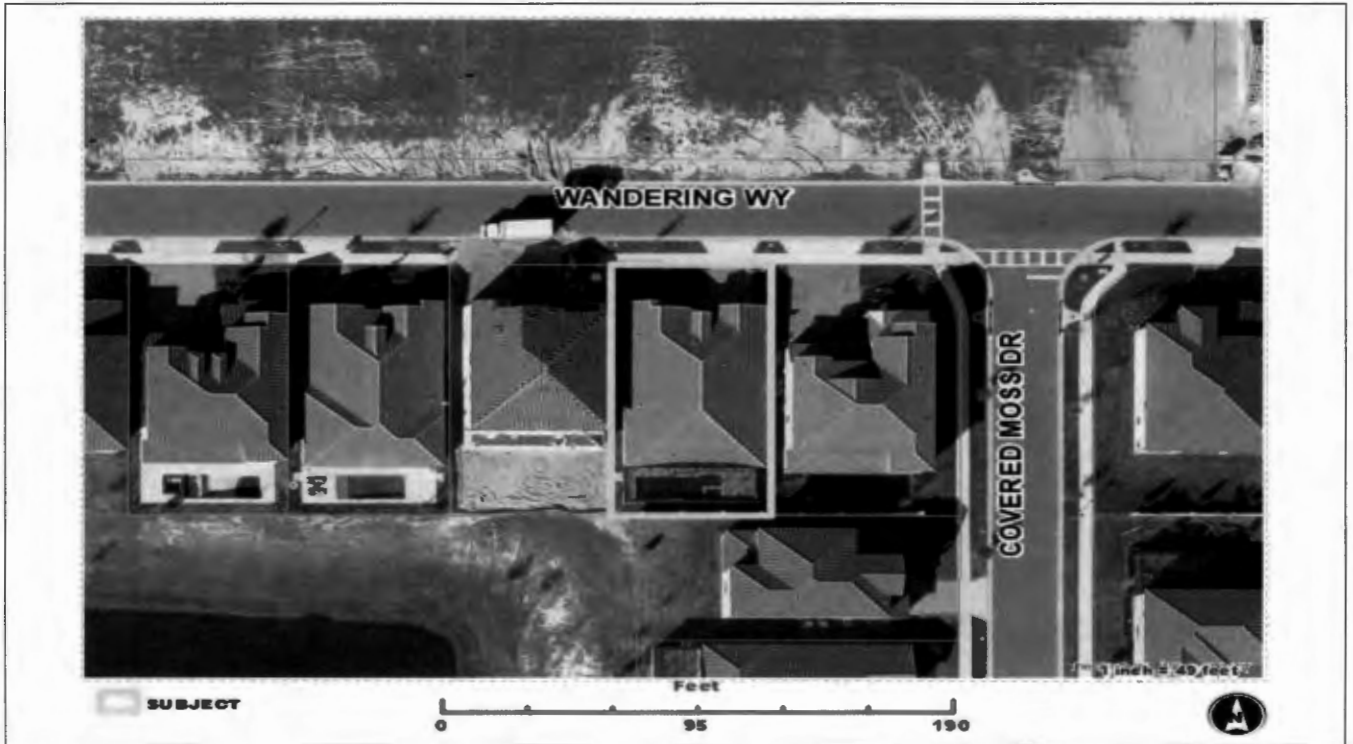
Sincerely,

Evergreen Lifestyles Management
Keegan Mathur
kmathur@evergreen-lm.com
For the Architectural Committee of
Phillips Grove Homeowners Association, Inc.

ZONING MAP

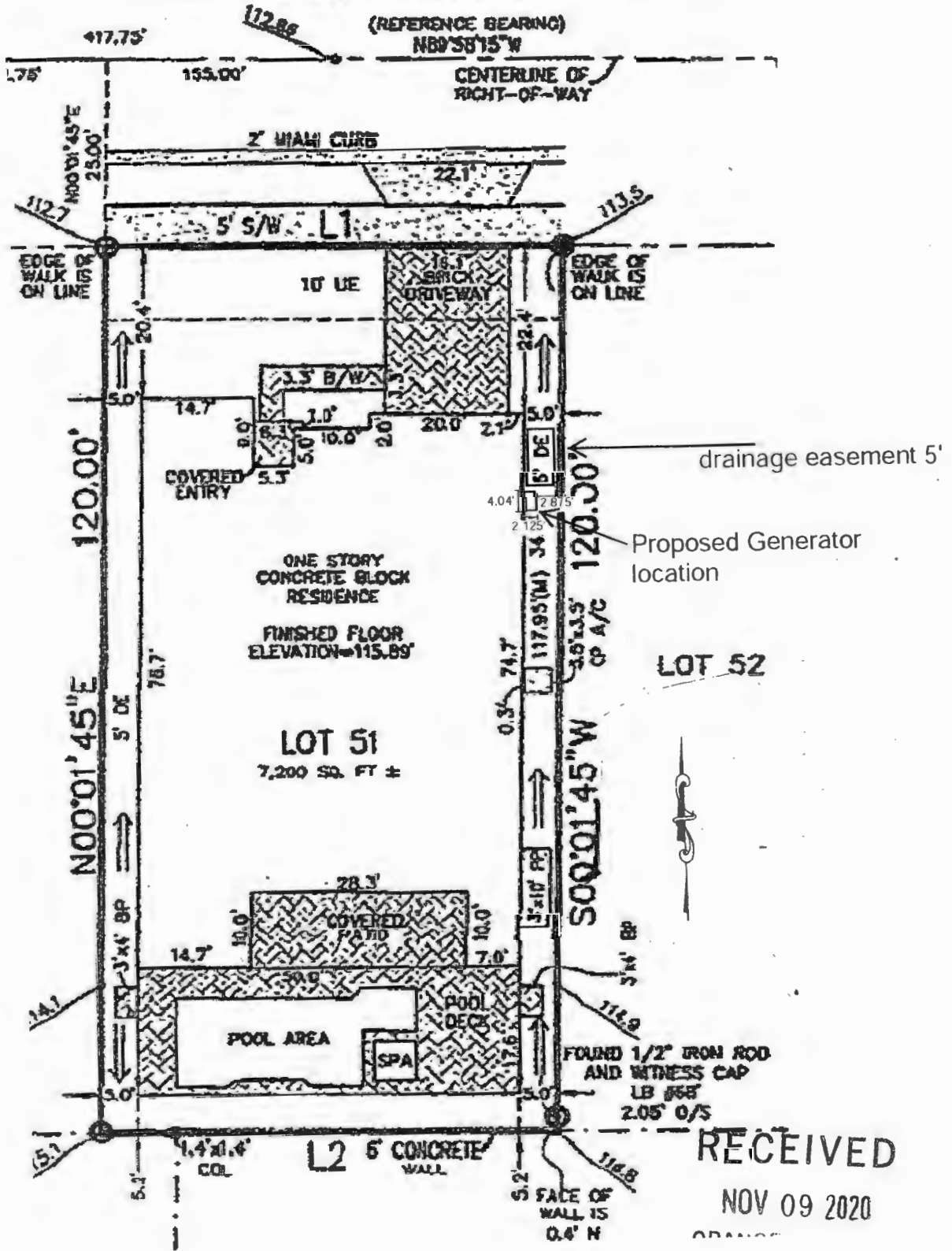


AERIAL MAP

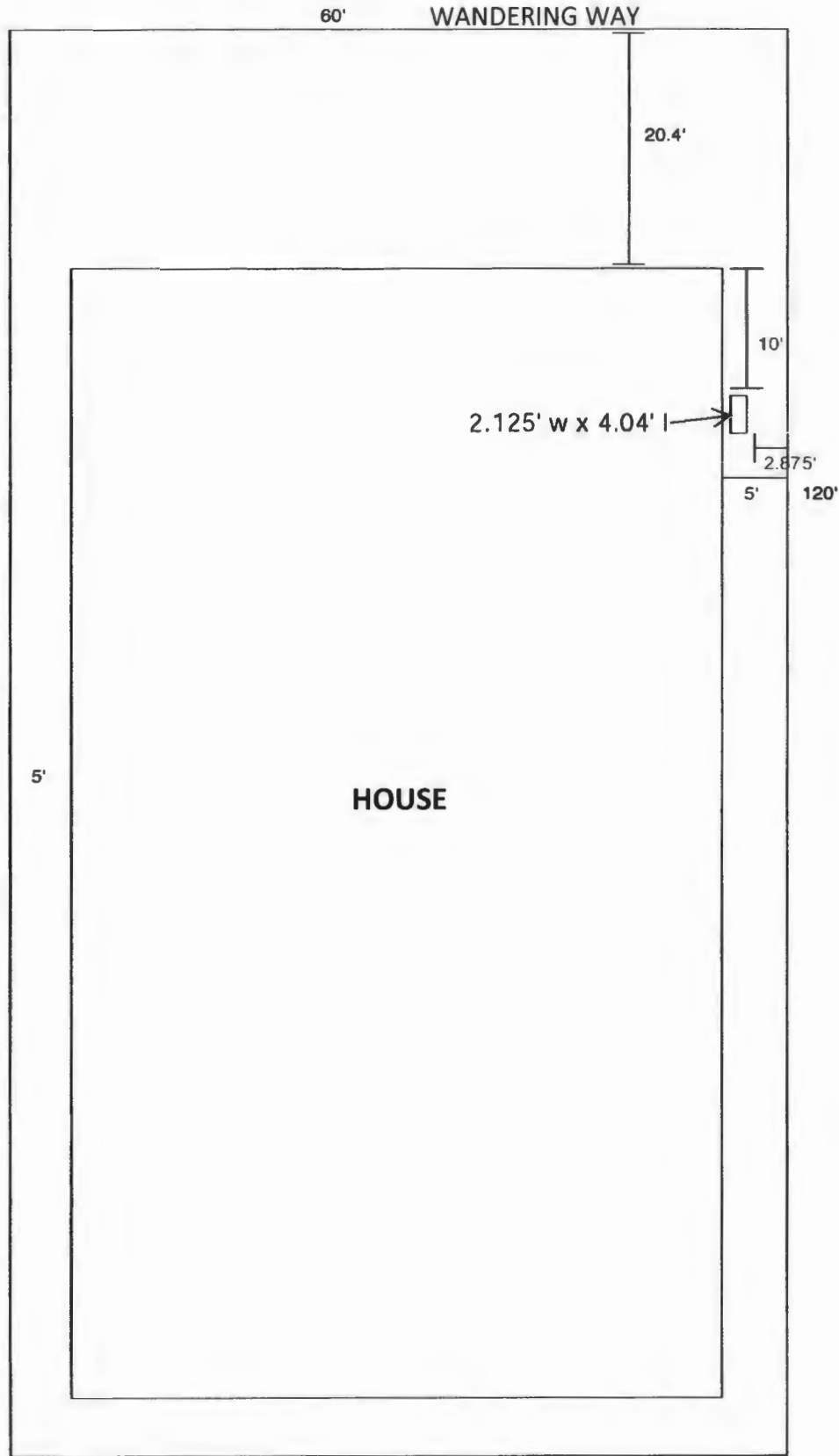


SURVEY

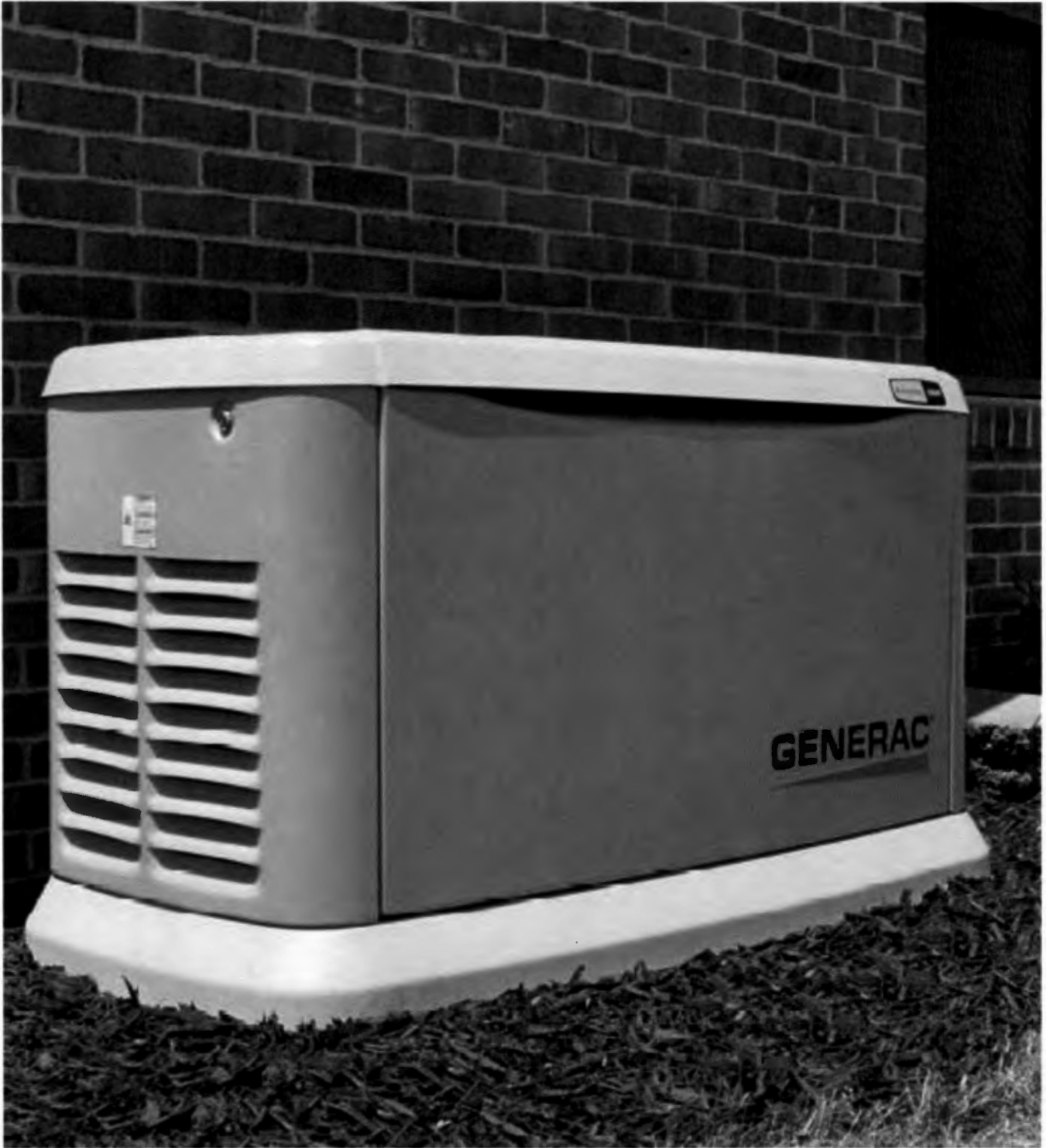
WANDERING WAY
TRACT C
(COMMON AREA)(50' PRIVATE RIGHT OF WAY)



GENERATOR SITE PLAN



EXAMPLE OF PROPOSED GENERATOR



SITE PHOTOS



Front from Wandering Way facing south



Proposed generator location looking south

SITE PHOTOS



Rear yard of property looking west



West side of property looking north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 03, 2020**

Case Planner: **Nick Balevich**

Case #: **SE-21-01-125**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): GREENBRIAR LANDSCAPING (JAMES WILLIARD)

OWNER(s): GOH LLC

REQUEST: Special Exception to allow a landscaping, irrigation and lawn care business in the A-1 zoning district.

PROPERTY LOCATION: 16900 Sandhill Rd., southwest corner of Avalon Rd. and Sandhill Rd., approximately 1 mile south of Marsh Rd.

PARCEL ID: 06-23-27-4292-05-330

LOT SIZE: 8.97 acres

NOTICE AREA: 1,500 ft.

NUMBER OF NOTICES: 48

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (unanimous; 5-0 and 2 absent):

1. Development shall be in accordance with the site plan dated November 11, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Days and hours of operation shall be limited to Monday through Friday, 7 a.m. to 5:30 p.m.

5. The applicant shall obtain permits for warehouse buildings, site work / paving, and signage as applicable.
6. The applicant shall remove the signs in the right-of-way within 90 days of final action on this application by Orange County or this approval is null and void.

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

The applicant stated that 6 acres of the property is used as a landscape nursery, that only the southeast portion is used for the landscape contracting business, and the owner did not know that a Special Exception was required. The applicant confirmed that the signage in the right-of-way will be removed. The applicant noted that staff recommended landscape buffering for the entire perimeter of the site, which includes the nursery areas, and he felt they should not buffer acres of trees. The applicant also noted that the warehouses were constructed 15 years ago, and he was confident that they were permitted, and that they do not know how to retro-permit buildings from 15 years ago.

The BZA discussed the existing site improvements, the site plan, and the landscape plan, and asked Staff to confirm the hours and days of operation.

Staff discussed the purview of the BZA and the landscape code, the need for meeting the landscape code during the permitting process, and stated that the condition pertaining to the requirement of building permits is worded as flexible as possible to meet Building Division requirements.

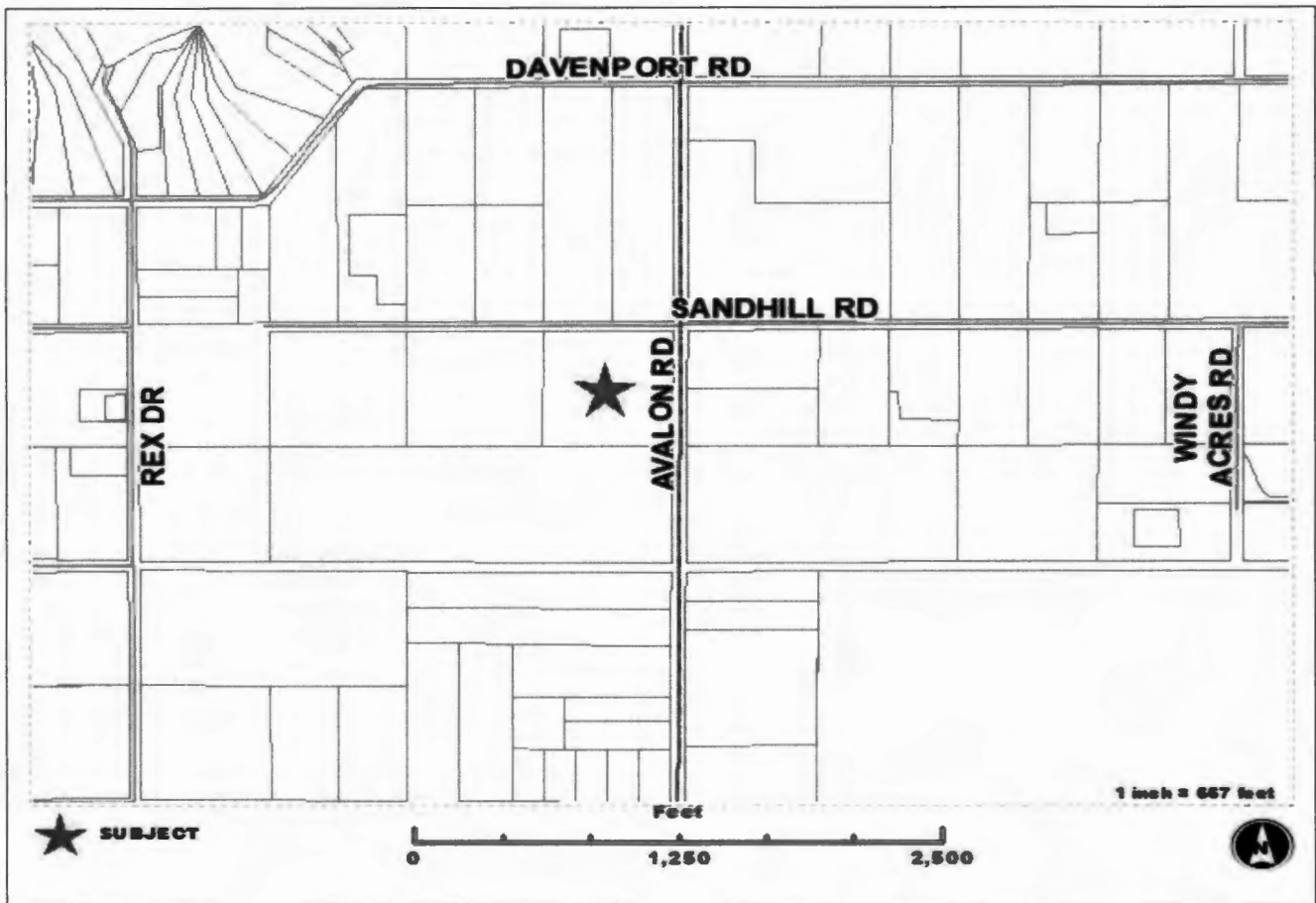
The owner noted that he would prefer to just buffer the improved areas and the applicant felt that there is a distinction between the landscape business, which requires a Special Exception, and the nursery which is permitted by-right in the zoning district. The applicant further stated the landscape buffer around the nursery is a non-substantial deviation that is subject to the Zoning Manager's review and approval during the Building permit process.

There was no one in attendance to speak in favor or in opposition to the request. The BZA recommended approval of the variance by a 5-0 vote, subject to the six (6) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-1	A-1	A-1	A-1	A-1
Future Land Use	RS 1/5	RS 1/5	RS 1/5	RS 1/5, RS 1/2, RS 1/1	RS 1/5
Current Use	Landscaping, irrigation and lawn care business	Religious facility	Vacant	Nursery	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-1 Citrus Rural zoning district, which allows agricultural uses such as wholesale plant nurseries, mobile homes, and single-family homes with accessory structures on larger lots. In addition, uses associated with nurseries, such as landscaping businesses and irrigation contractors are permitted through the Special Exception process.

The property is located in the Lake Avalon Rural Settlement Commercial Design Overlay, which provides development standards to reinforce the community's rural character. However, uses that are designated as a Special Exception in the underlying zoning district are required only to follow the Special Exception process (38-78 Orange County Code).

The area consists of vacant land, single family homes, religious facilities, citrus groves and nurseries. The subject property is an 8.97 acre parcel of land. The southeastern 2.6 acre portion of the property is used for the landscaping, irrigation and lawn care business, with the remainder of the property being used for a plant nursery. The property is located in the Lake Avalon Groves Replat, which was platted in 1924, and is considered to be a conforming lot of record. The applicant purchased the property in 1997.

The site is developed with two modular office buildings, which are labeled on the site plan as Buildings #1 and #2, and are 989 sq. ft., and 528 sq. ft. respectively, and both were constructed in 1998 under permit #B98901894. The site also has two warehouse buildings, which are labeled on the site plan as Buildings #3 and #4, and are 2,280 sq. ft., and a 3,325 sq. ft. respectively, and both were constructed in 2005. Staff is unable to locate permits for the warehouse buildings, site work / paving, or signage. The applicant has indicated that they will obtain permits as necessary. Further, it appears that there are 4 ground signs installed in the Avalon Road right-of-way.

The applicant is requesting Special Exception approval for the landscaping, irrigation and lawn care business. The applicant is not proposing to add any structures and is only proposing modifications to the parking area and the addition of landscaping, to meet code. Parking islands are proposed in the parking lot, and hedges and trees along the perimeter of the property, in the buffers along the property lines.

Approximately 50 people are employed by the company; however, only 8 of them work at the site, while the others perform work off site. The applicant states that the days and hours of operation will be Monday through Friday, 7 a.m. to 5:30 p.m.

The parking requirements for the property are as follows:

Office: 1,518 sq. ft. @ 1 parking space per 200 sq. ft., requiring 8 spaces

Warehouse: 5,605 sq. ft. @ 1 parking space per 1,000 sq. ft., requiring 6 spaces, and 1 parking space per bay, requiring 6 spaces

The total parking spaces required for the entire property is 20 spaces. The existing parking area contains 29 parking spaces, and 2 accessible parking spaces for a total of 31 spaces, thus meeting the parking code requirement.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	10, 18, and 20 ft.
Min. Lot Width:	100 ft.	614 ft.
Min. Lot Size:	1/2 acre	8.97 ac.

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

	Code Requirement	Proposed
Front:	35 ft.	71 ft. (east-buildings #1 and #2)
Rear:	50 ft.	311 ft. (west-building #4)
Side:	10 ft.	35.7 ft. (south-building #3)
Sidestreet:	15 ft.	427.9 ft. (north-building #1)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of landscape, irrigation and lawn care businesses as conditioned through the Special Exception process is consistent with the Comprehensive Plan since such a use provides a benefit and service to the surrounding residential areas.

Similar and compatible with the surrounding area

The existing landscape, irrigation and lawn care business will be compatible with other existing nearby similar uses such as plant nurseries and single-family acreages since there is no additional impact to adjacent properties. The business is not expanding and it has been in operation for over the last 25 years.

Shall not act as a detrimental intrusion into a surrounding area

The existing operations on the subject property will not negatively impact the surrounding area. The existing landscaping business use has been in operation for over the last 25 years, albeit without Special Exception approval. It is located within an existing complex and all improvements meet code.

Meet the performance standards of the district

The use meets all setbacks, height limits, parking requirements, and other performance standards. With the installation of trees and hedge materials, the adjacent residents will be afforded adequate buffering.

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

The applicant has not proposed any activity on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the adjacent and nearby nurseries and will not be impacting the adjacent residence located to the west since both properties are heavily landscaped and buffered. Furthermore, no expansion to the existing operations are proposed.

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

The proposal is entirely located within an existing, substantially buffered property. Further, the applicant has provided a landscape plan that shows a continuous hedge and the addition of trees installed with a separation of 20 ft. to 40 ft. on center, around the site.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated November 11, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
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5. The applicant shall obtain permits for warehouse buildings, site work / paving, and signage as applicable.
6. The applicant shall remove the signs in the right-of-way within 90 days of final action on this application by Orange County or this approval is null and void.

C: Mr. James G. Willard
300 S Orange Ave. Suite 1600
Orlando, FL 32801



James G. Willard
Partner
SHUTTS & BOWEN LLP
300 SOUTH ORANGE AVENUE
SUITE 1600
ORLANDO, FLORIDA 32801
PHONE... (407) 423-3200
FAX (407) 849-7209
EMAIL JWILLARD@SHUTTS.COM

October 12, 2020

VIA EMAIL Nick.Balevich@ocfl.net

Nick Balevich
Planner II
Orange County Zoning Division
201 S. Rosalind Avenue, 1st Floor
Orlando, Florida 32801

Re: Special Exception Application for Goh, LLC (Parcel I.D. # 06-23-27-4292-05-330)

Dear Mr. Balevich:

My client, Goh, LLC ("Owner") is the owner of approximately 8.97 acres of land located at 16900 Sandhill Road, Winter Garden, Florida, Parcel # 06-23-27-4292-05-330 (the "Property"). I have been retained to assist in obtaining a Special Exception from the County authorizing the continued use of the Property for the operation of a commercial landscaping, irrigation and lawncare business operated under the name of an affiliate entity, Greenbriar Landscaping, Inc., a Florida corporation ("Greenbriar").

For over 20 years the Property has been simultaneously and continuously used for two separate but related purposes:

- Approximately 6 acres of the Property is used as a tree farm and nursery which is a permitted use under the current A-1 zoning designation.
- The remaining 3 acres located in the southeast quadrant of the Property is used for a commercial landscaping, irrigation and lawncare business for which the Special Exception is now requested.

Because of the compatible nature of the dual uses, the Owner was only recently made aware that a Special Exception was required for the landscaping business use.

The following additional information is provided in support of this request:

1. No additional improvements are proposed in conjunction with this Special Exception.
2. Existing improvements used for the landscaping business consist of two modular offices (one single-wide and one double-wide trailer) and two metal buildings used for equipment and maintenance purposes. One building is approximately

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5,000 square feet and the other is approximately 3,200 square feet. Both are approximately 15 to 18 feet in height. There is also a paved parking lot for 50 vehicles.

3. The landscaping operation of Greenbriar employs approximately 50 people. Six to eight of these employees work on site and the remainder are landscape crews that work off site but are based at this location.
4. Attached is a copy of the current State of Florida Department of Agricultural and Consumer Services dealer license for Greenbriar Landscaping, Inc. at the Property as well as a copy of the current Orange County local business tax receipt for Greenbriar Landscaping, Inc. also at the Property. Similar County and State licenses have been maintained continuously since the late 1990s.
5. Enclosed is a recent survey/site plan showing the Property and all improvements, including the buildings and parking area used for the landscaping services located in the southeast portion of the Property.
6. Also attached are aerial photographs showing the location of the Property in the southwest corner of Sandhill Road and Avalon Road in the Avalon rural settlement. From the review of these aerial photographs, please note:
 - The existing landscaping use in the southeast quadrant of the Property is already buffered by the permitted nursery operations located to the north and to the west within the Property.
 - Both the landscaping and the nursery operations are compatible with similar uses located in the surrounding area of the Avalon Rural Settlement.
 - The property to the south is a commercial pine tree operation and is equally compatible with the landscaping use.

SPECIAL EXCEPTION CRITERIA

We believe the Owner meets all of the criteria for this Special Exception request:

1. The landscaping and lawn service use is consistent with the Comprehensive Policy Plan.
2. The use is similar to and compatible with the surrounding area and consistent with the pattern of surrounding development. Similar uses exist immediately to the east of the subject Property.
3. The use is not a detrimental intrusion into the surrounding area.
4. The landscaping and lawn service use meets the performance standards of the districts in which the use is permitted, which includes the C2, C3 and all Industrial classifications.

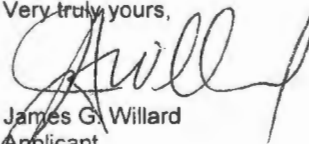
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5. The proposed use is similar in noise, vibration, dust, odor, glare, heat producing and other characteristics associated with the majority of uses currently permitted in this A-1 zoning district.
6. It is contended that no additional buffer yards are needed in that the southern boundary adjoins a commercial pine tree operation and the eastern boundary is already sufficiently buffered adjacent to Avalon Road.

Thank you for your assistance in processing this application. Should additional information be required or if you have any questions, please contact the undersigned.

Very truly yours,



James G. Willard
Applicant

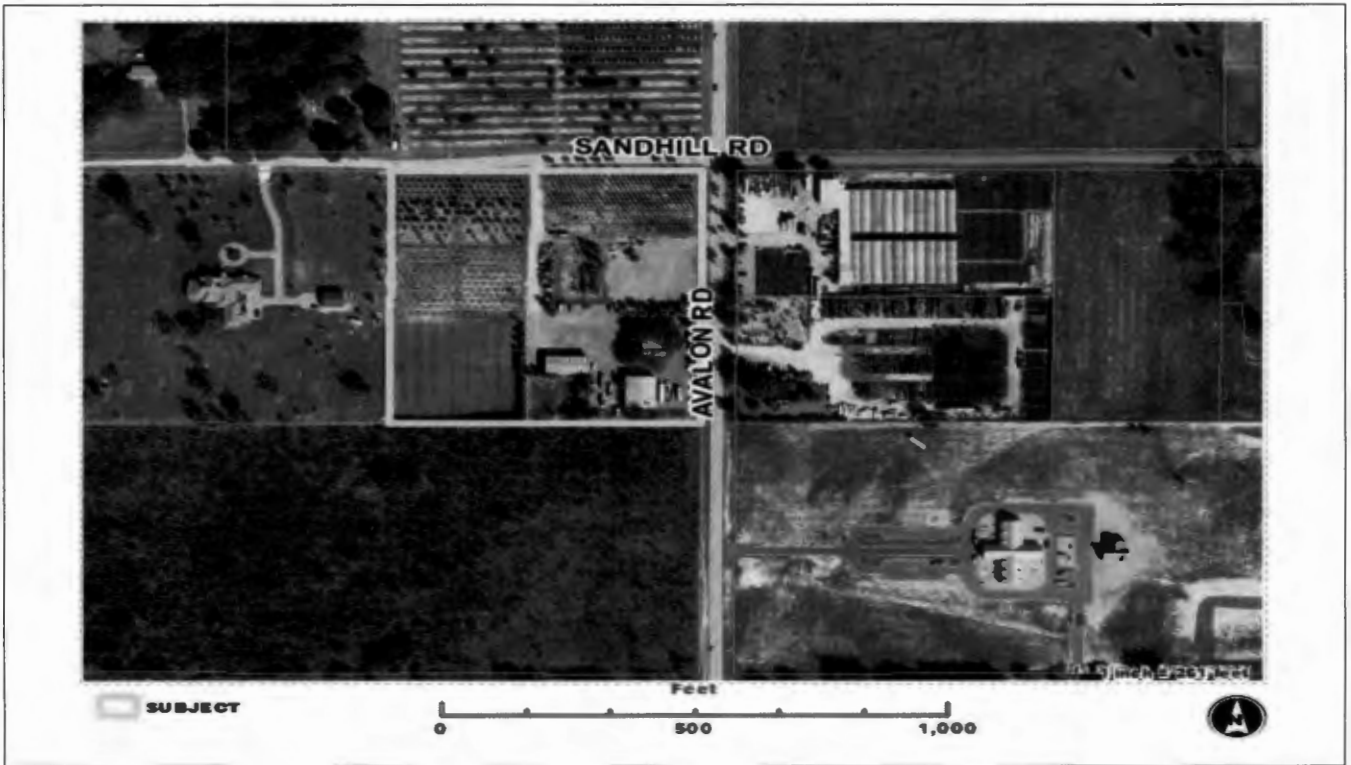
JGW/smw
Enclosures

cc: Todd Haag (via email)
Darrell Nunnelley (via email)

ZONING MAP

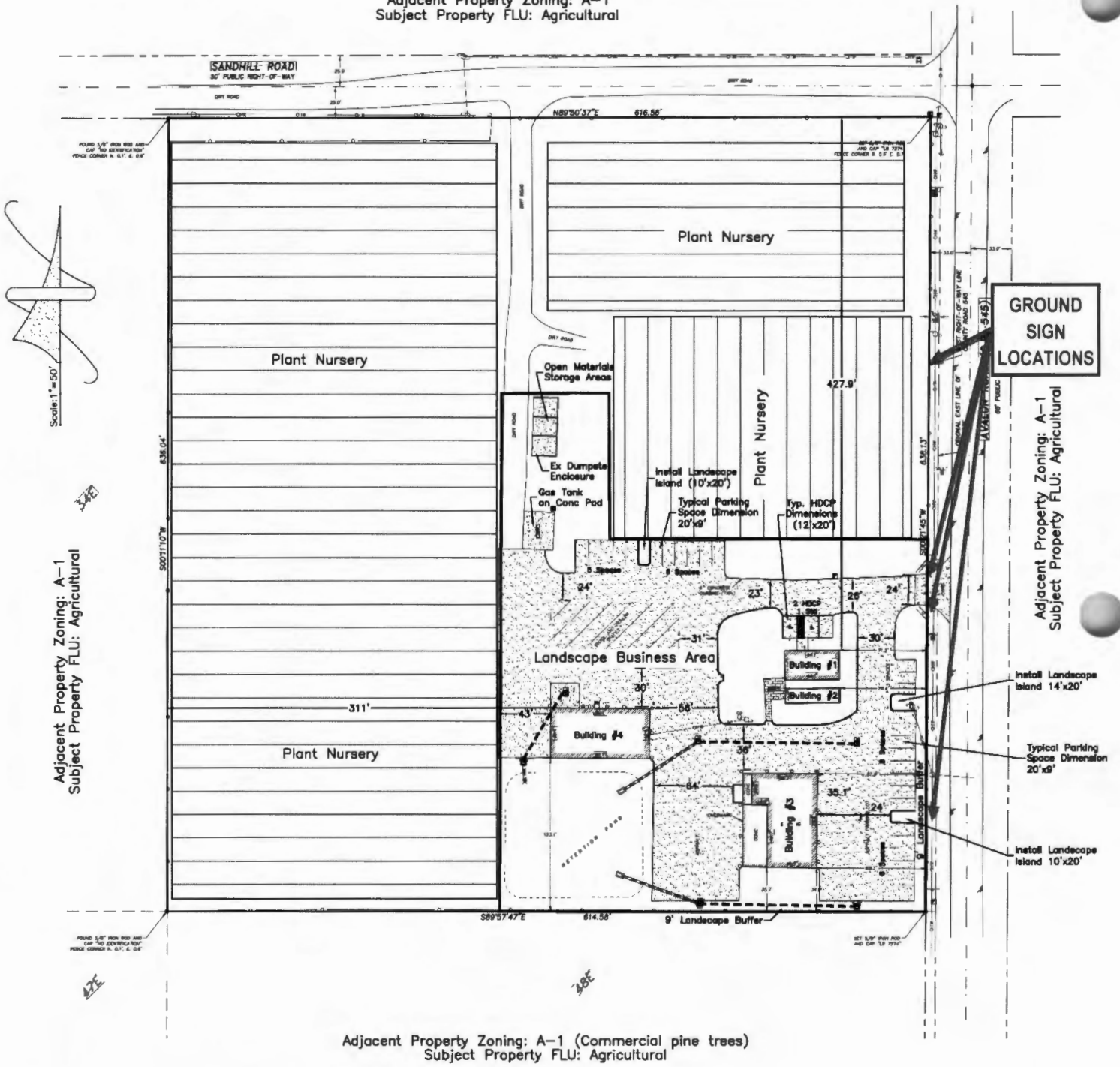


AERIAL MAP



SITE PLAN

Adjacent Property Zoning: A-1
Subject Property FLU: Agricultural



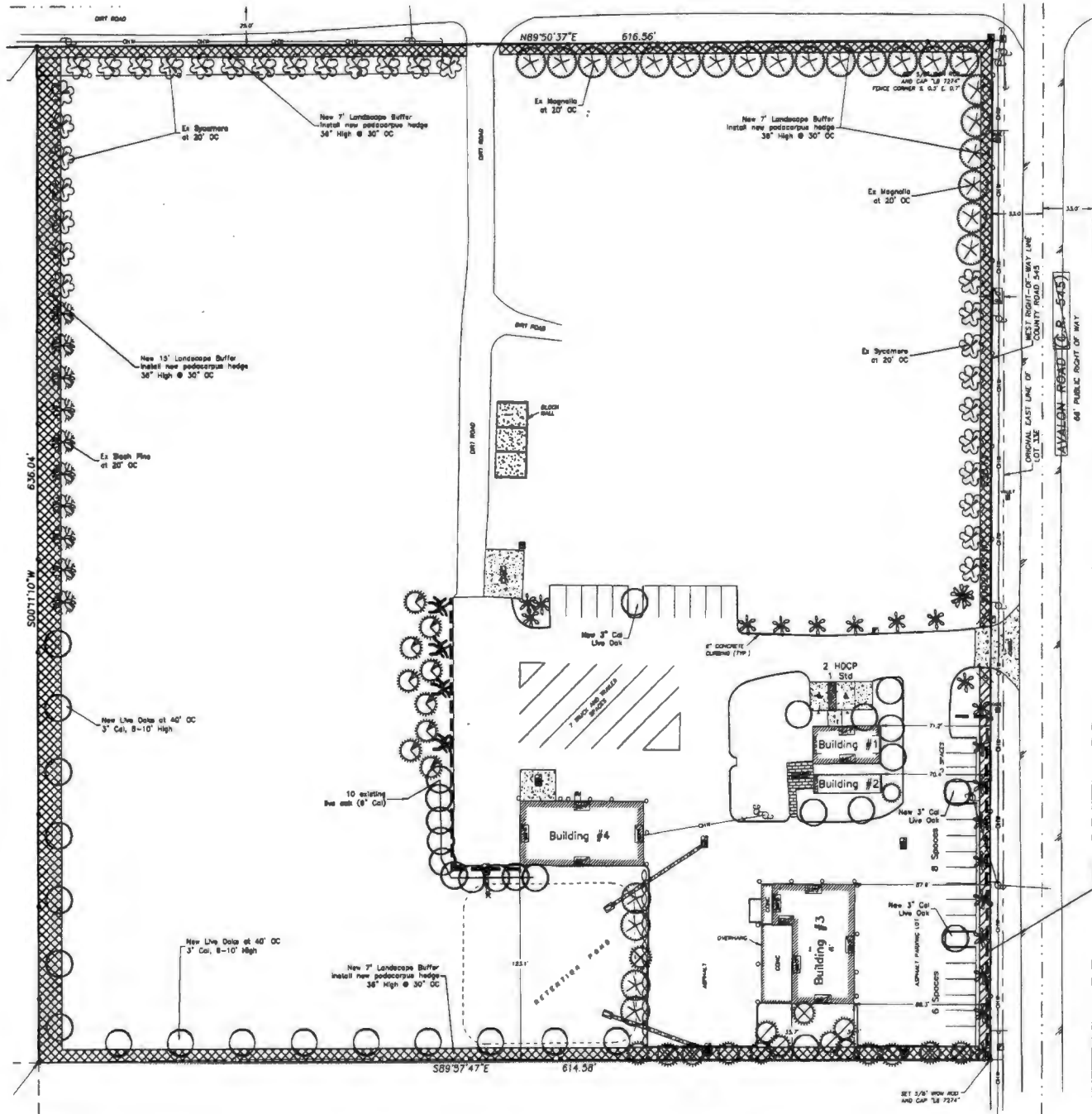
**GROUND
SIGN
LOCATIONS**

Adjacent Property Zoning: A-1
Subject Property FLU: Agricultural

Adjacent Property Zoning: A-1
Subject Property FLU: Agricultural

Adjacent Property Zoning: A-1 (Commercial pine trees)
Subject Property FLU: Agricultural

LANDSCAPE PLAN



Landscape Legend

Symbol	Description
○	- Existing Live Oak (Quercus virginiana) 24" Cal, 30-34' High
⊗	- Existing Borchard Magnolia (Magnolia grandiflora 'D.S. Borchard') 10" Cal, 14-18' High
✿	- Existing Sycamore (Platanus occidentalis) 4" Cal, 12-14' High
✿	- Existing Slash Pine (Pinus elliotii) 3" Cal, 12-14' High
○	- Existing Red Maple (Acer rubrum) 8" Cal, 24-28' High
⊗	- Existing Cross Myrtle (Laguncularia leucostachya) 8" Cal, 14-20' High
○	- Existing Tree Ligustrum (Ligustrum) 4-6" High
○	- Existing East Palmetto Holly (Ilex x attenuata 'East Palmetto') 4" Cal, 4-8' High
✿	- Existing Washingtonia Palm (Washingtonia robusta) 24-28' High
✿	- Existing Spinecactus Palm (Phoenix spinescens) 28-30' High
✿	- Existing Starburst Palm (Strobanthe rotunda) 18-20' High
---	- Existing Podocarpus Hedge 48" High, 30" O.C.
○	- Existing Dwarf Buford Hedge 48" High, 30" O.C.

SITE PHOTOS



Site from Avalon Rd. looking northwest (with unpermitted sign)



Site from Avalon Rd. looking west

SITE PHOTOS



Entrance from Avalon Rd. looking north, with unpermitted sign in background



Unpermitted signage at entrance on Avalon Rd. looking south

SITE PHOTOS



Parking adjacent to Avalon Rd. looking south



Unpermitted signage on Avalon Rd. looking south

SITE PHOTOS



Buildings 1, 2, and 3 looking southwest



Building 3 looking southwest

SITE PHOTOS



Building 4 looking south



Site adjacent to Sandhill Rd. looking west

SITE PHOTOS



Site, adjacent to residence looking west



Site looking east

SITE PHOTOS



Retention pond looking south

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **DEC 3, 2020**

Case Planner: **Ted Kozak, AICP**

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

Commission District: **#1**

GENERAL INFORMATION

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

OWNER(s): DB RETAIL STORES, LLC.

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

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

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

LOT SIZE: 1.15 acres

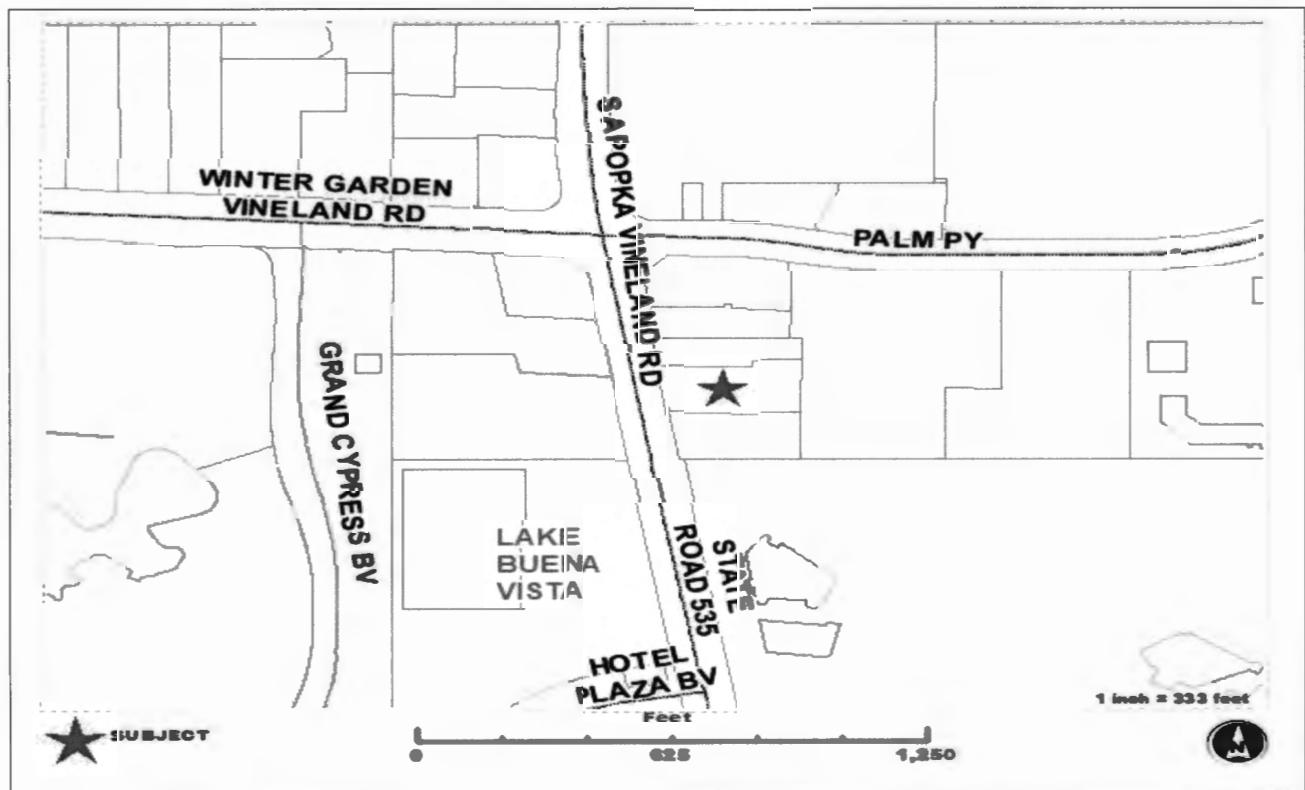
NOTICE AREA: 1500

NUMBER OF NOTICES: 44

STAFF RECOMMENDATIONS

A CONTINUANCE WAS REQUESTED TO MARCH 4, 2021

LOCATION MAP





BOARD OF ZONING ADJUSTMENT