




Interoffice Memorandum

DATE: September 25, 2024

TO: Jennifer Lara-Klimetz, Assistant Manager,
Clerk of the Board of County Commissioners,
County Comptroller's Office

THROUGH: Agenda Development

FROM: Brandy Driggers 
Assistant Manager, Zoning Division

CONTACT PERSON: **Allen McNeill**
Chief Planner, Zoning Division
(407) 836-9620 or allen.mcneill@ocfl.net

SUBJECT: Request for Public Hearing to consider an appeal of the September 5, 2024 Board of Zoning Adjustment Recommendation for Variances, VA-24-10-095 Katelynd O'Neal, located at 6042 Shore Line Dr., Orlando, FL 32819, Parcel ID # 23-23-28-6300-00-080, District 1

APPLICANT: Katelynd O'Neal

APPELLANT: Cindy Sayers-Lane on behalf of Orange Tree Estates Homes Section One Maintenance Association, Inc.

CASE INFORMATION: VA-24-10-095 – September 5, 2024

TYPE OF HEARING: Board of Zoning Adjustment Appeal

HEARING REQUIRED BY FL STATUTE OR CODE: Chapter 30, Orange County Code

ADVERTISING REQUIREMENTS: Publish once in a newspaper of general circulation in Orange County at least (15) fifteen days prior to public hearing.

ADVERTISING TIMEFRAMES: At least fifteen (15) days prior to the BCC public hearing date, publish an advertisement in the legal notice section of The Orlando Sentinel describing the particular request, the general location of the subject property, and the date, time, and place when the BCC public hearing will be held;

ADVERTISING

Variances in the PD zoning district as follows:

- 1) To allow a pool deck with a Normal High-Water Elevation (NHWE) of 25 ft. in lieu of 50 ft.
- 2) To allow a spa with a Normal High-Water Elevation (NHWE) of 34 ft. in lieu of 50 ft.

Note: This is the result of Code Enforcement.

**NOTIFICATION
REQUIREMENTS:**

At least 10 days before the BCC hearing date, send notices of the public hearing by U.S. mail to owners of property within 500 ft. of the property.

**ESTIMATED TIME
REQUIRED:**

Two (2) minutes

**MUNICIPALITY OR
OTHER PUBLIC
AGENCY TO BE
NOTIFIED:**

N/A

**HEARING
CONTROVERSIAL:**

Yes

DISTRICT #:

1

The following materials will be submitted as backup for this public hearing request:

1. Names and known addresses of property owners within 500 ft. of the property (via email from Fiscal and Operational Support Division); and
2. Location map (to be mailed to property owners).

SPECIAL INSTRUCTIONS TO CLERK:

1. Notify abutters of the public hearing at least two (2) weeks prior to the hearing and copy staff.
2. Public hearing should be scheduled within 45 days after the filing of the notice of appeal received on September 19, 2024, or as soon thereafter, as the BCC’s calendar reasonably permits.

Attachment: Location Map and Appeal Application

cc via email: Jennifer Moreau, AICP, Manager, Zoning Division
Brandy Driggers, Assistant Manager, Zoning Division

If you have any questions
regarding this map,
please contact Allen
McNeill at 407-836-9620.

Location Map





ORANGE COUNTY ZONING DIVISION
201 South Rosalind Avenue, 1st Floor, Orlando, Florida
32801 Phone: (407) 836-3111 Email: BZA@ocfl.net
www.orangecountyfl.net

Board of Zoning Adjustment (BZA) Appeal Application

Appellant Information

Name: Orange Tree Estate Homes Section One Maintenance Association, Inc.

Address: 7201 Woodgree Drive

Email: cindy@orangetreecommunity.com Phone #: (407) 351-8747

BZA Case # and Applicant: VA-724-10-095 - Katelynd O'Neal for Kelly Klatt

Date of BZA Hearing: 09/05/2024

Reason for the Appeal (provide a brief summary or attach additional pages of necessary):

See attached "Reasons for Appeal"

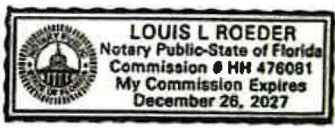
Signature of Appellant: *Cindy Lane* Date: 09/18/2024

STATE OF Florida
COUNTY OF Orlando

The foregoing instrument was acknowledged before me this 18 day of September, 2024, by Cindy Lane, President of OT Estates HOA who is personally known to me or who has produced drivers license as identification and who did/did not take an oath.

Louis L Roeder
Notary Public Signature

Notary Stamp:



NOTICE: Per Orange County Code Section 30-45, this form must be submitted within 15 days after the Board of Zoning Adjustment meeting that the application decision was made.

Fee: \$691.00 (payable to the Orange County Board of County Commissioners)

Note: Orange County will notify you of the hearing date of the appeal. If you have any questions, please contact the Zoning Division at (407) 836-3111.

See Page 2 of application for the Appeal Submittal Process.



ORANGE COUNTY ZONING DIVISION
201 South Rosalind Avenue, 1st Floor, Orlando, Florida 32801
Phone: (407) 836-3111 Email: Zoning@ocfl.net
www.orangecountyfl.net

Board of Zoning Adjustment (BZA) Appeal Application

Appeal Submittal Process

1. Within 15 calendar days of the decision by the Board of Adjustment, the appellant shall submit the Board of Zoning Adjustment (BZA) Appeal Application to the Zoning Division in person. The application will be processed and payment of \$691.00 shall be due upon submittal. All justification for the appeal shall be submitted with the Appeal Application.
2. Zoning Division staff will request a public hearing for the subject BZA application with the Board of County Commissioners (BCC). The BCC hearing will be scheduled within forty-five (45) days after the filing of the appeal application, or as soon thereafter as the Board's calendar reasonably permits. Once the date of the appeal hearing has been set, County staff will notify the applicant and appellant.
3. The BCC Clerk's Office will provide a mailed public hearing notice of the hearing to property owners at a minimum of 500 feet from the subject property. Area Home Owner Associations (HOA) and neighborhood groups may also be notified. This notice will provide a map of the subject property, as well as a copy of the submitted appeal application.
4. Approximately one week prior to the public hearing, the memo and staff report of the request and appeal will be available for review by the applicant, appellant, and the public.
5. The decision of the BCC is final, unless further appealed to the Circuit Court. That process is detailed in [Section 30-46](#) of the Orange County Code.

VA 24-10-095
Hearing of Sept 5, 2024

For clarification: *The Applicant is listed in the Variance Request as a Katelynd McNeal, an unlicensed consultant, while the Owner, Kelly Klatt, is the real Applicant.*

Reasons for Appeal

1. Opposition was not afforded equal time to present its case:

- a) **While the Public Hearing Notice posted indicated that “two minutes is allowed to each person during public comment,” the Klatts and the Applicant were allowed an unlimited time to speak at the BZA hearing. Only the Opposition speakers were limited to 2 minutes each. The Applicant should have been similarly limited; or the Opposition should have been allowed unlimited time as well. This speaking advantage did not allow the Opposition time to present its case, much less address the Applicant’s subsequent presentation of new evidence.**
- b) **Opposition was not allowed to have its evidence reviewed by the BZA. After the opposition exhausted its limited time to speak, the Opposition asked the Board if they had reviewed the Opposition’s report, a 40-pg package which filed by the Opposition with BZA Staff on July 29th. The Chair immediately acknowledged that the BZA board members had not received the report. Instead of stopping the public hearing and rescheduling another hearing so as to allow the BZA time to review the evidence of both sides, the Chair allowed the hearing to continue. The result was that the Opposition was denied a chance to have its case fully reviewed by the BZA, while the Applicant was allowed unlimited time, not only to present its case, but to proffer new evidence as well – which the Chair denied the Opposition the chance to correct.**

The combination of the above limitations seriously prejudiced the Opposition and prevented the BZA or the public from fully weighing in on the many errors and misstatements within the Applicant’s variance request. In fact, most of the issues the BZA discussed during their deliberations, could have quickly been answered if the Opposition had been allowed to respond; but instead, this led to **erroneous conclusions by the BZA**; and

- 2. Certified Engineering Report unjustifiably ridiculed:** After one of the Opposition presented a Civil Engineer’s certified opinion letter, with exhibits, regarding the negative impact of stormwater drainage from the Applicant’s property upon the property of an adjacent lakefront homeowner, one of the BZA members, without any evidence, belittled the Engineer’s report by opining that the Engineer “didn’t look at the actual site plan” and “just made an observation probably from the road on a drive-by inspection anyway.” That was highly prejudicial to the Opposition; and
- 3. False Testimony Allowed:** Applicant presented **blatantly false testimony and evidence, which the Opposition asked to correct; but the Chair denied.** For example, the Applicant presented false evidence claiming that the nearby HOA Recreation Center violated the 50 ft setback from NHW (*when commercial really on requires a 25 ft setback, as subsequently verified by County Staff*), and that a nearby home of one of the Opposition also violated the 50 ft setback from NHW (*which a 2016 survey shows that it does not*). How is it that the Owners’ consultant, Ms. McNea, did not know this? Or did she? and

4. Opposition Letters Not Provided to the BZA Board. Compared to letters supporting the variance request, letters in Opposition that had previously been provided to Staff, were NOT provided to the BZA for the hearing.

5. To Summarize:

Klatt does not deny that he knowingly installed improvements without ever securing a County Building Permit in 2005; but instead claims, while offering no proof, that County Staff had *told him* that a permit was not required. It should be noted that this is but only one of several improvements made by the Klatts over the years without first securing County building permits.

Klatt then claims that the "required 50 ft setback from the NHW" (the rule) did not apply to him because the Code that made the rule applicable to PD zoning was not amended to do so until Dec 2024, some 18 years after he installed the improvements - again, without a permit. **THE APPLICANT'S CLAIM IS SIMPLY FALSE.** As the BZA Staff and Opposition explained during the hearing, the "required 50 ft setback from the NHW" existed as a County-imposed condition of the Preliminary Subdivision Plan since 1987, several years before the Applicant knowingly installed the improvements without a permit.

For these reasons, and as required by Sec. 30-43(3) of the Orange County Code, any hardship created from the installation of improvements within the prohibited 50 ft setback from the NHW is a hardship of the Klatts' own making. As such, as originally recommended by BZA Staff, ...

THE KLATTS' VARIANCE REQUEST SHOULD BE DENIED.