



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

November 5, 2020

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)

ORANGE COUNTY GOVERNMENT

<u>Board Member</u>	<u>District</u>
Carolyn Karraker (Chairperson)	1
John Drago	2
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
NOVEMBER 5, 2020**

<u>PUBLIC HEARING</u>	<u>APPLICANT</u>	<u>DISTRICT</u>	<u>BZA RECOMMENDATIONS</u>	<u>PAGE #</u>
VA-20-09-089	Cheryl Vanatti	4	Requests #1, #2, and #3, Approved w/Conditions Request #4, Denied	1
VA-20-10-093	Brian Sanz	1	Continued	27
VA-20-12-108	Brenda Rowe	6	Denied	40
SE-20-11-101	University Unitarian Universalist Fellowship (Amy Mowbray)	5	Approved w/Conditions	51
VA-20-11-102	Mr. and Mrs. Crab (Wen Zheng)	6	Approved w/Conditions	64
VA-20-11-103	Charles Faust	1	Approved w/Conditions	75
VA-20-11-104	Jordan Strasberg	1	Denied	96
VA-20-11-106	Barbara Gottlieb	5	Approved w/Conditions	108
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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) Mobile Home - 2 acres	850	100	35	50	10	35	<i>a</i>
A-2	SFR - 21,780 (½ acre) Mobile Home - 2 acres	850	100	35	50	10	35	<i>a</i>
A-R	108,900 (2½ acres)	1,000	270	35	50	25	35	<i>a</i>
R-CE	43,560 (1 acre)	1,500	130	35	50	10	35	<i>a</i>
R-CE-2	2 acres	1,200	250	45	50	30	35	<i>a</i>
R-CE-5	5 acres	1,200	185	50	50	45	35	<i>a</i>
R-1AAAA	21,780 (1/2 acre)	1,500	110	30	35	10	35	<i>a</i>
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	35	<i>a</i>
R-1AA	10,000	1,200	85	25 <i>h</i>	30 <i>h</i>	7.5	35	<i>a</i>
R-1A	7,500	1,200	75	20 <i>h</i>	25 <i>h</i>	7.5	35	<i>a</i>
R-1	5,000	1,000	50	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
R-2	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Two dwelling units (DUs), 8,000/9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	30	5 <i>h</i>	35	<i>a</i>
	Three DUs, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-3	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5	35	<i>a</i>
	Two DUs, 8,000/ 9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Three dwelling units, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10	35	<i>a</i>
R-T	7 spaces per gross acre	Park size min. 5 acres	Min. mobile home size 8 ft. x 35 ft.	7.5	7.5	7.5	35	<i>a</i>
R-T-1								
SFR	4,500 <i>c</i>	1,000	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
Mobile home	4,500 <i>c</i>	Min. mobile home size 8 ft. x 35 ft.	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
R-T-2	6,000	SFR 500	60	25	25	6	35	<i>a</i>
(prior to 1/29/73)		Min. mobile home size 8 ft. x 35 ft.						
R-T-2 (after 1/29/73)	21,780 ½ acre	SFR 600	100	35	50	10	35	<i>a</i>
		Min. mobile home size 8 ft. x 35 ft.						

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
NR	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80/90 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50/4 stories <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NAC	Non-residential and mixed use development, 6,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	50 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 11,250	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50 feet/4 stories, 65 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NC	Non-residential and mixed use development, 8,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	65 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	65 feet, 80 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 for each add. story	35	<i>a</i>
C-1	6,000	500	80 on major streets (see Art. XV); 60 for all other streets <i>e</i> ; 100 ft. for corner lots on major streets (see Art. XV)	25	20	0; or 15 ft. when abutting residential district; side street, 15 ft.	50; or 35 within 100 ft. of all residential districts	<i>a</i>

District	Min. lot area (sq. ft.) ^m	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) ^a	Min. rear yard (ft.) ^a	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
C-2	8,000	500	100 on major streets (see Art. XV); 80 for all other streets ^f	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	50; or 35 within 100 feet of all residential districts	^a
C-3	12,000	500	125 on major streets (see Art. XV); 100 for all other streets ^g	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	75; or 35 within 100 feet of all residential districts	^a

District	Min. front yard (feet)	Min. rear yard (feet)	Min. side yard (feet)	Max. building height (feet)
I-1A	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-1 / I-5	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-2 / I-3	25	10	15	50, or 35 within 100 ft. of any residential use or district
I-4	35	10	25	50, or 35 within 100 ft. of any residential use or district

NOTE: These requirements pertain to zoning regulations only. The lot areas and lot widths noted are based on connection to central water and wastewater. If septic tanks and/or wells are used, greater lot areas may be required. Contact the Health Department at 407-836-2600 for lot size and area requirements for use of septic tanks and/or wells.

FOOTNOTES

^a	Setbacks shall be a minimum of 50 feet from the normal high water elevation contour on any adjacent natural surface water body and any natural or artificial extension of such water body, for any building or other principal structure. Subject to the lakeshore protection ordinance and the conservation ordinance, the minimum setbacks from the normal high water elevation contour on any adjacent natural surface water body, and any natural or artificial extension of such water body, for an accessory building, a swimming pool, swimming pool deck, a covered patio, a wood deck attached to the principal structure or accessory structure, a parking lot, or any other accessory use, shall be the same distance as the setbacks which are used per the respective zoning district requirements as measured from the normal high water elevation contour.
^b	Side setback is 30 feet where adjacent to single-family district.
^c	For lots platted between 4/27/93 and 3/3/97 that are less than 45 feet wide or contain less than 4,500 sq. ft. of lot area, or contain less than 1,000 square feet of living area shall be vested pursuant to Article III of this chapter and shall be considered to be conforming lots for width and/or size and/or living area.
^d	For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet and the duplex lot size is 8,000 square feet. For detached units the minimum duplex lot width is 90 feet and the duplex lot size is 9,000 square feet with a minimum separation between units of 10 feet. Fee simple interest in each half of a duplex lot may be sold, devised or transferred independently from the other half. For duplex lots that: <ul style="list-style-type: none"> (i) are either platted or lots of record existing prior to 3/3/97, and (ii) are 75 feet in width or greater, but are less than 90 feet, and (iii) have a lot size of 7,500 square feet or greater, but less than 9,000 square feet are deemed to be vested and shall be considered as conforming lots for width and/or size.
^e	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
^f	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
^g	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
^h	For lots platted on or after 3/3/97, or unplatted parcels. For lots platted prior to 3/3/97, the following setbacks shall apply: R-1AA, 30 feet, front, 35 feet rear, R-1A, 25 feet, front, 30 feet rear, R-1, 25 feet, front, 25 feet rear, 6 feet side; R-2, 25 feet, front, 25 feet rear, 6 feet side for one (1) and two (2) dwelling units; R-3, 25 feet, front, 25 feet, rear, 6 feet side for two (2) dwelling units. Setbacks not listed in this footnote shall apply as listed in the main text of this section.
^j	Attached units only. If units are detached, each unit shall be placed on the equivalent of a lot 45 feet in width and each unit must contain at least 1,000 square feet of living area. Each detached unit must have a separation from any other unit on site of at least 10 feet.
^k	Maximum impervious surface ratio shall be 70%, except for townhouses, nonresidential, and mixed use development, which shall have a maximum impervious surface ratio of 80%.
^m	Based on gross square feet.

These requirements are intended for reference only; actual requirements should be verified in the Zoning Division prior to design or construction.

VARIANCE CRITERIA:

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for a zoning variance shall be approved unless the Board of Zoning Adjustment finds that all of the following standards are met:

1. **Special Conditions and Circumstances** – Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed zoning variance.
2. **Not Self-Created** – The special conditions and circumstances do not result from the actions of the applicant. A self-created hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.
3. **No Special Privilege Conferred** – Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by the Chapter to other lands, buildings, or structures in the same zoning district.
4. **Deprivation of Rights** – Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of the property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval.
5. **Minimum Possible Variance** – The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. **Purpose and Intent** – Approval of the zoning variance will be in harmony with the purpose and intent of this Chapter and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

SPECIAL EXCEPTION CRITERIA:

Subject to Section 38-78, in reviewing any request for a Special Exception, the following criteria shall be met:

1. The use shall be consistent with the Comprehensive Policy Plan.
2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.
3. The use shall not act as a detrimental intrusion into a surrounding area.
4. The use shall meet the performance standards of the district in which the use is permitted.
5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.
6. Landscape buffer yards shall be in accordance with Section 24-5, Orange County Code. Buffer yard types shall track the district in which the use is permitted.

In addition to demonstrating compliance with the above criteria, any applicable conditions set forth in Section 38-79 shall be met.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 05, 2020**

Case Planner: **Ted Kozak, AICP**

Case #: **VA-20-09-089**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): CHERYL VANATTI

OWNER(s): CHERYL VANATTI, WILLIAM VANATTI

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

- 1) To allow an existing 489 sq. ft. accessory dwelling unit to be located in front of the primary dwelling in lieu of alongside or behind.
- 2) To allow an existing 240 sq. ft. accessory structure (carport) to be located in front of the primary dwelling in lieu of alongside or behind.
- 3) To allow a 1,720 sq. ft. pole barn to be located in front of the primary dwelling in lieu of alongside or behind.
- 4) To allow an existing 230 sq. ft. wood shed to remain 0.7 ft. from the side (west) property line in lieu of 5 ft.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 16829 Bearle Rd., Orlando, FL 32828, north side of Bearle Rd. at the intersection of Baron Rd., west of the Econlockhatchee River.

PARCEL ID: 29-22-32-7884-00-331

LOT SIZE: 395 ft. x 642 (avg.)/ 5.84 acres

NOTICE AREA: 900

NUMBER OF NOTICES: 33

DECISION: Recommended **APPROVAL** of the Variance requests #1, #2, and #3 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; and further; recommended **DENIAL** of the Variance request #4, in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (unanimous; 7-0):

1. Development shall be in accordance with the site plan, floor plans, and elevations dated September 25, 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 permits within 180 days of final action on this application by Orange County or the variances are null and void.

SYNOPSIS: Staff briefly described the property, including the year the existing single-family residence was constructed as well as the approximate years that the accessory dwelling unit and the carport were installed. Staff indicated that the applicant's rationale for locating all the accessory structures, including the accessory dwelling unit, the carport, and the proposed pole barn were due to the presence of wetlands on the northern 2/3 of the property. Staff also pointed out the location of an existing pole barn that is located on the property line and an existing shed that is located 0.7 ft. from the property line. It was also noted that the location of the accessory dwelling unit (ADU) was closer to the front roadway than the previous single-family residence that was previously demolished. Staff described the location of the proposed accessory structures in comparison with the improvements on adjacent properties, and provided an analysis of the six (6) criteria and the reasons for a recommendation for denial of the variances. Staff noted that two (2) comment letters were received in support from two nearby neighbors and no comments were received in opposition.

The applicant and the owner discussed the existing structures at the time of purchase, the need for variances, and emphasized that all the structures in the locations proposed are required in order to avoid the wetlands that dominate the site.

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

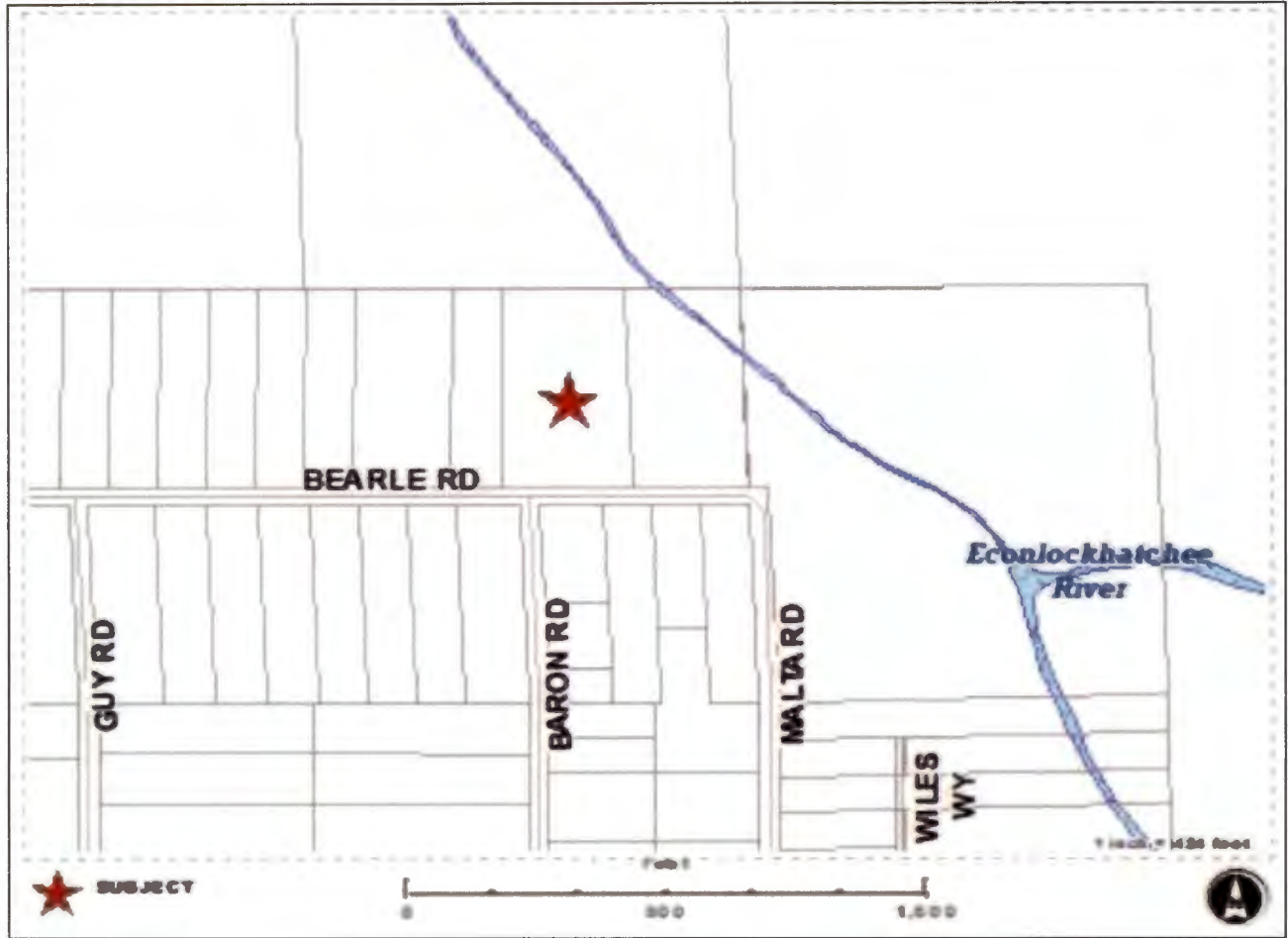
The BZA discussed the site improvements and the presence of wetlands on the site. The BZA had some concerns regarding the number of improvements on the site and the close proximity of the shed, with a setback less than 1 ft., which was requested as variance #4. The BZA questioned the applicant and owner and asked if they were willing to reduce the number of accessory structures on the site since the cumulative building area was approaching the 3,000 sq. ft. limit per code.

The BZA unanimously recommended approval of variances #1, #2, and #3, subject to the four (4) conditions in the staff report, and recommended denial of variance #4.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-2	A-2	A-2 and R-T-2	A-2	A-2
Future Land Use	R and RS 1/2 Sunflower Rural Settlement	R	RS 1/2 Sunflower Rural Settlement	R and RS 1/2 Sunflower Rural Settlement	R and RS 1/2 Sunflower Rural Settlement
Current Use	Single-family residence with accessory dwelling unit - mobile home	Vacant	Single-family residences and vacant	Mobile Home	Single-family residence

DESCRIPTION AND CONTEXT

The property is located in the A-2 Farmland Rural zoning district, which allows agricultural uses, mobile homes and single-family homes with accessory structures on larger lots. Mobile homes may be used as an accessory dwelling unit (ADU) provided the property has a minimum of two (2) acres of usable land area.

The south 2/3 of the property is located within the Sunflower Rural Settlement, which is an area designated by the Comprehensive plan for limited urban types of development. The designation comes with limitations on locating certain uses in the settlement, such as non-residential development, and limitations on the intensity of certain types of development, such as commercial. The intent is to preserve the character of the area, but not to restrict the use of residential properties.

The subject property is 5.84 acres consisting of the west portion of Lot 33 as part of the Seaward Plantation Estates, Third Addition Plat, recorded in 1955. The lot contains an existing 3,434 sq. ft. single-family house with an attached garage built in 2003 (Permit # B03001636), plus an existing 20 ft. high, 282 sq. ft. carport/ pole barn (building #1), an existing 14 ft. high, 230 sq. ft. shed (building #2), an existing 12 ft. high, 144 sq. ft. shed/ workshop (building #3), an existing 16 ft. high, 489 sq. ft. mobile home (building #4), an existing 12 ft. high, 240 sq. ft. carport in front of the mobile home (building #5), an existing 10 ft. high, 161 sq. ft. gazebo (building #6), an existing 12 sq. ft. pump house (building #7), and a proposed 16 ft. high, 1,720 sq. ft. new pole barn (building #8). Buildings #1 through #5 were all constructed without permits and due to the heavy tree cover, it is difficult to determine the time range the structures were built based on aerial photography. Not indicated on the site plan or survey is another relatively small pump structure (less than 10 sq. ft.) located near the west property line, northwest of the residence, that is required to be relocated to meet the west side setback, or removed.

Code Enforcement cited the applicant in May 2020 for the installation of multiple structures without a permit, including the mobile home used as an accessory dwelling unit (ADU) and the adjacent carport (Incident 571014).

At the time the proposed new pole barn (building #8) is constructed, the applicant is proposing to remove the existing 11.9 ft. by 23.7 ft. carport (building #1) currently located approximately 0.1 ft. from the west property line, north of the residence. The existing building #2 is located 0.7-feet from the west property line in lieu of 5 ft., requiring variance #4. The existing shed (building #3) has been used as workshop since the current owners relocated it from elsewhere on the property after purchase. The existing mobile home appears to have been installed in 2014 (building #4) and the carport for the mobile home appears to have been installed in 2015 (building #5) both of which are located in front of the existing primary residence, requiring variances #1 and #2. If granted variance #1, the mobile home meets the 35 ft. primary building front setback for the district, and if granted variance #2, at 26 ft. from the front property line, the existing carport will meet setback requirements.

The applicant also proposes to construct a 16 ft. high 1,720 sq. ft. pole barn partially in front of the primary residence, requiring variance #3. The applicant asserts that the presence of water retention, flooding and wetlands in the rear 2/3 of the site makes it unreasonable to set back the structure beyond the forward frontage location of the existing residence. The proposed detached accessory structure building area totals approximately 2,960 sq. ft. which is less than the maximum 3,000 sq. ft. threshold for cumulative detached accessory structure area allowed per Orange County Code Sec. 38-1426(a)(3)(b)(6) and for the mobile home ADU.

Although the property is over 5 acres in area, the applicant asserts that the majority of the north portion of the site contains flood prone areas, which forces the construction of all structures within the front one-third portion of the lot in a similar position relative to the location of the residence. These circumstances leave less available yard space to allow any additional structures to be located entirely behind the existing house without the need for multiple variances.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	16 ft. (mobile home - ADU, building #4) 16 ft. (pole barn, building #8)
Min. Lot Width:	100 ft.	410 ft.
Min. Lot Size:	0.5 acres	5.84 acres

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	35 ft. (primary structure) 26 ft. (carport)	46 ft. (South - mobile home, building #4) 26 ft. (South – carport, building #5) 95 ft. (South – pole barn, building #8)
Rear:	50 ft. (primary) 10 ft. (accessory dwelling over 15 ft. high) 5 ft. (accessory structure)	582 ft. (North – shed, building #1)
Side:	10 ft. (primary and accessory over 15 ft. high) 5 ft. (accessory dwelling unit or structure)	0.7 ft. (West – shed, building #1) 180 ft. East and 183 ft. West (mobile home, building #4) 375 ft. West and 35 ft. East (pole barn, building #8)
NHWE:	50 ft.	Over 550 ft. (North – building #1)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances pertaining to the need for the variances since there are other options to shift the existing detached accessory structures, the existing accessory dwelling unit and the proposed pole barn in a manner that would meet Orange County Code without impacting the functionality or usability of the residential property.

Not Self-Created

The request for the variances are self-created in that there are other options in order to lessen or negate the need for the variances by moving the location of the structures, and had they obtained a permit the applicant could have corrected the setbacks prior to construction.

No Special Privilege Conferred

The variances would confer special privilege since there are other options available in order to meet code requirements.

Deprivation of Rights

Deprivation of rights is not a consideration since the applicant will continue to be able to utilize the property for single-family residential without the detached accessory structures and the accessory dwelling unit located as proposed.

Minimum Possible Variance

The variance requests are not the minimum since there are alternatives to lessen or remove the requests.

Purpose and Intent

The purpose and intent of the accessory structure and accessory dwelling unit setback and location requirements is to be subordinate in the size, location and appearance of accessory structures to the primary structure. The locational requirements for the proposed structures have not been met, therefore the approval of the proposed variances will not be in harmony with the purpose and intent of the Zoning Regulations since they do not maintain the character of the existing neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan, floor plans, and elevations dated September 25, 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 permits within 180 days of final action on this application by Orange County or the variances are null and void.

c: Cheryl Vanatti
16829 Bearle Rd
Orlando, FL 32828

c: Mark Cross
5818 Lyda Ln.
Orlando, FL 32839

COVER LETTER

We are making a request to keep a park model home for my elderly mother on my primary residence at 16829 Bearle Road, 32828 in its current location. The park model home was represented by the manufacturer to be 499 square feet and was located in its current position to utilize existing power, water and septic already in place from previous demolished home located at 16951 Bearle Road property (consolidated into 16829 Bearle Road property upon purchase). We are zoned agricultural and have over 5 acres of property. We were under the assumption that given the fact there previously was a home close to that location we were ok to place the park model home at that location and utilize the existing utilities. The addition of the park model home does not create any special privileges or deprive any property of right and is only a minimal variance. Our mother, the sole occupant of the park model home, will reside there. She no longer drives and requires our constant care. A current survey, including the park model placement, is attached.

Park Model Home:

Special conditions and circumstances: Park Model Home and carport was located in the same area as the old home that was demolished.

Not self-created: Re-establishing existing utilities, water and septic to place the park model home in an alternate location will create a hardship that is not self-imposed or self-created as this location was previously occupied by an existing structure that was demolished.

No special privilege conferred: Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter

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.

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

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.

Square footage: We were told by Florida Expo Homes, in Tampa where we purchased the park model home, that it is 499 square feet. The actual square footage for the park model home is 624 SQ' with the added overhang and the associated carport is an additional 240 SQ'

Location: We had to place the park model home in that location due to the back of the property being very wet since it backs up to the Econ River. With the occupant being elderly ingress and egress is a safety concern should emergency services be required. Also, Duke Energy electricity pole as well as the water and sewer from the old residence that was demolished is at the front of the property, very close to the park model home. The home is currently screened from the road by long established trees and a privacy fence. The park model home is located along the front property line approximately 46' north of the front or south property line and 181' east of the west property line. The carport is located along the front property line approximately 26' north of the front or south property line and 181' east of the west property line.

COVER LETTER

Here are exterior photos of the park model home as requested with explanations:



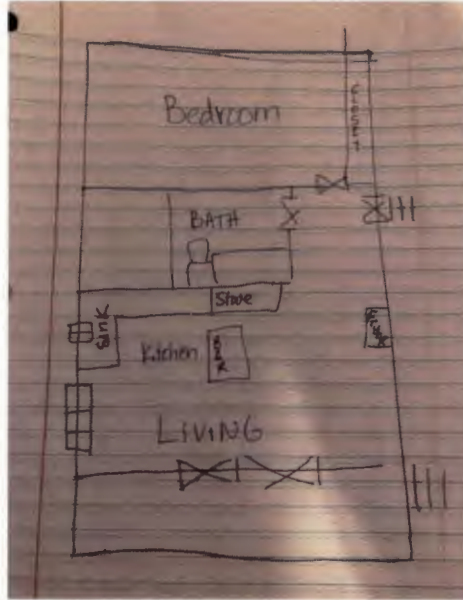


Here is the main home. As you can see, we had the park model built to match the main home.



COVER LETTER

The park model home has only one bedroom. We do not have a formal floor plan of it, and the manufacturer is out of business. Here is a crude rendering:



Here are some interior photos to better illustrate the above crude floor plan actual drawings are included in the application package



COVER LETTER



Barn & Shed: The survey shows a barn and woodshed along the west property line. *The barn and the shed were both there when we purchased the home. We dispute any aerial photographs that say otherwise (the trees might have obscured).* Please see pictures below time-stamped from November 2009, as we toured the property before purchasing. The barn will be removed from the property during the proposed pole barn construction.

Special conditions and circumstances: The shed was located on the property when it was purchased, the barn is in its original location and the shed was moved in line with the shed both structures are encroaching on the side lot line set back requirements. This information was not disclosed nor were we informed this was an issue upon purchasing the property.

Not self-created: The barn and shed were located on the property when it was purchased, the barn is in its original location and the shed was moved in line with the shed both structures are encroaching on the side lot line set back requirements. This information was not disclosed nor were we informed this was an issue upon purchasing the property. Had the encroachment issue been known the shed would not have been moved to line up with the existing barn.

COVER LETTER

No special privilege conferred: Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter

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.

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

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.

Square footage: The square for the shed is 230 SQ'.

Location: The shed is located along the east property line approximately 292' north of the front or south property line and .7' east of the west property line.

This picture is time-stamped from November of 2009 shows the what the survey is calling a "barn" located along the fence line, in the wooded area. We have since painted it and repaired wood rot to the structure.



These two pictures time-stamped from November of 2009 shows what the survey is calling the "shed." William moved that shed from its location to the rear of the garage in 2010. We were not aware that we needed a permit to move our shed to a different location.

COVER LETTER



The fact that the barn is too close to the property line should have shown up in our purchase agreement (title company insurance or something). It was not mentioned, nor noted, during the sale. Our realtor was Joe Huntington of Remax in Winter Park, FL.

William did move the “shed” structure from its original location to its current. However, our son currently owns the property along that fence line. If we needed to move it upon either of our selling of properties, it could easily be picked up and moved, like it was before. Therefore, we are requesting to leave both structures where they are and obtain a variance for them along with the park model home and the proposed pole barn.

Gazebo: The survey calls an old garage a “gazebo.” That structure was on the property when we bought the property which was once addressed 16951 Bearle Road and combined it with our main property. There are Orange County records showing this property consolidation.

Special conditions and circumstances: The gazebo was located on the property when it was purchased, we assume it was permitted during the original construction. The county inspector signed off on the demolition permit knowing the gazebo was to remain. This accessory structure is within the zoning requirements as far as the setback requirements are concerned. The only known issue is there are no known permits for the structure.

Not self-created The gazebo was located on the property when it was purchased, we assume it was permitted during the original construction. The county inspector signed off on the demolition permit knowing the gazebo was to remain.

No special privilege conferred: Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter

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.

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

COVER LETTER

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.

Square footage: The square footage for the gazebo is 261 SQ'

Location: The gazebo is located towards the center of the property approximately 158' north of the front or south property line and 155' west of the east property line.

Pole Barn:

We are making an additional request for a proposed pole barn to be constructed on the west side of the property. This structure will be used for equipment storage. The proposed pole barn will need to be constructed approximately 20' forward of the primary structure due to the water retention of the rear of the property during times of heavy rain. Adding fill has been proposed to locate the structure behind the boundary of the front of the primary structure but is undesirable due to the amount of fill needed for the pole barn and the surrounding area to be able to use the structure.

Proposed pole barn will be screened from the street view by existing old growth trees and vegetation and will be set back from the south or front property line approximately 95 feet.

Special conditions and circumstances: The proposed pole barn will be located approximately 20' forward of the primary structure due to the water retention of the rear of the property during times of heavy rain. The construction of the pole barn will increase the total accessory structure square footage to 3365 square feet.

Not self-created: The location of the proposed structure forward of the primary residence is due to the water retention characteristics of the rear of the property during times of heavy rain.

No special privilege conferred: Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter

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.

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

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.

Square footage: The square footage for the proposed pole barn is 1728 SQ'

Location: The proposed pole barn will be located on the west side of the property approximately 95' north of the front or south property line and 35' west of the east property line.

COVER LETTER



COVER LETTER

We obtained an Orange County permit to combine the properties and to demolish the old home that was located there. *County records should indicate that, prior to our purchase, there was a home and garage on that property.* The garage is still standing; we used our permit to hire a local contractor to demolish and remove the home. County inspector Cathy Stowell came and validated that the home had been demolished correctly. Improvements made to the garage include removing loose and dangerous metal siding as well and laying pavers over the old concrete to better sit at our picnic table located there.

To be quite honest, this whole situation has greatly impacted our viewpoint of our community. We have done nothing but improve this property, which was a new, clean, and beautiful property to begin with. If you drive my neighborhood, you will see trash, poorly built structures and basically properties that make our home look like a mansion. We feel bullied and intimidated by this process. We are a university professor and a retired military veteran pilot who no longer feel welcomed or valued by our community.

Sincerely,
William and Cheryl Vanatti
954-296-9684
16829 Bearle Road Orlando, FL 32828
cherylvanatti@gmail.com

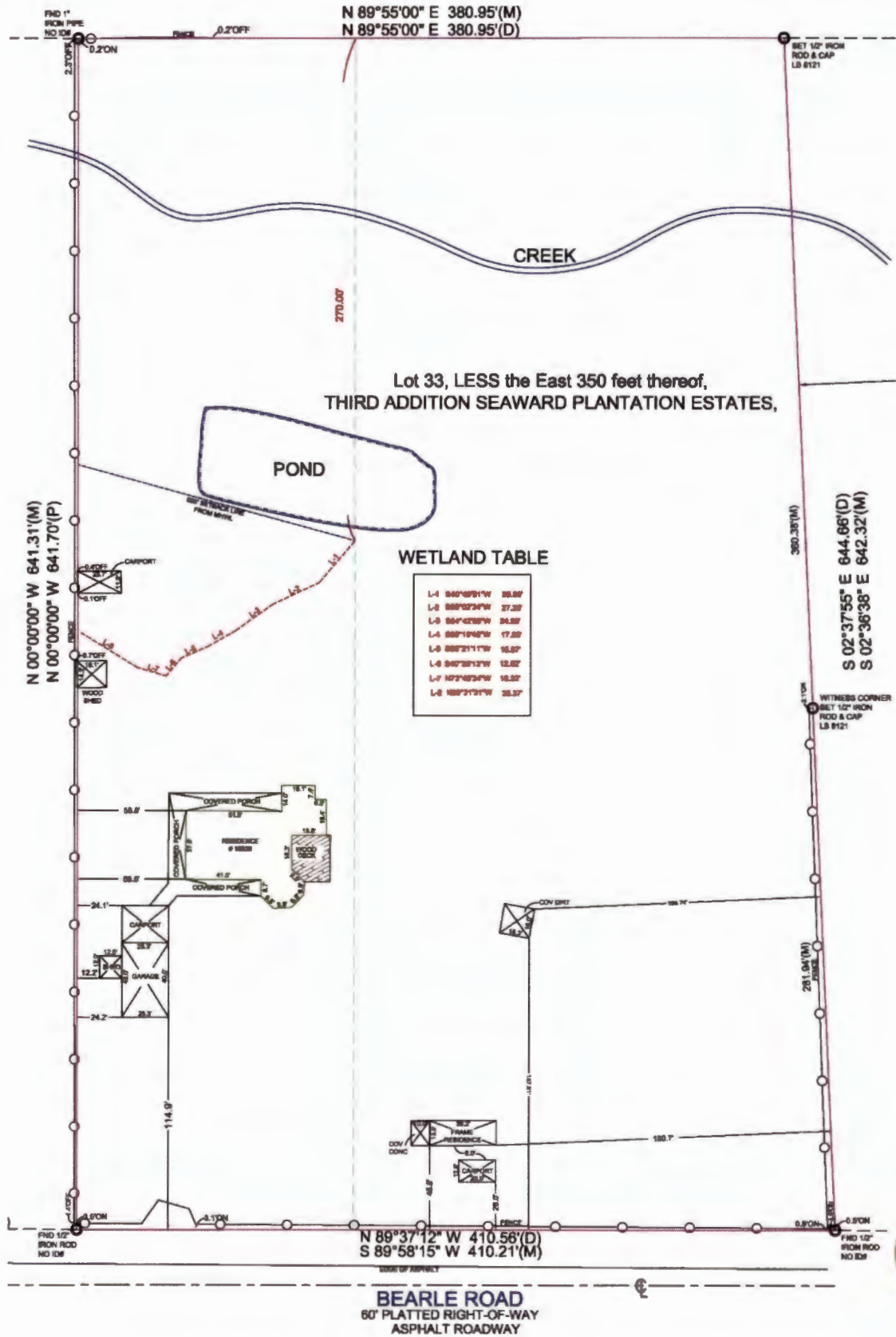
ZONING MAP



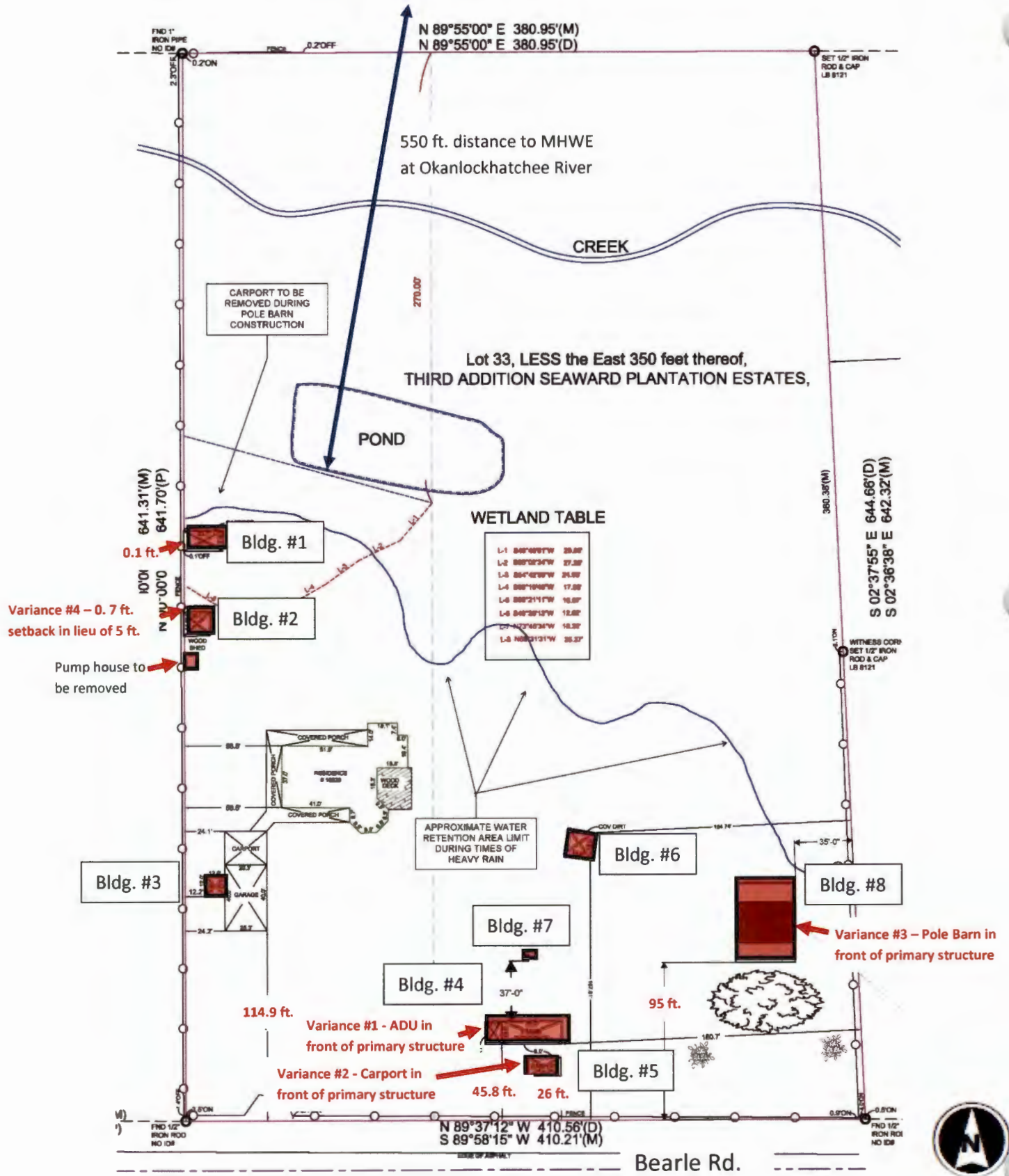
AERIAL MAP



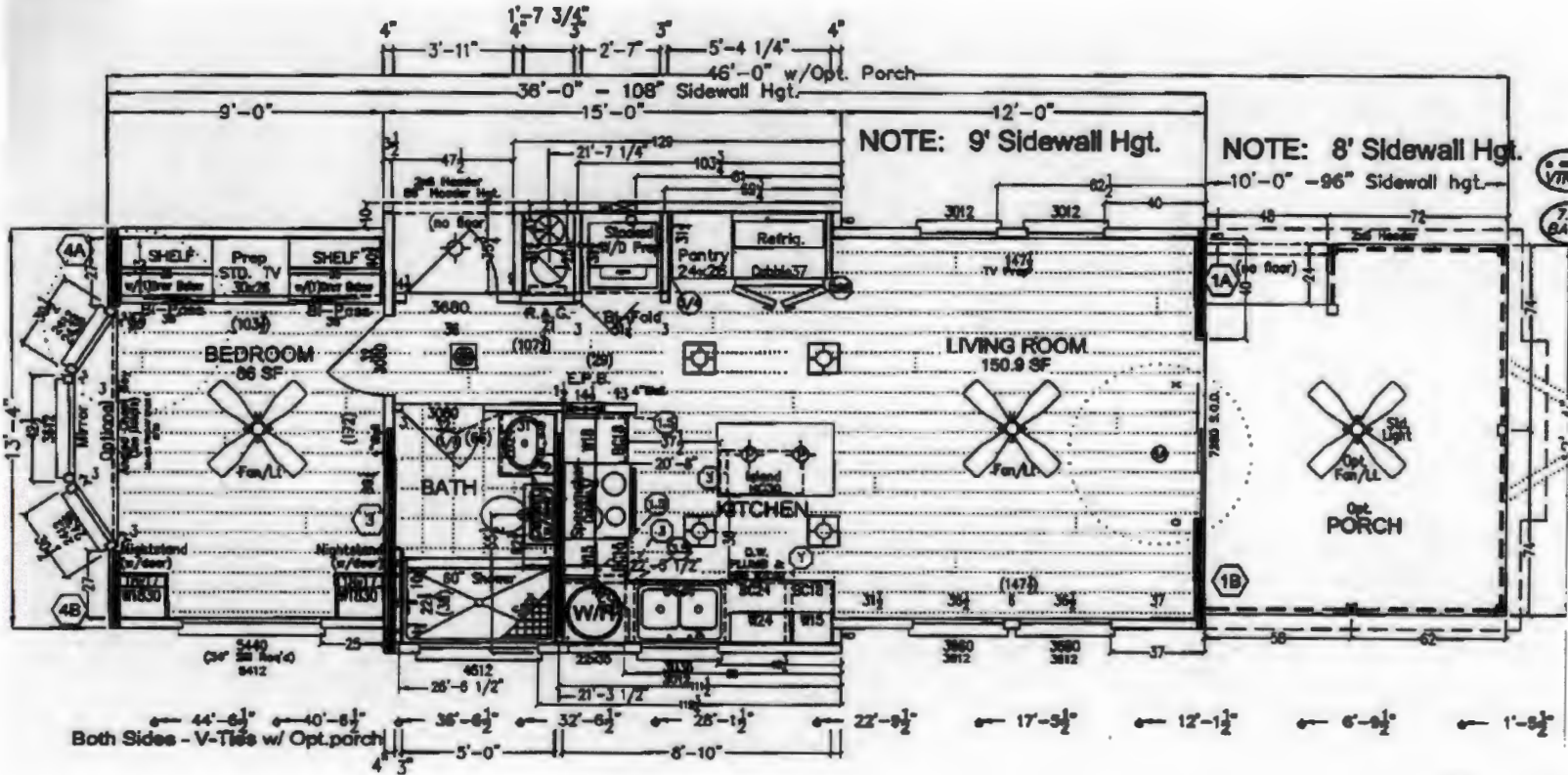
SURVEY



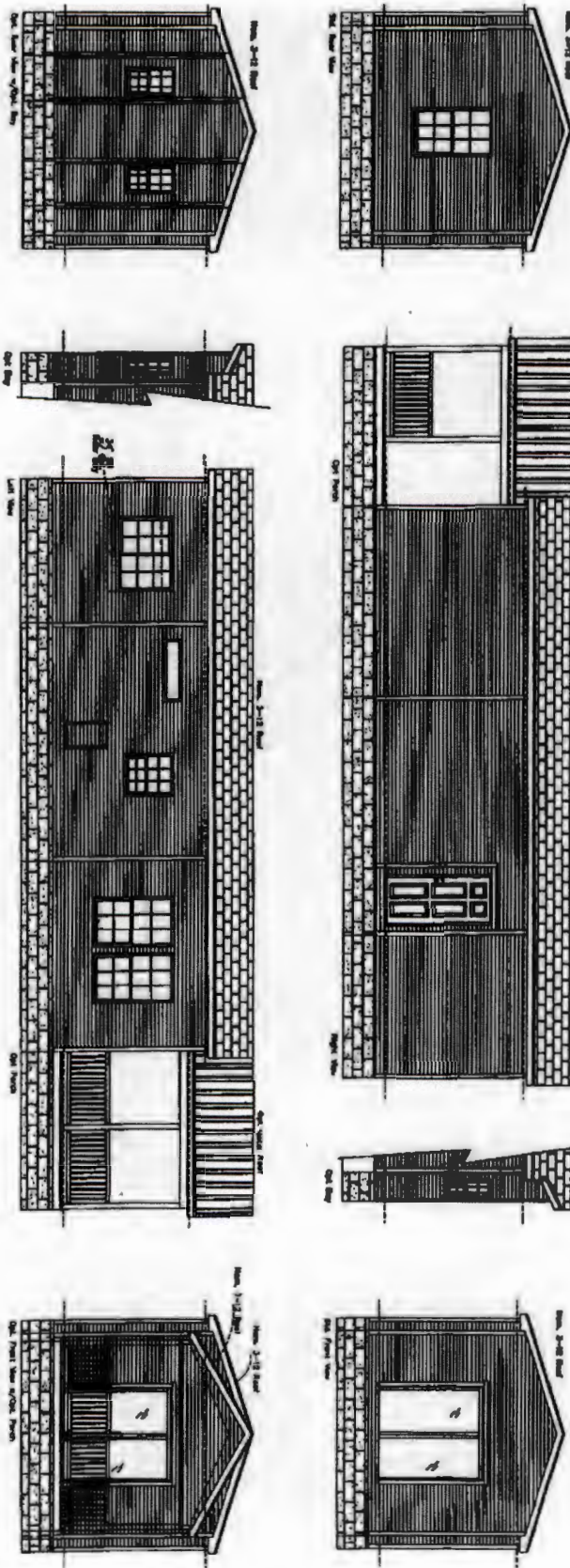
SITE PLAN



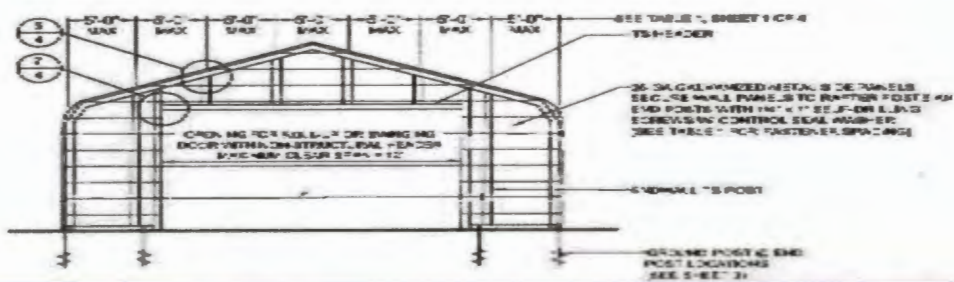
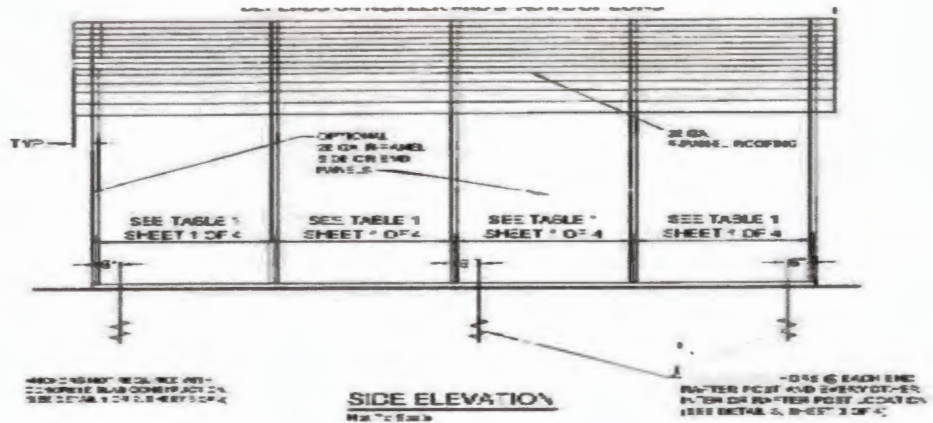
ADU FLOOR PLAN



ADU ELEVATIONS



POLE BARN - CARPORT ELEVATIONS



Front Elevation facing west



SITE PHOTOS



Accessory dwelling unit with carport facing northwest



Facing north behind ADU – gazebo in background and location of pole barn will be to the right

SITE PHOTOS



Wetlands behind structures facing north



Shed with west side setback facing south

SITE PHOTOS



View of the front of the property facing east along Bearle Rd.



Entrance to the property along Bearle Rd. facing north – existing house in background

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 05, 2020**

Case Planner: **Nick Balevich**

Case #: **VA-20-10-093**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): **BRIAN SANZ**

OWNER(s): **BRIAN SANZ, ANA M. SANZ**

REQUEST: **Variances in the PD zoning district as follows:**

- 1) To allow a 10 ft. high wall within the 50 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 4 ft. high.
- 2) To allow a west side setback of 0.5 ft. for a pergola in lieu of 5 ft.
- 3) To allow an east side setback of 2 ft. for a pergola in lieu of 5 ft.
- 4) To allow an east side setback of 0.5 ft. for a summer kitchen in lieu of 5 ft.
- 5) To allow an east side setback of zero for pool deck in lieu of 5 ft.
- 6) To allow a west side setback of zero for a pool deck in lieu of 5 ft.

PROPERTY LOCATION: **8102 Firenze Blvd., Orlando, Florida, 32836, south side of Firenze Blvd. on the north side of Big Sand Lake, 750 ft. west of The Esplanade.**

PARCEL ID: **34-23-28-8880-04-190**

LOT SIZE: **0.26 acres (11,326 sq. ft.)**

NOTICE AREA: **500 ft.**

NUMBER OF NOTICES: **136**

DECISION: THIS CASE WAS CONTINUED TO THE FEBRUARY 4, 2021 BZA MEETING

SYNOPSIS: Staff gave a presentation on the case 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 three (3) commentaries were received in favor of the application, and one (1) was received in opposition to the application.

The applicant responded by stating that the reason for the wall installation was because adjacent house had been abandoned for 5 years, and erosion was occurring at the rear with dirt and sand washing into his property. The applicant further stated that the wall is not visible from the street, that it looks good from the lake, and that removing a portion of the wall, instead of planting shrubs, would have the same impact as other houses in the neighborhood which have 20 foot high shrubs.

The applicant stated that he wants to comply with Code, which is the reason for the submittal of the variances, emphasized that there is no Code Enforcement action, and stated that compliance with HOA regulations is a separate, private matter.

A member of the HOA, on the architectural review board (ARB), spoke in opposition, stating that the wall was built without approval or permits, that no such wall is allowed, it should be lowered to the appropriate height, and that all variances should be denied.

The BZA asked why the wall was built without permits or HOA approval, and the applicant responded that a contractor was not hired. The BZA questioned the approval of a request that conflicts with HOA regulations.

The Legal Division stated that they should not approve a request that conflicts with HOA regulations.

The BZA stated that they must consider this particular request and not focus on other properties in the neighborhood. The BZA also noted that the applicant did the work first and then asked for permission afterwards. The BZA suggested that the applicant work out all issues with the HOA first, and then come back to discuss the request at a future BZA meeting.

The BZA continued the case to February 4, 2021 by a vote of 6-1.

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 found in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	P-D	P-D	Big Sand Lake	P-D	P-D
Future Land Use	MDR	MDR	Big Sand Lake	MDR	MDR
Current Use	Single-family residence	Single-family residence	Big Sand Lake	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Granada Properties PD. This PD allows single-family homes, townhomes, motel and timeshare uses.

The area consists of townhomes and single-family homes, many of which are lakefront. The lot was platted in 2000 as part of the Vizcaya Phase One Plat, and is considered to be a conforming lot of record. It is developed with a 6,563 sq. ft. single family home (B01002922) and swimming pool (B01010297) that were constructed in 2002, and a boat dock (B10001669) that was constructed in 2010. The property also contains additional structures: 2 pergolas, a 112.36 sq. ft. one on the east side that appears to have been built in 2007, and a 138.83 sq. ft. one on the west side that appears to have been built in 2008, and a 119.34 sq. ft. summer kitchen that appears to have been built in 2010. Additionally, the pool deck appears to have been expanded between 2004 and 2006, based on aerial photos. Staff was unable to locate permits for these. The applicant purchased the property in 2002.

The applicant is requesting a variance to allow an existing, unpermitted, 10 ft. high wall to remain within the 50 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 4 ft. (variance #1). The applicant is also requesting variances to allow the two existing pergolas to remain: with a 0.5 ft. west side setback, and a 2 ft. east side setback, in lieu of 5 ft. (variances #2 and #3 respectively), and a summer kitchen with a 0.5 ft. east side setback in lieu of 5 ft. (variance #4), and to allow a pool deck with an east and west side setback of zero in lieu of 5 ft. (variances #5 and #6 respectively). All of these were built without permits. The pool deck was permitted in 2001, but was subsequently expanded to the east and west property lines without a permit.

The applicant has submitted 2 letters of no objection from the adjacent property owners to the east and west.

District Development Standards

	Code Requirement	Proposed
Max Height:	4 ft. wall within NHWE 15 ft. (accessory structure)	10 ft. wall (variance #1) 14 ft. (accessory structures)
Min. Lot Width:	50 ft.	68 ft.
Min. Lot Size:	Not specified in PD	0.26 ac. (11,326 sq. ft.)

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

	Code Requirement	Proposed
Front:	20 ft.	20.5 ft. (North)
Rear:	20 ft.	87 ft. (South)
Side:	5 ft. (for primary and accessory structures)	5 ft. house, 6 in. pergolas (West-variance #2, East-variance #3), 2 ft. summer kitchen (East-variance #4), 0 ft. pool deck (East and West-variances #5 and #6)
NHWE:	50 ft.	37 ft. to wall (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances, as the deck, wall and accessory structures were all installed without permits, and could have been installed in a manner that would not have required variances.

Not Self-Created

The request for the variances is self-created as a result of installation without permits.

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 may rectify the issue by moving, removing, or modifying the deck, wall and accessory structures that were installed without permits.

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, wall and accessory structure setback requirements.

Minimum Possible Variance

Since the applicant has other available options, these are not the minimum possible variances.

Purpose and Intent

Approval of the variances will not be in harmony with the purpose and intent of the zoning regulations, as the deck and accessory structures encroach significantly into the required setbacks, and the height of the wall conflicts with the intent of the code, which is to ensure visibility of the lake from adjacent properties.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated October 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 permits within 180 days year of final action on this application by Orange County, or this approval is null and void.
5. Prior to the issuance of a building permit for the wall, 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 10 ft. high wall is located no closer than 37 feet from the Normal High Water Elevation (NHWE) of Big Sand Lake.

c: Brian Sanz
8102 Firenze Blvd.
Orlando, FL 32836

COVER LETTER PAGE 1

BRIAN SANZ
8102 Firenze Blvd. Orlando, FL 32836
briansanz@me.com

September 25, 2020

Nick Balevich
Board of Zoning Adjustment BZA
Orange County Zoning Division
201 S. Rosalind Ave. 1st Floor
Orlando, FL 32801
Via Email Nick.Balevich@ocfl.net

RE: Variance in the PD zoning district to allow 1) small 12 ft 10 in. section of a continuous straight wall (running South to North) with a maximum height of 9 ft. 10 in. within the 50 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 4 ft.; and 2) Variance to allow summer/outdoor kitchen and pergolas with 6 in. side setback lines in lieu of 5 ft. Parcel ID # 34-23-28-8880-04-190

Dear Mr. Balevich:

I respectfully request a zoning variance pursuant to Orange County Code Section 30-34. Attached find completed application and requested documentation including neighbors' letters of no-objection.

The requested variance is for height variance of 9 ft 10 in maximum height of a straight wall with a 12' 10" section within the Normal High Water Elevation NHWE setback. The wall does not present an environmental issue and is on the side of my property, the wall is perpendicular from Big Sand Lake and does not interfere with the lake. I also request variance to allow built summer/outdoor kitchens and pergolas with 6 in. side setback from the east and west property lines in lieu of 5 ft.

The outdoor kitchen and pergolas were built over 10 years ago when my backyard went renovation to mitigate damage to the Vizcaya community retaining wall, repairs due to hurricane damage and flooding of retaining wall and backyard. The repairs of the Vizcaya HOA wall were not performed by the HOA, instead the HOA allowed homeowners to do the needed work (see attached letter).

The wall was built to mitigate damage suffered by our property as the abutting property, 8044 Firenze Blvd, was abandoned for many years in decrepit and unsanitary conditions. I appreciate the help given by Code Enforcement as I was not able to obtain help from my HOA.

You may check the multiple cases of Orange County Code Enforcement that accumulated for many years on that property. Unfortunately, due to neglect of the abutting property the backyard suffered erosion and degradation and it affected my property causing damage to my property rear yard pool and pool deck.

The wall was built in excess of height to maintain the aesthetics and look of other similar walls built in the community. My new owner of the abutting property is repairing the damage to the property and agrees to the wall as he shared the cost of the wall.

Nick Balevich
Orange County Zoning
September 2, 2020
Page 2

To meet variance criteria:

1. Special Conditions and Circumstances: the property was damaged by the abutting property multiple years of neglect. The retaining wall was damaged and had to be repaired after 2004 hurricane and rising lake level after the break of the berm of Little and Big Sand Lake which caused tremendous rising of Big Sand Lake flooding backyard and damaged many properties requiring the intervention of Orange County Government and the State of Florida. (See attached article by Orlando Sentinel). Around this time, many years ago the pergolas and summer kitchen were built.

<https://www.orlandosentinel.com/news/os-xpm-2005-01-06-0501050467-story.html>

2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant. I was not in control of the abutting houses which was neglected by many years by the bank that owned it and the HOA did not help. Additionally, the rising lake level and damage was an act of nature.

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

4. Deprivation of Rights – The literal interpretation of the provisions contained in OC Code Section 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 to me, hence the requested variance. Disapproval would cause me to demolish the kitchen pergola and wall causing financial expense.

5. Minimum Possible Variance – Please issue variance, I understand the zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

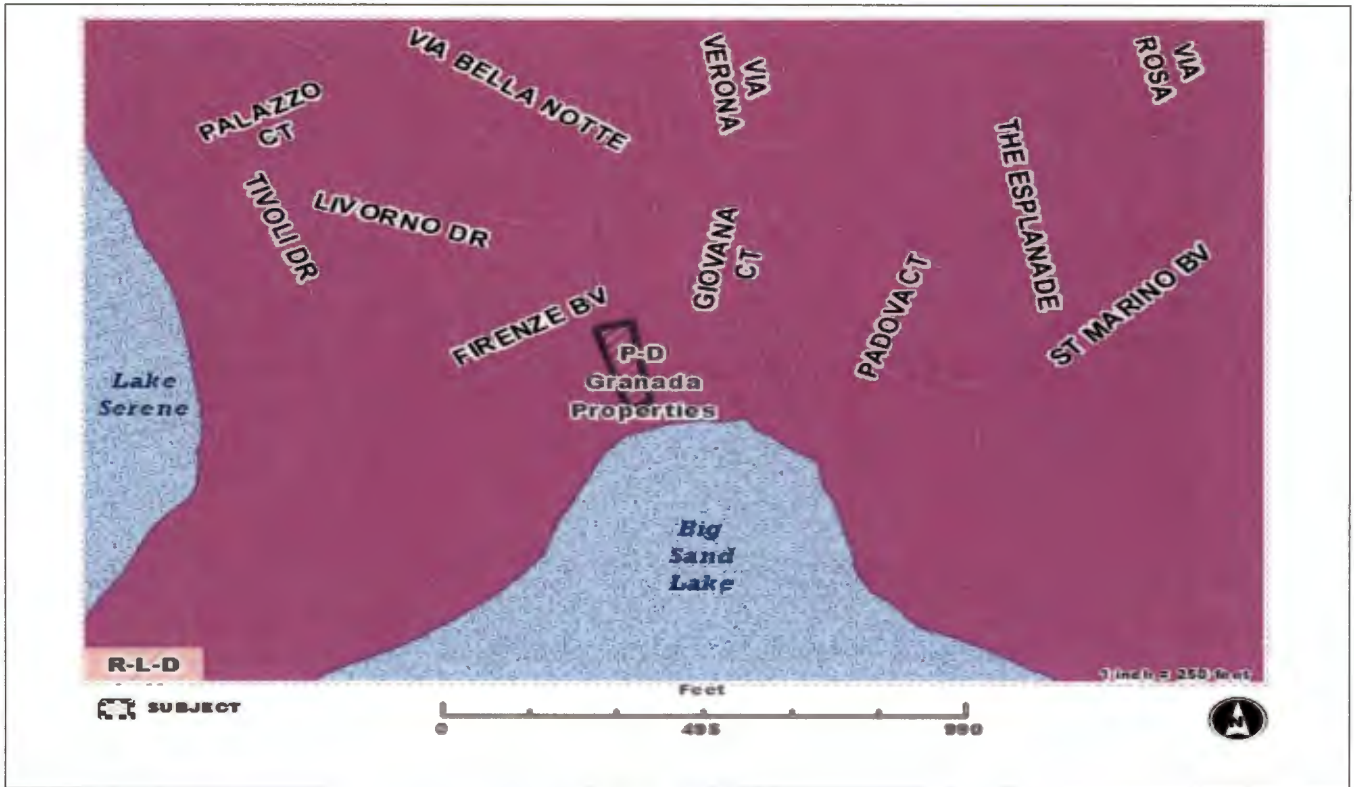
6. Purpose and Intent – I confirm that the approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. My abutting neighbors have sent letter of no objection to the built wall, furthermore many neighbors have commented on the nice aesthetics of my property with wall and kitchen and pergola and the continuous upkeep we give to our property.

I respectfully request variance and I thank you for your attention.

Sincerely,

Brian Sanz

ZONING MAP



AERIAL MAP



SITE PLAN

C43
 R=600.00'(P)
 L=68.77'(P)
 Δ=06°34'00"(P)
 Chord Bearing=
 N 69°34'57" E 68.73'(P)
 N 69°41'29" E 68.62'(M)

C44
 R=600.00'(P)
 L=68.77'(P)
 Δ=06°34'00"(P)
 Chord Bearing=
 N 76°08'57" E 68.73'(P)
 N 76°08'57" E 68.76'(M)

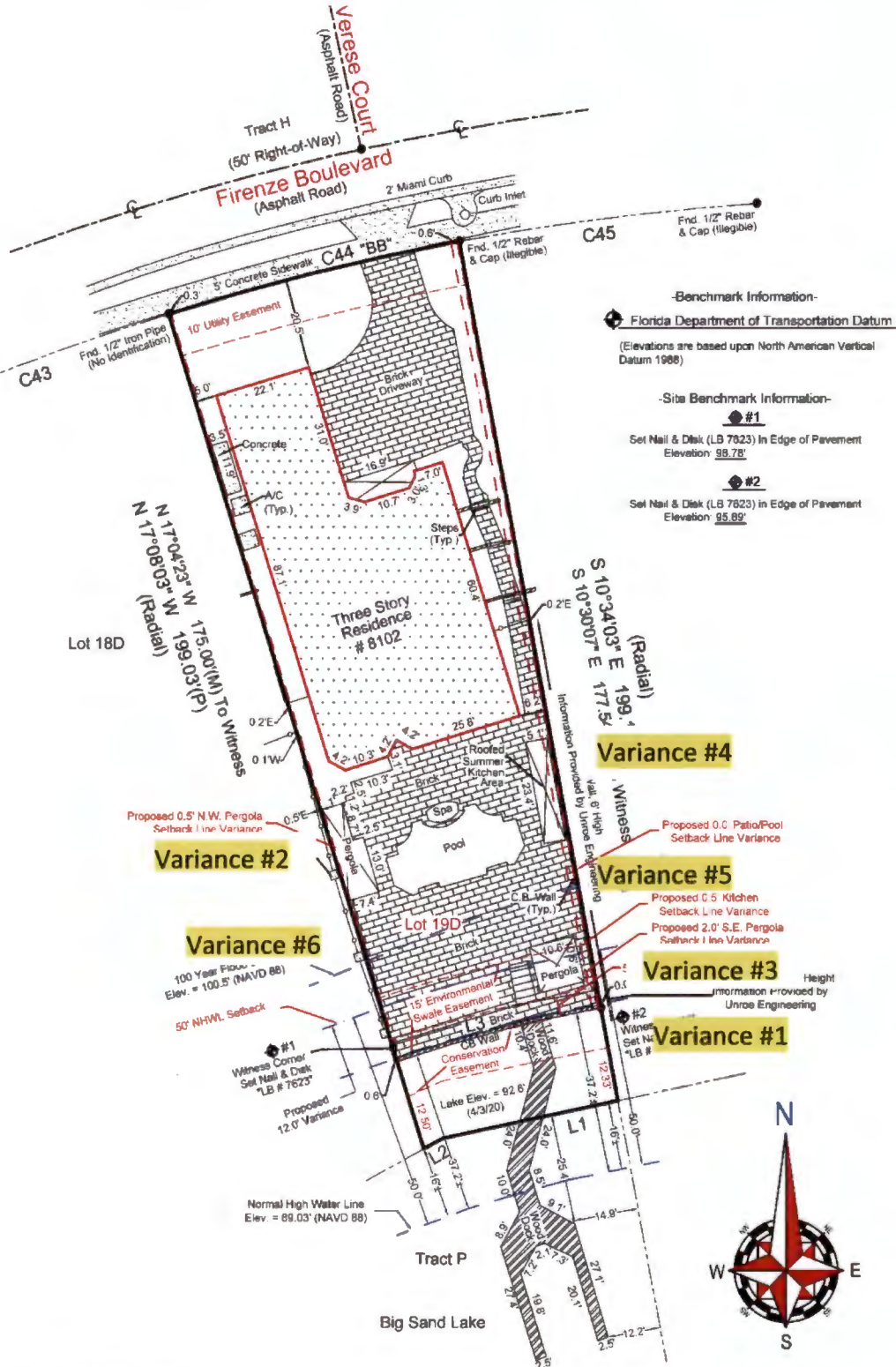
C45
 R=600.00'(P)
 L=68.77'(P)
 Δ=06°34'01"(P)
 Chord Bearing=
 N 82°42'58" E 68.73'(P)
 N 82°47'51" E 68.68'(M)

L1
 S 77°55'52" W 41.36'(P)
 S 77°55'52" W 41.16'(M)

L2
 S 61°15'26" W 4.75'(P)
 S 61°15'26" W 4.97'(M)

L3
 Witness Line
 S 79°07'00" W 48.62(M)

CA
 R=600.00'(P)
 L=220.65'(P)
 Δ=27°38'15"(P)
 Chord Bearing=
 N 55°52'41" E 219.41'(P)



Benchmark Information
 Florida Department of Transportation Datum
 (Elevations are based upon North American Vertical Datum 1988)

Site Benchmark Information
 #1
 Set Nail & Disk (LB 7623) In Edge of Pavement
 Elevation: 98.78'
 #2
 Set Nail & Disk (LB 7623) In Edge of Pavement
 Elevation: 95.89'

Variance #4

Variance #2

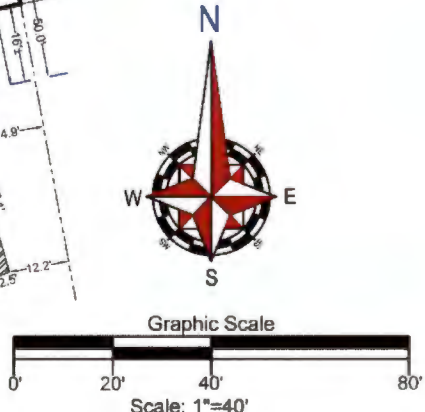
Variance #5

Variance #6

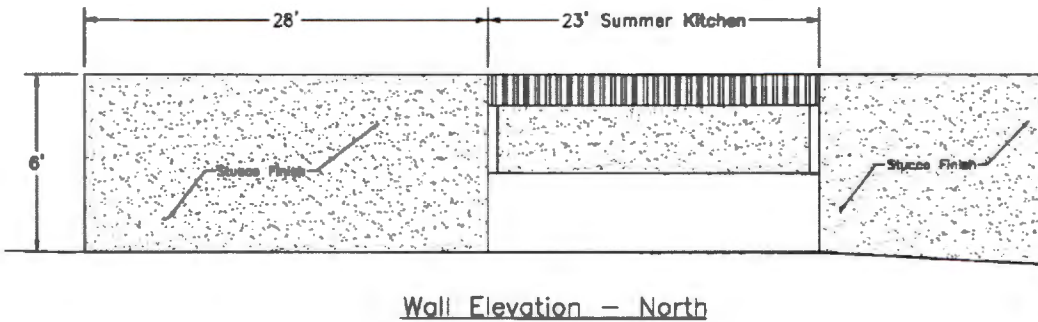
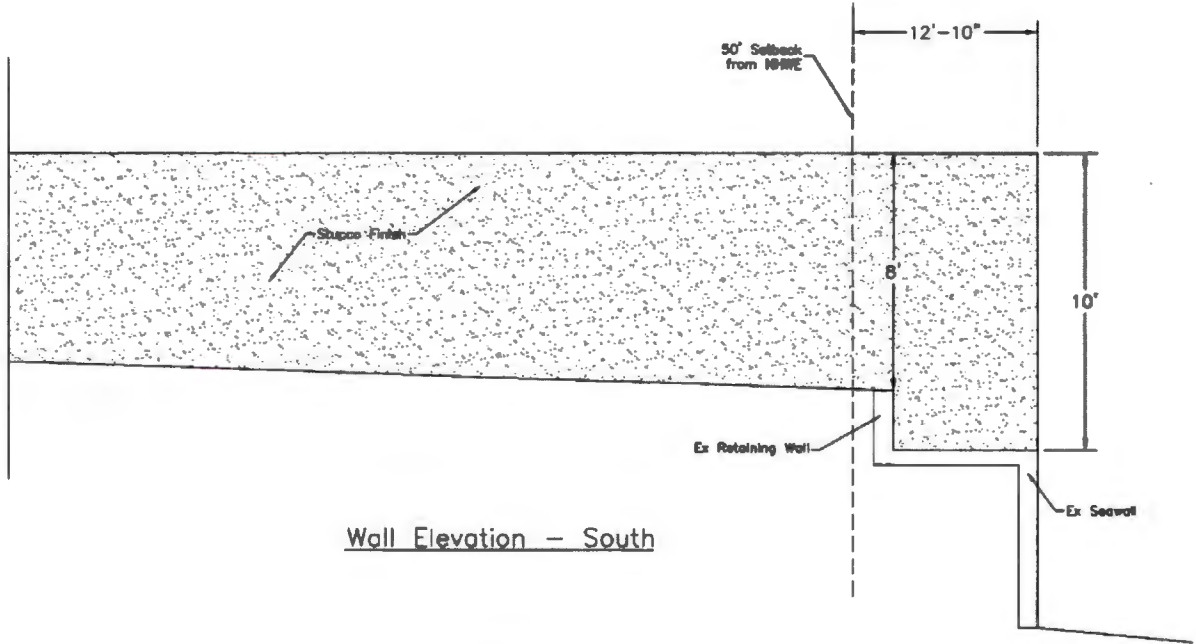
Variance #3

Variance #1

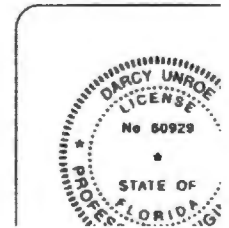
Add Proposed Variance Per Orange County - 10/16/20 - TCD
 Add Setbacks Per Orange County - 04/20/20 - JRR
 Revised NHWE - 04/20/20 - JRR
 Add 100 Year & NHWE - 04/10/20 - TCD
 Revised Easements - 04/08/20 - JRR



WALL ELEVATIONS AND SUMMER KITCHEN



This item has been electronically signed by Darcy Unroe, PE 60929 on the date of Signature. Printed copies are considered signed and sealed if verified on any electronic signature.



SITE PHOTOS



Front from Firenze Blvd., looking south



Summer kitchen with 6 inch, and pool deck with zero east side setback, looking south

SITE PHOTOS



Wall within NHWE setback, and pergola with 2 foot east side setback, looking north



Wall within NHWE setback, looking north

SITE PHOTOS



Rear, looking north



Pergola with 6 inch, and pool deck with zero west side setback, looking north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 05, 2020**

Case Planner: **Nick Balevich**

Case #: **VA-20-12-108**

Commission District: **#6**

GENERAL INFORMATION

APPLICANT(s): BRENDA ROWE

OWNER(s): BRENDA ROWE

REQUEST: Variance in the R-1A zoning district to allow a separation distance of 598 ft. between a residence that meets the definition of a community residential home and another such home, in lieu of 1,000 ft.

PROPERTY LOCATION: 2420 Fontainebleau Dr., Orlando, Florida, 32808, southwest corner of Fontainebleau Dr. and Chantelle Rd., south of Silver Star Rd.

PARCEL ID: 17-22-29-5928-03-240

LOT SIZE: 90 ft. x 115 ft./ 0.23 acres (10,350 sq. ft.)

NOTICE AREA: 800 ft.

NUMBER OF NOTICES: 425

DECISION: Recommended **DENIAL** of the Variance request in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (unanimous: 7-0).

SYNOPSIS: Staff gave a presentation on the case covering the location of the property, the survey, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation of denial, which included an inadequate distance separation between the residences as required by County Code. Staff noted that eleven (11) commentaries were received in favor of the application, and twenty (20) were received in opposition to the application. Staff also mentioned the virtual Community Meeting which was held on October 29, 2020 during which a number of residents expressed concerns relating to overconcentration, negative impacts to the neighborhood due to how these types of operations are managed, and the potential for crime.

The applicant stated that a group home is needed, and that when the property was purchased that she did not know there was another within the required separation distance. The applicant also promised to comply with zoning requirements and stated that the home would be a benefit to the community. She noted that she has been operating these types of homes for 8 years by leasing another property for 6 years. The plan was to relocate the operation to this house, but after contacting the State, the applicant was told that operation of this type of home at this location required County zoning approval.

There was one person in attendance to speak in favor, attesting to the character of the applicant, stating that she operated a daycare previously with no complaints. He also stated that the applicant's clients at this location will be developmentally challenged, will not bring any criminal element, and in fact will improve the area.

There was one person in attendance to speak in opposition, stating that the neighborhood is for a single-family homes and that there is an oversaturation of the group homes. Problems related to other similar homes in the area were identified.

The BZA noted that the distance separation is required for a reason, opined that approval would set a precedent, and that there are no special circumstances to justify approval. The BZA also noted the community opposition and the fact that the District Commissioner has concerns.

The BZA unanimously recommended denial of the variance.

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 found in this report.

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

The subject property is a 0.23 acre lot located in the Normandy Shores Plat, which was platted in 1958, and is considered to be a conforming lot of record. There is an existing 1,214 sq. ft. single-family home on the lot, constructed in 1959. The applicant purchased the property in 2020.

The applicant is proposing to establish a residence that meets the definition of community residential home, but contains six (6) or fewer residents. Section 38-1 defines a Community Residential Home as follows:

Community residential home shall mean a dwelling unit licensed to serve clients of the State of Florida pursuant to F.S. ch. 419, which provides a living environment for seven (7) to fourteen (14) unrelated residents who operate as the functional equivalent of a family, including such supervision and care by support staff as may be necessary to meet the physical, emotional, and social needs of the "residents." The term "resident" as used in relation to community residential homes shall have the same meaning as stated in F.S. § 419.001(1)(e), as may be amended or replaced.

Further, Section 38-79(12) of the Orange County Code states that: A home of six (6) or fewer residents which otherwise meets the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use. Such a home shall be allowed in single-family or multifamily zoning without approval by the county, provided that such a home shall not be located within a radius of one thousand (1,000) feet of another existing such home.

These homes provide supervision and care by support staff as may be necessary to meet the physical, emotional, and social needs of the residents. They are licensed and regulated by the State of Florida, which permits local governments to enforce zoning regulations, and typically requires approval by local governments, before issuing a State license. The type of home proposed by the applicant is considered by the State as equivalent to a single-family home.

Due to the presence of a similar operation at 4213 Chantelle Rd., located approximately 598 ft. away, the subject property does not meet the 1,000 ft. separation distance.

The applicant has submitted 10 letters of no objection from property owners in the area, to the north, south and east, and as staff has received 14 comments against the application.

A virtual community Meeting was held for this application on October 28, 2020. Issues discussed at the meeting included overconcentration of facilities and the negative impacts of the other nearby facilities.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The purpose of the separation distance is to avoid an over-concentration of this type of use in neighborhoods. There is a similar such home at 4213 Chantelle Rd., located to the east. There are no special conditions and circumstances.

Not Self-Created

The need for the variance is self-created and does result from the applicant's request. The applicant could acquire a residence for this use that meets the 1,000 ft. separation distance.

No Special Privilege Conferred

Approval of the variance will confer special privilege that is denied to other properties in the same area and zoning district, since the owner has the ability to purchase a residence that meets the requirements of the County Code.

Deprivation of Rights

The owner is not being deprived of rights since the property can be used as a single-family residence.

Minimum Possible Variance

The request is not the minimum possible variance, as the applicant could use the residence as a single-family home, or find a property outside the 1,000 ft. separation, and negate the need for a variance.

Purpose and Intent

As previously stated, the purpose of the code required separation distance is to avoid an over concentration of this type of such residences. The proposed location violates the distance separation requirement.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the survey dated September 18, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The variance shall become null and void with any change of ownership.

c: Brenda Rowe
5909 Riviera Dr.
Orlando, FL 32808

Brenda Rowe

5909 Riviera Dr.
Orlando, FL 32808
407-924-4803

September 23, 2020

Orange County Zoning Division
Attention: Board of Zoning Adjustment (BZA)
201 South Rosalind Ave, 1st Floor
Orlando, FL 32801
407-832-3111

RE: Variance for 2420 Fontainebleau Dr., Orlando, FL 32808

To Whom It May Concern.

I, Brenda Rowe am writing this letter to request a Special Variance for 2420 Fontainebleau Dr., Orlando, FL 32808. I am requesting this special variance to place a Group Home in this location for Developmental Disability Clients. The reason for this request is due to being within 1000 ft of an Assisted Living Facility name Williams Loving Care. This Group Home will be no more than 5 clients. I was not aware of any existence until after property was purchased.

Special Conditions and Circumstances for the existing dwelling located on Fontainebleau Dr. we were not aware of the exiting assisted living home that is within 1,000 feet until after the purchase of the property. The conditions are similar to the rest of the surrounding neighbors, and after the conversion route has begun transforming the original house into a group home; stationed less than 1000 feet, approval from neighboring properties of the group home practices will seek confirmation first before procedure is sort out afterwards.

Not Self-Centered: All records / documentation that pertains to 2420 Fontainebleau Dr. are recorded and registered at the local County Building / Zoning Department. Because of such knowledge and assurance, we stand truthful of our ability to apply for this variance and not our own procedure source. As stated above, we were not aware of the exiting assisted living home that is within 1,000 feet.

No special privileges conferred, by accepting all decisions made by the variance board, we will happily settle. As we are overly concentrated of the home, still there is sufficient distance. And as previously stated above, we were not aware of the exiting assisted living home

COVER LETTER PAGE 2

that is within 1,000 feet. Coming to agreement of Deprivation of Rights, "first come first serve." In doing my research there are no Group Homes in the area. However, we are 598ft in distance away from the front driveway of Williams Loving Care Assisted Living Facility, 4313 Chantelle Rd. Orlando, FL 32808. As my staff and I, Ms. Brenda Rowe walked the neighborhood we received the support of several neighbors including Mrs. Dionne Williams, owner of Williams Loving Care Assisted Living Facility to use my house of purchase 2420 Fontainebleau Dr., Orlando, FL 32808 to provide service and care to Adults Person with Developmental Disability.

Without the approval variance we would have to sell this house and find a new one in another location to purchase for possible variance. Instead, we are only asking for separation distance. With the approval of our neighboring properties, especially the ones that are in the same business; their comfort is at the most important to us, abiding by section 30-43 will hold the outcome of our appeal. If granted the variance, having the minimum possible variance will be satisfactory. As stated above we are 0.12 distance in miles away from Williams Loving Care Assisted Living Facility. Our intent is to blend in with the community and to follow the zoning regulations and not to be disadvantageous to the public well-being. Not to group a group home in once area; but dispense them for accurate separation.

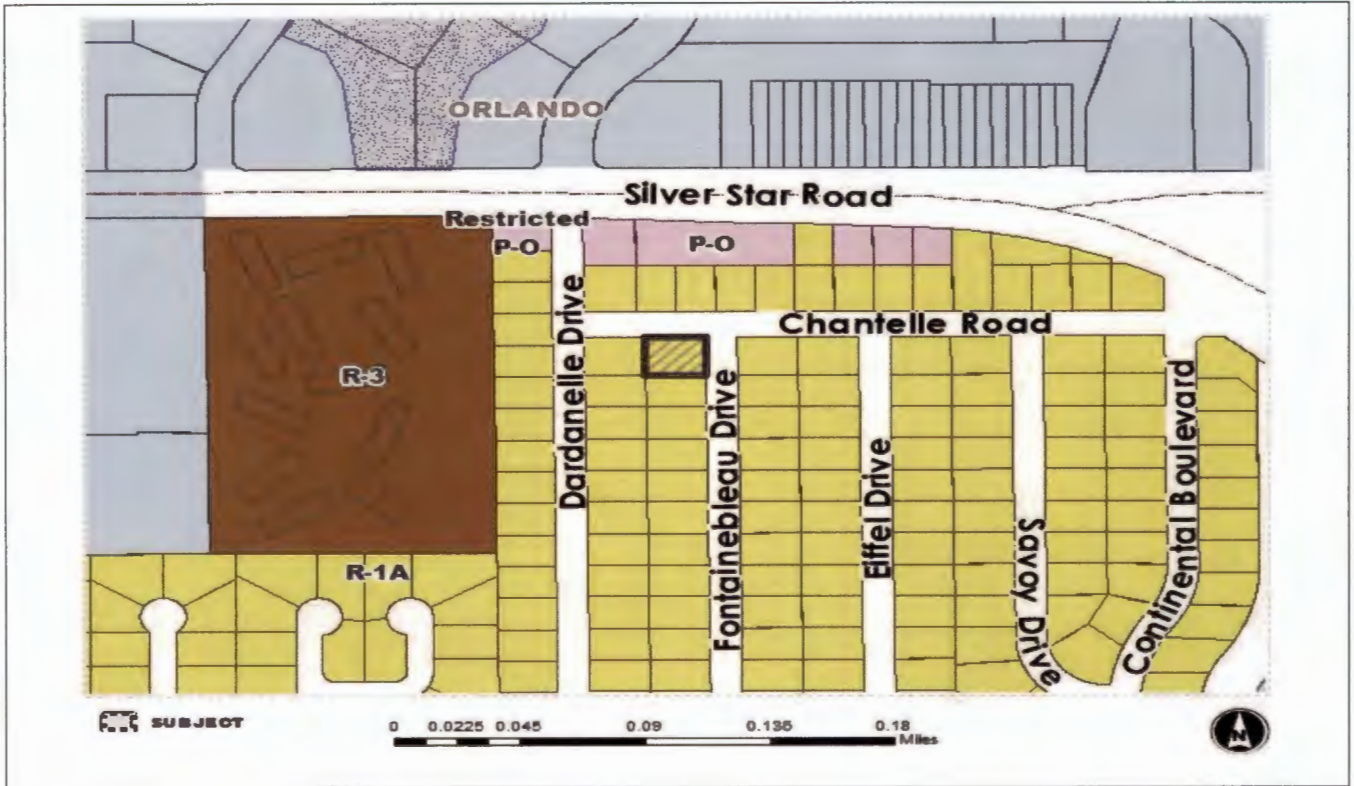


Sincerely,

Brenda Rowe

Brenda Rowe

ZONING MAP



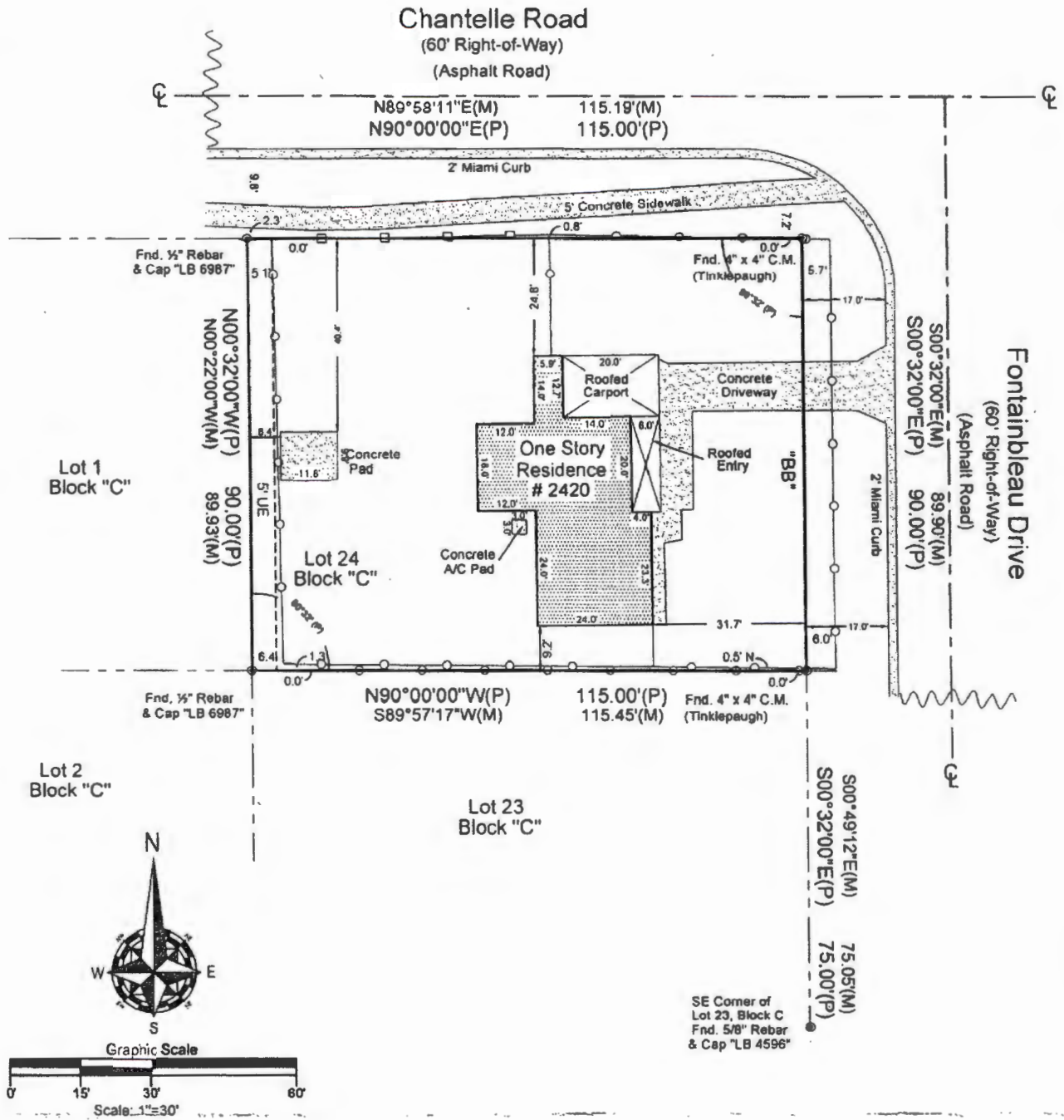
AERIAL MAP



DISTANCE SEPARATION



SURVEY



SITE PHOTOS



Subject property from Fontainbleau Dr. facing west



Nearest Community Residential Home at 4213 Chantelle Rd. facing north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 05, 2020**

Case Planner: **Nick Balevich**

Case #: **SE-20-11-101**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): UNIVERSITY UNITARIAN UNIVERSALIST FELLOWSHIP (AMY MOWBRAY)

OWNER(s): UNIVERSITY UNITARIAN UNIVERSALIST SOCIETY INC

REQUEST: Amendment to an existing Special Exception in the R-1A zoning district to allow a day camp program.

PROPERTY LOCATION: 11648 McCulloch Road, Orlando, Florida, 32817, south side of McCulloch Rd., east of Rouse Rd.

PARCEL ID: 04-22-31-0000-00-046

LOT SIZE: 300 ft. x 660 ft./ 4.33 Acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 72

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: 7-0):

1. Development shall be in accordance with the site plan dated September 15, 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 day camp program shall be limited to 18 children.
5. The hours of operation for the day camp shall be limited to: Monday to Saturday, 8:00 a.m. to 2:00 p.m.

- The applicant shall obtain a permit for the decorative wall within 90 days of final action on this application by Orange County, or this approval is null and void.

SYNOPSIS: Staff discussed the proposal, the location of the property, the site plan, and provided 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 one (1) comment was received in opposition.

The applicant agreed with the staff recommendation and noted that they would not operate year round, but rather during public school breaks.

The BZA questioned the need for the restrictions pertaining to the hours of operation and the maximum number of children, and inquired about the applicant renting out the property.

Staff discussed the site plan submitted, the number of existing parking spaces provided and the need to require a cap to operations due to site restraints. The applicant stated that they wanted to keep the operation small, and that the daycare did not survive the pandemic and they were looking for a new operator.

There was no one in attendance to speak in favor or in opposition to the request. The BZA unanimously recommended approval of the Special Exception, 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	R-1A	Seminole County	P-D	P-D	P-D
Future Land Use	LDR	Seminole County	O	O	LDR
Current Use	Religious facility	Single-family residences	Apartments-student housing	Apartments-student housing	Single-family residences

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1A, Single-Family Dwelling district, which allows single-family residences and associated accessory structures on lots a minimum of 7,500 sq. ft. or greater. Certain uses, such as private schools, are permitted through the Special Exception process.

The subject property is a 4.33 acre unplatted parcel that conforms with zoning regulations. The site is currently being used as a church and school, and it is developed with a 4,000 sq. ft. sanctuary building that was constructed in 1999, and a 2,013 sq. ft. building that was constructed in 2010, containing offices and classrooms.

The religious use was established in 1999, as a permitted use when the property was zoned A-2. In 2008, the property was rezoned to R-1A (RZ-08-04-024) to attain consistency with the Low Density Residential (LDR) Future Land Use, and thus allow the applicant to apply for a Special Exception to expand the religious use.

Previous BZA approvals include:

- August, 2008 the BZA approved a Special Exception (SE-08-08-004) to expand the religious use to include construction of a 2,010 sq. ft. classroom and administrative space building.
- December, 2015 the BZA approved a Special Exception (SE-15-12-123) to allow additional uses (meditation, home schooling, group meetings, and childcare for up to 40 children).

The applicant is proposing to establish a day camp program to be located in the open areas to the west of the sanctuary, and at the rear of the property, as indicated in yellow on the site plan. Activities will occur between 8 am and 2 pm, Monday thru Saturday, for children from the ages of 2 to 13, not to exceed 18 children. Enrollment will not be limited to members of the church.

The parking requirements for the entire campus are as follows:

Church assembly (main building) 126 seats @ 1 parking space per 3 seats, requiring 42 spaces.

Church employees: 2 employees @ 1 parking space per employee, requiring 2 spaces.

Education building: 4 classrooms @ 4 parking spaces per classroom, requiring 16 spaces.

Proposed Daycamp: 18 children @1 parking space per 3 children plus extra 1 parking per 5 children in lieu of providing a drop off lane, requiring 10 spaces.

The total parking spaces required for the entire campus is 70 spaces. The existing campus parking area contains 8 paved parking spaces, 62 grass parking spaces, and 4 accessible parking spaces for a total of 74 spaces, thus meeting the parking code requirement.

County Traffic Engineering has provided comments that stated a traffic study is not required because there is no additional building square footage.

During a site visit, staff observed a decorative wall adjacent to the drive aisle. The applicant has indicated that this is intended to be a decorative art display. Staff was unable to locate a permit for this improvement.

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of educational facilities as conditioned through the Special Exception process is consistent with the Comprehensive Plan, since an additional use/service is being provided as a benefit to the surrounding residential areas.

Similar and compatible with the surrounding area

The expansion will be compatible with other existing uses located on the religious institution campus, as well as compatible with the adjacent residential properties, with no additional impact to adjacent properties. The use will be located at the back of the property, and is buffered from the adjacent properties by natural by vegetation.

Shall not act as a detrimental intrusion into a surrounding area

Since the proposed day camp use is passive in nature, no physical alterations to the property are being proposed, which will not negatively impact the area.

Meet the performance standards of the district

The proposed use meets the performance standards of the district.

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

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 existing religious institution and educational/child care uses, which currently involve children utilizing the outdoor area and playing outside.

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

The proposal will be located entirely within the existing campus, utilizing existing natural spaces. No physical alterations to the property are being proposed, and no square footage is being added. There are no additional buffer yards required.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated September 15, 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 day camp program shall be limited to 18 children.
5. The hours of operation for the day camp shall be limited to: Monday to Saturday, 8 a.m. to 2 p.m.
6. The applicant shall obtain a permit for the decorative wall within 90 days of final action on this application by Orange County, or this approval is null and void.

c: Amy Mowbray
512 Still Forest Ter.
Sanford, FL 32771

September 4, 2020

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

RECEIVED

SEP 10 2020

ORANGE COUNTY
ZONING DIVISION

Subject: University Unitarian Universalist Fellowship, Inc.
Special Exception Request - Cover Letter

Dear Orange County Board of Zoning:

We are requesting a special exception that would allow our church to host/hold day camp programs on site for children during public school breaks throughout the year, as well as sporadic parent/child nature play groups, and day camp programs for homeschoolers. The church is currently zoned R-1A, with a prior special exception granted in 2015 to expand the use of our rear education building to 7 days per week for enrichment programs/education. Said building has been home to two daycares since 2015. The site is 4.33 acres and the parcel number for this site is 04-22-31-000-00-046. The site currently consists of a 4,000 sf main church building with parking lot, with the aforementioned 2,010 sf education building located directly behind the main church building.

The University Unitarian Universalist Fellowship, located at 11648 McCulloch Rd 32817 since 1999, has approximately 100 members and 30 children active in religious education programming.

Special Exemption Criteria:

1. We wish to provide day camp programs for children within the underutilized back wooded area of our property. Enrollment would be open to member's children and the wider community, but limited to no more than 18 children. Programming would occur between hours of 8am and 2pm, Monday through Saturday, and be limited to 4 full week (5 morning) sessions per year, and not more than 12 mornings per month total. We request that the special exception allow programs 12 months per year.
2. Our church membership strongly supports increased opportunity for supervised outdoor play for children to balance the increasing amount of time children spend engaged with technology for education and leisure purposes. This usage would be consistent with our special exception as a church. We believe the use meets the criteria of being consistent with the Comprehensive Policy Plan, as well as similar and compatible with the surrounding area and it's development. Please see below for further explanation of these points.

3. The use of our outdoor area will not be an intrusion into the surrounding area. The area to be utilized for day camp programming sits back considerably from the road, and is visually buffered by 50' of extensive and thick natural vegetation on the west side of the property next to River Chase subdivision. This buffer has not, and will not be altered. There will be no physical alterations to the property other than to keep the vegetation/underbrush trimmed and mowed. There is a privacy fence with vegetation on the east side, which borders the parking lot for Knight's Landing Apartments. Adjacent to the rear of our property is a retention pond owned by Knight's Landing Apartments/UCF Foundation. The UCF Foundation has been contacted to advise of our request and has stated they, and the apartment complex management, have no objections to our special exception request. (copy of email is included)

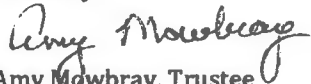
4. Since erecting our education building in 2011, and expanding its usage in 2015 to 7 days per week, we have received no complaints of noise, dust, odor, glare or heat production. McCulloch Road continues to have increased traffic when classes are in session at UCF, due to people avoiding the intersection at University and Alafaya at peak commuter times, and this was considered in planning times for our potential programs. Our proposed day camp programs may contribute a maximum of 18 additional cars accessing our site for parent drop off and pickup on programming days only, which are proposed at a maximum of 12 days per month.

5. The education building has been used up to 7 days per week for the past 5 years, including the use of an outdoor playground by children onsite. This exception request will not substantially alter the volume of traffic, noise level, or otherwise negatively impact our residential neighbors. No amplification equipment will be utilized. Our day camps will not contribute to afternoon rush hour traffic flow onto McCulloch Road, as programs will end by 2pm.

6. This use is compatible with the surrounding area, as there has already been a charter school erected and now operating directly south of our property (across the rear retention pond) within the past few years. The school has introduced outdoor physical education and aftercare activity/noise/amplification to the area on weekdays, though not to an objectionable level. Active children outdoors during daytime hours do not typically create objectionable noise for most in the community.

We appreciate your consideration of our zoning special exception.

Sincerely,



Amy Mowbray, Trustee
University Unitarian Universalist Fellowship

Explanation of Proposed Day Camp Programs at University UU Fellowship:

The intention of day camp programs at the University Unitarian Universalist Fellowship will be to enable 3-4 hour programs that encourage imaginative outdoor play for children ages 2 to 13 yrs. of age, with adult supervision.

Children under the age of 5 years old will engage in play programs with a parent/guardian onsite for the duration of program. These groups will be limited to 10- 12 children. Children age 5 years and above will be dropped off for programs by parent or guardian. These groups will be limited to 18 children to allow ample play space. A minimum staff to child ratio of 1:6 will be maintained at all times for children's safety.

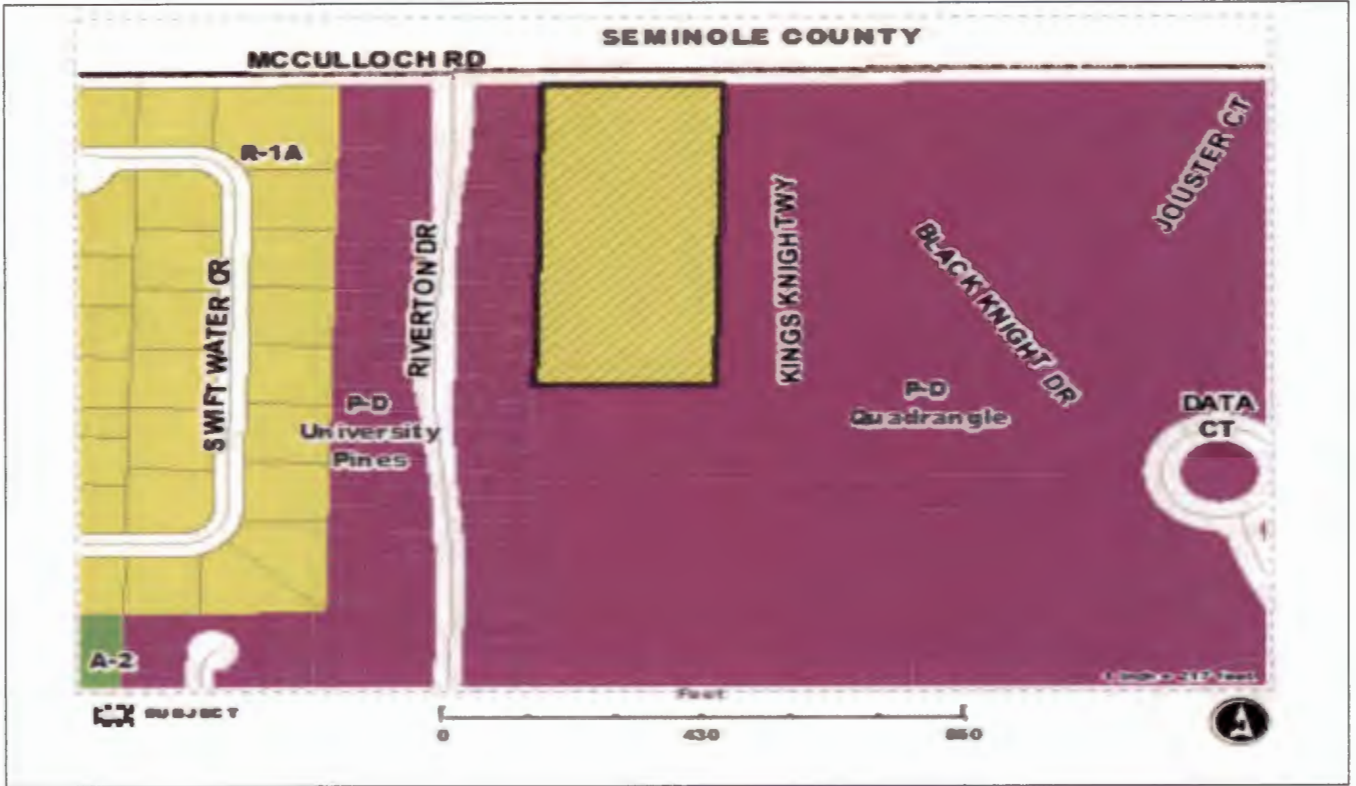
A typical morning of day camp will begin with an adult led icebreaker activity or song during a welcome gathering, followed by a story read aloud to inspire play for the day. Children will then be invited into free play in the outdoor space that has been staged with mud kitchens, art materials, and loose parts such as tires, curtain sheers, cardboard boxes, and other child appropriate building materials. The staff will situate themselves strategically around the site to maintain visual contact on all participants, and to step in to guide conflict resolution or to resolve issues of safety. There will be a closing "stump circle" gathering prior to dismissal to allow children to reflect on their play experience if they choose to share with their peers.

Child-led play outdoors has been studied extensively for decades, and has been shown to increase children's problem solving, resilience, social skills, physical stamina and coordination, and to decrease their levels of anxiety.

Parking Plan:

As the church currently provides 7 paved parking spaces (and 3 handicapped parking spaces) and allows parking on the grass along both sides of the extensive main drive leading to the main sanctuary building, no additional parking is needed for this zoning exception. Day camp programs will be scheduled exclusively when the church is not in use for regular services/business. The maximum number of spaces needed if programs are at capacity with full staff is 22 spaces. The church currently accommodates over 50 parked vehicles on grass parking to the right and left of the main driveway.

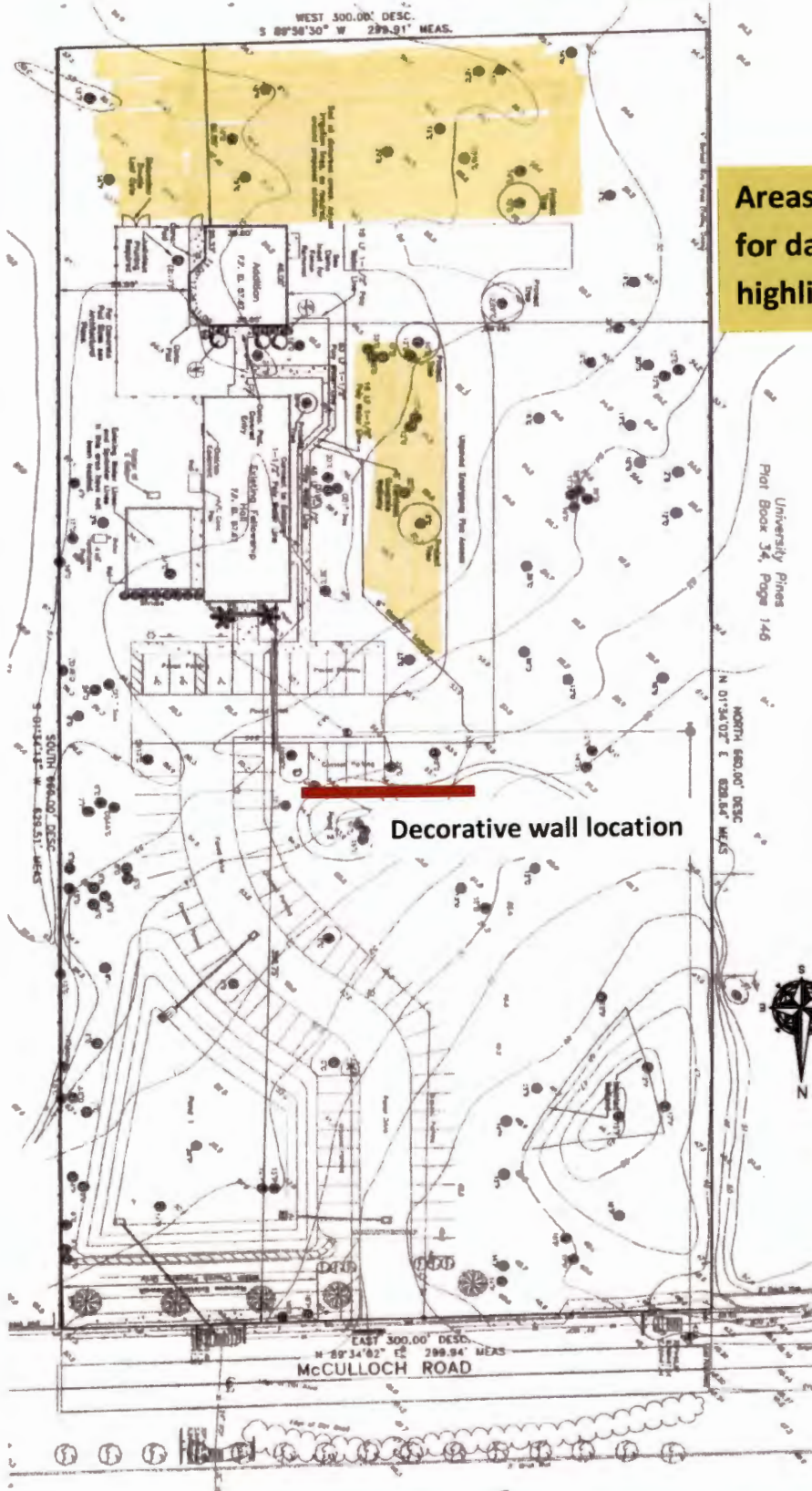
ZONING MAP



AERIAL MAP



SITE PLAN



Areas to be utilized for day camp are highlighted in yellow

Decorative wall location

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Areas to be utilized for day camp programs

SITE PHOTOS



Front of sanctuary building, looking south



Location of proposed day camp area, beside sanctuary, facing south

SITE PHOTOS



Location of proposed day camp area, behind sanctuary, facing east



Location of proposed day camp area, behind sanctuary, facing west

SITE PHOTOS



Decorative wall, viewed from front of property, looking south

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 05, 2020**

Case Planner: **Nick Balevich**

Case #: **VA-20-11-102**

Commission District: **#6**

GENERAL INFORMATION

APPLICANT(S): MR. AND MRS. CRAB (WEN ZHENG)

OWNER(S): JERRY AND CATHERINE LLC

REQUEST: Variances in the IND-2/IND-3 zoning district to allow a 4COP liquor license for consumption on premises as follows:

1) Located 488 feet from a school in lieu of 500 feet.

2) Located 622 feet from a religious institution in lieu of 1,000 feet.

PROPERTY LOCATION: 7220 S. Orange Blossom Trail, Orlando, Florida, 32809, northwest corner of Premier Row and S. Orange Blossom Tr., north of E. Sand Lake Rd.

PARCEL ID: 27-23-29-6311-01-030

LOT SIZE: 210 ft. x 300 ft./ 1.44 Acres

NOTICE AREA: 1,200 ft.

NUMBER OF NOTICES: 140

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

1. Development shall be in accordance with the survey dated September 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. Approval is contingent on this property remaining a restaurant (deriving 51% or more of income from food sales) and does not allow this property to become a bar or lounge.

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

The applicant agreed with the staff recommendation and noted that letters of support have been obtained from the adjacent church and school.

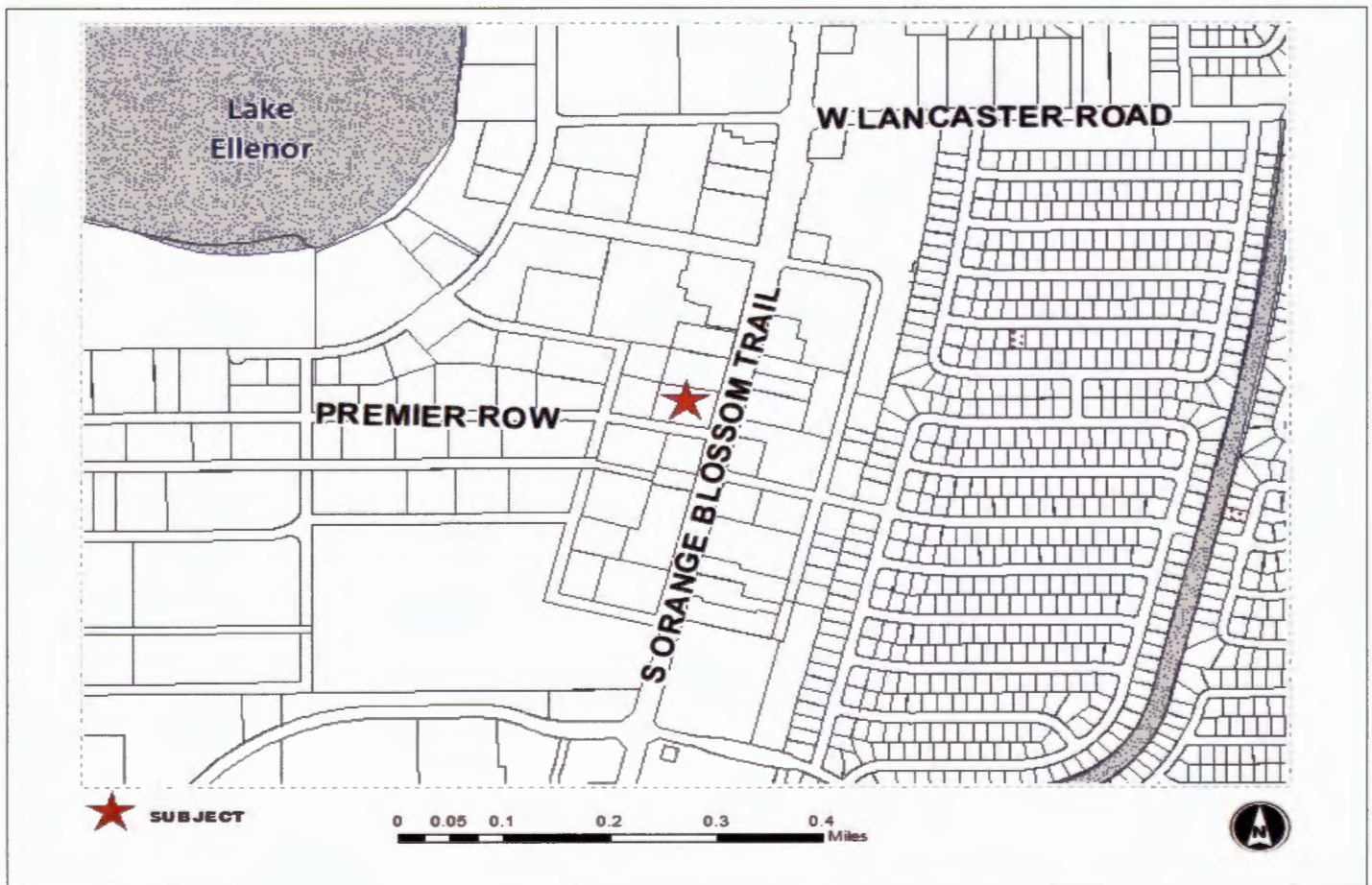
The BZA noted that an established business with an existing alcohol license has precedent over a newly established operation and the request to upgrade the existing license allows it to remain in operation.

There was no one in attendance to speak in favor or in opposition to the request. The BZA unanimously recommended approval of the variances, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	IND-2/IND-3	IND-2/IND-3	IND-2/IND-3	C-2	IND-2/IND-3
Future Land Use	IND	IND	IND	C	IND
Current Use	Commercial	Commercial	Commercial	Commercial	Religious Institution, School

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is zoned IND-2/IND-3, Industrial Park District, which allows for warehousing, manufacturing, and certain retail uses, including restaurants.

The area is comprised of commercial and industrial uses. The subject property is a 1.44 acre lot, located on the northwest corner of Premier Row and S. Orange Blossom Tr. The lot was platted in 1963 as part of the Orlando Central Park Number One Plat, and is a conforming lot of record. There is a 5,501 sq. ft. building on the lot, which was constructed in 1978. The applicant purchased the property in 2008, and it has been used as a restaurant since that time.

The restaurant currently has a 2COP license (ABA-20-07-085) which allows consumption of beer and wine on premises. The original license was obtained prior to the establishment of the church/school in 2016. The applicant has now applied for a 4COP license to allow consumption of beer, wine, and liquor on premises. Sec. 38-1415 requires any business serving alcohol on site to be located at least one thousand (1,000) feet away from any established religious institution or school. The code has a provision allowing businesses that derive more than fifty-one (51) percent of their business from the sale of food and nonalcoholic beverages to be at least 500 ft. away from a school. This rule does not apply to churches. Measured from door-to-door, the business is located 622 feet away from a religious institution, and 488 feet away from a school, both located in the adjacent building to the west.

The applicant has submitted letters of no objection from the affected church and school.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The location already has a 2COP license which allows consumption of beer and wine on premises, and the applicant requests an upgrade to a 4COP license to allow consumption of beer, wine, and liquor on premises for an existing restaurant, which is not considered a bar, and will not have any noticeable impacts on adjacent properties.

Not Self-Created

The applicant has the opportunity to operate a restaurant without the upgraded license. However, the non-conforming status is not self-created since the school and church opened since the original 2COP approval.

No Special Privilege Conferred

If this variance is granted it will not confer special privilege, as many other similar businesses in the area may be eligible for licenses under similar circumstances.

Deprivation of Rights

Not allowing this applicant to serve beer, wine and liquor on premises would deprive them of the rights commonly enjoyed by neighboring properties and similar restaurants.

Minimum Possible Variance

The variances requested are minimal and the business will be located 622 ft. from the church, and 488 ft. from the school which are substantial distances.

Purpose and Intent

Approval of this variance will be in harmony with the zoning code as the commercial and industrial zoning districts in the area allows restaurants and bars. Allowing on-site consumption at this location would not be detrimental or injurious to the adjacent neighborhood, or the church, or the school.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the survey dated September 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. Approval is contingent on this property remaining a restaurant (deriving 51% or more of income from food sales) and does not allow this property to become a bar or lounge.

c: Wen Zheng
7220 S. Orange Blossom Trl.
Orlando, FL 32809

COVER LETTER



Mr. & Mrs. Crab Juicy Seafood & Bar

www.mrandmrs crabseafood.com

7220 S Orange Blossom Trail

Orlando, FL 32809

We, on behalf of Mr. & Mrs. Crab Juicy Seafood and Bar are requesting a setback of 488 feet in the posterior, where the required setback is 500 feet, which is a variance of 12 feet. We are also requesting a setback of 622 feet in the anterior, where the required setback is 1000 feet, which is a variance of 378 feet. The intent of this setback request is to allow for the procurement of a 4COP liquor license, as such credentials are necessary to the success of the Mr. & Mrs. Crab Juicy Seafood & Bar brand and to the success of the individual business located at the property referenced above. We have included a detailed description of how this request meets or exceeds the six variance criteria required by the Orange County Code below.

- 1. Special Conditions and Circumstances:** The occupants of this property are prohibited from pursuing a 4COP liquor license pursuant to unique zoning code restrictions. These restrictions have created special circumstances and conditions which are peculiar to the building involved and which are not applicable to similar structures in the same zoning district.
- 2. Not Self-Created:** These special conditions and circumstances have not resulted directly from the actions of Mr. & Mrs. Crab Juicy Seafood and Bar or any representative thereof. The building proprietors failed to notify our agents of the unique zoning restrictions imposed on the property. The principal agents of our company were unaware that the normal operation of our business would be in violation of said zoning codes prior to the lease, renovation and occupation of the property.
- 3. No Special Privilege:** An approval of this zoning variance request will not confer a special privilege denied by this chapter to other lands, buildings or structures in the same zoning district. In fact, no other similarly operating full-service restaurants within a half mile radius of this property have been subject to the unique restrictions imposed by this code. Additionally, the businesses previously occupying the property were exempt from such restrictions and were in due course granted the opportunity to pursue 4COP liquor license certification.
- 4. Deprivation of Rights:** As stated previously, all full service restaurants operating within a half mile radius of the property enjoy the liberties of 4COP liquor license certification and the businesses previously occupying the property have as well. Failure to grant this zone variance request would result in a deprivation of rights and would work unnecessary and undue hardship onto Mr. & Mrs. Crab Juicy Seafood and Bar. Additionally, it is imperative that each of our locations obtain a 4COP liquor license in order to fulfill the expectations associated with our brand name. The principal agents of our company would not have leased this space had they been aware of the unique zoning restrictions and have not purchased the property with the distinct intent to violate the restrictions of said requirements.
- 5. Minimum Possible Variance:** The zoning variance requested is the minimum variance that will make possible the reasonable use of the building.
- 6. Purpose and Intent:** Approval of this zoning variance will undoubtedly be in harmony with the purpose and intent of the existing zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to public welfare. We are primarily a family restaurant and generate more than 50% of our revenue from food sales. Our mission statement is to create a unique and family friendly seafood experience. Alcohol sales make up only a small, yet important, portion of our business. Our bar closes at a reasonable hour and we have many policies in place to ensure that our patrons practice safe and moderate alcohol consumption. Employees in management positions hold ServSafe alcohol certifications and are fully aware of the laws and responsibilities associated with alcohol service. Therefore, the approval of this zoning variance will not impair the safety, comfort, or general welfare of the surrounding citizens.

ZONING MAP



AERIAL MAP

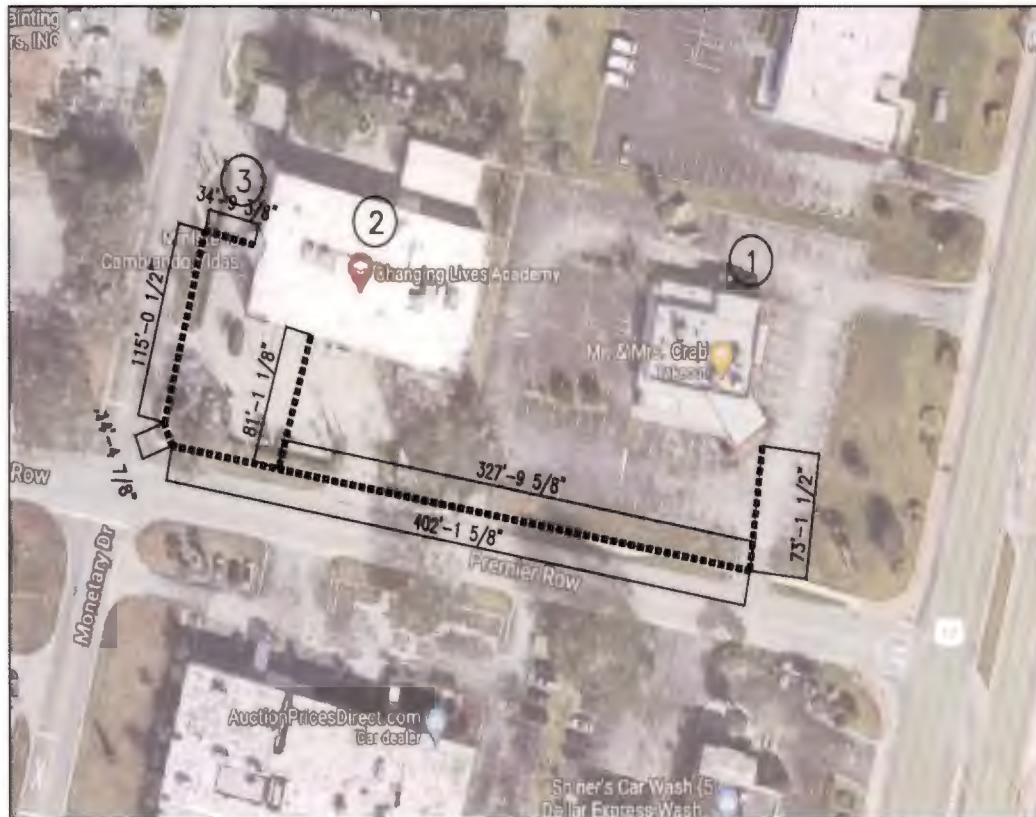


DISTANCE SEPARATION

- ① MR. & MRS. CRAB
- ② CHANGING LIVES ACADEMY (SCHOOL)
- ③ MINISTERIO CAMBIANDO VIDAS (CHURCH)

FROM MR. & MRS. CRAB TO CHANGING LIVES ACADEMY (SCHOOL)
DISTANCE: 482'

FROM MR. & MRS. CRAB TO MINISTERIO CAMBIANDO VIDAS (CHURCH)
DISTANCE: 639'



S T P A V
SCALE: 1/8"=1'-0"

AS E DESIGN:
GREENLOGIC, LLC
CAP 36537
P.O. BOX 678
GAINESVILLE, FLORIDA 32604
(817) 888-1816

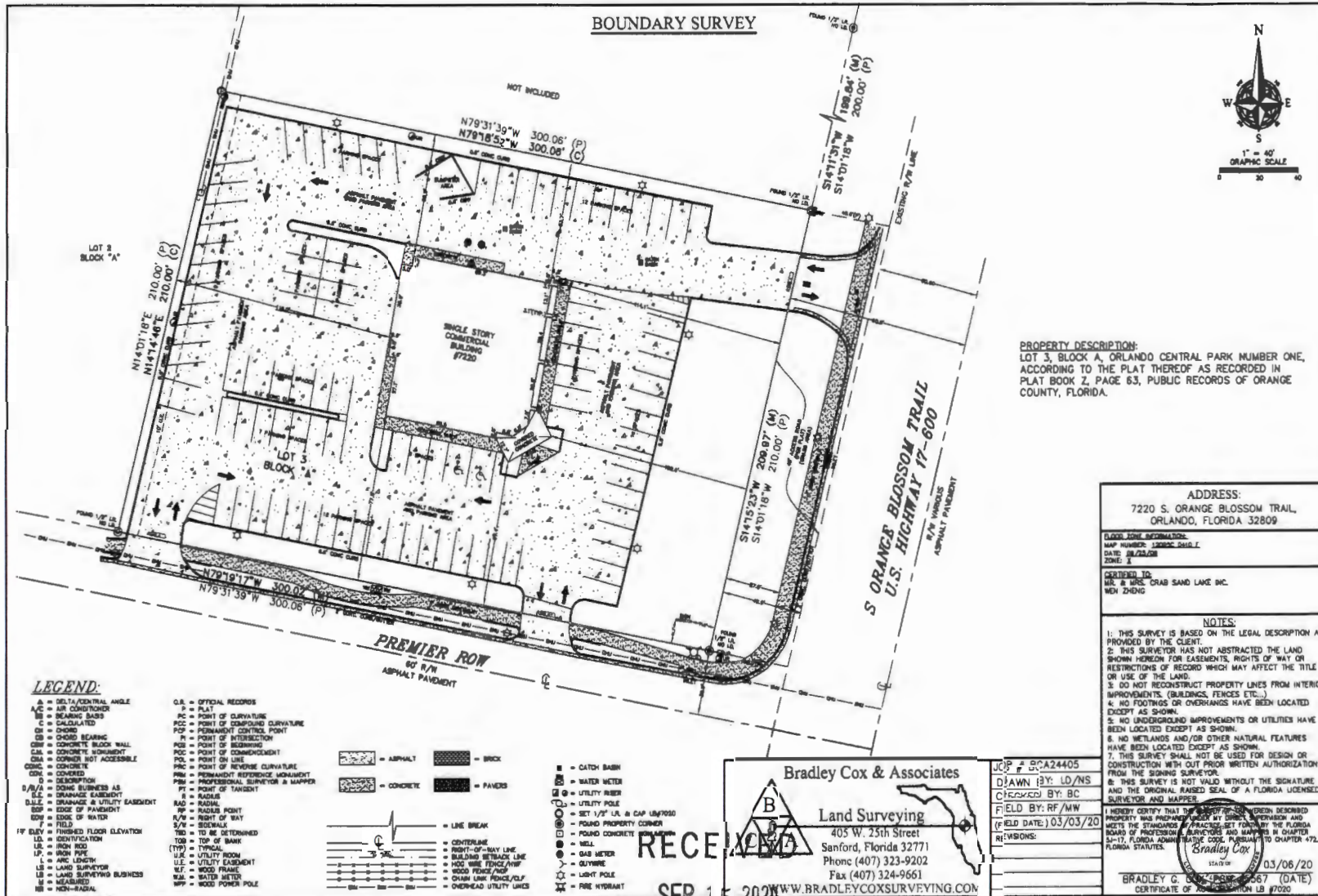


THIS IS TO BE USED AS A GUIDE ONLY. THE USER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE DATA AND THE INFORMATION PROVIDED HEREON. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

PROJECT:
MR. & MRS. CRAB
7220 SOUTH ORANGE BLOSSOM TRAIL,
ORLANDO, FL, 32809
ZONING

DATE:	
BY:	
CHECKED BY:	
APPROVED BY:	
DATE:	
BY:	
CHECKED BY:	
APPROVED BY:	
DATE:	
BY:	

Z-01



BOUNDARY SURVEY



PROPERTY DESCRIPTION:
 LOT 3, BLOCK A, ORLANDO CENTRAL PARK NUMBER ONE,
 ACCORDING TO THE PLAT THEREOF AS RECORDED IN
 PLAT BOOK Z, PAGE 63, PUBLIC RECORDS OF ORANGE
 COUNTY, FLORIDA.

ADDRESS: 7220 S. ORANGE BLOSSOM TRAIL, ORLANDO, FLORIDA 32809	
FLOOD ZONE INFORMATION: MAP NUMBER: 3383C SWS-1 DATE: 08/28/08 ZONE: 1	
CERTIFIED TO: MR. & MRS. GRAB SAND LAKE DR. WEN ZHENG	

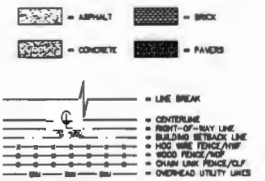
NOTES:

1. THIS SURVEY IS BASED ON THE LEGAL DESCRIPTION AS PROVIDED BY THE CLIENT.
2. THIS SURVEYOR HAS NOT ABSTRACTED THE LAND SHOWN HEREON FOR EASEMENTS, RIGHTS OF WAY OR RESTRICTIONS OF RECORD WHICH MAY AFFECT THE TITLE OR USE OF THE LAND.
3. DO NOT RECONSTRUCT PROPERTY LINES FROM INTERIOR IMPROVEMENTS, (BUILDINGS, FENCES ETC.)
4. NO FOOTINGS OR OVERHANGS HAVE BEEN LOCATED EXCEPT AS SHOWN.
5. NO UNDERGROUND IMPROVEMENTS OR UTILITIES HAVE BEEN LOCATED EXCEPT AS SHOWN.
6. THIS SURVEY SHALL NOT BE USED FOR DESIGN OR CONSTRUCTION WITH OUT PRIOR WRITTEN AUTHORIZATION FROM THE SURVEYOR.
7. THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. I HEREBY CERTIFY THAT THE ABOVE DESCRIBED PROPERTY WAS PREPARED UNDER MY DIRECT SUPERVISION AND MEETS THE STANDARDS OF PRACTICE FOR THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 472, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472, FLORIDA STATUTES.

SEP 03/06/20
 BRADLEY G. COX (DATE)
 CERTIFICATE OF REGISTRATION LB #7200

LEGEND:

- Δ = DELTA/CENTRAL ANGLE
- ▲ = AIR CONDITIONER
- BE = BEARING BASES
- C = CALCULATED
- CH = CHORD
- CHB = CHORD BEARING
- CL = CONCRETE BLOCK WALL
- CLB = CONCRETE SIGNMENT
- CLNA = CORNER NOT ACCESSIBLE
- CLNC = CONCRETE
- CLDC = CONCRETE
- CLD = CONCRETE
- CLD = DESCRIPTION
- S/B/A = SOING BUSINESS AS
- EL = DRAINAGE EASEMENT
- DLE = DRAINAGE & UTILITY EASEMENT
- EDP = EDGE OF PAVEMENT
- EDW = EDGE OF WATER
- EDF = FIELD
- FF = FINISHED FLOOR ELEVATION
- LD = IDENTIFICATION
- LD = IRON ROD
- LP = IRON PIPE
- L = ARC LENGTH
- LS = LAND SURVEYING BUSINESS
- M = MEASURED
- MB = NON-RASAL
- O.R. = OFFICIAL RECORDS
- P = PLAT
- PC = POINT OF CURVATURE
- PCC = POINT OF COMPOUND CURVATURE
- PCP = PERMANENT CONTROL POINT
- PI = POINT OF INTERSECTION
- POB = POINT OF BEGINNING
- PCC = POINT OF COMMENCEMENT
- POC = POINT OF CURVATURE
- PRC = POINT OF REVERSE CURVATURE
- PRM = PERMANENT REFERENCE MONUMENT
- PS = PROFESSIONAL SURVEYOR & MAPPER
- PT = POINT OF TANGENT
- R = RADIUS
- RAD = RADIAL
- RP = RADIAL POINT
- R/W = RIGHT OF WAY
- S/S = SIDEWALK
- TBD = TO BE DETERMINED
- TOP = TOP OF BANK
- (TYP) = TYPICAL
- UL = UTILITY LINE
- ULC = UTILITY CURB
- ULS = UTILITY EASEMENT
- ULF = UTILITY FRAME
- ULM = UTILITY METER
- ULP = UTILITY POLE
- ULW = UTILITY WIRE
- ULX = UTILITY X
- ULY = UTILITY Y
- ULZ = UTILITY Z
- ULAA = UTILITY A
- ULBB = UTILITY B
- ULCC = UTILITY C
- ULDD = UTILITY D
- ULEE = UTILITY E
- ULFF = UTILITY F
- ULGG = UTILITY G
- ULHH = UTILITY H
- ULII = UTILITY I
- ULJJ = UTILITY J
- ULKK = UTILITY K
- ULLL = UTILITY L
- ULMM = UTILITY M
- ULNN = UTILITY N
- ULOO = UTILITY O
- ULPP = UTILITY P
- ULQQ = UTILITY Q
- ULRR = UTILITY R
- ULSS = UTILITY S
- ULTT = UTILITY T
- ULUU = UTILITY U
- ULVV = UTILITY V
- ULWW = UTILITY W
- ULXX = UTILITY X
- ULYY = UTILITY Y
- ULZZ = UTILITY Z
- ULAAA = UTILITY A
- ULBBB = UTILITY B
- ULCCC = UTILITY C
- ULDDD = UTILITY D
- ULEEE = UTILITY E
- ULFFF = UTILITY F
- ULGGG = UTILITY G
- ULHHH = UTILITY H
- ULIII = UTILITY I
- ULJJJ = UTILITY J
- ULKKK = UTILITY K
- ULLLL = UTILITY L
- ULMMM = UTILITY M
- ULNNN = UTILITY N
- ULOOO = UTILITY O
- ULPPP = UTILITY P
- ULQQQ = UTILITY Q
- ULRRR = UTILITY R
- ULSSS = UTILITY S
- ULTTT = UTILITY T
- ULUUU = UTILITY U
- ULVVV = UTILITY V
- ULWWW = UTILITY W
- ULXXX = UTILITY X
- ULYYY = UTILITY Y
- ULZZZ = UTILITY Z
- ULAAA = UTILITY A
- ULBBB = UTILITY B
- ULCCC = UTILITY C
- ULDDD = UTILITY D
- ULEEE = UTILITY E
- ULFFF = UTILITY F
- ULGGG = UTILITY G
- ULHHH = UTILITY H
- ULIII = UTILITY I
- ULJJJ = UTILITY J
- ULKKK = UTILITY K
- ULLLL = UTILITY L
- ULMMM = UTILITY M
- ULNNN = UTILITY N
- ULOOO = UTILITY O
- ULPPP = UTILITY P
- ULQQQ = UTILITY Q
- ULRRR = UTILITY R
- ULSSS = UTILITY S
- ULTTT = UTILITY T
- ULUUU = UTILITY U
- ULVVV = UTILITY V
- ULWWW = UTILITY W
- ULXXX = UTILITY X
- ULYYY = UTILITY Y
- ULZZZ = UTILITY Z



Bradley Cox & Associates
 Land Surveying
 405 W. 25th Street
 Sanford, Florida 32771
 Phone (407) 323-9202
 Fax (407) 324-9661
 WWW.BRADLEYCOXSURVEYING.COM

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 ZONING DIVISION

SITE PHOTOS



Subject Property from S. Orange Blossom Trl., looking west



Subject property and adjacent church and school, looking west

SITE PHOTOS



School located 488 ft. from subject property at 7215 Monetary Dr.



Church located 622 ft. from subject property at 7215 Monetary Dr.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 05, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-11-103**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): CHARLES FAUST

OWNER(s): CHARLES FAUST

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

- 1) To allow an existing pergola 6 ft. from the north side street property line in lieu of 15 ft.
- 2) To allow an existing residence to remain 8 ft. from the north side street property line in lieu of 15 ft.
- 3) To allow an existing shed to remain 1 ft. from the south side property line in lieu of 5 ft.
- 4) To allow an existing shed to remain 1 ft. from the west rear property line in lieu of 5 ft.

This is the result of Code Enforcement.

PROPERTY LOCATION: 700 Beryl Pl., Orlando, FL 32835, southwest of Beryl Pl. northwest corner of Beryl Pl. and Fischer St., west of Hiawasse Rd.

PARCEL ID: 35-22-28-4460-03-010

LOT SIZE: 0.35 acres (15,478 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 118

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 as amended (unanimous: 6-0 and 1 absent):

1. Development shall be in accordance with the site plan and elevations 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 unpermitted structures within 180 days of final action on this application by Orange County or this approval becomes null and void.
5. If the shed and /or the pergola is removed or destroyed, any replacement structure shall meet all applicable codes in effect at the time of replacement.

SYNOPSIS: Staff described the property, the existing improvements, the location of the Fisher St. half right-of-way segment compared to the existing improvements, the year the applicant purchased the property, and the vehicular access to the Fischer St. abutting the subject property and the property to the west. Staff noted that since the segment of Fisher St. abutting the subject property is not open to traffic, with no plans to do so, the subject property functions more like an interior lot than a corner lot. Staff outlined how the proposal satisfies the six (6) criteria which must be met for the granting of a variance, for the existing residence and pergola, and how the proposal does not satisfy the six (6) criteria pertaining to the variances for the shed. Staff noted that as of the preparation of the presentation, they had received four (4) correspondence in favor of the requests, and two (2) in opposition. Since that time staff has received two (2) more in opposition.

The applicant added to the staff presentation and explained how the two accessory structures were existing when they purchased the property, and that they were cited by code enforcement in 2018 for the construction of the pergola which was constructed by the prior owner. One (1) individual spoke in favor and four (4) spoke in opposition. Those in opposition maintained that the applicant did build the pergola, and that the segment of Fisher St. abutting the subject property is open and maintained. In rebuttal, the applicant reiterated that the two accessory structures were on the property when they purchased the property, and while they did erect a section of fence along Fisher St. without permits, they were working with Public Works to get the fence cleared up.

The BZA concluded that the fact that Fisher St. will not be open to traffic is a special condition and circumstance and because the structures were on the property when the applicant purchased the property is not self-created. Also, the fact that the shed has been in its current location for a very long time with no complaints, including lack of code enforcement action, shows that there is no special privilege. The BZA unanimously recommended approval of the variances, subject to the four (4) conditions in the staff report and a new Condition #5, which states "If the shed and /or the pergola is removed or destroyed, any replacement structure shall meet all applicable codes in effect at the time of replacement."

STAFF RECOMMENDATIONS

Approval of variances 1 and 2, and denial of variances 3 and 4, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residence	Unimproved right-of-way	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

The subject property consists of a 0.35 acre parcel comprised of two (2) full lots, and a portion of a third, created by the Lake Hiawassae Terrace subdivision which was recorded in April 1926. The property is developed with a 1,813 sq. ft. single family home with an attached two-car garage built in 1965.

In addition to the home, there is also a 336 sq. ft. shed which is 11.75 ft. in height located in the southwest corner of the lot and a 100 sq. ft. pergola which is 9.5 ft. in height and located on the north side of the lot.

According to the applicant, the accessory structures were in their current locations when he purchased the home in December 1997. There are no permits for these structures.

The shed is currently located one (1) ft. from the south side property line and the west rear property line. The required setbacks for each of these yards is five (5) ft. The pergola is currently located six (6) ft. from the north side street property line, where 15 ft. is required. Likewise, the existing residence is only located eight (8) ft. from the side street property line.

According to code enforcement records, the applicant was cited in late 2018 for having unpermitted structures and fencing. In March 2019, the Code Enforcement Board found the applicant in noncompliance, and fines began accruing. In March 2020, the Code Enforcement Board chose to pursue foreclosure proceedings. Since the property has a Homestead Exception, those proceedings cannot take place until the applicant sells the property.

To the north of the subject property is Fisher St., a 30 ft. wide unopened unmaintained right-of-way dedicated through the 1926 plat. To the north of Fisher St. is the Hiwassee Overlook subdivision, which was platted in 2000.

Because the section of Fisher St. between Beryl Pl. and Saxby Av. has lots dependent on the right-of-way for access, that section of Fisher St. is open to traffic and maintained by the County. However, there are no lots fronting on Fisher St. between Beryl Pl. and Lake Hiwassee Rd.

While the subject property is technically a corner lot, its side street is unopened and unmaintained. For that reason, it functions as an interior lot. In 2014, the applicant submitted a Petition to Vacate to have the County vacate the section of Fisher St. abutting their property (PTV-14-05-008), however, it was denied. In 2019, the applicant and their neighbor to the west filed a new petition to vacate the same section of road (PTV-19-02-007). That application was not supported by public works, and was subsequently closed, as they foresee the need to establish a drainage system in the future, and also want to maintain the existing walking path over this portion of the ROW.

As of the preparation of this report, staff had received one commentary in opposition to this application. The correspondence came from a resident who resides approximately $\frac{3}{4}$ of a mile to the north of the subject property.

District Development Standards

	Code Requirement	Proposed
Max Height:	15 ft. shed/pergola	10 ft. (pergola)/12 ft. (shed)
Min. Lot Width:	75 ft.	101 ft.
Min. Lot Size:	7,500 sq. ft.	15,478 sq. ft.

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

	Code Requirement	Proposed
Front:	(Beryl Place) 25 ft.	48 ft. -East
Rear:	30 ft. (Residence)/5 ft. (shed)	43 ft. (Residence)/1 ft. (shed) -West
Side:	7.5 ft. (Residence)/5 ft. (shed)	26 ft. (Residence)/1 ft. (Shed) - South
Sidestreet:	(Fisher St.) 15 ft.	6 ft. (Pergola)/8 ft. (Residence) - North

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variances 1 & 2

With regard to the pergola, the special condition and circumstance is the fact that the Fisher St. right-of-way is unopened and non-maintained, and there are no current plans to change that status. With regard to the home, it was constructed in that location, and requiring relocation would be a significant undertaking.

Variance 3 & 4

With regard to the shed, there are no special conditions or circumstances.

Not Self-Created

Variances 1 & 2

Since both structures were existing when the applicant purchased the property, the requests are not self-created.

Variances 3 & 4

The request is self-created since there is sufficient room available to relocate the shed to meet required setbacks.

No Special Privilege Conferred

Variations 1 & 2

Since the section of Fisher St. adjacent to the subject property is not open or maintained, there is no need for greater setbacks to preserve sight distance.

Variations 3 & 4

Approval of the requested variations will confer a special privilege that is denied to others in similar circumstances.

Deprivation of Rights

Variations 1 & 2

Without the variations, the applicant will need to relocate the pergola although there are no plans to use Fisher St to be improved and maintained. Without the variance for the home it would remain a nonconforming structure.

Variations 3 & 4

With regard to the shed, the applicant is not being deprived of any rights to continue to use the shed in a conforming location.

Minimum Possible Variance

Variations 1 & 2

Since the section of Fisher St. adjacent to the subject property is unopened and non-maintained, the location of the pergola is a variance needed to meet the interior side setbacks for an accessory structure. Likewise, the residence meets those same setbacks.

Variations 3 & 4

With regard to the shed, since it can be relocated to a compliant location, the current location is not a minimum variance.

Purpose and Intent

Variations 1 & 2

The purpose and intent of the increased side street setback is to keep structures back from traffic for sight distance situations. However, since this section of Fisher St. is not opened to traffic, the need for the increased setback does not exist.

Variations 3 & 4

The purpose and intent of the side and rear setbacks for accessory structures is to provide separation distance from adjacent properties. Since the shed can be relocated to a compliant location, the purpose and intent of the code is not being met.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated 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 unpermitted structures within 180 days of final action on this application by Orange County or this approval becomes null and void.

c: Charles B Faust
700 Beryl Pl.
Orlando, FL 32835

COVER LETTER

Charles B Faust
700 Beryl Place
Orlando, FL 32835
September 11, 2020

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

Dear BZA Board:

I am submitting this application for variances concerning existing structures when I purchase the home in 1997. Betsy Vandelay had been working as my advocate to get the ROW north of my property vacated. Public Works was opposing this vacation, even though all other departments agreed to the vacation. Now that Betsy has been voted out, she informed me that she will be leaving office at the end of November.

I felt it was best to now apply for these variances as the vacating of the ROW seems improbable without representation. I am currently being fined \$150 a day for the Pergola that was on the property when I purchased in 1997. I have included a letter from the previous owner stating that it was built in 1996 (attached). The reason for the code fine now is because two different neighbors have constantly called the police, code enforcement and others to consistently harass us (picture of neighbor taking picture to complain attached). I am asking for multiple variances for everything on my property that could be a code violation. I am attempting to halt the continual problems associated with this ROW. I will then get each item permitted to bring the property into compliance. When I sell my house, I want to be able to tell the new potential purchaser that everything on the property is legal.

My property meets the 6 criteria needed to obtain a variance:

Special Conditions and Circumstances: These properties exist for both the Pergola and Shed. Our neighborhood has larger lots than most in this area. My house sits approximately 100 feet from the closest neighbor. These structures are unassuming and are almost unseen by any neighbor. Both structures are physically bolted to large slabs of concrete poured before 1990. This makes moving these structures very difficult and these structures have been there 25+ years.

Not Self-Created: As stated previously and shown with a submittal from the previous owner the Pergola was built on an existing concrete slab in 1996. The letter does not reference the shed as I

BZA Board
September 11, 2020
Page 2

had the previous owner address the Pergola as that is what is being fined \$150 a day. Shed was also here on property when I purchased house in 1997.

No Special Privilege Conferred: I agree to this statement and if there are additional items requiring a variance, one will be obtained.

Deprivation of Rights: Due to the uniqueness of Lake Hiawassa Terrace; multiple properties have sheds and pergolas/gazebos for their enjoyment. I use this Pergola as a home office for working from home. Our home itself is small and has no area to conduct business without interfering with other residents. The shed houses thousands of dollars worth of water conditioning equipment and protects this equipment from the elements. Thereby allowing this equipment to last longer without replacement.

Minimum Possible Variance: If structures remain at their locations, it does not impede any access to the unopened ROW. Utilities can still trim the trees around the power wires and people can walk through the ROW if they so desire.

Purpose and Intent: Upon approval there will be no safety impact to the neighborhood and general public welfare.

First, I am requesting a variance for the Pergola that is 6 feet from the property line on the North side, which is the unopened, unmaintained ROW (picture attached). It is 9'6" tall and measures 10' x 9'10" for 93.33 square feet. I have been using this Pergola as my home office since the COVID19 pandemic started. It also is used for relaxing and entertainment.

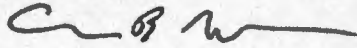
Secondly, I am asking for a variance for the Shed in the South West portion of the backyard. Shed is 1'6" from the Southern property line at the closest point. The peak of the Shed is 11'9" and it is 12' x 16' for 192 square feet. This Shed houses the well water conditioning equipment and is also used for storage.

Finally, I am also showing the concrete driveway that is 14'7" into the ROW and highlighted in grey on the survey. I spoke with the new code enforcement officer, Joe LaBron, and he stated that since the concrete was poured before 1990 that no permit would be required. Our home was built in 1965. The house may require a variance as it sits 8'2" from the property line at the North West corner and 14'2" from the North East corner of the house. R1A states that it should be 15 feet. If a variance is required, I am asking for a variance for the house also.

I am asking for you to approve the necessary variances so that I can then get every anomaly permitted and remove the lien against our home. It has been quite stressful; we just want to live in peace.

BZA Board
September 11, 2020
Page 3

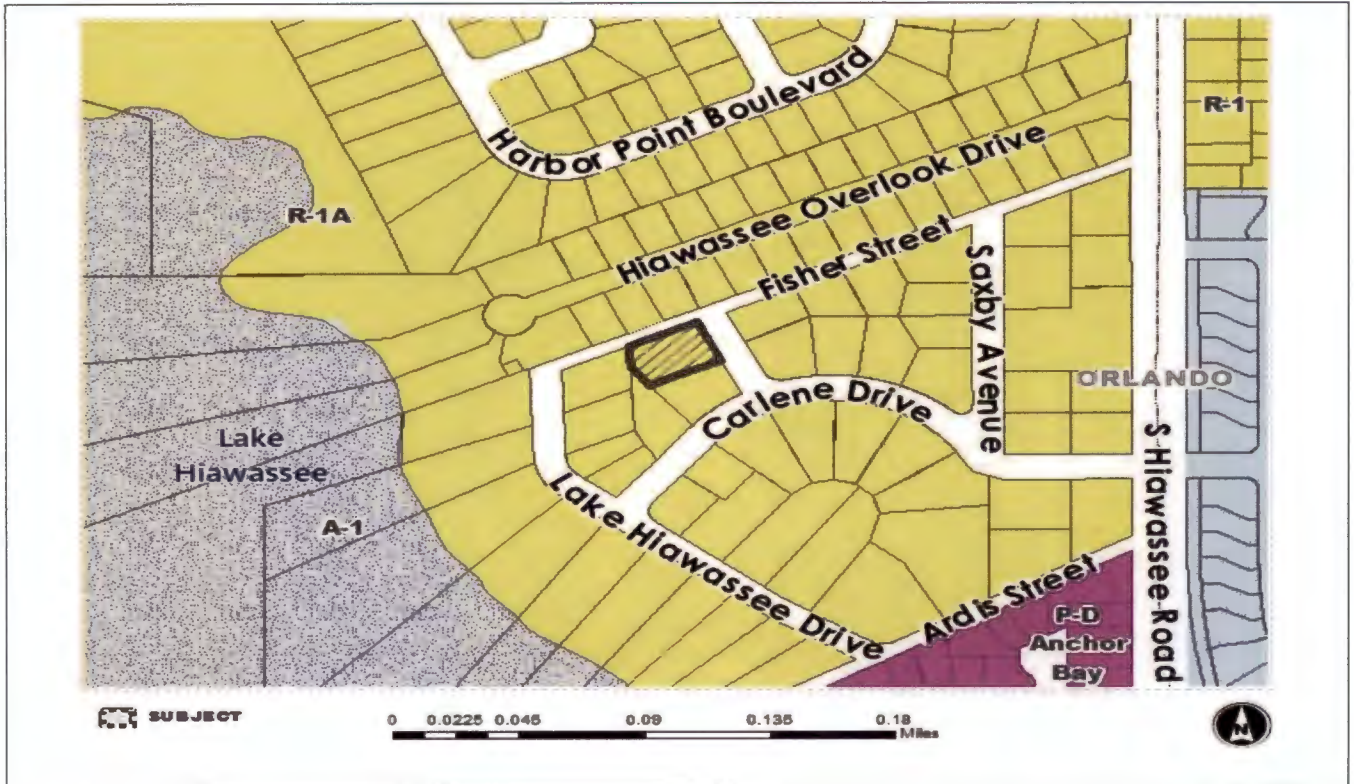
Sincerely,



Charles B Faust

Enclosure

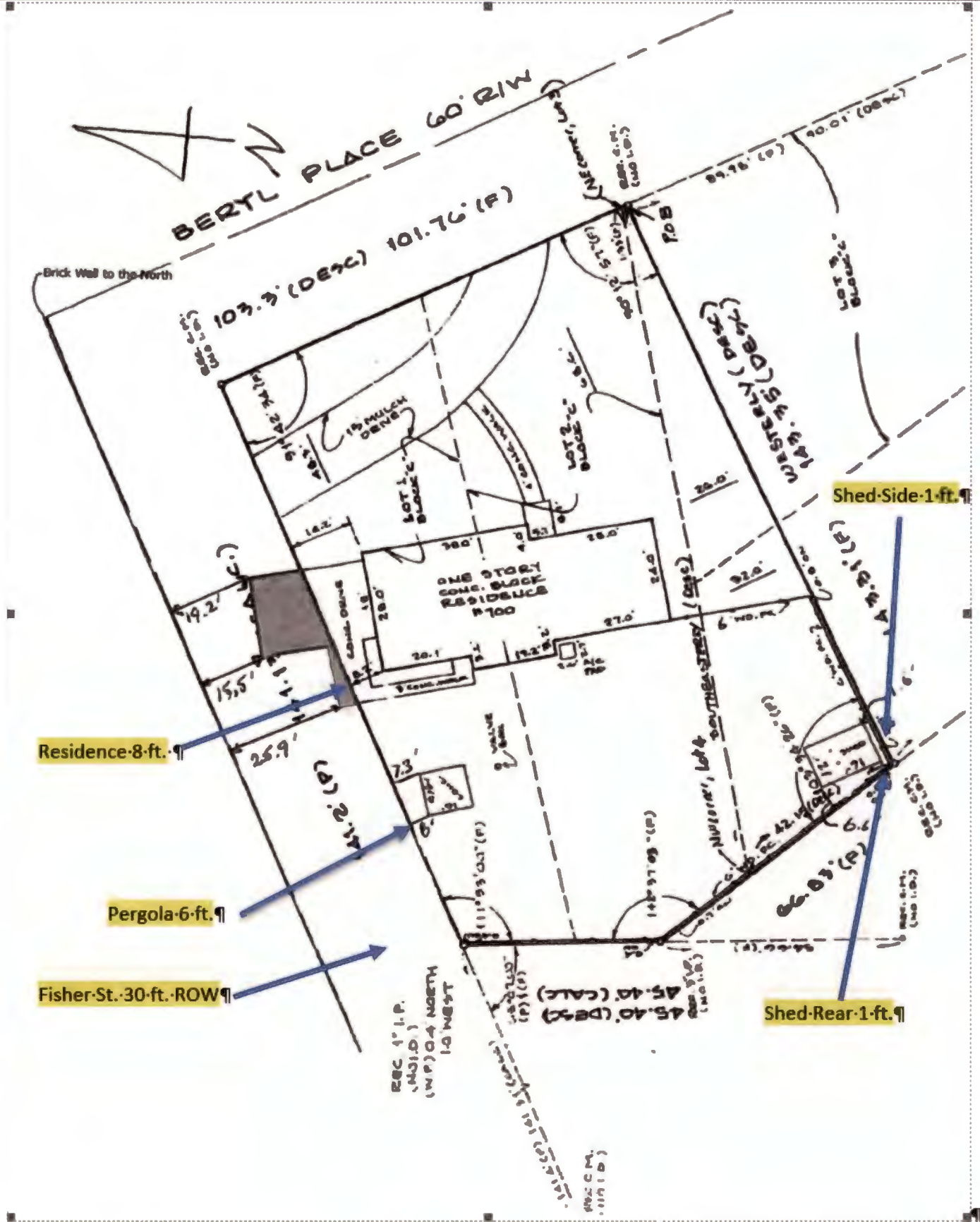
ZONING MAP



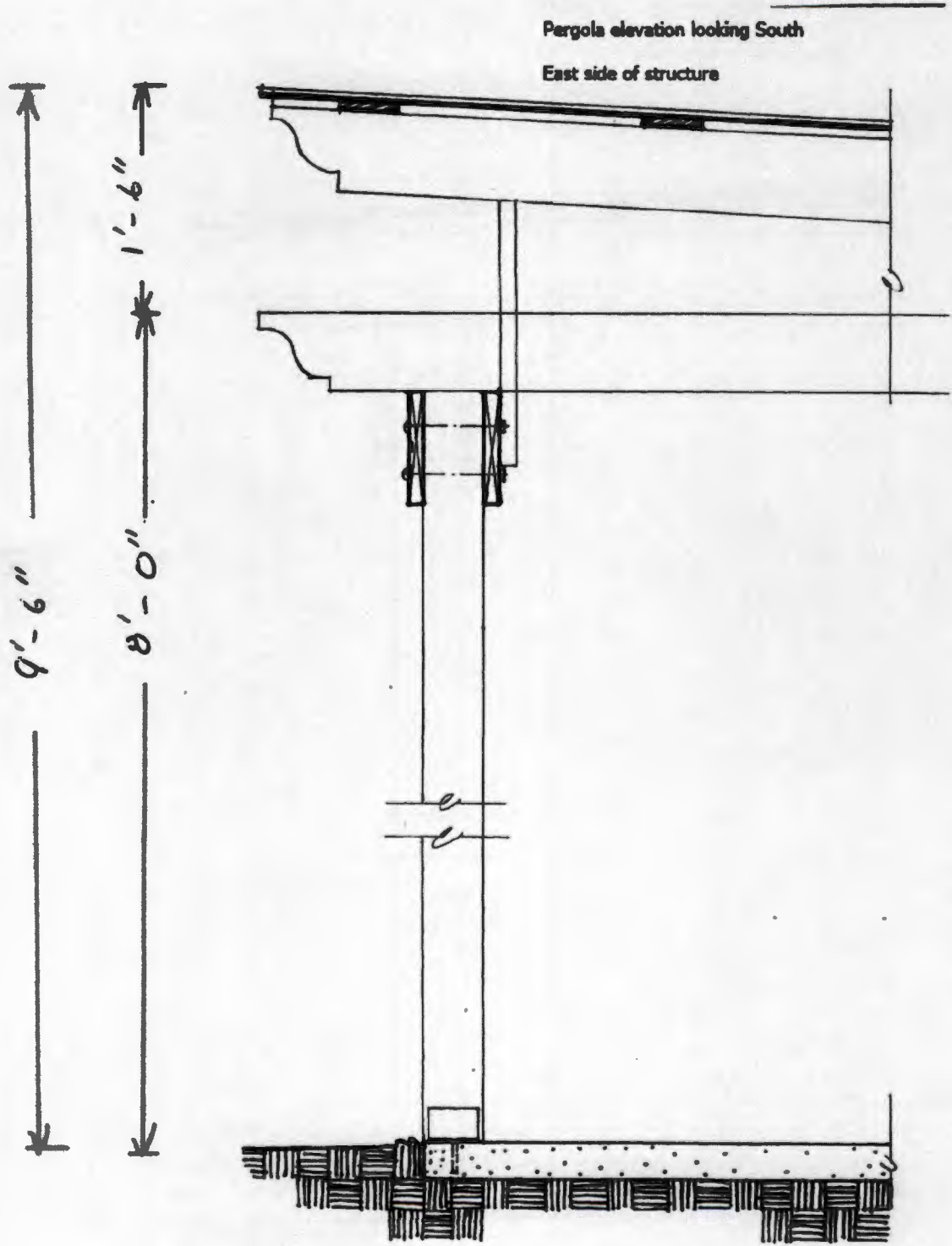
AERIAL MAP



SITE PLAN



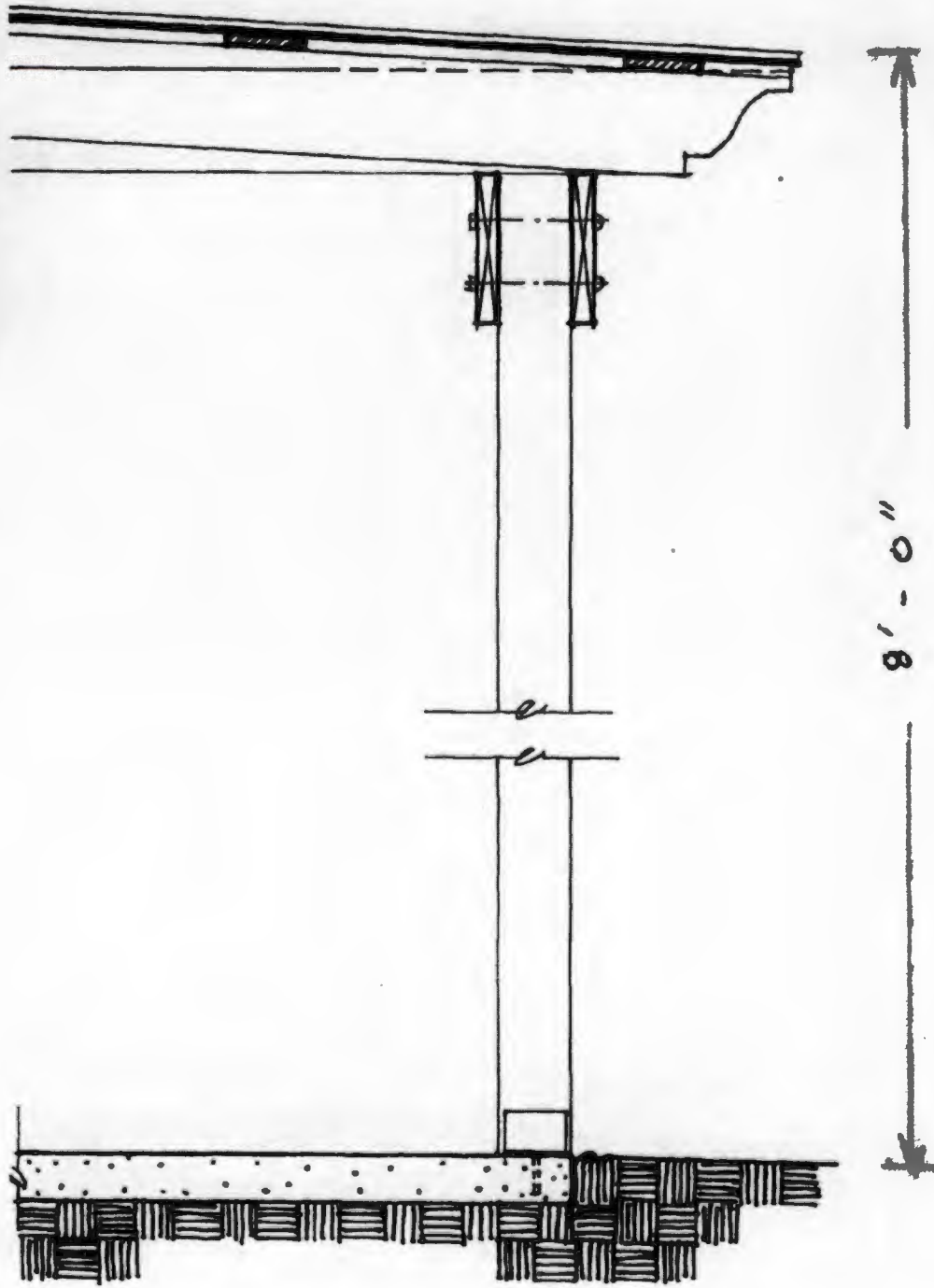
PERGOLA ELEVATION 1



PERGOLA ELEVATION 2

Pergola Elevation looking South

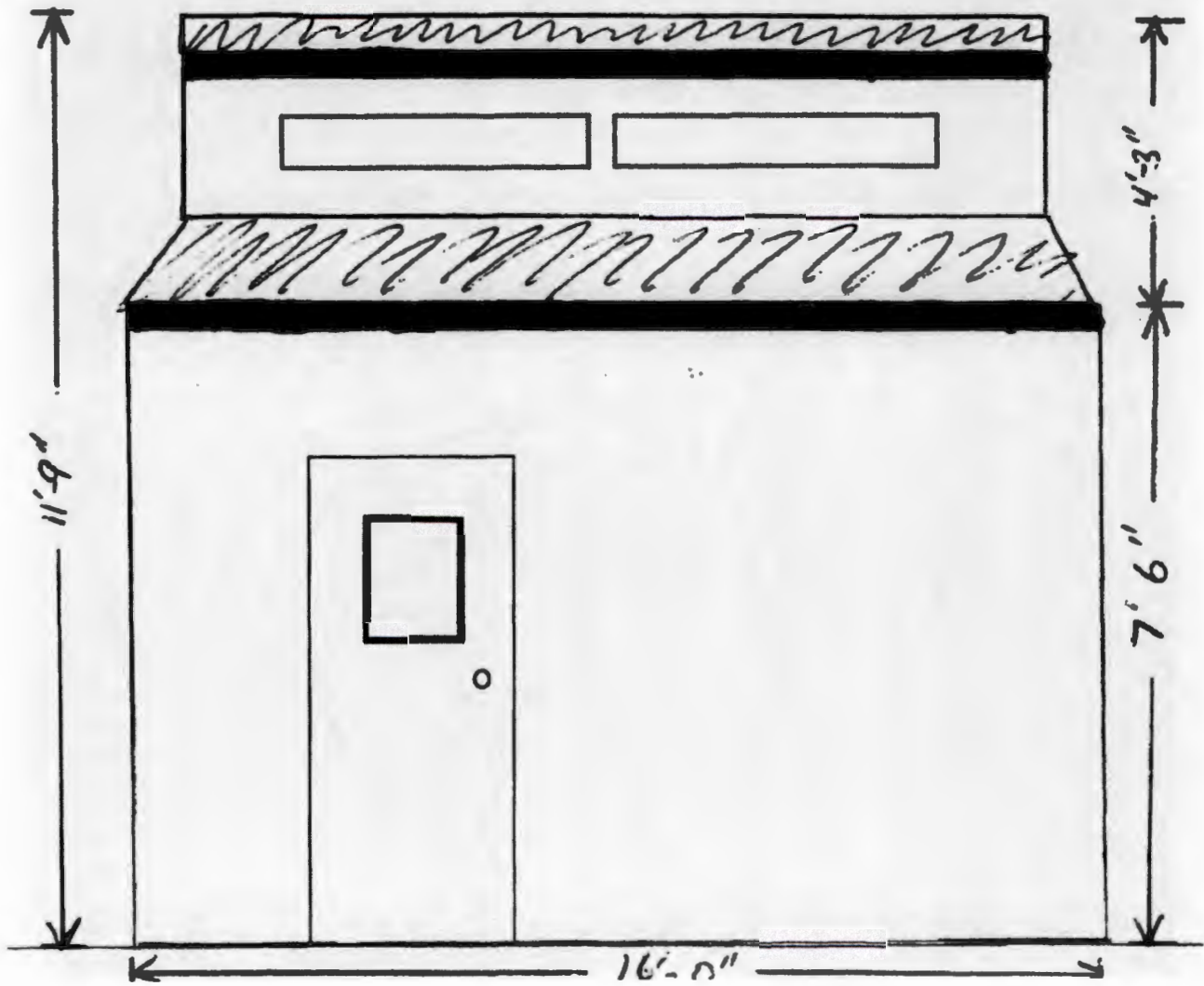
West side of structure



PERGOLA

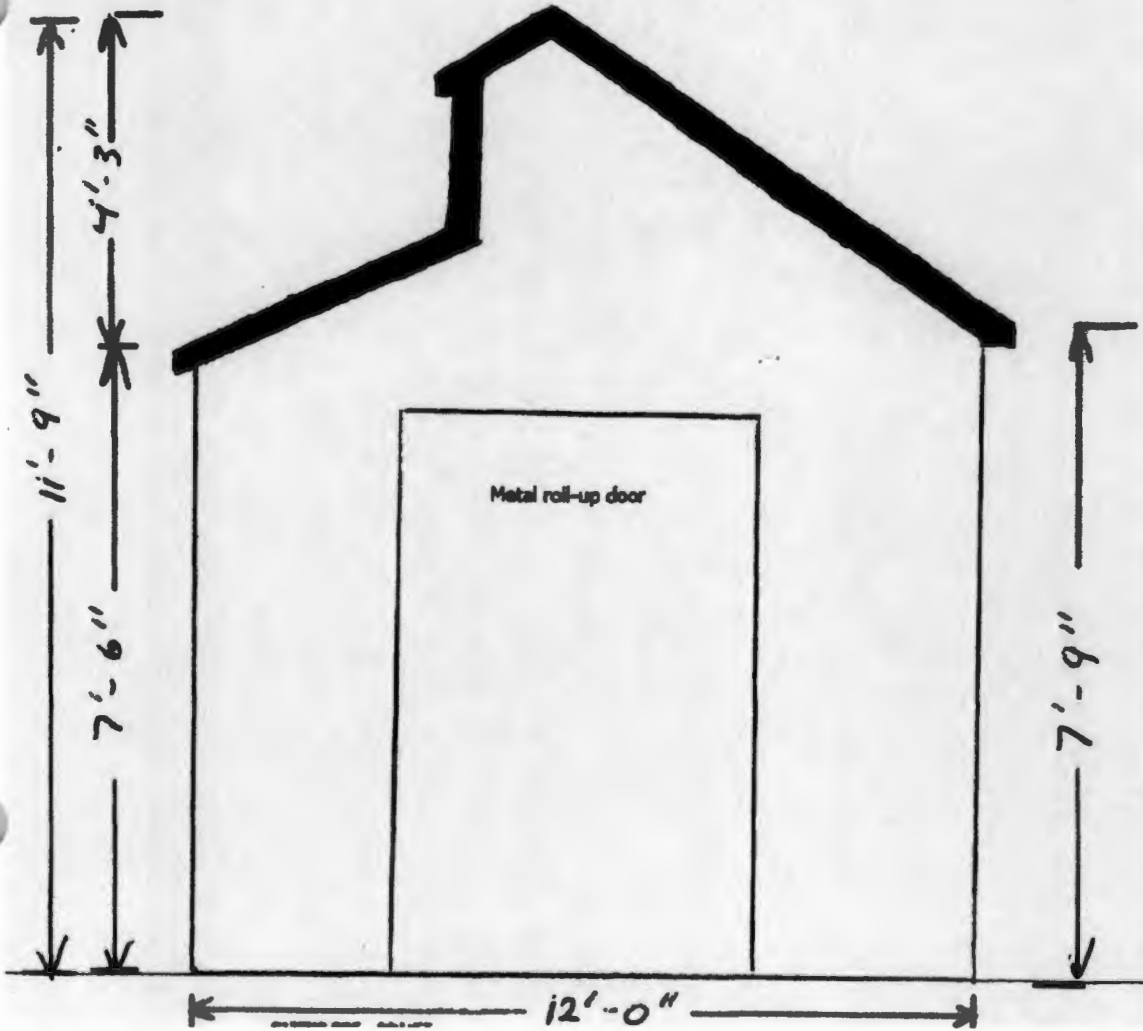


SHED FRONT ELEVATION
Backyard Shed Elevation Front View



SHED SIDE ELEVATION

Backyard Shed Elevation Side View



EXISTING SHED



SITE PHOTOS



Subject property from Beryl Place looking southwest



Subject property from Fisher St. looking south

SITE PHOTOS



Pergola looking west



Shed looking southwest

SITE PHOTOS



Fisher St. looking northwest from Beryl Place



Fisher St. looking northeast from Lake Hiawasse Dr.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 05, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-11-104**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): JORDAN STRASBERG

OWNER(s): IFTIKHAR RASUL & SIDRA RASUL

REQUEST: Variance in the P-D zoning district to allow pool equipment 4 ft. from the east side property line in lieu of 5 ft.

PROPERTY LOCATION: 7745 Blue Quail Ln., Orlando, FL 32835, south side of Blue Quail Ln., east of S. Apopka Vineland Rd.

PARCEL ID: 03-23-28-3451-00-840

LOT SIZE: 1.13 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 84

DECISION: Recommended **DENIAL** of the Variance request in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (unanimous: 6-0 and 1 absent).

SYNOPSIS: Staff discussed the proposal, the location of the property, and the photos of the site. Staff provided the applicant's rationale for locating the pool equipment on the opposite side of the home from the compressor which requires a minimum of a five (5) ft. setback. Staff indicated that alternatively there is no required setback when the equipment is located on the same side of the residence as the A/C compressor. Staff provided an analysis of the six (6) criteria and the reasons for denial, including the fact there is sufficient room on the side of the residence with the compressor to accommodate the pool equipment. Staff noted that the HOA has provided a letter of no objection, but the most impacted homeowner immediately north of the subject property had provided a letter of opposition, citing noise and close proximity to the home.

The applicant responded that they were seeking a variance of one (1) ft., and the motivation for the request was an effort to maintain emergency access at the opposite side of the home. The applicant also expressed a concern that the location of the equipment at the opposite side of the residence might block windows. There was no one present to speak in favor or in opposition.

The BZA concurred with the staff analysis, and noted that the majority of the windows on the side of the residence where the A/C compressor is located should not be blocked by the pool equipment. The BZA unanimously recommended denial of the variance.

STAFF RECOMMENDATIONS

Denial. However, should the BZA 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	R-CE-C	R-CE	R-CE
Future Land Use	LDR	LDR	LDR	LDR	INST
Current Use	Single-family residence	Single-family residence	Open space	Cable TV facility	County water and reclaim storage facility

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Savona P-D. This P-D allows single-family detached homes.

The subject property is a 1.13 acre lot created through the Havencrest Phase 2 plat which was recorded in early 2012. The property is developed with a two-story single-family residence with 8,363 gross sq. ft. of floor area,

including an attached three-car garage. The current owner is the original owner, having taken ownership in September 2019.

The homeowner is placing a pool to the rear of the home. They wish to place the pool equipment on the east side of the home, opposite from the location of the air conditioning equipment. The code states that if the pool equipment is located on the same side of the home as the air conditioning equipment there is no setback from the side property line. However, if the pool equipment is to be placed on the opposite side of the home from the air conditioning equipment, it must be a minimum of five (5) ft. from the side property line.

Due to the siting of the home on the lot, the proposed location of the pool equipment is only four (4) ft. from the side (east) property line. There appears to be sufficient space to locate the equipment on the west side of the house where there is room between the side of the house and the west property line.

The HOA for the community has submitted a letter of no objection. As of the preparation of this report, staff had received one commentary in opposition from the property owner immediately east of the subject property who is the most impacted neighbor.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	30 ft.
Min. Lot Width:	85 ft.	85 ft.
Min. Lot Size:	11,050 sq. ft.	49,595 sq. ft.

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

	Code Requirement	Proposed
Front:	20 ft.	30 ft.
Rear:	25 ft.	395 ft.
Side:	7.5 ft. (Residence)/5 ft. (Pool equipment)	7.6 ft. (Residence - East) 4 ft. (Pool equipment - East) /17.2 ft. (Residence - West)

VARIANCE CRITERIA

Special Conditions and Circumstances

While the siting of the house does not leave adequate room on the east side of the home to meet the required setback, there is ample room on the west side where the home is located 17 ft. from the side property line. As such, there are no special conditions or circumstances.

Not Self-Created

Since there is room on the west side of the home to install the pool equipment that would meet the required setback, this is a self-created hardship.

No Special Privilege Conferred

Since the pool equipment could be installed on the same side of the house as the air conditioning equipment in a manner that meets code, the variance would be conferring a special privilege.

Deprivation of Rights

Since applicant has the ability to install the pool equipment on the west side of the home in a manner that meets code, there is no deprivation of rights.

Minimum Possible Variance

Since the pool equipment may be installed elsewhere on the property, this is not the minimum possible variance.

Purpose and Intent

The purpose and intent of the code is to keep one side of the home clear of equipment, or if not clear, easily accessible. The request is not consistent with the purpose and intent.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations 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 plant a hedge around the north and east side of the pool equipment which shall be three (3) ft. in height at time of planting, and which is capable of attaining a height of four (4) ft. within 18 months of planting, and which will form a buffer attaining a minimum of 80% opacity.

c: Jordan Strasberg
55 W. Church St.
Orlando, FL 32801

COVER LETTER

VARIANCE COVER LETTER

Address:

7745 Blue Quail Lane Orlando, FL 32835

Request:

To place the pool equipment on the left side of the house with a 4ft setback to the side property line. The equipment and pad are 3ft x 7ft with the tallest equipment piece at approximately 40" tall. Zoning code requires the setback to be at least 5ft OR on the same side of the house with the AC units. The fire department will still have plenty of space on the opposite side due to the extra wide driveway and walkway (approx 19ft wide).

1. Special Conditions and Circumstances

The side of the house we want to place the equipment on is very narrow. The driveway/walkway on the opposite side and is much wider. It's also wider than many other properties in the neighborhood. This allows for easy access if the fire department needed to get down that side.

2. Not Self-Created

This narrow side of the house was not self created by the owner. It's just the way the house was built due to the track of land size.

3. No Special Privilege Conferred

This would not be a special privilege as other houses in the same zoning district could have the equipment in the same spot only to have it approved because their AC units were on that side.

4. Deprivation of Rights

Same as above. Other homes in the same zoning district could have the equipment as proposed.

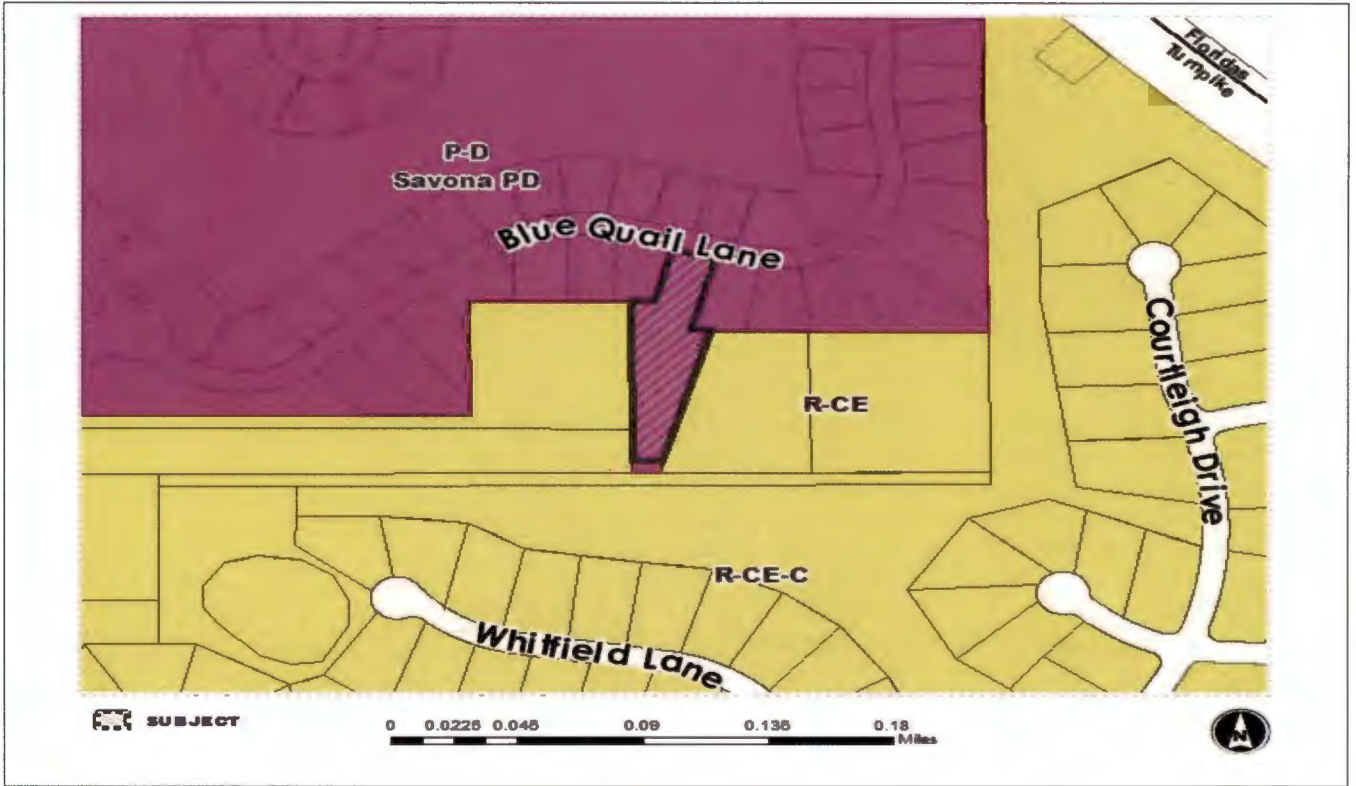
5. Minimum Possible Variance

The equipment only encroaches the setback 1ft. This would be the minimum variance that would make possible the reasonable use of the equipment.

6. Purpose and Intent

Approval of this variance will be in harmony and purpose of the zoning regulations as it would be allowed if the AC units were on this side. The fire department still will have plenty of access on the other side.

ZONING MAP

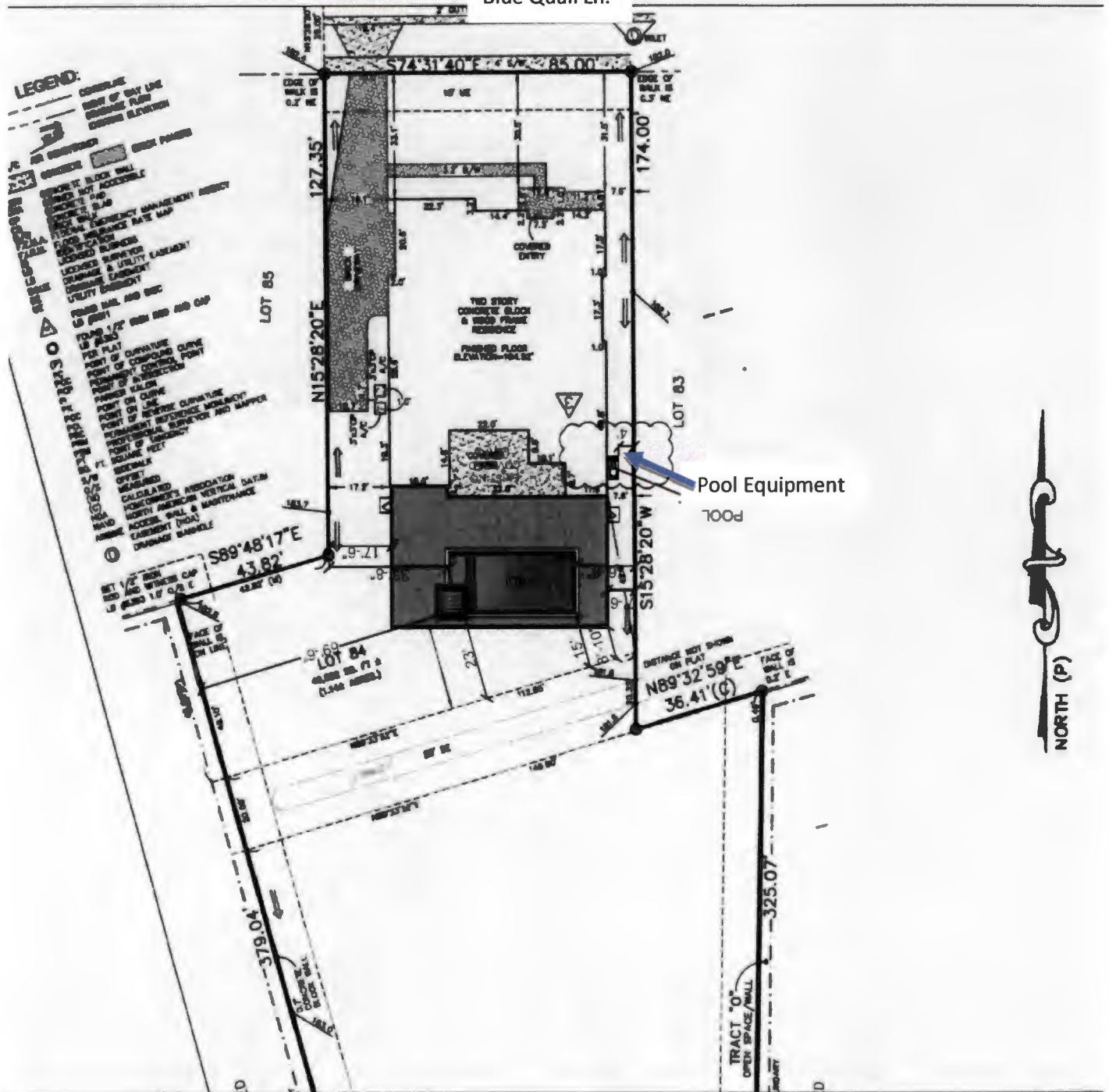


AERIAL MAP

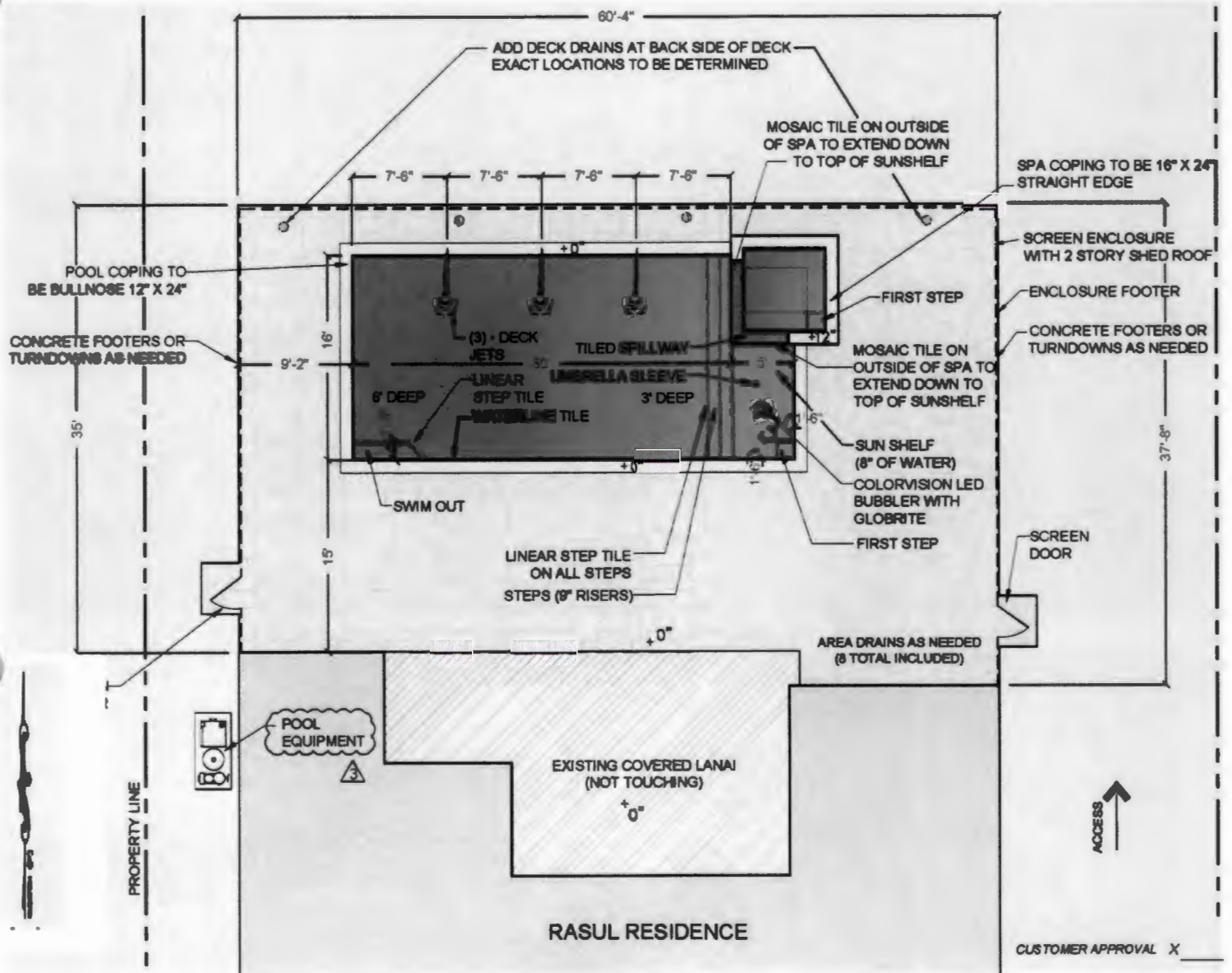


PARTIAL SITE PLAN

Blue Quail Ln.



REAR YARD POOL EQUIPMENT PLAN



SITE PHOTOS



Subject property looking south



West side of house looking south

SITE PHOTOS



East side of house proposed equipment location, looking south



East side of house proposed equipment location, looking north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 05, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-11-106**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): BARBARA GOTTLIEB

OWNER(s): JOSEPH GOTTLIEB & BARBARA GOTTLIEB

REQUEST: Variance in the A-2 zoning district to allow a 1,300 sq. ft. detached accessory dwelling unit above a garage in lieu of 1,000 sq. ft.

PROPERTY LOCATION: 18401 Robertson St., Orlando, FL 32833, North side of Robertson St., west of Dallas Blvd.

PARCEL ID: 27-23-32-1181-03-400

LOT SIZE: 150 ft. x 300 ft./ 1.03 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 37

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 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. Unless specifically exempted, the applicant shall be responsible for the payment of all applicant costs and fees associated with the ADU, including impact fees.
5. The elevator may be located inside the covered porch or outside, provided it is located to the rear of the garage/ADU.

6. The applicant shall obtain a permit for the garage/ADU within 180 days of final action by Orange County, or this approval shall become null and void.

SYNOPSIS: Staff discussed the proposal, the ongoing construction occurring on the site, the location of the property, and the photos of the site. Staff noted the intent of the ADU regulations are to ensure that an ADU remains subordinate to the principal residence and explained how the living area of an ADU is calculated. Staff also described the applicant's rationale for the request. Staff provided an analysis of the six (6) criteria, and the reasons for a recommendation of denial. Staff noted that letters of support were received from the HOA and four (4) property owners, and one (1) letter was received in opposition.

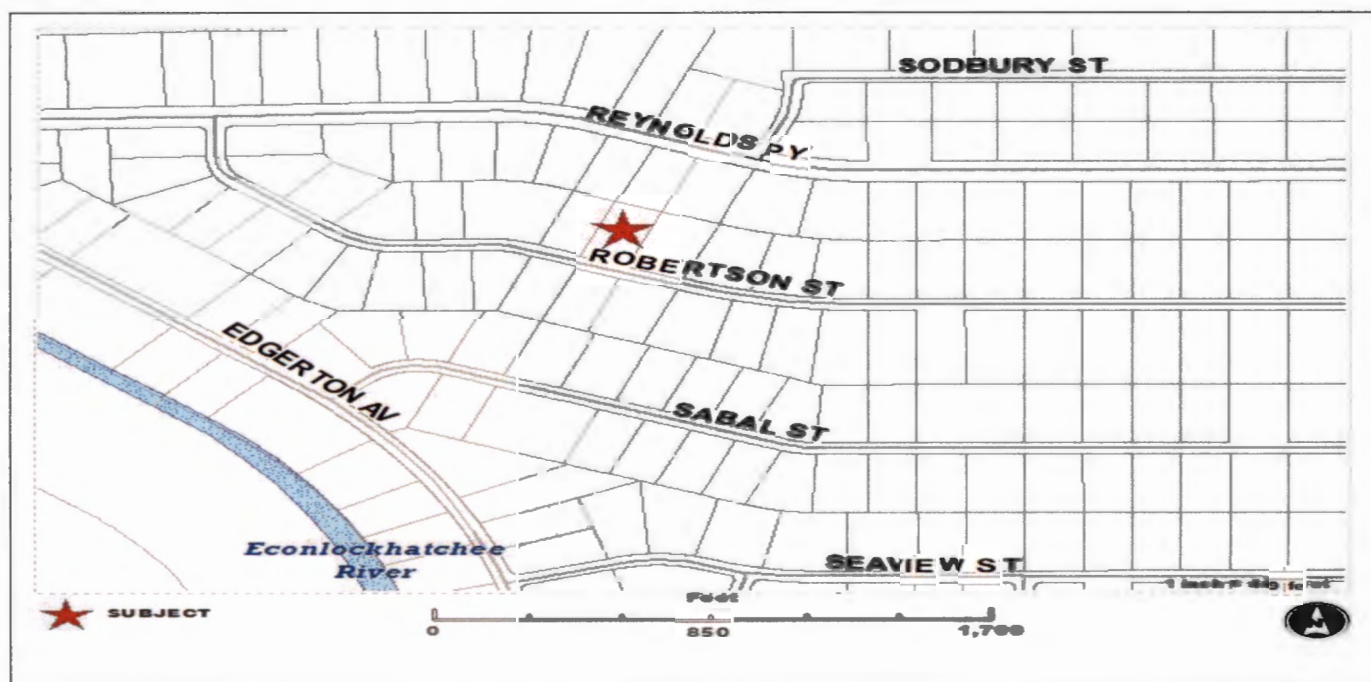
The applicant agreed with the staff presentation and noted that the builder recommended duplicating the same footprint as the lower level, to lower the chances of water leakage. The applicant also noted the minimal difference in the cost of construction of 1,000 sq. ft. versus the 1,300 sq. ft. The applicant further described some additional reasons for the additional needed living area. There was no one present to speak in favor or in opposition to the request.

The BZA concluded the property could be considered as a infill site and, at the advice of a builder, the building lines of the lower level need to be followed in order to allow for appropriate visual aesthetics was considered a special condition and circumstance, the footprint and size is not self-created, and the granting of the additional 300 sq. ft. for the ADU is a minimal request and will not confer special privilege. The BZA unanimously recommended approval of the variance, subject to the six (6) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, should the BZA 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	A-2	A-2	A-2	A-2	A-2
Future Land Use	R	R	R	R	R
Current Use	Single-family residence under construction	Single-family residence	Single-family residence	Vacant	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-2 Farmland Rural zoning district, which allows agricultural uses, mobile homes, and single-family homes with accessory structures on larger lots. Accessory Dwelling Units (ADU's) are permitted subject to specific conditions.

The subject property consists of a 1.03 acre lot created through the Cape Orlando Estates Unit II A plat recorded in July 1971. The applicant is currently constructing a 4,349 sq. ft. single-story single-family residence, including an attached two-car garage. In addition to the residence, a 1,660 sq. ft. four-car garage with an attached carport is also under construction.

The applicant is proposing to add a second story to the garage, which will contain a two-bedroom (ADU) with a total of 1,300 sq. ft. of living area. The floor area of ADUs on lots with less than two (2) acres of developable land are limited to living space equaling fifty percent (50%) of the primary dwelling unit living area or one thousand (1,000) sq. ft., whichever is less. The home under construction will contain 2,537 sq. ft. of living area. This limits the total permitted floor area to 1,000 sq. ft.

In addition to the ADU, the applicant is proposing a 360 sq. ft. covered porch, which does not count as living area for the ADU. An elevator is also proposed to be located in the porch area which reduces the square footage of the covered porch by approximately 32 sq. ft.

An accessory structure which is 15 ft. in height or less may be located within five (5) ft. of a side or rear property line. If an accessory structure exceeds 15 ft. in height, it must be a minimum of 10 ft. from a side or rear property line, and cannot exceed 25 ft. in height. However, if an ADU is located above a garage, the height of the structure is increased to 35 ft., and the structure must be a minimum of 15 ft. from the rear property line, and must meet the side setback for the principal structure. The side setback in the A-2 zoning district is 10 ft., which the proposed structure meets.

The reason for capping the square footage for ADUs is due to the fact that they are an accessory use to the principal use. The intent of having an ADU is to provide a secondary living space subordinate to the principal structure, not to allow two (2) principal living spaces on one (1) lot.

The applicant has provided a letter of support from the neighbor to the west, and from the Wedgefield HOA. The lot to the east of the subject property is currently undeveloped.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft. House & ADU	22 ft. House/32 ft. detached garage/ADU
Min. Lot Width:	100 ft.	150 ft.
Min. Lot Size:	21,780 sq. ft./0.5 acre	44,968 sq. ft./1.03 acres

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

	Code Requirement	Proposed
Front:	35 ft.	60 ft. House/170 ft. ADU
Rear:	50 ft. House/15 ft. detached garage/ADU	164 ft. House/100 ft. ADU
Side:	10 ft. House & detached garage/ADU	20 ft. west/60 ft. east (House) 84 ft. west/10 ft. east (Detached garage/ADU)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The subject property is rectangularly shaped and the proposed home and garage/ADU are new construction. If additional square footage is needed, it should be increased in the principal residence. There are no special conditions or circumstances warranting the additional square footage since the structure can be constructed in a manner that does not require a variance.

Not Self-Created

The need for the variance is self-created and based on convenience and not a hardship.

No Special Privilege Conferred

Granting the variance as requested would confer special privilege that is denied other properties in the same area and district, as the applicant may eliminate the variance by reducing the ADU’s living area to meet code requirements.

Deprivation of Rights

The applicant is not being deprived of the right to have a detached accessory structure on the property since the owner has the ability to meet code requirements.

Minimum Possible Variance

Since the area of the ADU could be redesigned to meet code, this is not the minimum possible variance.

Purpose and Intent

The purpose and intent of limiting the living area of an ADU is to allow an accessory use to the primary use. To allow an ADU with similar size and area as the primary home is contrary to the purpose and intent of allowing a subordinate unit, not a second primary structure.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations 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. Unless specifically exempted, the applicant shall be responsible for the payment of all applicant costs and fees associated with the ADU, including impact fees.
5. The elevator may be located inside the covered porch or outside, provided it is located to the rear of the garage/ADU.
6. The applicant shall obtain a permit for the garage/ADU within 180 days of final action by Orange County, or this approval shall become null and void.

c: Barbara Gottlieb
2418 Abbey Ave.
Orlando, FL 32833

COVER LETTER

Variance Request

RE: PIN 27-23-32-1181-03-400
18401 Robertson St
Orlando FL 32833

Barbara S Gottlieb and Joseph A Gottlieb
2418 Abbey Ave
Orlando, FL. 32833

9\16\2020

We are in the process of building our forever home when life throws curve balls. So, in order to assist our aging parents we have decided to change the previously permitted construction of our detached garage to a structure that will have a second floor ADU.5

The base accessory structure foot print will be 43' x 30' deep and will be constructed from concrete block with the second floor ADU constructed from wood framing. When the final plans are drawn and submitted to you, the proposed ADU will have approximately 1200 square feet of living area which is 200 square feet above the zoning required 1000 sqft. The ADU will contain 2 bedrooms and 1 and 1/2 baths with a car port and screened in balcony. The construction will also include an elevator\lift, stairway and handicap accessible doorways and fixtures.

The structure will be placed on the 150' x 300' lot. The required zoning distance of 10 feet from the east property line and greater than 50' from the rear property line. The roof peak will be at 30' which is 5' under the zoning requirements for the area.

We believe we have special circumstances that requires the extra living space needed to navigate using a mobility chair through the home without obstructions.

::

1-Special Conditions and Circumstances In order to enable our aging parents to remain independent and under our wings, we need to get approval to construct an ADU on top of a detached one- story garage. We are requesting the interior living space be 1200 square feet

2-Not Self-Created Our parents are elderly and becoming sickly from old age.

3- We understand No Special Privilege Conferred.

4-Deprivation of Rights Many properties in our community have been granted a variance allowing ADU's to be built on top of detached garages on 1 acre properties. If we are not granted this variance it will cause us a hardship emotionally and financially. Emotionally, we will worry and be stressed as to what is happening with our parents since we cannot keep an eye on them 24-7 on our property. Financially it would be a major drain on our funds and not be feasible to pay for an Assistant Living Facility.

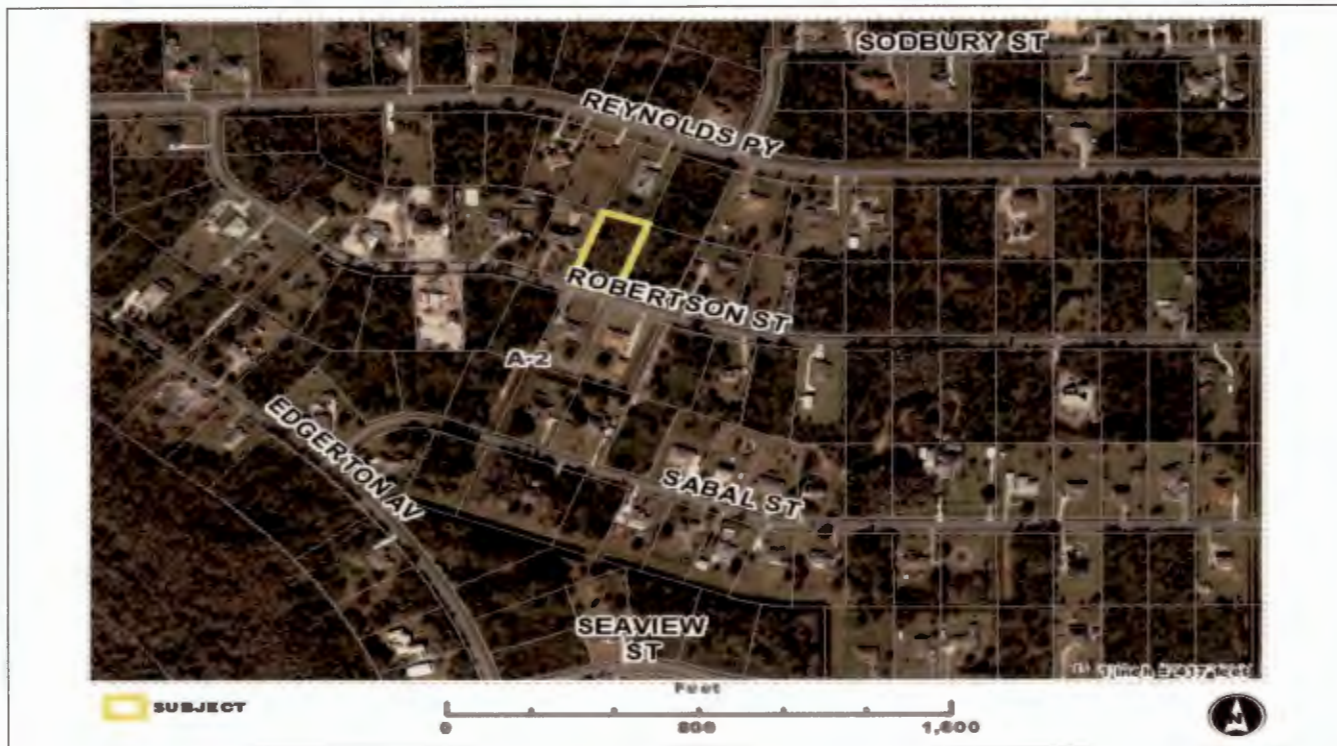
5-Minimum Possible Variance would be 1200 sq ft of living space

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

ZONING MAP



AERIAL MAP



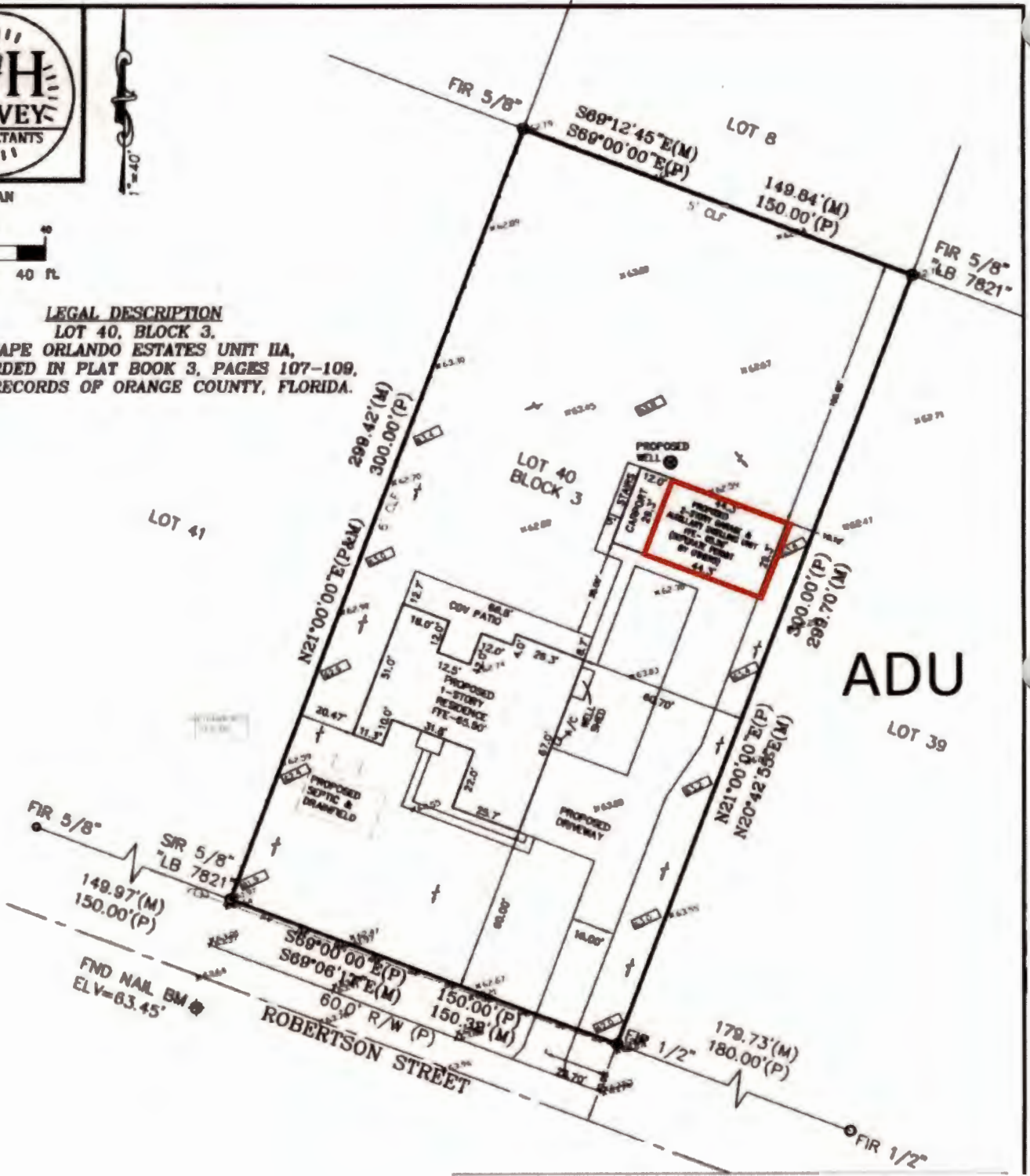
SITE PLAN



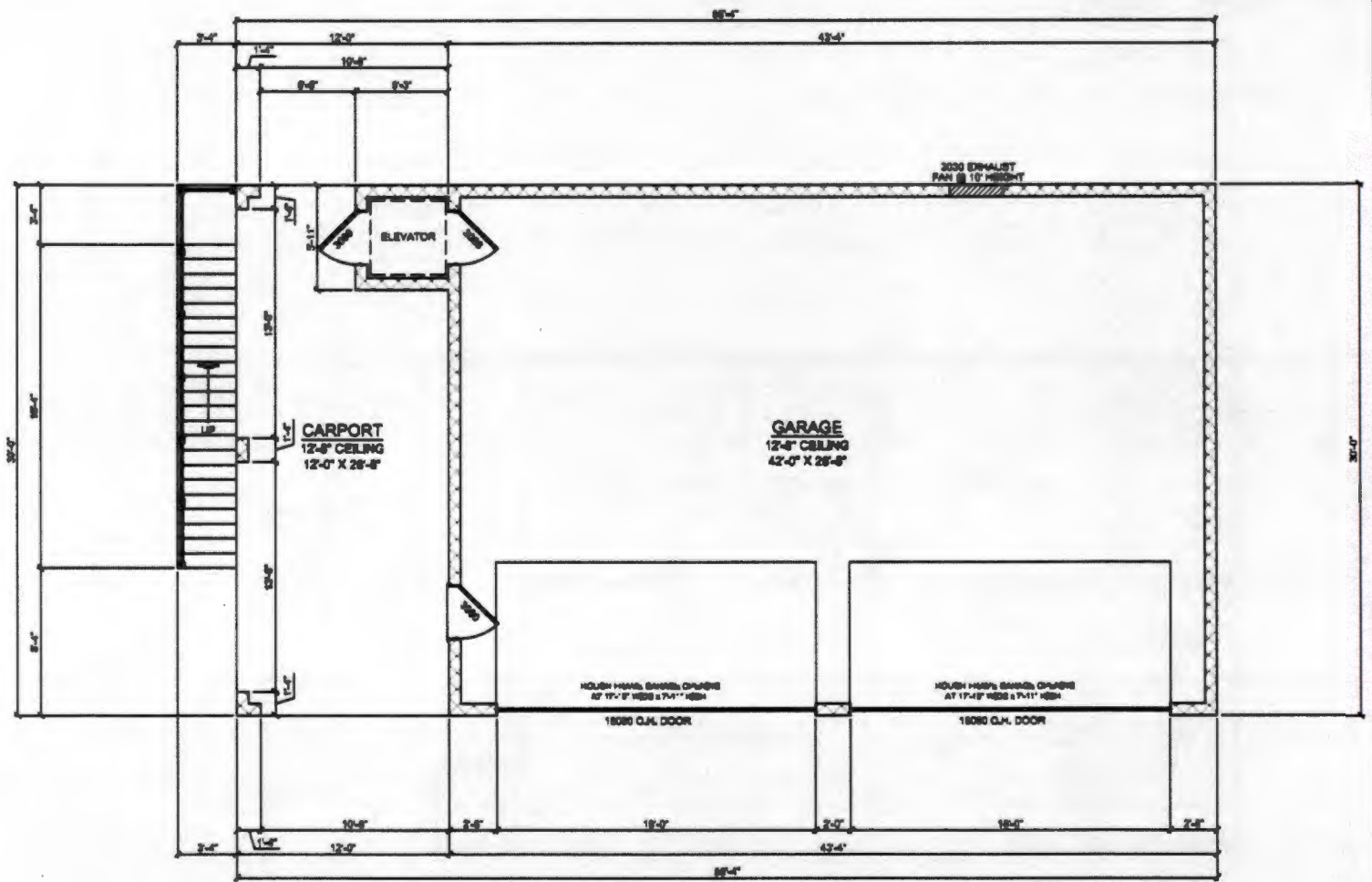
SITE PLAN



LEGAL DESCRIPTION
 LOT 40, BLOCK 3,
 CAPE ORLANDO ESTATES UNIT IIA,
 AS RECORDED IN PLAT BOOK 3, PAGES 107-109,
 PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.



ADU
 LOT 39



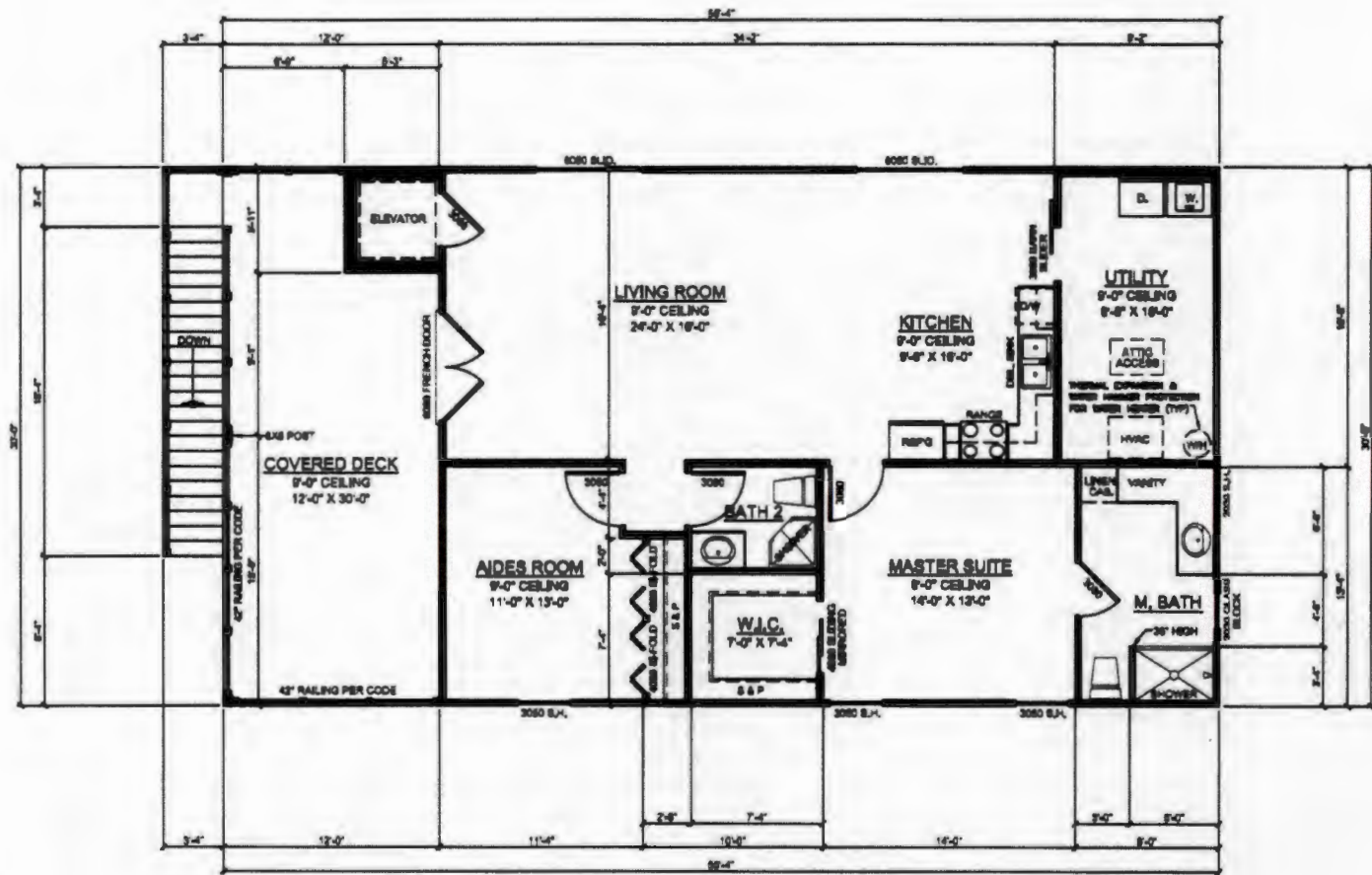
GARAGE FLOOR PLAN

MAIN FLOOR PLAN

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

1,300 SQ. FT. -
 1,300 SQ. FT. -
 360 SQ. FT. - C
 360 SQ. FT. - C
 3,320 SQ. FT. -

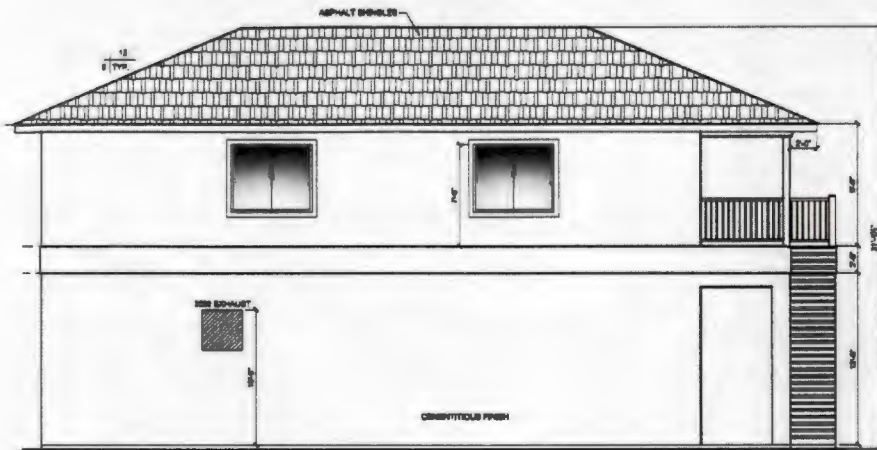
ADU FLOOR PLAN



UPPER FLOOR PLAN

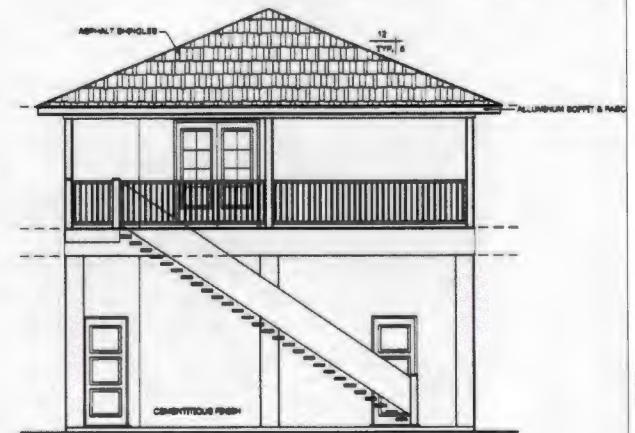
SCALE: 1/8" = 1'-0"

1,300 SQ. FT. - LIVING
 1,300 SQ. FT. - GARAGE
 360 SQ. FT. - COVERED DECK
 360 SQ. FT. - CARPORT
 3,320 SQ. FT. - TOTAL



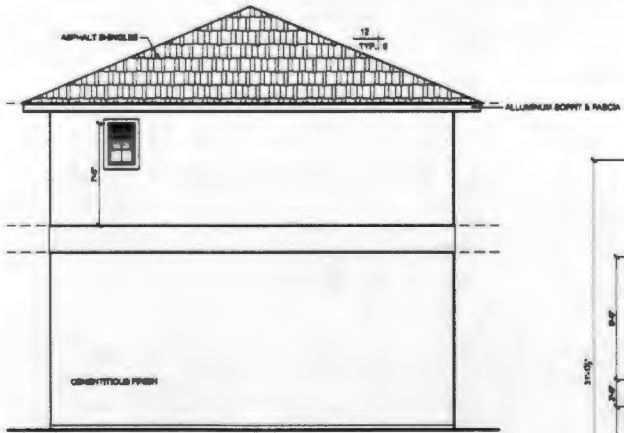
REAR ELEVATION

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



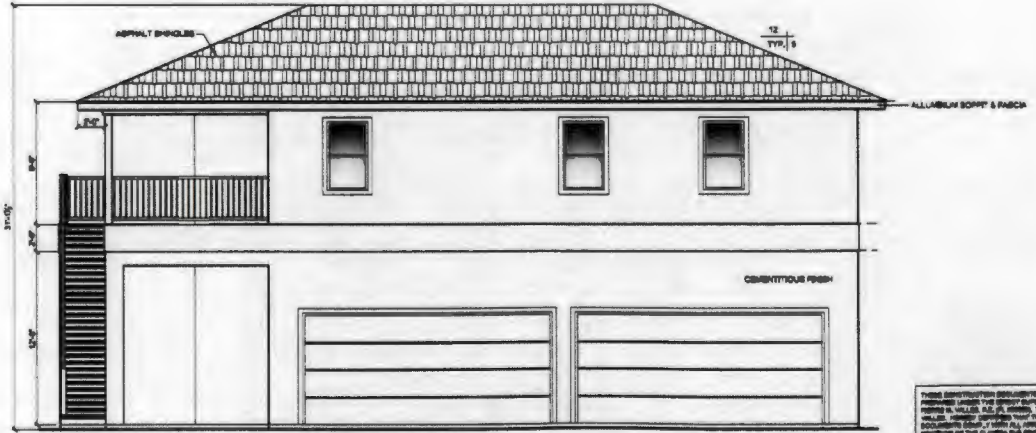
LEFT SIDE ELEVATION

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



RIGHT SIDE ELEVATION

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



FRONT ELEVATION

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

NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET OR EXCEED THE WIND LOAD REQUIREMENTS OF THE 2017 FLORIDA BUILDING CODE RESIDENTIAL SIXTH EDITION SECTION F301 DESIGN CRITERIA & ASCE 7-10.
 1. WIND SPEED = 140 MPH ULTIMATE WIND SPEED (V_U) & 108 MPH (V₉₀).
 2. RISK CATEGORY 2.
 3. CONSTRUCTION TYPE = SINGLE FAMILY RESIDENCE (V)
 4. WIND EXPOSURE = CATEGORY C
 5. INTERNAL PRESSURE COEFFICIENT FOR ENCLOSED BUILDINGS IS .18 & HEIGHT & EXPOSURE ADJUSTMENT COEFFICIENT IS 1.40

THIS DOCUMENT CONTAINS THE ARCHITECT'S DESIGN AND CONSTRUCTION DOCUMENTS FOR THE PROJECT DESCRIBED HEREIN. IT IS THE ARCHITECT'S RESPONSIBILITY TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND TO COMPLY WITH ALL APPLICABLE CODES AND REGULATIONS. THE ARCHITECT'S LIABILITY IS LIMITED TO THE SCOPE OF THE SERVICES PROVIDED AND DOES NOT EXTEND TO ANY OTHER MATTER.
 ALL RIGHTS RESERVED. ANY REPRODUCTION OR TRANSMISSION OF THIS DOCUMENT WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT IS PROHIBITED.
 DATE: 10/20/2023

ELEVATIONS

SITE PHOTOS



09/30/2020 15:46

Subject property looking north



09/30/2020 15:47

Approximate location of garage/ADU, looking north

SITE PHOTOS



Vacant neighboring lot looking east



Neighbor to west looking northwest

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 05, 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: Variance 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 for the driveway.

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

STAFF RECOMMENDATIONS

THIS CASE WAS CONTINUED TO THE DECEMBER 3, 2020 BZA MEETING

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 05, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-11-100**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): SHEILA CICHRA

OWNER(s): DAVID RAISSIPOUR, HOLLY RAISSIPOUR

REQUEST: Variance in the P-D zoning district to allow a permanent generator next to the residence 6 ft. from the north side property line in lieu of 10 ft.

PROPERTY LOCATION: 12150 Montalcino Cir., Windermere, FL 34736, south side of Montalcino Cir., on the northwest side of Lake Burden, east of Winter Garden Vineland Rd.

PARCEL ID: 25-23-27-1213-00-120

LOT SIZE: 0.95 acres (approx. 0.63 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 74

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 September 10, 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 or this approval becomes null and void.

SYNOPSIS: Staff discussed the proposal, covering the location of the property, the site plan, and the photos of the site. Staff explained the presence of conservation easements which extend from the rear building line of the residence to the NHWE. Staff described the width of the lot and the ability to locate a generator in

accordance with fire prevention requirements only with a setback variance. Staff noted that the applicant provided a letter of support from the HOA, but staff received an email correspondence in opposition from the most impacted neighbor immediately north of the subject property, expressing concerns with noise and odor, who initially provided a letter of support. Staff explained how the six (6) criteria has been met, including the placement of the generator with the provision of a vegetative visual screen at a location that is the least impactful to the adjacent to the neighbor's garage and but not living area.

The applicant was in agreement with the staff analysis and noted the conflict in the received letters of support.

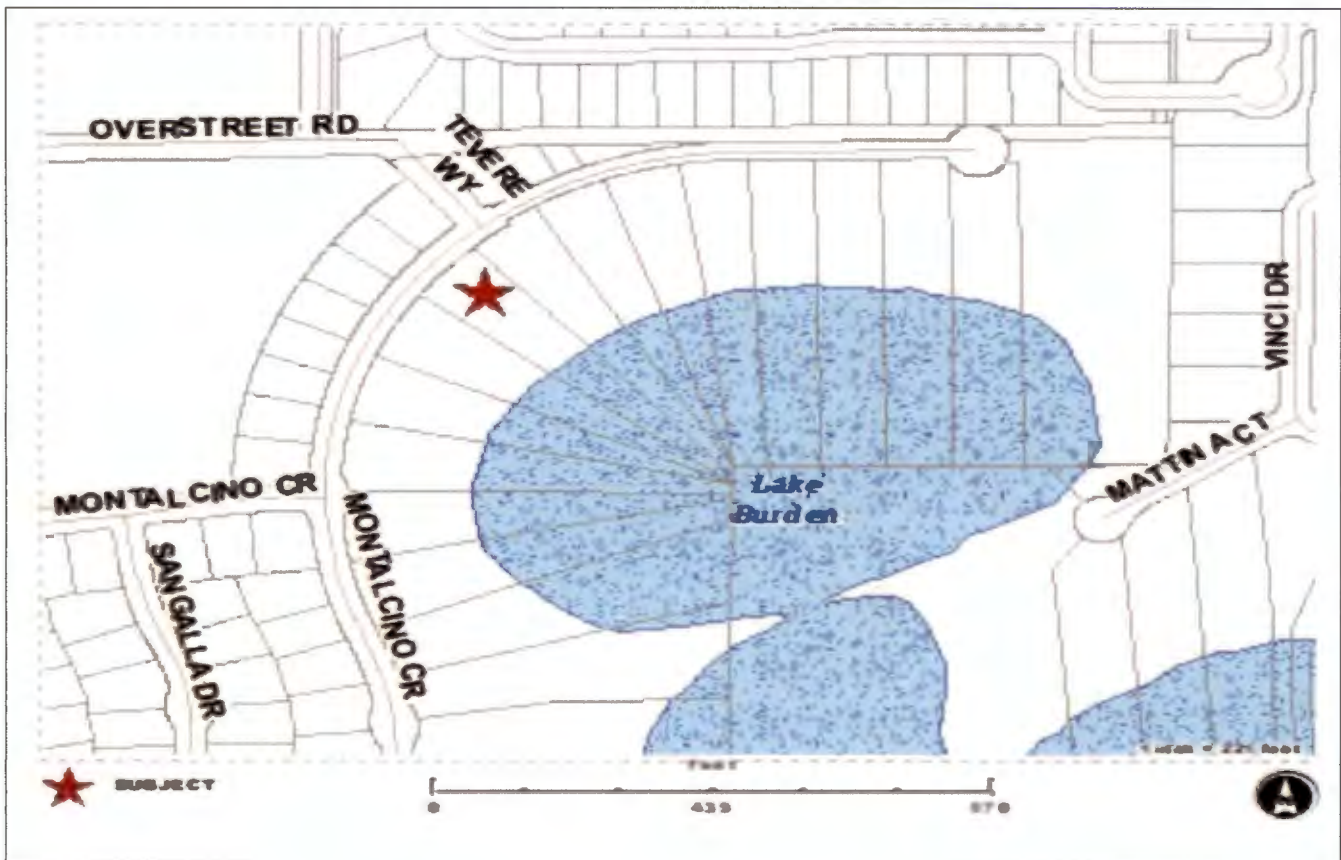
There was no one present to speak in favor or in opposition to the request.

The BZA concluded that the proposed location of the generator was appropriate due to the proximity to the electrical connection. The BZA unanimously recommended approval of the variance, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	P-D	P-D	P-D	Lake Burden	P-D
Future Land Use	V	V	V	WB	V
Current Use	Single-family residence	Single-family residence	Single-family residence	Lake Burden	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Lake Butler Neighborhood PD. This PD allows a variety of uses including single-family, multi-family and townhomes.

The subject property consists of a lakefront lot containing 0.95 acres of land created through the Casa Del Lago Replat recorded in early 2011. In 2001, the property was rezoned from R-CE and R-CE-C to Planned Development.

The property is developed with an 8,009 sq. ft. one-story single-family residence, including an attached two-car main garage and a separate attached one-car guest garage. The home was constructed in 2018 by the current owner.

Due to the shape of the lot and the placement of the home on the lot, the applicant is requesting a variance to allow a generator on the north side of the home near the electrical service, six (6) ft. from the side property line, rather than the code required 10 ft. setback required when placed alongside a home. The entire yard from the rear building line to the Normal High Water Elevation (NHWE) is designated as an environmental swale easement and conservation easement though the plat, and cannot be altered without authorization of the Board of County Commissioners, rendering the entire rear yard unavailable for improvements.

Further, near the front of the home is an area where the 10 ft. setback could be attained, however due to the presence of windows, this location is infeasible. Per the National Fire Protection Association (NFPA 37 4.1.4 Engines Located Outdoors), a generator must be a minimum of five (5) ft. from any openings in walls, including windows and doors.

Consequently, there is no alternative location for the generator to be located meeting setbacks without it being visible from the front of the house. The adjacent property owner to the north has submitted a letter of support, as well as the HOA.

District Development Standards

	Code Requirement	Proposed
Max Height:	40 ft.	30 ft.
Min. Lot Width:	70 ft.	128 ft.
Min. Lot Size:	7,200 sq. ft.	0.95 ac./41,382 sq. ft.

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

	Code Requirement	Proposed
Front:	20 ft. (Residence)	20 ft. (Residence) (West)
Rear:	25 ft.	475 ft. (East)
Side:	7.5 ft.(Residence)/10 ft. (Generator)	7.5 ft. (Residence)/6 ft. (Generator) (East)
NHWE:	50 ft.	85 ft. (East)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Special conditions and circumstances particular to this property result from the fact that the entire rear yard, from the rear building line to the NHWE is encumbered by either swale or conservation easements. This forces the generator location alongside the home. Due to the presence of windows and other openings, the only other location where a generator could be located with the setbacks of the zoning code being met is prohibited by NFPA 37 4.1.4 for safety reasons. Due to the fact that the lot narrows from the front property line to the NHWE it would result in the need for an even greater variance to install a generator in another location with no building openings.

Not Self-Created

The applicant is not responsible for the configuration of the lot, the presence of easements across the entire rear yard, or the limited upland portion of the site.

No Special Privilege Conferred

The existing easements render 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 presence of the easements, the shape of the lot, and the existence of windows and other openings within the possible installation areas, 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 code and will not be detrimental to the surrounding neighborhood. There is adequate separation between the generator and the neighboring residents to avoid adverse impacts.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated September 10, 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 or this approval becomes null and void.

c: Sheila Cichra
2154 Oak Beach Blvd.
Sebring, FL 33875

COVER LETTER



Date: September 9, 2020
To: Orange County Zoning
From: Sheila Cichra
Re: Variance application for a whole house generator at 12150 Montalcino Cir.

The attached files are for a variance from the requirement that a whole house generator be located in the rear yard or rear ½ of the parcel and have a 10' setback. The proposed generator would be located in the front ½ of the parcel and have a 6' setback.

The *Special Conditions and Circumstances* that exist on site are: there is an environmental easement immediately behind the house, so the generator cannot be located in the rear yard.

The hardship was *Not Self-Created*, because the owner didn't know that the house was built so close to the environmental easement.

There is *No Special Privilege being Conferred*, because other variances have been granted to allow a generator with a side setback of less than 10' to be built in the front half of the parcel.

Regarding *Deprivation of Rights*, if this variance isn't approved, the owners will not be able to install a whole house generator.

We are requesting the *Minimum Possible Variance*, because this is the *Only* location that meets the other requirements for legally installing a whole house generator.

The adjacent property owner supports the application. A letter of no objection has been obtained. That demonstrates the *Purpose and Intent* of such a zoning variance.

Thank you for your consideration.

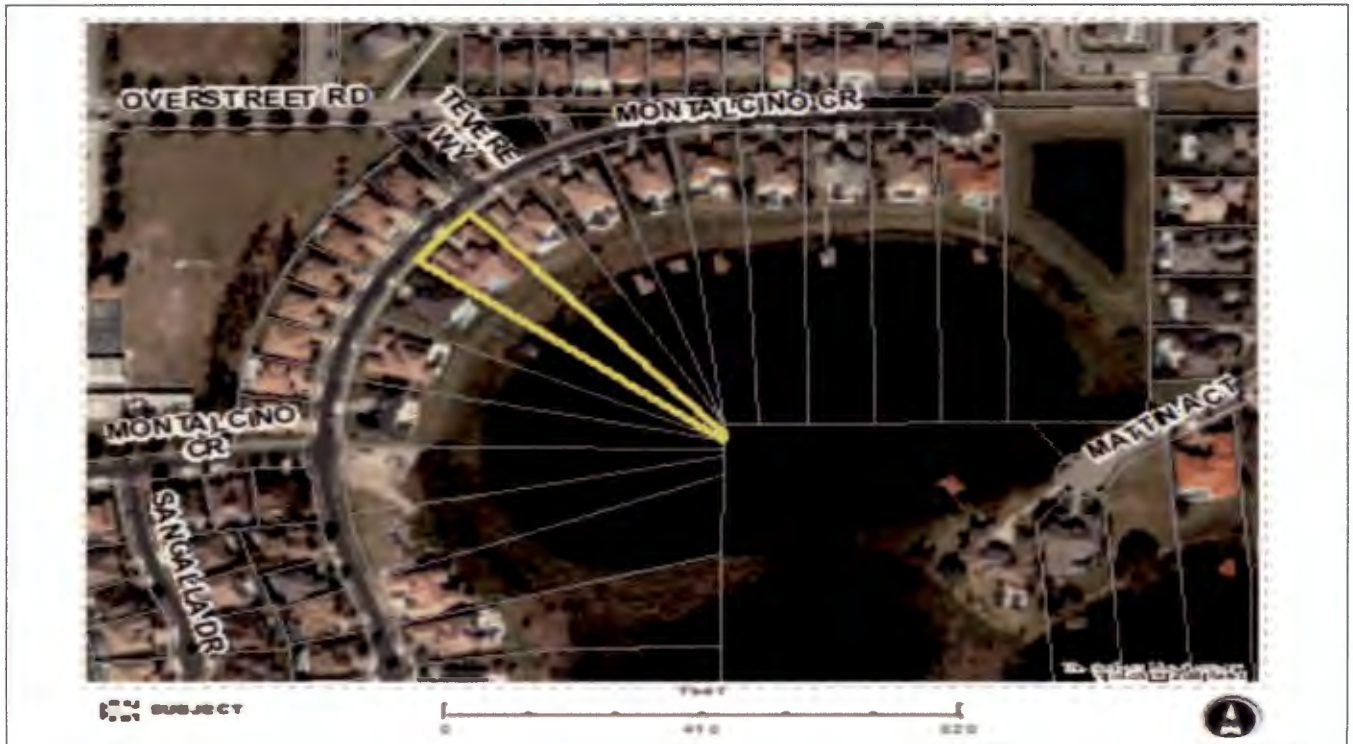
A handwritten signature in black ink, appearing to read "Sheila Cichra". The signature is written in a cursive, flowing style.

2154 Oak Beach Boulevard, Sebring, FL 33875 C (407) 450-4241 O (863) 314-6711
sheilacichra@gmail.com

ZONING MAP

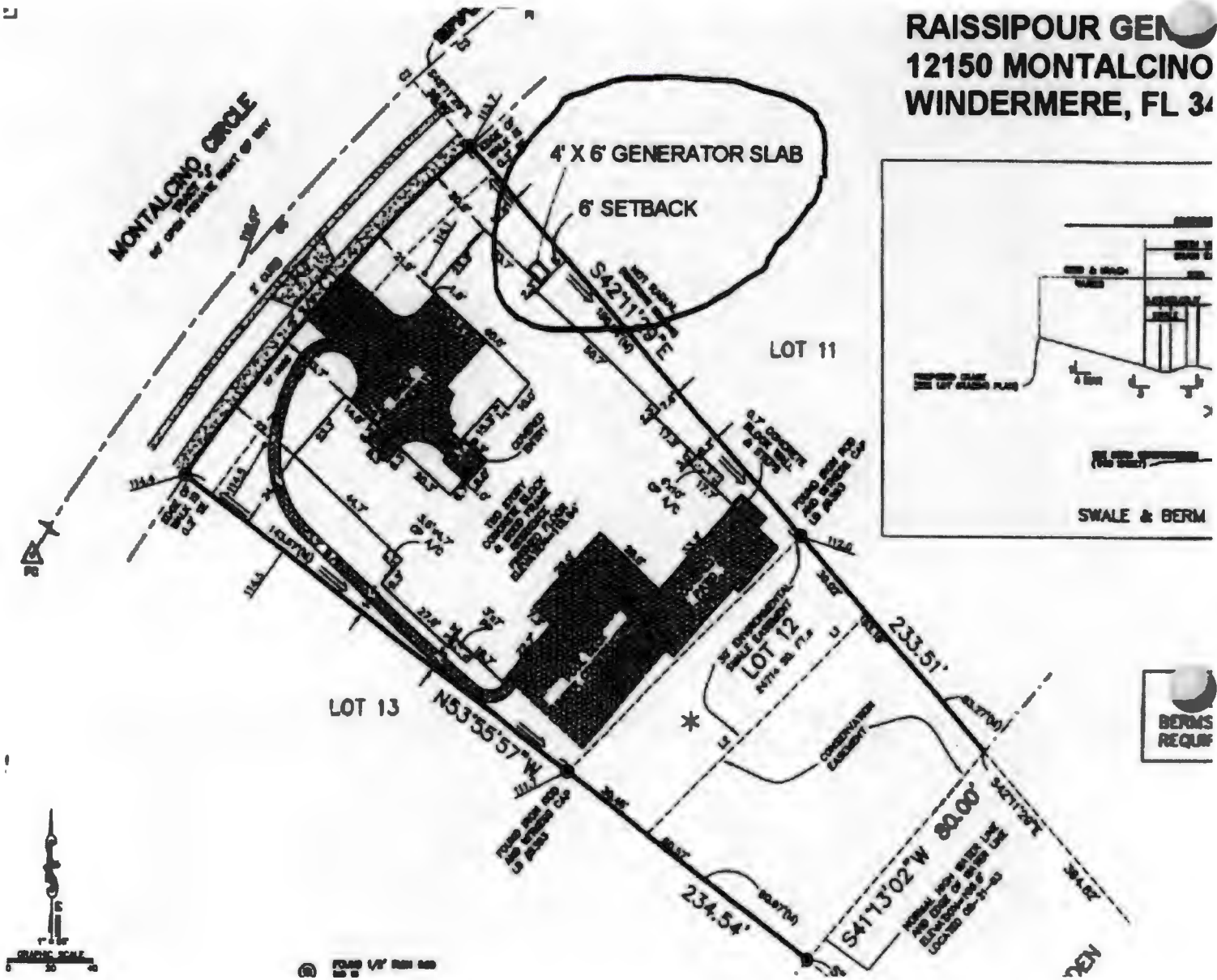


AERIAL MAP



SITE PLAN

RAISSIPOUR GEN
12150 MONTALCINO
WINDERMERE, FL 34



SITE PHOTOS



Subject property looking southeast



Approximate location for proposed generator

SITE PHOTOS



Existing landscaping located between front property line and proposed generator location, looking southeast



Potentially compliant location for zoning setbacks but unavailable due to window location, looking northeast



BOARD OF ZONING ADJUSTMENT