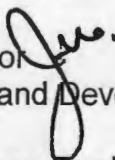




Interoffice Memorandum

DATE: May 2, 2019

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director 
Planning, Environmental, and Development Services Department

CONTACT PERSON: Sean Bailey, Chief Planner, Zoning Division
407-836-5806

SUBJECT: June 4, 2019 – Board Called Public Hearing
Applicant: Ivan Prieto
BZA Case #VA-19-04-016, April 4, 2019; District 6

Board of Zoning Adjustment (BZA) Case # VA-19-04-016, located at 1315 N. Pine Hills Rd., in District 6, is a Board called public hearing to be heard on June 4, 2019. The applicant is requesting variances to allow an existing accessory structure (shed and attached carport) to remain 2 ft. from the rear property line in lieu of 30 ft. and 3 ft. from the side property lines in lieu of 10 ft. The existing accessory structure was constructed in 2006 without permits.

The subject property is located on the east side of N. Pine Hills Rd., north of Hernandes Dr.

At the April 4, 2019 BZA hearing, staff recommended approval of the rear setback variance and denial of the side setback variances. The BZA stated that allowing the open carports to remain would encourage further outdoor storage, which is prohibited in the district, and agreed with staff's recommendation and approved the rear setback variance with conditions and denied the side setback variances.

The application for this request is subject to the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

If you have any questions regarding this matter, please contact Sean Bailey at 6-5806.

ACTION REQUESTED: Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or deny the applicant's request. District 6.

**PLANNING, ENVIRONMENTAL DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
June 4, 2019**

The following is a public hearing before the Board of County Commissioners on June 4, 2019 at 2:00 p.m.

APPLICANT: IVAN PRIETO

REQUEST: Variances in the P-O zoning district to allow an existing accessory structure as follows:
1) To allow a rear yard setback of 2 ft. in lieu of 30 ft. (APPROVED w/CONDITIONS)
2) To allow a side yard setback of 3 ft. in lieu of 10 ft. (DENIED)
This is a result of Code Enforcement Action.

LOCATION: 1315 N. Pine Hills Rd., Orlando, FL 32808, East side of N. Pine Hills Rd., north of Hernandes Dr.

TRACT SIZE: 65 ft. x 125 ft./ .186 acres

ZONING: P-O

DISTRICT: #6

PROPERTIES NOTIFIED: 198

BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:

The applicant constructed a shed and carport structures without permits in 2006. They were cited by Code Enforcement in 2018. The structures do not meet side and rear setback requirements.

Staff explained the site, showed site photos, and recommended approval of variance #1 and denial of variance #2.

Staff stated that allowing the existing shed to remain and removing the open carports would be in harmony with the P-O Zoning District.

The applicant stated they were agreeable to removing the carports and getting a permit for the existing shed.

Code Enforcement spoke regarding the case and stated that the project has already been heard at the Special Magistrate Board late last year.

No one spoke in favor or in opposition of the project at the public hearing.

There was some discussion on whether the structures were allowed per code and it was explained the structures are allowed if they meet setbacks. The BZA felt the variance criteria was met for variance #1; they approved variance #1 and denied variance #2.

BZA HEARING DECISION:

A motion was made by Charles J. Hawkins, II, seconded by Deborah Moskowitz and unanimously carried to APPROVE Variance #1 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, DENY Variance #2 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):

Development in accordance with the site plan dated February 5, 2019, and all other applicable re deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for approval or to determine if the applicant's changes require another BZA public hearing.

Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

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

Outdoor sales, storage, or display shall be prohibited.

The applicant shall obtain and finalize permits for all accessory structures within 120 days of final action on this application by Orange County or this approval becomes null and void.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 04, 2019**

Case Planner: **Sean Bailey**

Case #: **VA-19-04-016**

Commission District: **#6**

GENERAL INFORMATION

APPLICANT(s): **IVAN PRIETO**

OWNER(s): **IVAN PRIETO**

REQUEST: Variances in the P-O zoning district to allow an existing accessory structure as follows:

1) To allow a rear yard setback of 2 ft. in lieu of 30 ft.

2) To allow a side yard setback of 3 ft. in lieu of 10 ft.

This is a result of code enforcement action.

PROPERTY LOCATION: 1315 N. Pine Hills Rd., Orlando, FL 32808, East side of N. Pine Hills Rd., north of Hernandez Dr.

PARCEL ID: 19-22-29-6978-16-050

LOT SIZE: 65 ft. x 125 ft./ .186 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 198

DECISION: APPROVED the Variance request **#1**, 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, **DENIED** the Variance request **#2**, 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 in accordance with the site plan dated February 5, 2019, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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. Outdoor sales, storage, or display shall be prohibited.
5. The applicant shall obtain and finalize permits for all accessory structures within 120 days of final action on this application by Orange County or this approval becomes null and void.

DPSIS: The applicant constructed a shed and carport structures without permits in 2006. They were cited by Enforcement in 2018. The structures do not meet side and rear setback requirements.

explained the site, showed site photos, and recommended approval of Variance #1 and denial of Variance #2 stated allowing the existing shed to remain and removing the open carports would be in harmony with the Planning District.

applicant stated they were agreeable to removing the carports and getting a permit for the existing shed.

Enforcement spoke regarding the case and stated that the project has already been heard at the Special State Board late last year.

ne spoke in favor or opposition of the project at the public hearing.

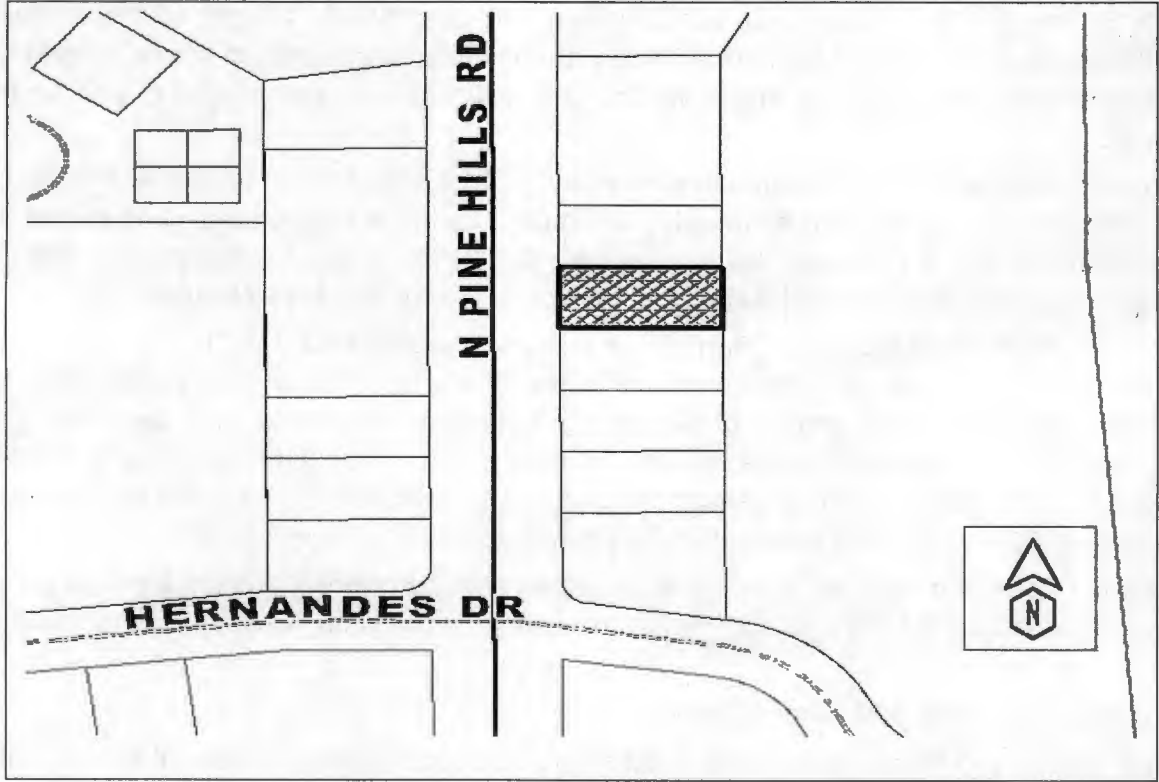
There was some discussion on whether the structures were allowed per code and it was explained the structures are allowed if they meet setbacks.

3ZA felt the variance criteria was met for Variance #1; they approved Variance #1 and denied Variance #2.

STAFF RECOMMENDATIONS

Approval of variance #1, denial of variance #2, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	P-O	P-O	P-O	R-1	P-O
Future Land Use	O	O	O	LDR	O
Current Use	Office	Office	Office	Recreation Center	Office

BACKGROUND AND ANALYSIS

Description and Context

The property is located in the P-O Professional Office District, which allows for professional services such as medical offices, personal services, and other office type uses and serves as a transition zone between commercial and residential uses.

The property was platted as Lot 5, in the Pine Hills Manor plat in 1960. The lot was re-zoned from R-1A to P-O in October of 1983. The lot does not meet the minimum lot width or size for the P-O zoning district, however, it is considered a lot of record.

There is an existing 2,651 sq. ft. office building on the property which the applicant uses as an office for his construction business. The applicant utilizes the accessory structure to store equipment for his business. The Professional Office (P-O) Zoning district allows contractor's offices with no outdoor storage or parking of vehicles overnight.

The property is located in the Pine Hills Neighborhood Improvement District, which was created to promote and facilitate Pine Hills as a safe, business-friendly community. This use is permitted in this district and complies with the standards outlined in the ordinance.

This property was granted a Special Exception to allow a beauty salon with ancillary retail, and a variance was approved to allow landscaping in lieu of a masonry wall abutting adjacent residential properties in June 1993.

The applicant purchased the property in 2006 and according to historic aerials in approximately 2007 the accessory structure was built. The accessory structure is comprised of two portions: a shed and an open covered carport structure.

The applicant hired a contractor in 2006 to construct the shed in the rear yard. At a later date the covered carport area was constructed. A permit was not pulled for either structure; therefore, the applicant was cited by Code Enforcement in May 2018, for the structure.

The applicant applied for a building permit in September 2018 (B18906250), and it was denied, as the structure did not meet the required setbacks.

The property is located on N. Pine Hills Road which is a professional office corridor and contains a few properties still zoned R-1A residential. The area is comprised of various uses such as daycares, churches, single-family homes, and recreation centers.

The code does not have different setbacks for accessory structures in commercial zoning districts as all structures are considered primary and must meet principal structure setbacks. Also, setbacks for open structures are measured to the edge of the column, not to the edge of the roof overhang.

The applicant did submit letters of no objection from the immediate neighbors to the north and south.

District Development Standards

	Code Requirement	Proposed
Max Height:	35	13
Min. Lot Width:	85	65
Min. Lot Size:	10,000 sq. ft.	8,122 sq. ft.

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

	Code Requirement	Proposed
Front:	25	28
Rear:	30	2
Side:	10	3

STAFF FINDINGS

VARVANCE #1

Special Conditions and Circumstances

The required rear yard setback is 30 feet for the P-O district as there are no provisions for accessory structures in this portion of the code. Also, the rear yard of the subject property abuts the dumpster and an unutilized portion of the Boys and Girls Club property.

Structure Self-created

The applicant purchased the structure from a shed company in 2006, and has submitted evidence of such purchase. The applicant relied on the company to pull all required permits.

Deprivation of rights

Requiring the applicant to remove the structure will deprive them of any indoor storage on the property.

Purpose and Intent

Approval of the variance will be in harmony with the area, as the side setbacks will be met which will protect the neighboring residential properties. In addition, all the storage will be located inside this structure, which will meet the intent of the P-O zoning district. As mentioned, the rear property line abuts an unused open area and the dumpster of the abutting property.

VARIANCE #2

Special Conditions and Circumstances

There are no special circumstances on the lot which require the side setback variances.

Not self-created

The applicant constructed the carport areas himself without building permits.

Deprivation of rights

If the two open areas are removed and the enclosed structure remains, the applicant will still have ample area to store any tools and/or equipment.

Purpose and Intent

The intent of the P-O zoning district is to encourage development of functional offices and limit any storage of materials to the interior of the buildings. Allowing the carports to remain will encourage further outdoor storage of materials and equipment which is a violation of code, and may be injurious to the area.

CONDITIONS OF APPROVAL

Development in accordance with the site plan dated February 5, 2019, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.

Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

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

Outdoor sales, storage, or display shall be prohibited.

The applicant shall obtain and finalize permits for all accessory structures within 120 days of final action on this application by Orange County or this approval becomes null and void.

Ivan Prieto
4339 Rixey Street
Orlando, FL 32803

COVER LETTER

Ivan Prieto
1315 N. Pine Hills Rd.
Orlando, Fl. 32808
407-283-3048

To: Code Enforcement Division
2450 W. 33rd Street
Orlando Fl. 32839

To whom it may concern. I Ivan Prieto would like to request more time ~ In submitting a letter of variance special exception and I have also applied for NOC- permit and we are working on getting this matter settle and in compliance.

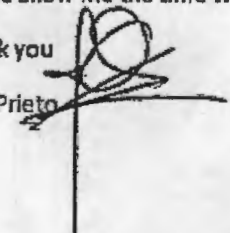
I Ivan Prieto would like to submit this letter as a request to submit to you all proof that I'm working on getting this situation resolved and handled. I have an GC and engineering Rafael Damas and Taylor Design on this matter. Please allow me time since I am applying for a Variance special exemption since this shed house ha been in this location for over 12 years. I bought the shed and it was installed by – Shed Plus Kissimmee in which they propose to me with pulling a permit and I have paper work on this purchase.

We also have applied for a building permit B18906250 and have recorded a NOC.

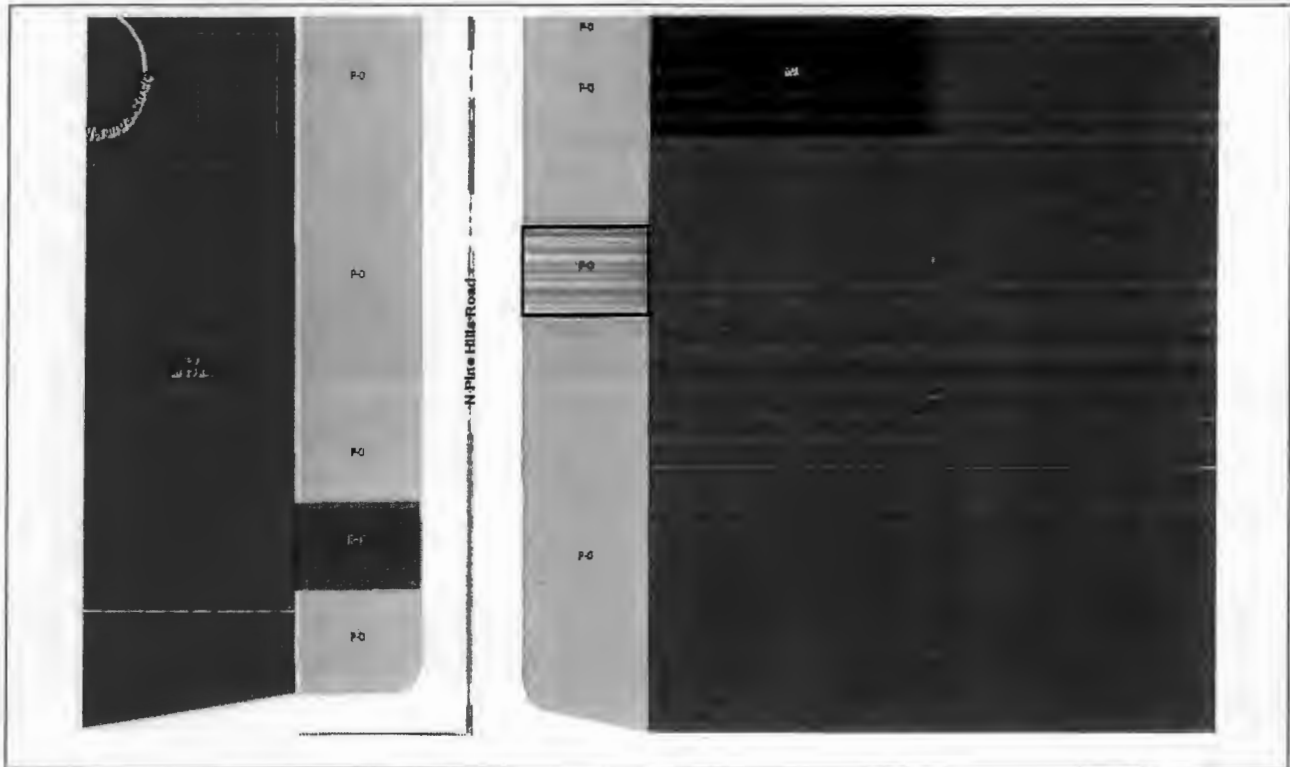
Please allow me the time with this matter

Thank you

Ivan Prieto



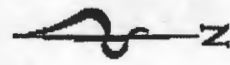
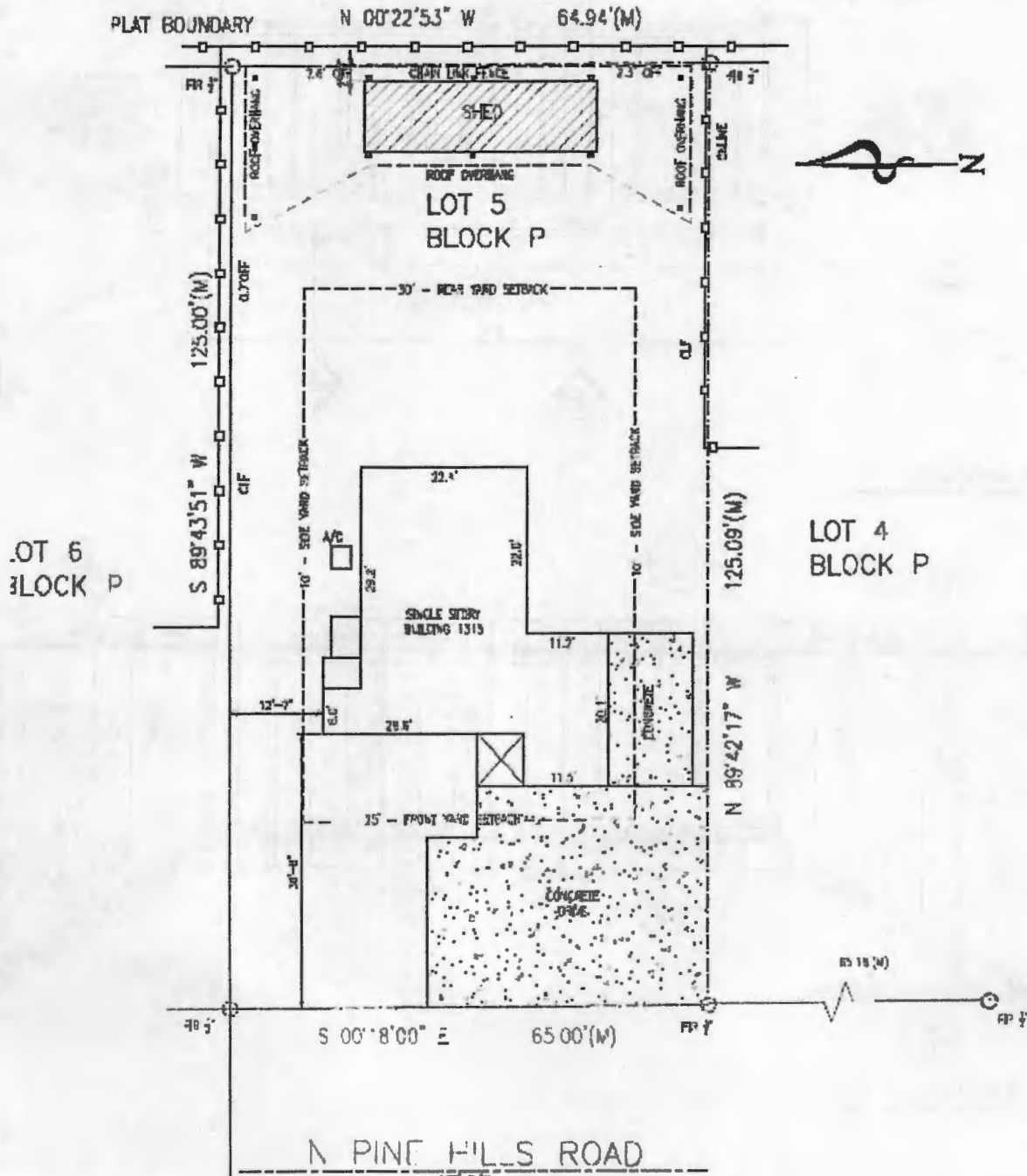
ZONING MAP



AERIAL MAP

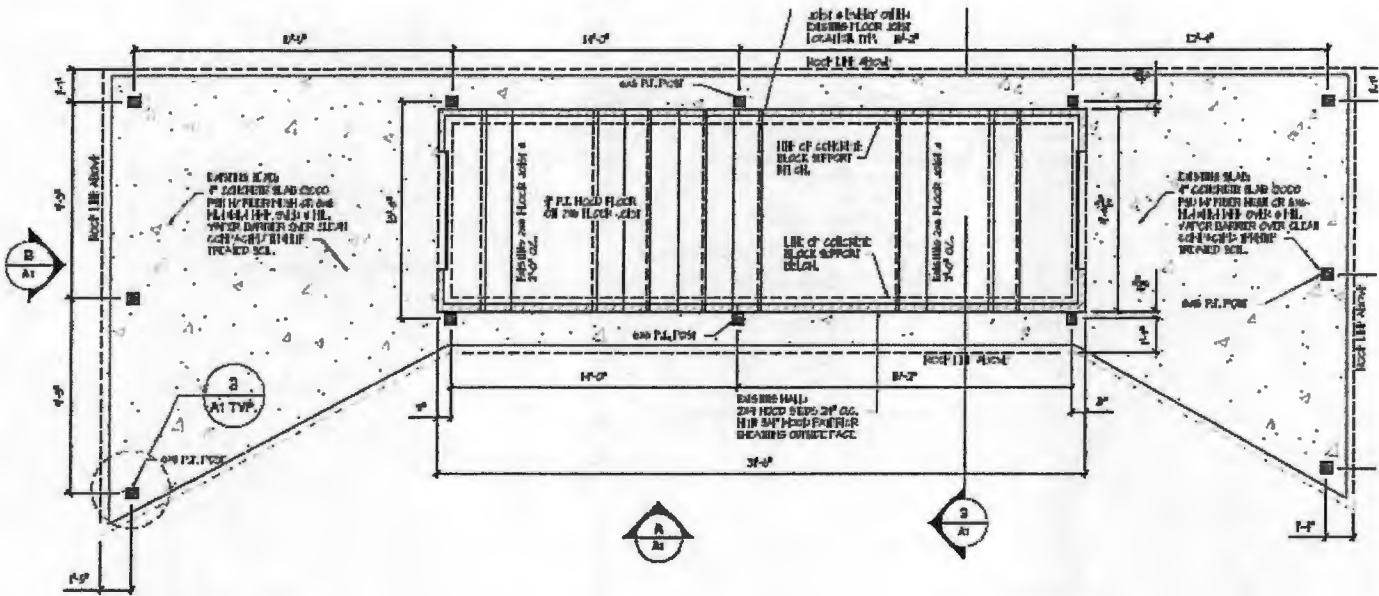


SITE PLAN / SURVEY

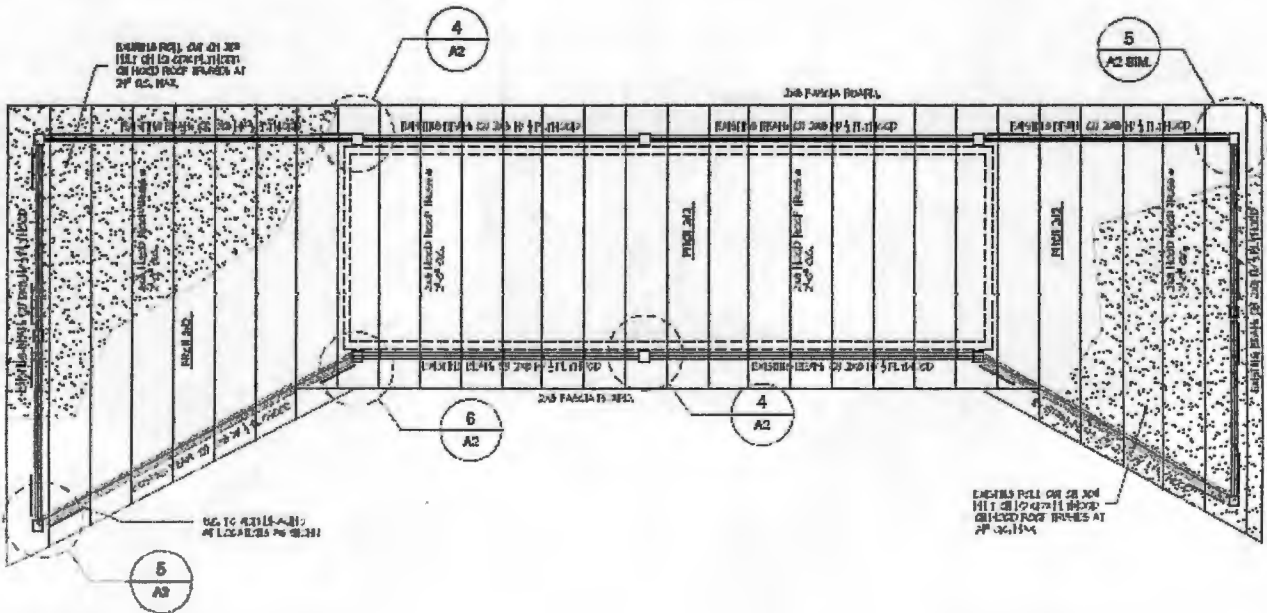


SITE PLAN
SCALE N/A

FLOOR PLAN



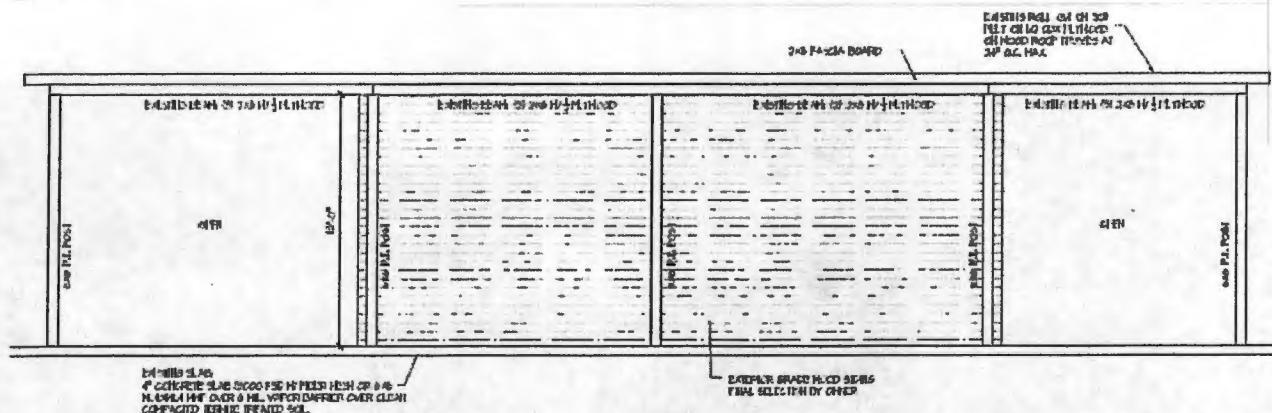
1 SHED FLOOR PLAN
SCALE: 1/4" = 1'-0"



2 SHED ROOF PLAN
SCALE: 1/4" = 1'-0"

ELEVATION

SCALE 1/4" = 1'-0"



(A) FRONT ELEVATION
SCALE 1/4" = 1'-0"

SITE PHOTOS



Front view of property



N. Pine Hills Rd.



Northern open storage area



Dumpster to the east of the property



Open area to the east of the property



Rear property line



Accessory structures