




Interoffice Memorandum

DATE: December 18, 2018

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

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

CONTACT PERSON: Carol L. Knox, Manager, Zoning Division 
407-836-5585

SUBJECT: January 8, 2019 –Appeal Public Hearing
Applicant/Appellant: Charles March
BZA Case #VA-18-11-137, November 1, 2018;

Board of Zoning Adjustment (BZA) Case #VA-18-11-137, located at 8120 Bucksaw Drive, in District #3, is an appeal public hearing to be heard on January 8, 2019. The applicant is requesting variances in the R-2 zoning district to allow an existing accessory structure to be located 4 ft. from the rear property line in lieu of 5 ft. and 2.6 ft. from the side property line in lieu of 5 ft.

The subject property is located on the south side of Bucksaw Dr., south of Bates Rd., east of N. Goldenrod Rd.

At the November 1, 2018 BZA hearing, the BZA denied both variances on a 3-2 vote as the applicant did not demonstrate any hardship and there were other locations the shed could be located that met the setback requirements.

The applicant has stated he is appealing the denial of the case as the shed has been in this location for more than 10 years, he has vacated the applicable easements, and the most affected neighbors are in support of the request. Code Enforcement cited the applicant in May 2007 for the structure in question. Currently the applicant has over \$389,900 in fines accrued and a lien has been imposed on the property.

The application for this request is subject to the requirements of Ordinance 2008-14, 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.

ACTION REQUESTED: Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or approve the applicant's request in part and deny it in part; or deny the applicant's request. District #3.

**COMMUNITY ENVIRONMENTAL DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT**

January 8, 2019

The following is a public hearing on an appeal before the Board of County Commissioners on January 8, 2019 at 2:00 p.m.

APPELLANT/APPLICANT: CHARLES MARCH

REQUEST: Variances in the R-2 zoning district as follows:
1) To allow an existing accessory structure with a 4 ft. rear setback in lieu of 5 ft.
2) To allow an existing accessory structure with a 2.6 ft. side setback in lieu of 5 ft.
Note: This is the result of Code Enforcement action.
BZA Appeal on 11/2/18

LOCATION: South side of Bucksaw Dr., south of Bates Rd., east of N. Goldenrod Rd.

TRACT SIZE: 62 ft. x 108 ft.; 0.151 acres

ZONING: R-2

DISTRICT: #3

PROPERTIES NOTIFIED: 71

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

Staff gave a presentation on the case covering the location, the site plan, and photos.

The applicant stated they hired a company, and the company said they would pull permits, but would not provide said permits when asked. The applicant stated they started construction in 2006, and located the shed where it is because of existing trees.

The BZA inquired as to why other parts of the backyard could not be utilized to meet setbacks.

Code Enforcement stated that an active case was started in 2007, when they observed the construction. The Code Board heard the case on 12/19/2007, and established a compliance date of 2/17/2008. The applicant did not comply, documents were sent out and a fine began accruing daily.

The applicant stated that the permit could not be approved until the easement was vacated. The vacation of the easement took two meetings and over 120 days, during which time Code Enforcement proceeded with the violation. The applicant then stated

that they thought everything was lifted after an inspector came out, and they did not know the permit was not approved and that the lien was accruing.

The BZA felt that the applicant initially tried to address the issues, but later quit working towards resolution. The BZA also confirmed that one lien letter was sent to the applicant.

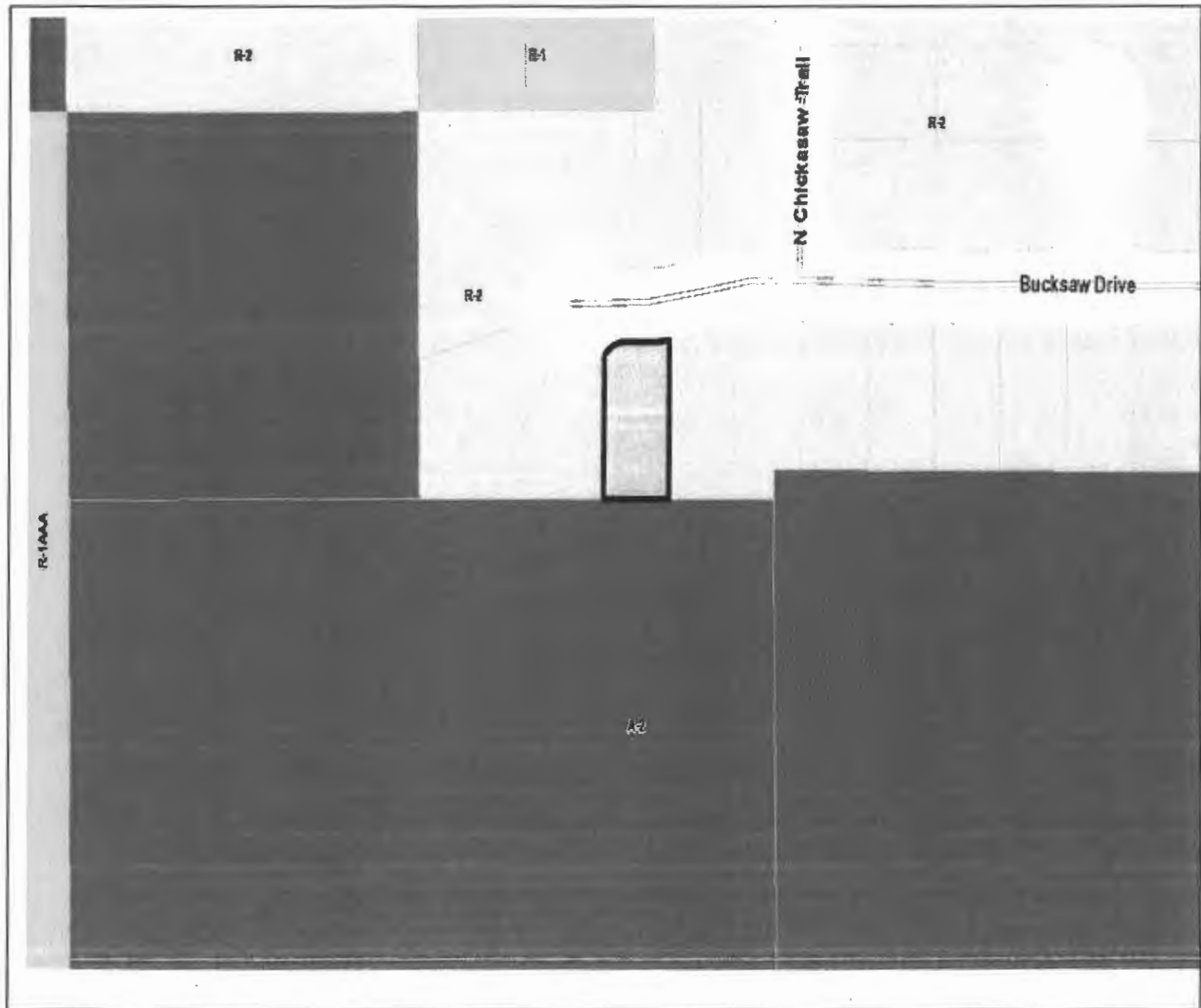
Staff received four commentaries in favor of the application, and none in opposition to the application.

The BZA made a motion to deny the variance, since there are other locations on the applicant's property where the shed can be placed and comply with the Code.

BZA HEARING DECISION:

A motion was made by Jessica Rivera, seconded by Deborah Moskowitz and carried to DENY 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) Vote 3-2 (2 absent).

ACTION REQUESTED: Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or approve the applicant's request in part and deny in part; or deny the applicant's request.
District #3



Applicant: CHARLES MARCH

BZA Number: VA-18-11-137

BZA Date: 11/01/2018

District: 3

Sec/Twn/Rge: 14-22-30-NE-A

Tract Size: 62 ft. x 108 ft.; 0.151 acres

Address: 8120 Bucksaw Drive, Orlando FL 32817

Location: South side of Bucksaw Dr., south of Bates Rd., east of N. Goldenrod Rd.

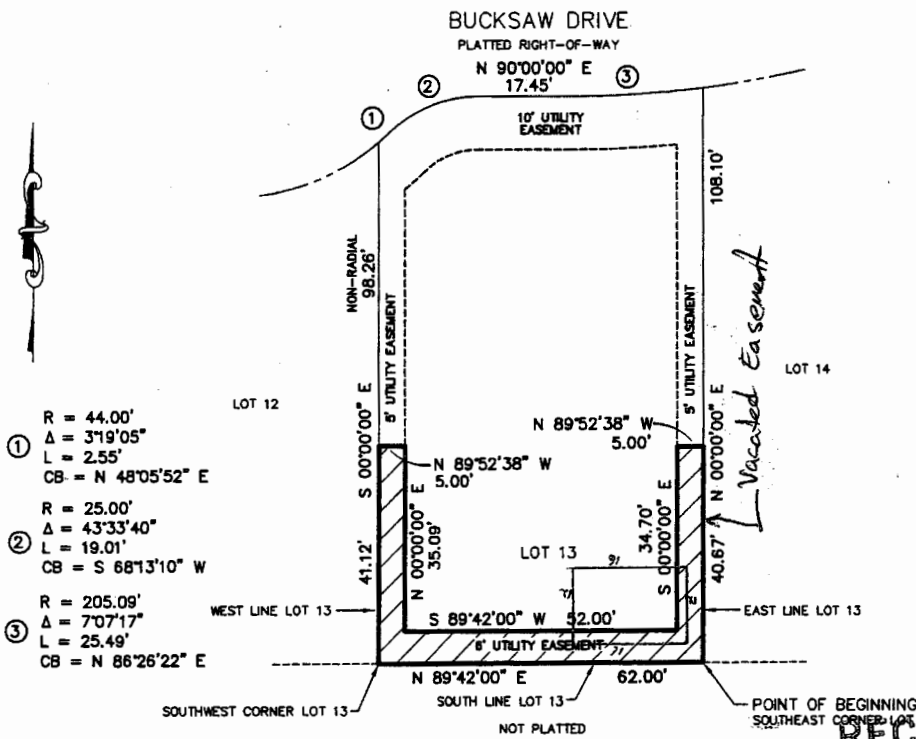
Charles Nelson March III
8120 Bucksaw Dr
Orlando FL 32817
ell. 321-287-0402

To Whom it May Concern:

I am requesting a Variance of 4ft in lieu of the 5ft distance on the South side of our property and a 2.6 Variance in lieu of the 5ft on the east side of our Property for a wood smith built shed and dog Kennel. It is incredibly hot in FL and we need to have the dogs covered and off the Sand when we can not be home and are at work. We also hired a Company to instal the shed and were told they would pull the necessary permit and required documents, except for the vacation of easement, which I aquired on my own. I was not made aware I also needed a variance acceptance and was misinformed of the permit status as well. I understand ignorance is not an excuse, and appoligise profusly. due to the small lot size and pre existing trees. The corner of the lot is the only place we could fit the dog kennel and shed, and with the rise and set of the Sun, it seemed most logical to arrange them as they are to protect our animals. all of our neighbors are perfectly fine with the Shed and dog kennel the shed is 192 sq ft and the dog kennel is only 80 sq. for a total of 72 sq ft. please grant me this acceptance as. The location of the dog kennel and shed do not effect anybody and wa already have a vacation of easment from all service Providers.

SKETCH OF DESCRIPTION
FOR
CHARLES N. MARCH III

*Approved
Vacated
Easement*



- ① R = 44.00'
Δ = 3°19'05"
L = 2.55'
CB = N 48°05'52" E
- ② R = 25.00'
Δ = 43°33'40"
L = 19.01'
CB = S 68°13'10" W
- ③ R = 205.09'
Δ = 7°07'17"
L = 25.49'
CB = N 86°26'22" E

RECEIVED
AUG 29 2018
ORANGE COUNTY
ZONING DIVISION

THIS IS NOT A BOUNDARY SURVEY

SCALE: 1"=30'
REVIEWED BY: MWS
DRAWN BY: LJC
DATE: 2/6/08
JOB No.: 181D4
REVISED:

- LEGEND**
- = RECOVERED 4"x4" CONCRETE MONUMENT NO#
 - ▲ = RECOVERED NAIL & DISK #
 - X = RECOVERED X CUT IN CONCRETE
 - ⊙ = RECOVERED 1/2" IRON ROD #
 - ⊙ = RECOVERED 1/2" IRON ROD NO #
 - ⊙ = RECOVERED 5/8" IRON ROD NO #
 - ⊙ = SET 1/2" IRON ROD #LB 6300
 - ⊙ = POWER POLE AS SHOWN
 - ⊙ = WOOD FENCE AS SHOWN
 - ⊙ = CHAIN LINK FENCE AS SHOWN
 - ⊙ = CONCRETE SLAB AS SHOWN

D = CENTRAL ANGLE (DELTA), L = ARC, R = RADIUS,
R/W = RIGHT OF WAY, A/C = AIR CONDITIONER,
(R) = RADIAL, (NR) = NON-RADIAL, (P) = PLAT,
(M) = MEASURED, (C) CALCULATED, (D) = DEED,
POB = POINT OF BEGINNING, CONC. = CONCRETE,
POC = POINT OF COMMENCEMENT, POL = POINT ON
LINE

THIS SKETCH IS CERTIFIED TO AND PREPARED FOR THE
SOLE AND EXCLUSIVE BENEFIT OF THE ENTITIES AND/OR
INDIVIDUALS LISTED AND SHALL NOT BE RELIED ON BY
ANY OTHER ENTITY OR INDIVIDUAL WHOMSOEVER.
UNDERGROUND FOUNDATIONS AND/OR IMPROVEMENTS
WERE NOT LOCATED AS PART OF THIS SURVEY. LAND
SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS OF
WAYS AND/OR EASEMENTS OF PUBLIC RECORD.



STAFF REPORT
CASE #: VA-18-11-137
Orange County Zoning Division
Planner: Nick Balevich
Board of Zoning Adjustment
November 1, 2018
Commission District: 3

GENERAL INFORMATION:

APPLICANT: CHARLES MARCH

REQUEST: Variances in the R-2 zoning district as follows:
1) To allow an existing accessory structure with a 4 ft. rear setback in lieu of 5 ft.
2) To allow an existing accessory structure with a 2.6 ft. side setback in lieu of 5 ft.
Note: This is the result of Code Enforcement action.

LOCATION: South side of Bucksaw Dr., south of Bates Rd., east of N. Goldenrod Rd.

PROPERTY ADDRESS: 8120 Bucksaw Drive, Orlando, Florida, 32817

PARCEL ID: 13-22-30-7102-00-130

PUBLIC NOTIFICATION: 71

TRACT SIZE: 62 ft. x 108 ft.; 0.151 acres

DISTRICT #: 3

ZONING: R-2

EXISTING USE(S): Single family residence with accessory structures

PROPOSED USE(S): Single family residence with accessory structures

SURROUNDING USES: N - Single family residence
S - Vacant
E - Single family residence
W - Single family residence

STAFF FINDINGS AND ANALYSIS:

1. The property is located in the R-2 Residential District, which allows for single-family homes, multifamily development, and associated accessory structures.
2. There is an existing 16 ft. x 12 ft. (192 sq. ft.) shed, with a 10 ft. x 8 ft. (80 sq. ft.) roofed dog kennel on the property. Based on aerials, it appears this was constructed sometime in 2006 and permits were not obtained. Code Enforcement cited the applicant in May of 2007 (Incident#180009, CEB#69491), for constructing an accessory structure without a permit. Code Enforcement cited the applicant again, as a continuation of the previous case in July of 2007 (Incident#184121, CEB#79676), for constructing an accessory structure without a permit. In December of 2007, the Code Enforcement Board imposed a fine and lien on the property. As of October 22, 2018, fines in the amount of \$389,900, have been accrued.
3. The required side and rear setback for accessory structures is five (5) feet. The accessory structure is located 4 feet from the rear property line, and 2.6 feet from the side property line.
4. The accessory structure encroached into a utility easement on the side and rear, but the applicant vacated the easement in 2008.
5. The BZA has granted other setback variances for principal structures in the area, but not for accessory structures.
6. There is plenty of room in the rear yard to meet the required setbacks.

VARIANCE CRITERIA

Special Conditions and Circumstances

The lot is a traditional rectangular shape, with adequate space to locate the accessory structure without the need for variances.

Not Self-Created

The need for the variances is self-created, as the accessory structure was built without permits.

Deprivation of Rights

The applicant is allowed to have the same amount of accessory structure square footage, if the structures were located outside of the setbacks, which there is room to do.

Minimum Possible Variance

This is not the minimum possible variance, as there is room to locate the accessory structure elsewhere on the property without variances

Purpose and Intent

This request is not in harmony with the purpose and intent of the Zoning Regulations.

STAFF RECOMMENDATION:

Staff recommends denial of this request. If the BZA approves the request, the following conditions should be imposed:

1. Development in accordance with the site plan dated August 29, 2018, 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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain permits for all accessory structures within 120 days of final action on this application by Orange County, or this approval becomes null and void.

c: Charles N. March
8120 Bucksaw Drive
Orlando, Florida 32817

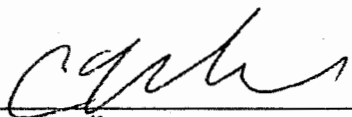


ORANGE COUNTY ZONING DIVISION
201 South Rosalind Avenue, 1st Floor, Orlando, Florida 32801
Phone: (407) 836-3111 Email: ZoningInternetMail@ocfl.net
www.orangecountyfl.net
Board of Zoning Adjustment Appeal Form

Name of Applicant: Charles March
Address of Applicant: 820 Bucksaw Dr City: Orlando State: FL Zip: 32817
Telephone: 321 287 0402 Email Address: Charles Nelson March@gmail.com

I respectfully request an Appeal of the decision regarding the public hearing of (Applicant Name)
Charles March, (Hearing Number) VA-18-11-137 rendered by the
Board of Zoning Adjustment on (date) 11/1/18.

Reason for the Appeal (provide a brief summary and/or attach additional pages if necessary):
There is no use against the encroachment of the
variance and a vacation of easement has already
been agreed, my daughter and son in law are my
neighbors and my parents are across the street.
There is also no H.O.A


Signature of Appellant 11/1/18
Date

Fee: \$691.00 (make check payable to Orange County Zoning Division)
Note: The Clerk of the Board will notify you of the date of your appeal. Should you have any questions, please contact the Zoning Division at 407-836-3111.