



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

October 3, 2024

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)
ORANGE COUNTY GOVERNMENT

<u>Board Member</u>	<u>District</u>
Thomas Moses	1
John Drago (Vice Chair)	2
Juan Velez	3
Deborah Moskowitz (Chair)	4
Vacant	5
Sonya Shakespeare	6
Roberta Walton Johnson	At Large

BZA Staff

Laekin O'Hara	Planner III
Jenale Garnett	Planner II
Catherine Glase	Planner I
Bryan Salamanca	Planner I
James Gray	Planner II

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
OCTOBER 3, 2024**

Case #	Applicant	Commission District	Staff Recommendation	BZA	Page #
VA-24-08-077	Francois Exantus	6	Denial	Requests #1 & 2 Denial Requests #3, 4, & 5 Approval w/Conditions	1
VA-25-01-109	Juan Manuel Vasquez	3	Denial	Approval w/Conditions	18
VA-24-09-080	Kevin McCabe	1	Approval w/Conditions	Approval w/Conditions	32
VA-25-01-110	Jaime Rodriguez	6	Denial	Approval w/Conditions	46
VA-24-10-107	Donn Sharpe	1	Approval w/Conditions	Approval w/Conditions	58
VA-24-10-105	Richard Dingman	5	Denial	Approval w/Conditions	70
VA-24-07-060	Omar Ramos - Madrigal Court	3	Continued to 11/7/24	Continued to 11/7/24	84
VA-24-10-106	Ronald Farrimond and Kristine Farrimond	3	Request #1, Approval w/Conditions Request #2, Denial	Approval w/Conditions	85

Please note that approvals granted by the BZA are not final unless no appeals are filed within 15 calendar days of the BZA's recommendation and until the Board of County Commissioner (BCC) confirms the recommendation of the BZA on Oct. 29, 2024.

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 Site and Principal Building Requirements

District	Min. Lot Area ^M (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	^A Min. Front yard (ft.)	^A Min. Rear yard (ft.)	^A Min. Side yard (ft.)	^A Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
A-1	SFR 21,780 (½ acre)	850	100	35	50	10	15	35	50 ^A	L	
	Mobile home 2 acres	850	100	35	50	10	15	35	50 ^A	L	
A-2	SFR 21,780 (½ acre)	850	100	35	50	10	15	35	50 ^A	L	
	Mobile home 2 acres	850	100	35	50	10	15	35	50 ^A	L	
A-R	108,900 (2½ acres)	950	270	35	50	25	15	35	50 ^A	L	
R-CE	43,560 (1 acre)	1,500	130	35	50	10	15	35	50 ^A	L	
R-CE-2	2 acres	1,200	185	45	50	30	15	35	50 ^A	L	
R-CE-5	5 acres	1,200	250	50	50	45	15	35	50 ^A	L	
R-1AAAA	21,780(½ acre)	1,500	110	30	35	10	15	35	50 ^A	L	
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	15	35	50 ^A	L	
R-1AA	10,000	1,200	85	25/30 ^H	30/35 ^H	7.5	15	35	50 ^A	L	
R-1A	7,500	1,200	75	20/25 ^H	25/30 ^H	7.5	15	35	50 ^A	L	
R-1	5,000	1,000	50	20/25 ^H	20/25 ^H	5/6 ^H	15	35	50 ^A	L	
R-2	One-family dwelling, 4,500	1,000	45 ^C	20/25 ^H	20/25 ^H	5/6 ^H	15	35	50 ^A	L	38-456
	Two dwelling units, 8,000/9,000	500/1,000 per dwelling unit ^D	80/90 ^D	20/25 ^H	25	5/6 ^H	15	35	50 ^A	L	38-456
	Three dwelling units, 11,250	500 per dwelling unit	85 ^J	20/25 ^H	30	10	15	35 ^E	50 ^A	L	38-456
	Four or more dwelling units, 15,000	500 per dwelling unit	85 ^J	20/25 ^H	30	10 ^B	15	35 ^E	50 ^A	L	38-456; limited to 4 units per building
R-3	One-family dwelling, 4,500	1,000	45 ^C	20/25 ^H	20/25 ^H	5/6 ^H	15	35	50 ^A	L	38-481
	Two dwelling units, 8,000/9,000	500/1,000 per dwelling unit ^D	80/90 ^D	20/25 ^H	20/25 ^H	5/6 ^H	15	35	50 ^A	L	38-481
	Three dwelling units, 11,250	500 per dwelling unit	85 ^J	20/25 ^H	30	10	15	35 ^E	50 ^A	L	38-481
	Four or more dwelling units, 15,000	500 per dwelling unit	85 ^J	20/25 ^H	30	10 ^B	15	35 ^E	50 ^A	L	38-481
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10 ^S	15	35 ^Q	50 ^A	L	38-605
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	15	35	50 ^A	L	38-578
R-T-1 SFR	4,500 ^C	1,000	45	20	20	5	15	35	50 ^A	L	
Mobile Home	4,500 ^C	Min. mobile home size 8 ft. x 35 ft.	45	20	20	5	15	35	50 ^A	L	

District	Min. Lot Area ^M (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	^A Min. Front yard (ft.)	^A Min. Rear yard (ft.)	^A Min. Side yard (ft.)	^A Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
R-T-2 (zoned prior to 1/29/73)	6,000	SFR 500 Min. mobile home size 8 ft. x 35 ft.	60	25	50	6	15	35	50 ^A	L	
(zoned after 1/29/73)	21,780	SFR 600 Min. mobile home size 8 ft. x 35 ft.	100	35	50	10	15	35	50 ^A	L	
NR	One family dwelling, 4,500	1,000	45 ^C	20	20	5	15	35/3 stories	50 ^A	L	38-1748
	Two dwelling units, 8,000	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 ^A	L	38-1748
	Three dwelling, 11,250	1,000	45 ^C	20	20	5	15	35/3 stories	50 ^A	L	38-1748
	Four or more dwelling, units, 1,000 plus, 2,000 per dwelling unit	500 per dwelling unit	85	20	20	10	15	50/4 stories	50 ^A	L	38-1748
	Townhouse 1,800	750 per dwelling unit	20	25, 15 for rear entry driveway	20,15 for rear entry garage	0,10 for end units	15	40/3 stories	50 ^A	L	38-1748
NAC	Nonresidential and mixed use development, 6,000	500	50	0/10 maximum 60% of building frontage must conform to maximum setback	15,20 adjacent to single-family zoning district	10,0 if buildings are adjoining	15	50 feet	50 ^A	L	38-1741
	One family dwelling, 4,500	1,000	45 ^C	20	20	5	15	35/3 stories	50 ^A	L	38-1741
	Two dwelling units, 11,250	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 ^A	L	38-1741
	Three dwelling, 11,250	500 per dwelling unit	85	20	20	10	15	35/3 stories	50 ^A	L	38-1741
	Four or more dwelling, units, 1,000 plus, 2,000 per dwelling unit	500 per dwelling unit	85	20	20	10	15	50 feet/4 stories, 65 feet with ground floor retail	50 ^A	L	38-1741
	Townhouse 1,800	750 per dwelling unit	20	25, 15 for rear entry driveway	20,15 for rear entry garage	0,10 for end units	15	40/3 stories	50 ^A	L	38-1741
NC	Nonresidential and mixed use development, 8,000	500	50	0/10 maximum 60% of building frontage must conform to maximum setback	15,20 adjacent to single-family zoning district	10,0 if buildings are adjoining	15	65 feet	50 ^A	L	38-1734
	One family dwelling, 4,500	1,000	45 ^C	20	20	5	15	35/3 stories	50 ^A	L	38-1734
	Two dwelling units, 8,000	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 ^A	L	38-1734
	Three dwelling, 11,250	500 per dwelling unit	85	20	20	10	15	35/3 stories	50 ^A	L	38-1734

District	Min. Lot Area ^M (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	^A Min. Front yard (ft.)	^A Min. Rear yard (ft.)	^A Min. Side yard (ft.)	^A Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
	Four or more dwelling, units, 1,000 plus, 2,000 per dwelling unit	500 per dwelling unit	85	20	20	10	15	65 Feet, 80 feet with ground floor retail	50 ^A	L	38-1734
	Townhouse 1,800	N/A	20	25, 15 for rear entry driveway	20,15 for rear entry garage	0,10 for end units	15	40/3 stories	50 ^A	L	38-1734
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 feet for each add. Story	15	35	50 ^A	L	38-806
C-1	6,000	500		25	20	0; or 15 ft. when abutting residential district	15	50; or 35 within 100 ft. of any residential use or district	50 ^A	L	38-830
C-2	8,000	500		25	15; or 25 when abutting residential district	5; or 25 when abutting residential district	15	50; or 35 within 100 ft. of any residential use or district	50 ^A	L	38-855
C-3	12,000	500		25	15; or 30 when abutting residential district	5; or 25 when abutting residential district	15	75; or 35 within 100 ft. of any residential use or district	50 ^A	L	38-880
I-1A	N/A	N/A	N/A	35	25, or 30 ft. when abutting residential district ^N	25, or 30 ft. when abutting residential district ^N	15	50; or 35 within 100 feet of any residential use or district	50 ^A	L	38-907
I-1/I-5	N/A	N/A	N/A	35	25, or 50 ft. when abutting residential district ^N	25, or 50 ft. when abutting residential district ^{N/O}	15	50; or 35 within 100 feet of any residential use or district	50 ^A	L	38-932
I-2/1-3	N/A	N/A	N/A	25	10, or 60 ft. when abutting residential district ^P	15, or 60 ft. when abutting residential district ^P	15	50; or 35 within 100 feet of any residential use or district	50 ^A	L	38-981
I-4	N/A	N/A	N/A	35	10, or 75 ft. when abutting residential district ^N	25, or 75 ft. when abutting residential district ^N	15	50; or 35 within 100 feet of any residential use or district	50 ^A	L	38-1008

District	Min. Lot Area ^M (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	^A Min. Front yard (ft.)	^A Min. Rear yard (ft.)	^A Min. Side yard (ft.)	^A Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
U-R-3	Four or more dwelling units, 15,000	500 per dwelling unit	85 ^J	20/25 ^H	30	10 ^B	15	35	50 ^A	L	

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 measured 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 Chapter 15, Article VII, Lakeshore Protection, and Chapter 15, Article X, Wetland Protection, 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 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. A lot which is part of a subdivision, the plat of which has been lawfully recorded, or a parcel of land, the deed of which was lawfully recorded on or before August 31, 1982, either of which has a depth of less than one hundred fifty (150) feet above the normal high water elevation contour, shall be exempt from the fifty-foot setback requirement set forth in section 38-1501. Instead, the setbacks under the respective zoning district requirements shall apply 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. feet 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, the minimum duplex lot size is 8,000 square feet, and the minimum living area is 500 square feet. For detached units, the minimum duplex lot width is 90 feet, the minimum duplex lot size is 9,000 square feet, and minimum living area is 1,000 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. Existing developed duplex lots that are either platted or lots of record existing prior to 3/3/97 and are at least 75 feet in width and have a lot size of 7,500 square feet or greater, shall be deemed to be vested and shall be considered as conforming lots for width and/or size.
E	Multifamily residential buildings in excess of one story in height within 100 feet of the property line of any single-family dwelling district and use (exclusive of 2 story single family and 2 story two-family dwellings), requires a special exception.
F	Reserved.
G	Reserved.
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%.
L	Subject to the Future Land Use designation.
M	Developable land area.
N	Rear yards and side yards may be reduced to zero (0) when the rear or side property lines about the boundary of a railroad right-of-way, but only in those cases where an adjacent wall or walls of a building or structure are provided with railroad loading and unloading capabilities.
O	One of the side yards may be reduced to zero (0) feet, provided the other side yard on the lot shall be increased to a minimum building setback of fifty (50) feet. This provision cannot be used if the side yard that is reduced is contiguous to a residential district.
P	Rear yards and side yards may be reduced to zero when the rear or side property lines about the boundary of a railroad right-of-way, but only in those cases where an adjacent wall or walls of a building or structure are provided with railroad loading and unloading capabilities; however, no trackage shall be located nearer than three hundred (300) feet from any residential district.
Q	The maximum height of any structure shall be two stories or thirty-five (35) feet; provided, that no structure (exclusive of single-family and two-family dwellings) shall exceed one story in height within one hundred (100) feet of the side or rear lot line of any existing single-family residential district.
R	A ten-foot front setback may also be permitted for the dwelling unit when a front entry garage is set back at least twenty (20) feet from the front property line.
S	Minimum side building separation is ten (10) feet. The side setback may be any combination to achieve this separation. However, if the side setback is less than five (5) feet, the standards in section 38-605(b) of this district shall apply.

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: **OCT 3, 2024**
Case #: **VA-24-08-077**

Commission District: **#6**
Case Planner: **Laekin O'Hara (407) 836-5943**
Laekin.O'Hara@ocfl.net

GENERAL INFORMATION

APPLICANT(s): FRANCOIS EXANTUS

OWNER(s): FRANCOIS EXANTUS

REQUEST: Variances in the R-1A zoning district to allow additions to a residence as follows:

- 1) To allow a south rear setback of 15.6 ft. in lieu of 30 ft. for Storage 1
- 2) To allow a west side setback of 3.6 ft. in lieu of 7.5 ft. for Storage 1
- 3) To allow a west side setback of 7.2 ft. in lieu of 7.5 ft. for Storage 2
- 4) To allow a west side setback of 6.2 ft. in lieu of 7.5 ft. for Storage 3
- 5) To allow a north front setback of 23.3 ft. in lieu of 25 ft. for Storage 3

Note: This is the result of Code Enforcement.

PROPERTY LOCATION: 1320 Roger Babson Rd., Orlando, FL 32808, southeast corner of Erleen Pl. and Roger Babson Rd., east of N. Pine Hills Rd., north of W. Colonial Dr., south of Silver Star Rd.

PARCEL ID: 19-22-29-6712-07-070

LOT SIZE: +/- 0.21 acres (+/- 9,155 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 184

DECISION: Recommended **DENIAL** of the Variance requests **#1** and **#2**, in that there was no unnecessary hardship shown on the land; and further, they do not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3); and, **APPROVAL** of the Variance requests **#3**, **#4** and **#5**, in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (Motion by Sonya Shakespeare, Second by Thomas Moses; 5 in favor: Deborah Moskowitz, John Drago, Juan Velez, Thomas Moses, Sonya Shakespeare; 1 opposed: Roberta Walton Johnson; 0 absent; 1 vacant):

1. Development shall be in accordance with the site plan date stamped August 24, 2024, as modified to remove Storage 3, and floor plan and elevations dated April 2, 2024, for Storage 1 and Storage 2, 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. A permit shall be obtained within 180 days of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. All fencing shall be removed or relocated on the subject property, and a permit shall be obtained within 180 days of final action, and this shall be reflected on the site plan submitted for the required fence permit.
6. The shed shall be moved back to the location where it was approved, removed, or a new permit shall be obtained within 180 days of final action to show it in a code compliant location.
7. The additions shall be painted to match the residence.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation of denial of the variances. Staff noted that no comments in favor and one comment has been received in opposition to the request.

The applicant noted that he was not aware of the zoning and constructed the additions without permits because he needed storage.

Code Compliance noted the status of the violation.

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

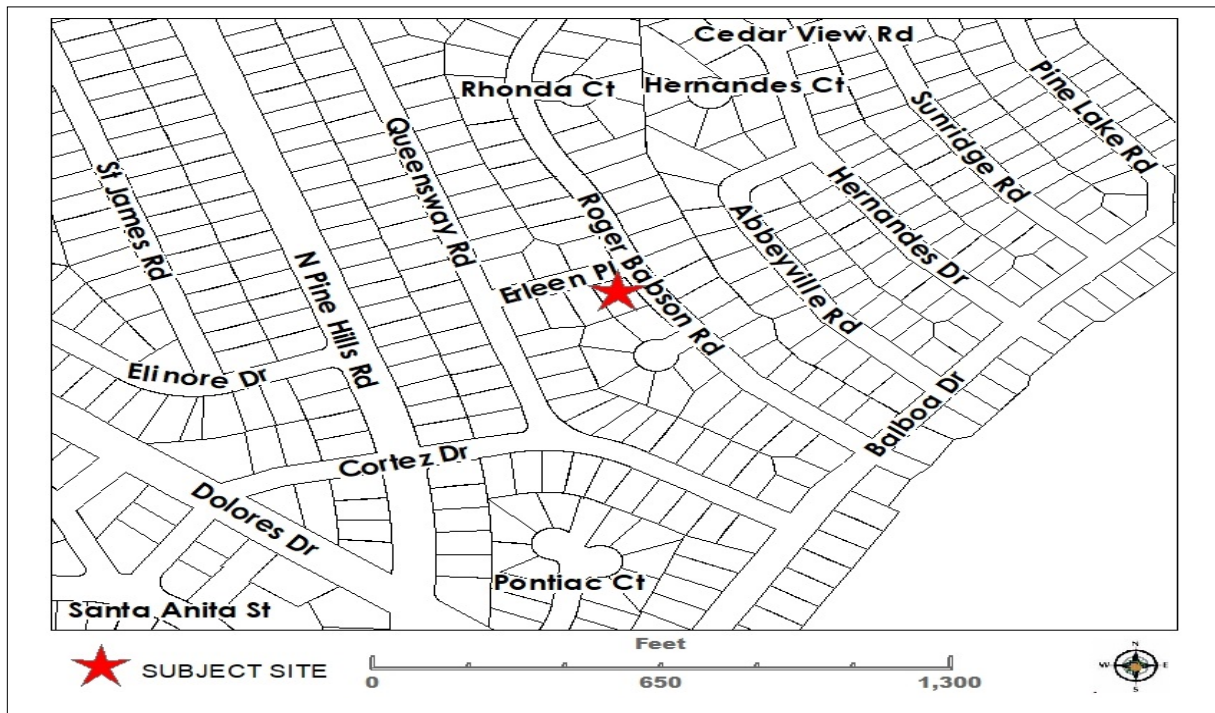
The BZA discussed the requests and noted that the encroachment into the westerly side setback and front setback were minimal. However, the BZA also discussed the large encroachment by Storage Area #1 into the rear setback, and expressed discomfort with this request.

The BZA recommended denial of Variances #1 and #2, and approval of Variances #3, #4, and #5 by a 5-1 vote, with one seat vacant, subject to the six (6) conditions found in the staff report as amended, with the modification to Condition 1 to match the recommendation as follows, "Development shall be in accordance with the site plan date stamped August 24, 2024, as modified to remove Storage 3, and floor plan and elevations dated April 2, 2024, for Storage 1 and Storage 2, 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)." The BZA also added additional Condition 7 as follows, "The additions shall be painted to match the residence."

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling District, which allows single-family homes and associated accessory structures. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The subject property is 9,155 sq. ft., in size, was platted in 1955 as Lot 7 in Block G of the Parkway Estates Plat and is a conforming lot of record. The property is not located within a Homeowner’s Association (HOA). The property is a corner lot with right-of-way along Erleen Pl. to the north which is considered the front since it is the narrowest width of the lot abutting a street right-of-way and Roger Babson Rd. to the east. The property is developed with a 1-story, 2,136 sq. ft. single-family home, constructed in 1956, three partially constructed storage room additions at the westerly side and rear of the residence, and a shed at the rear. The three

partially constructed storage room additions (labeled Storage 1, Storage 2, and Storage 3 on the site plan) are the subject of the Variance requests.

Code enforcement cited the property owner on August 27, 2023 (CE#: 628078) for construction of the storage room additions without permits. Storage addition 3 encroaches 1.7 ft. into the required 25 ft. north front setback and 1.3 ft. into the required 7.5 ft. west side setback, requiring Variances #5 and #4 respectively. Storage addition 2 encroaches 0.3 ft. into the required 7.5 ft. west side setback, requiring Variance #3. Storage addition 1 encroaches 3.9 ft. into the 7.5 ft. west side setback, requiring Variance #2, and 14.4 ft. into the required 30 ft. south rear setback requiring Variance #1. A building permit, B23025070, for the additions has been submitted, and is on hold pending the outcome of this variance request.

A permit was obtained for the shed on the property; however, the current location of the shed is not in compliance with the approved permit, or with the code so it will need to be moved back to the location where it was approved, removed, or a new permit will need to be submitted to show it in a code compliance location. There is also 6 ft. high privacy fence that was also constructed without permits and is not in compliance with the code, that the applicant has agreed to remove.

Neighbors to the west and north provided letters of no objection. As of the date of this report, no comments have been received in favor or in opposition to this request.

Building Setbacks (Storage Additions)

	Code Requirement	Proposed
Front (North - Erleen Pl.):	25 ft.	27.6 ft. (Storage 2) 23.3 ft. (Storage 3, Variance #5)
Side Street (East - Roger Babson Rd.):	15 ft.	23.5 ft. (Existing residence)
Side (West):	7.5 ft.	3.6 ft. (Storage 1, Variance #2) 7.2 ft. (Storage 2, Variance #3) 6.2 ft. (Storage 3, Variance #4)
Rear (South):	30 ft.	15.6 ft. (Storage 1, Variance #1)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to this property are that the lot has a limited buildable area due to it being a corner lot and the location of the existing single-family residence. The orientation of the house limits the areas a code-compliant addition could be located however the applicant may have been able to build a code compliant addition had they consulted the County first.

Not Self-Created

The request is self-created because the applicant installed the additions without permits.

No Special Privilege Conferred

There is no special privilege being conferred because zoning district would allow additions to the home, however the corner lot condition and orientation of the home limits viable areas.

Deprivation of Rights

There is no deprivation of rights as the existing residence could continue to be enjoyed as originally constructed, and an addition could be built which complies with code setback requirements.

Minimum Possible Variance

The request is not the minimum possible since the applicant could have constructed the additions in a way that would comply with code or require a lesser variance.

Purpose and Intent

The request is not in harmony with the purpose and intent of the zoning code since the additions could have been constructed in a way that would not locate them so close to the adjacent property line.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan date stamped August 24, 2024, and floor plan and elevations dated April 2, 2024, 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. A permit shall be obtained within 180 days of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. All fencing shall be removed or relocated on the subject property, and a permit shall be obtained within 180 days of final action, and this shall be reflected on the site plan submitted for the required fence permit.
6. The shed shall be moved back to the location where it was approved, removed, or a new permit shall be obtained within 180 days of final action to show it in a code compliant location.

C: Francois Exantus
1320 Roger Babson Road
Orlando, FL 32808

June 3, 2024

Francois Exantus
1320 Roger Babson Rd
Orlando, FL 32808

To the: Board of Zoning Adjustment (BZA)
Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor, Orlando, Florida 32801

RE: Variance Request
Job address: 1320 Roger Babson Rd., Orlando, FL 32808

Variance in the R-1A zoning district to allow an addition with a rear setback of 15.6ft in lieu of 30ft, a 23.3ft front setback in lieu of 25ft, and a side setback of 3.6ft in lieu of 7.5ft. This is the result of Code Enforcement.

1. Special Conditions and Circumstances

Due to the ongoing inflation, I had shut down business. I am a retired old man and I can no longer afford to store the materials from the business at a public storage; it is too expensive. I had the idea to store them in the screened porch momentarily until I got back on my feet, but some materials started to decay/deteriorate by being exposed to the weather/rain since the screened porch was opened. Hence, I proceed to enclose the screened porch area to convert it into storage, add square footage to the right side of the house, and enclose the covered carport to accommodate the materials. The altered and added spaced will be used as storages.

2. Not self-Created

The carport and screened porch were already existing, I just proceeded to enclose them and turn them into storage. Since the house address is on Roger Babson, the addition would have not interfered with the 7.5ft side setback, but unfortunately it turns out that the fence is off 2ft from the property line, and Erleen place is considered as the front the house.

3. No Special Privilege Conferred

No special privilege is requested. The existing shed shall be relocated to comply with the minimum setback requirements. Any other adjustments will be made in order to comply with the zoning and building department standards. The use will not act as a detrimental intrusion into a surrounding area.

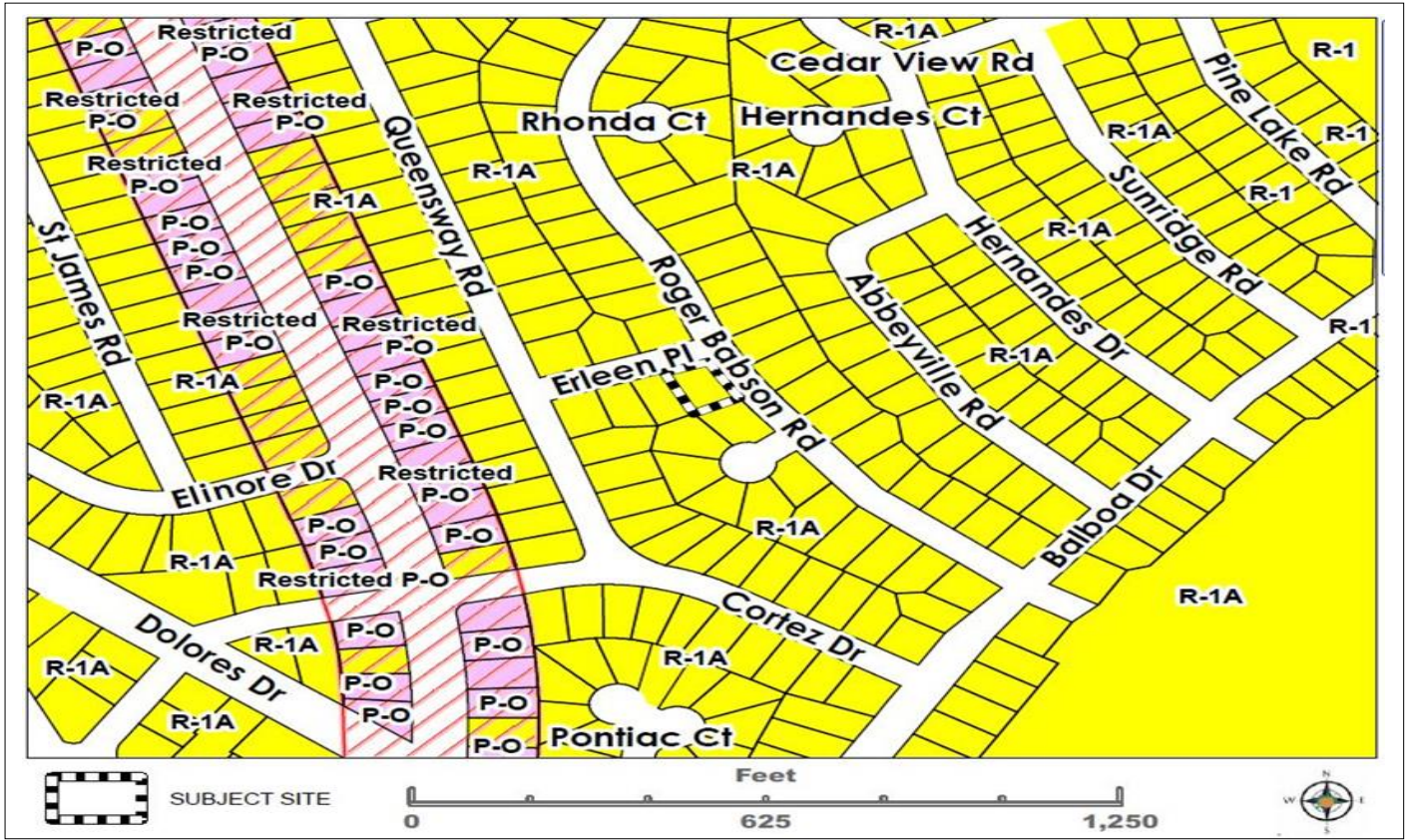
4. Deprivation of Rights

Some of my neighbors have made similar improvements to their property. I have a corner lot which means I have more limitations in terms of setbacks. I requested and obtained approval from the surrounding neighbors to keep the added and altered structures as is. Upon approval, there is no intent to use the spaces other than the approved use. The use will meet the performance standards of the district in which the use is permitted.

5. Minimum Possible Variance

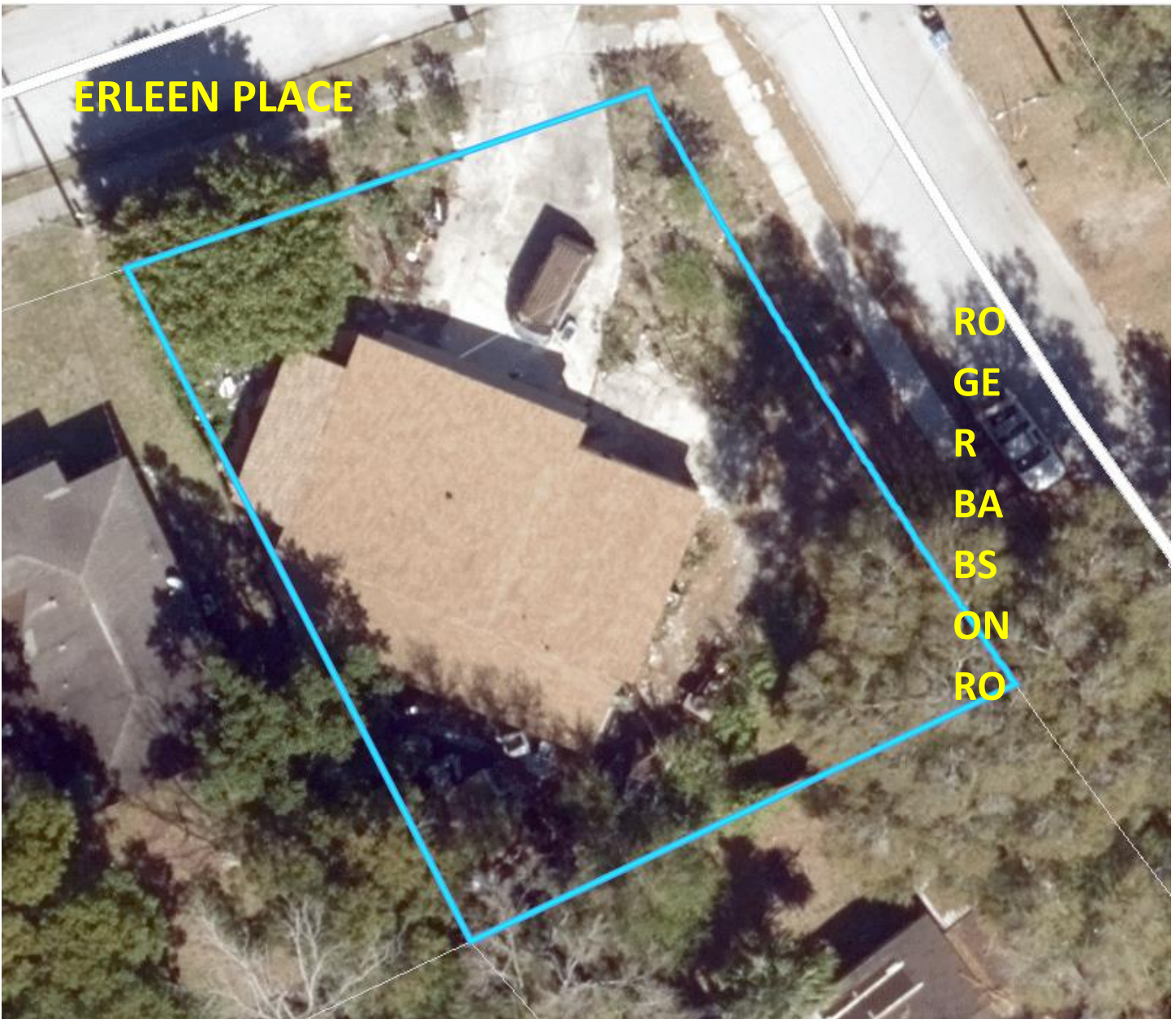
Since it is a corner lot, there are some limitations in terms of setbacks, however the request variance on either side should not considerate as exaggerated due to the geometry of the lot. The addition and altered areas can be considered minimal.

ZONING MAP

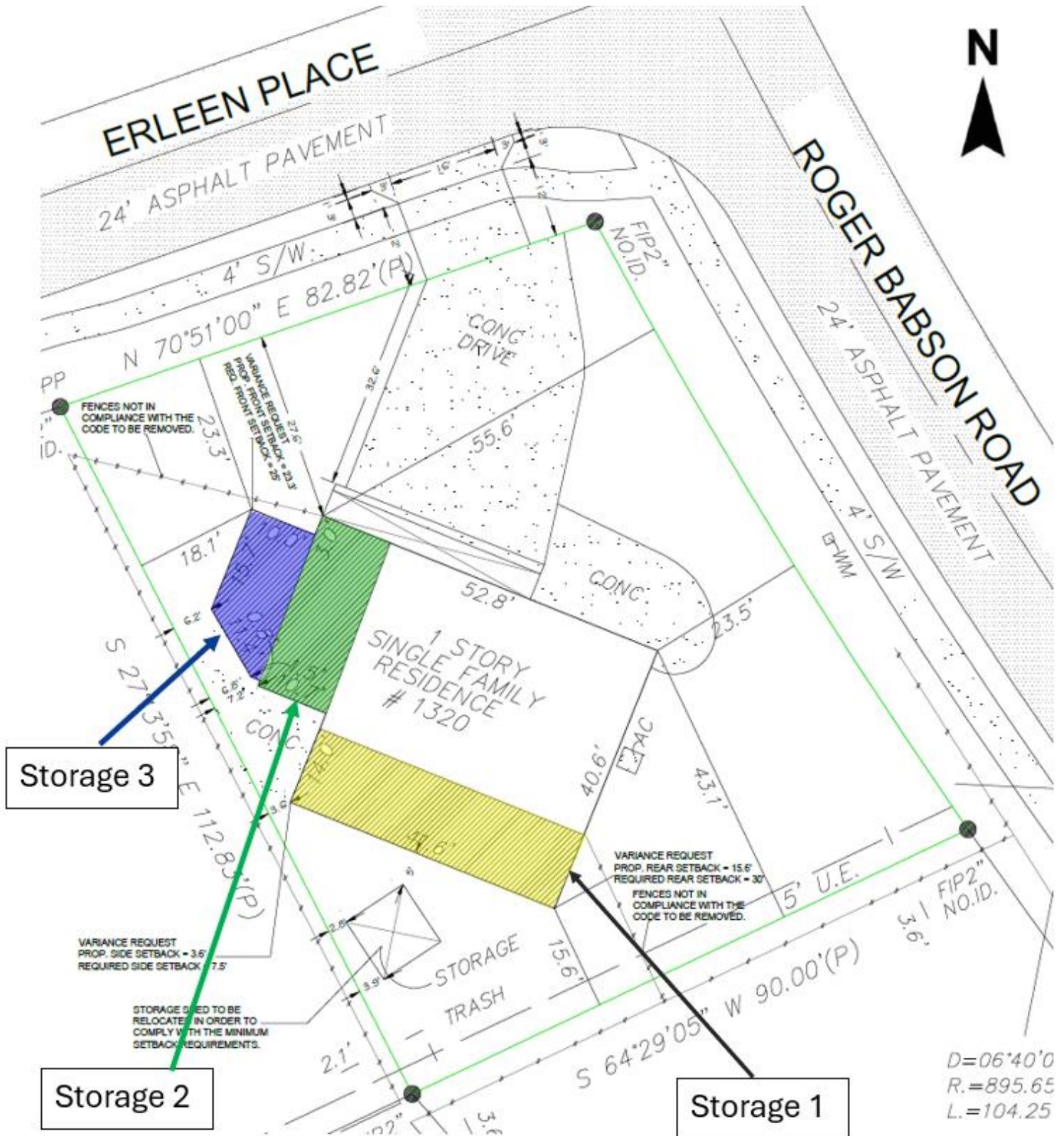


AERIAL MAP

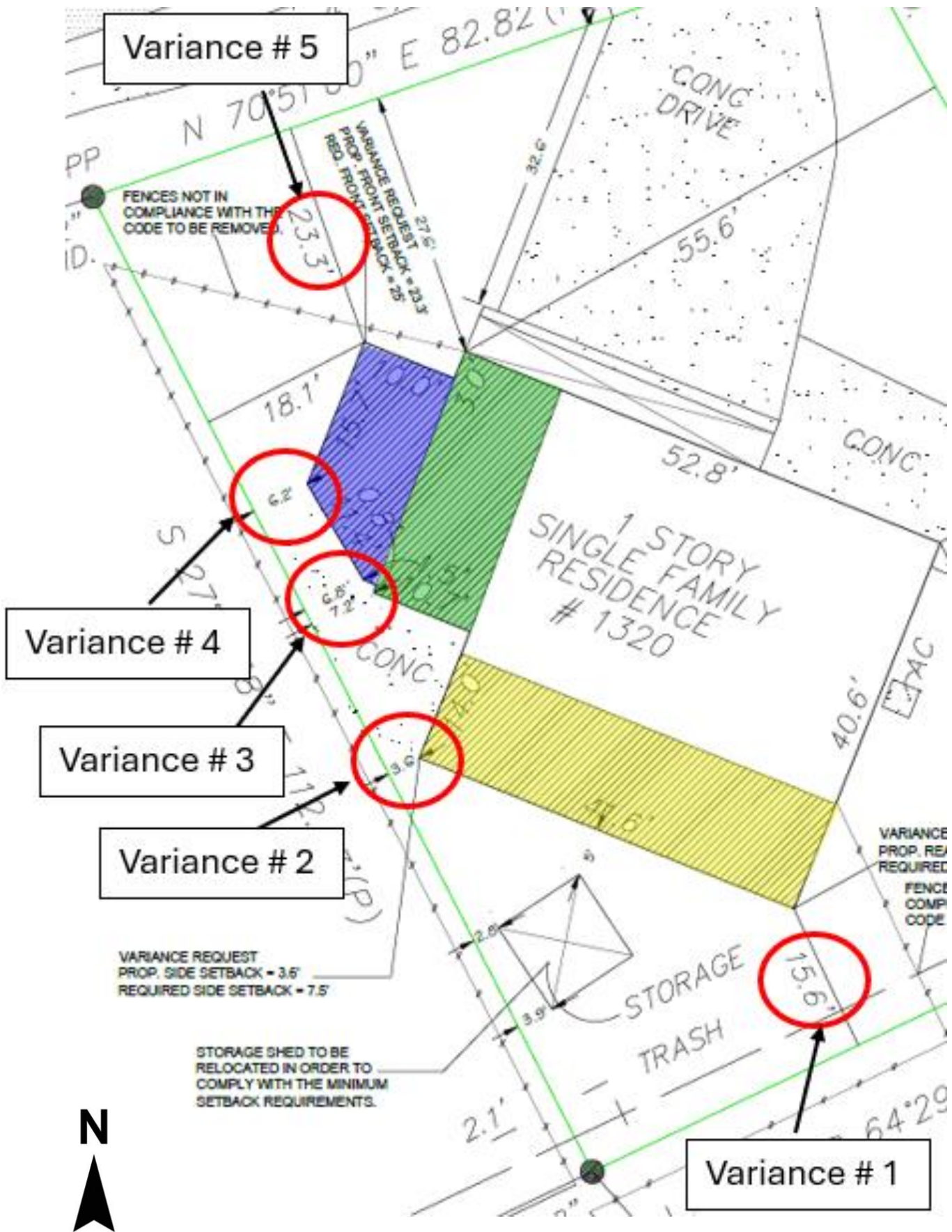




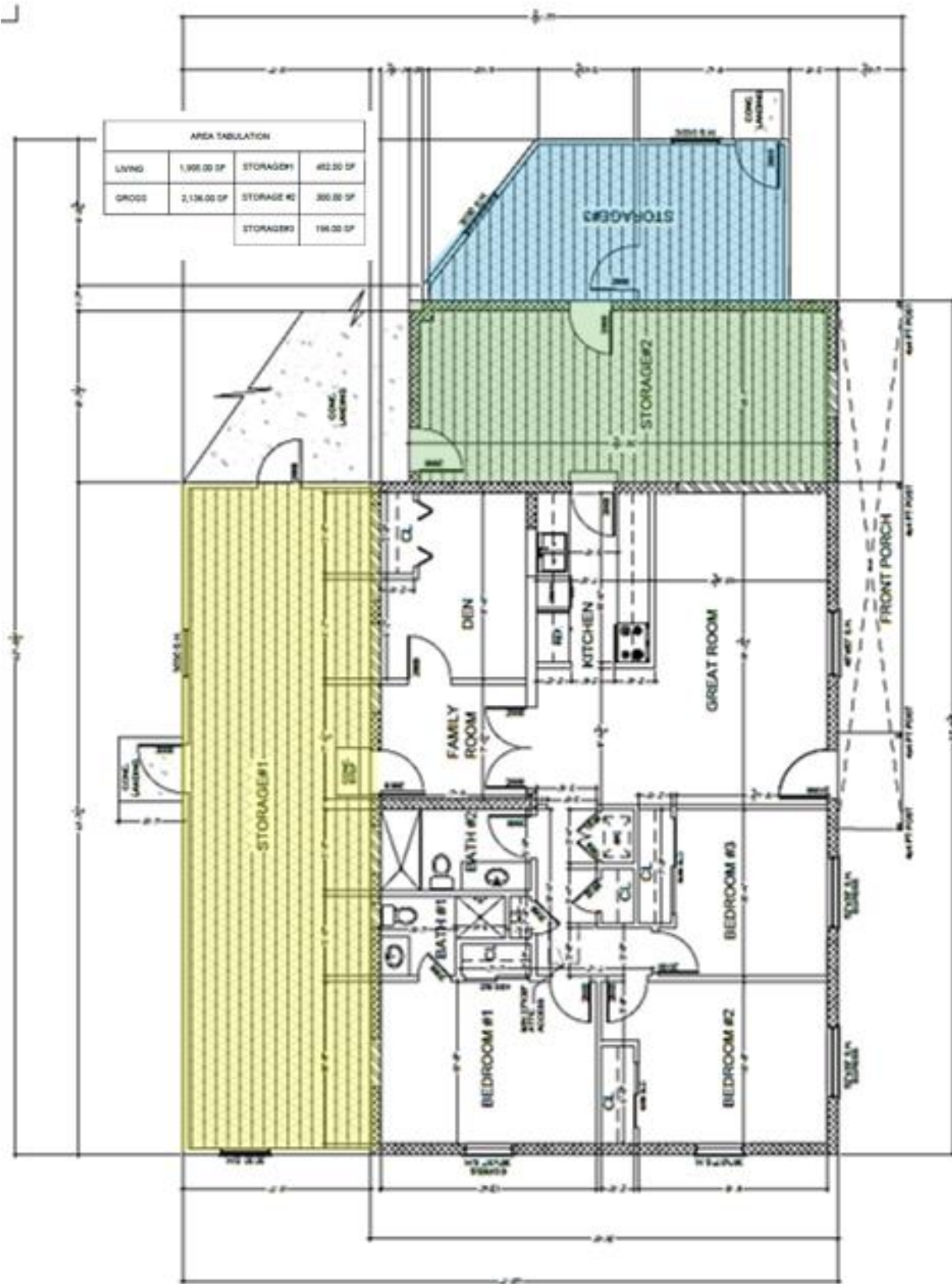
SITE PLAN



ZOOMED IN SITE PLAN

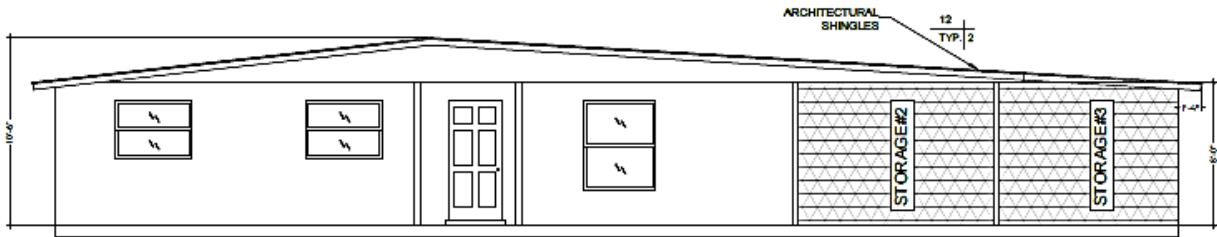


FLOOR PLAN



ELEVATIONS

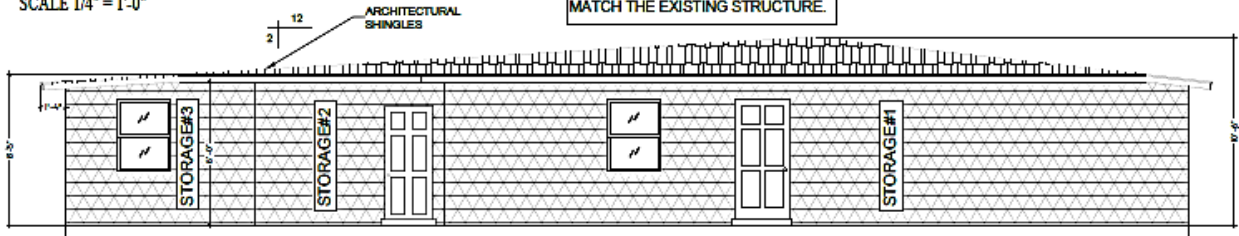
ROOF & SIDING MATERIAL SHALL MATCH THE EXISTING STRUCTURE.



FRONT ELEVATION

SCALE 1/4" = 1'-0"

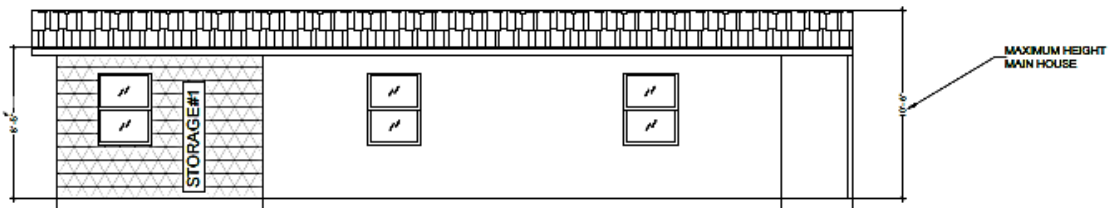
ROOF & SIDING MATERIAL SHALL MATCH THE EXISTING STRUCTURE.



REAR ELEVATION

SCALE 1/4" = 1'-0"

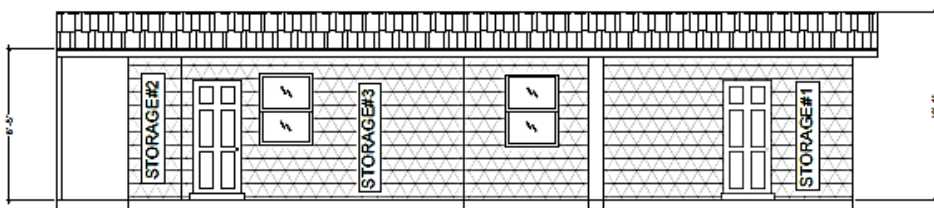
ROOF & SIDING MATERIAL SHALL MATCH THE EXISTING STRUCTURE.



LEFT ELEVATION

SCALE 1/4" = 1'-0"

ROOF & SIDING MATERIAL SHALL MATCH THE EXISTING STRUCTURE.



RIGHT ELEVATION

SCALE 1/4" = 1'-0"

SITE PHOTOS



Facing the front façade from the intersection of Erleen Pl. and Roger Babson Rd.



From front of property facing south towards Storage 2

SITE PHOTOS



Facing east towards Storage 3



Facing north from rear yard, showing all 3 storage additions

SITE PHOTOS



Facing north from rear yard, Storage 1 to the right

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 03, 2024**
Case #: **VA-25-01-109**

Commission District: **#3**
Case Planner: **Jenale Garnett (407) 836-5955**
Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JUAN MANUEL VASQUEZ

OWNER(s): LA FINQUITA FLORIDA LLC

REQUEST: Variance in the R-2 zoning district to allow a multi-family building (quadruplex) with an east side setback of 15 ft. in lieu of 30 ft.

PROPERTY LOCATION: 512 Palmetto St., Orlando, FL 32824, southeast corner of Palmetto St. and Boyce Ave., west of S. Orange Ave., south of E. Landstreet Rd.

PARCEL ID: 36-23-29-8228-30-504

LOT SIZE: +/- 0.49 acres (+/- 21,446 sq. ft.)

NOTICE AREA: 1,200 ft.

NUMBER OF NOTICES: 215

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (Motion by Juan Velez, Second by Roberta Walton Johnson; unanimous; 6 in favor: Deborah Moskowitz, John Drago, Juan Velez, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 0 absent; 1 vacant):

1. Development shall be in accordance with the site plan dated September 10, 2024, and elevations dated September 10, 2024, as modified, 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 proposed quadruplex shall include two two-window panels on the east and west elevations to match the proposed architectural design on the proposed north façade.

5. An enhanced landscape buffer of 15 ft. with canopy trees and a 6 ft. masonry wall along the eastern boundary will be installed.

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

The applicant discussed the staff recommendation of denial, noting the increased landscaping and installation of a wall to buffer the single-family residence. The applicant noted that there are more intrusive uses that impact in the area. They also pointed out that the east side yard setback would be 10 ft. if the quadraplex was not adjacent to a single-family district.

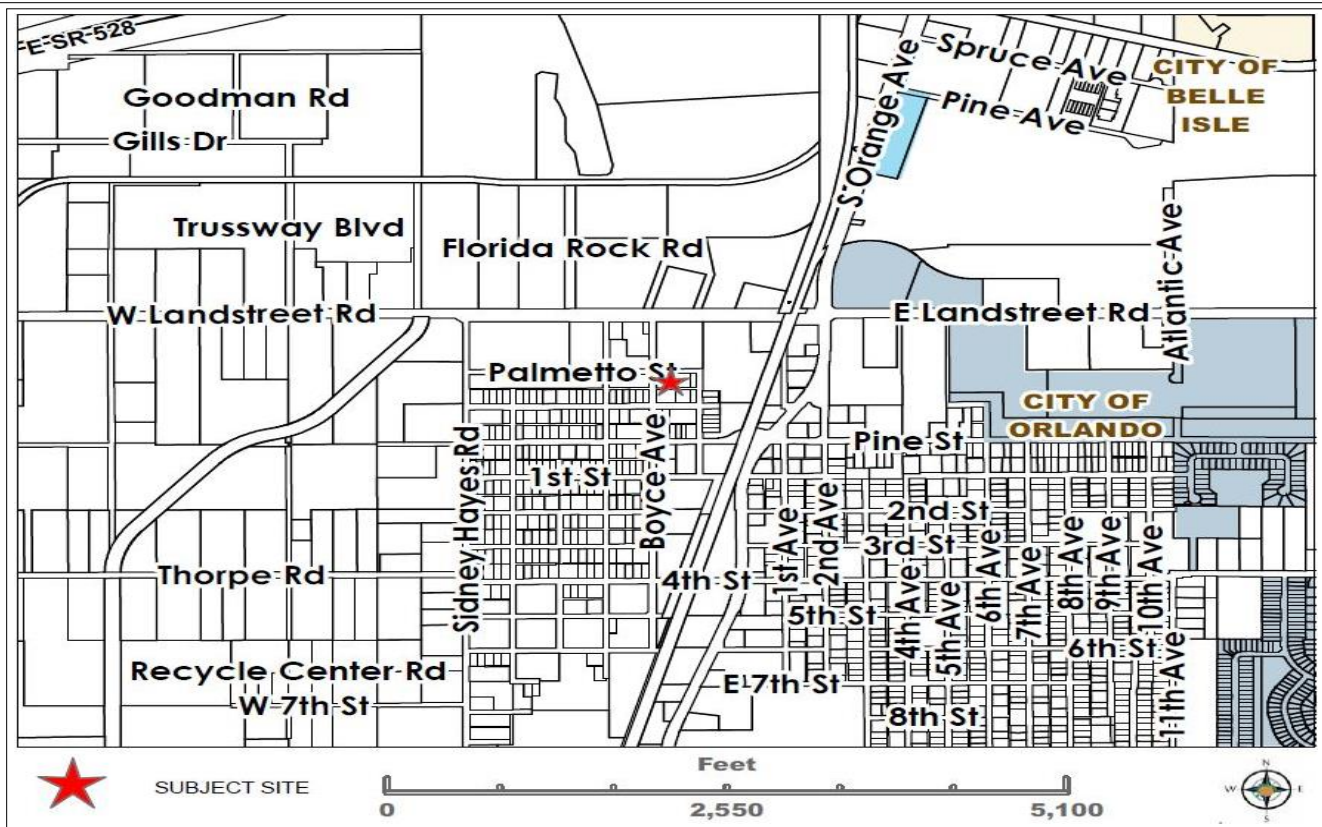
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the request determining there appears to be more intrusive impacts in the area, and the setback would have been met had the site not been adjacent to a single-family district. The BZA unanimously recommended approval of the Variance by a 6-0 vote, with one seat vacant, subject to the four (4) conditions found in the staff report with an amendment to include Condition #5 as follows “An enhanced landscape buffer of 15 ft. with canopy trees and a 6 ft. masonry wall along the eastern boundary will be installed.”

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-2	I-2/I-3	R-2	R-2	I-2/I-3
Future Land Use	LMDR	IND	LMDR	LMDR	IND
Current Use	Vacant	Diesel Mechanic Service	Vacant	Single-family residence	Storage Yard

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-2, Residential District, which allows single-family homes, duplexes, and multi-family development. The Future Land Use is Low-Medium Density Residential (LMDR), which is consistent with the R-2 zoning district.

The area surrounding the subject site consists of single-family homes and industrial uses. The subject property is a 0.49 acre parcel, platted in 1910 as lots 4, 5, & 6 of the Spahler’s Addition to Taft Plat Prosper Colony, that conforms with the zoning regulations for the district. The property is a reversed frontage lot, located on the southeast corner of Palmetto Street and Boyce Avenue. Per Sec. 38-1405 (e) of the Orange County Code, “In cases of reversed frontages, the determination of yards shall be made by the Zoning Manager. After the reversed frontage determination has been made, the front door of the structure shall face the front yard.” The Zoning Manager has determined that Palmetto Street is the front yard, and Boyce Avenue is the side street yard for the purpose of Zoning in this case. The site is vacant except for a pergola, deck, two storage containers, and two portable toilets. The property was purchased by the current owner in 2018.

The proposal is to construct a new one-story 7,883 gross sq. ft., 16.4 ft. tall quadruplex and each unit is proposed to consist of 3 bedrooms and 2 baths. Per Sec. 38-1501 of the Orange County Code, a 30 ft. side setback is required when adjacent to a single-family district. The proposal meets the front, rear, and side street setbacks required by the R-2 zoning district for four dwelling units. However, the site is adjacent to a single-family district, and the proposed quadruplex has a 15 ft. east side setback when 30 ft. is required, necessitating the need for a Variance. If the site were not adjacent to a single-family district the required east side setback would be 10 ft. Other proposed improvements include a 6 ft. tall concrete masonry wall with a 15 ft. wide landscape strip along the east property line, and a 6 ft. tall wooden fence along the south property line, and the preservation of several existing mature trees along the front property line. Additionally, the owner is proposing to remove the pergola, deck, two storage containers, and two portable toilets, which are unpermitted. Staff is recommending denial of the Variance since the proposed quadruplex is new construction and could be redesigned or reduced in size to meet code, thereby eliminating the need for the Variance.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	16.4 ft.
Min. Lot Width:	85 ft.	150 ft.
Min. Lot Size:	15,000 sq. ft.	21,446 sq. ft.

Building Setbacks (Quadruplex)

	Code Requirement	Proposed
Front: Palmetto Street	25 ft.	45.2 ft. (North)
Rear:	30 ft.	30 ft. (South)
Side:	30 ft. (adjacent to single-family district)	15 ft. (East – Variance)
Side Street: Boyce Avenue	15 ft.	15 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

There are no special conditions or circumstances particular to the subject property because this is new construction of a quadruplex on a lot that meets and exceeds the minimum lot width and lot size, and the plans could be revised to meet all setbacks thus negating the need for the Variance.

Not Self-Created

The request is self-created in that it is new construction and there are alternatives to eliminate the request.

No Special Privilege Conferred

Granting this Variance will confer a special privilege since there are other options to construct a multi-family building that is in compliance with the code.

Deprivation of Rights

The applicant is not being deprived the right to construct a multi-family building, and there is sufficient space on the property to meet the required setbacks.

Minimum Possible Variance

The Variance is not the minimum, since the multi-family could be redesigned to meet code.

Purpose and Intent

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The design as proposed will not be detrimental to the neighborhood as it is a one-story structure and a concrete wall with increased landscaping as proposed to offset the setback, and there are more intrusive impacts such as the industrial uses to the north and west.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated September 10, 2024, and elevations dated September 10, 2024, as modified 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 proposed quadruplex shall include two two-window panels on the east and west elevations to match the proposed architectural design on the proposed north façade.

C: Juan Manuel Vasquez
3226 Raeford Road
Orlando, FL 32806

Dimas Eduardo Chacon
Qualitech Construction Group LLC
10476 NW 61st Street Lane
Doral, FL 33177

Juan Manuel Vasquez

P.O. Box 560487, Orlando, FL 32856 * Ph: 407.219.8277 * Juan@vasquezcivil.com

September 11, 2024

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

Re: B24903004

Subject 512 Palmetto St, Orlando, FL 32824 New Quadruplex - Side Setback Variance

To Whom It May Concern:

Listed below is our request for a side building setback variance per the comment we received on June 13, 2024 in the zoning review of this permit.

Zoning Review (Quanisha J Dinish (407)-836-5848; Quanisha.Dinish@ocfl.net)

1- Please be aware that a quadruplex adjacent to single-family residence, requires a 30 ft side setback per zoning code 38-101. It is possible that you may need a variance before you do your building permit.

Response: We are requesting a variance for a side building setback. Per the Orange County Municode Section 38-1501 (footnote B). A 30 feet building setback is required if adjacent to a single family district. We are proposing a 15 feet side building setback, an enhanced landscape buffer, and a 6 ft high concrete wall. In order to keep the current housing product we are proposing (4 units with 3 bedroom / 2 bathrooms and an average of 1,660 SF), we would need this variance approved to allow us to keep an 15 feet side building setback as shown on the attached SITE PLAN.

Sincerely,



This form has been electronically signed and sealed by Juan M. Vasquez, P.E. using a digital signature. Printed copies of this document are not considered signed if sealed and the signature must be verified on any electronic copies.

Digitally signed
by Juan M
Vasquez
Date: 2024.09.12
11:35:24 -04'00'

Juan Manuel Vasquez
State of Florida Professional Engineer
PE No. 95783

COVER LETTER

- 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 a proposed zoning variance.

The minimum side setback for R-2 per Orange County Municode Section 38-1501 is 10 FT. The footnote is what specifies that the setback must be 30 FT when adjacent to single family district. A setback of 30 FT will significantly reduce the buildable width of the lot restricting us from building the proposed 3/2 quadruplex.

- 2. Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed 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.

The minimum side setback for R-2 per Orange County Municode Section 38-1501 is 10 FT. The footnote is what specifies that the setback must be 30 FT when adjacent to single family district. A setback of 30 FT will significantly reduce the buildable width of the lot restricting us from building the proposed 3/2 quadruplex.

- 3. 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 to other lands, building, or structures in the same zoning district.

Approval of the zoning variance requested will not confer any special privilege that is denied by this chapter, on me, to other lands, building, 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 property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Literal interpretation of the zoning is depriving me of building the proposed quadruplex due an increased setback requirement. Without this variance approval Orange County Zoning will not approve the submitted plans for a quadruplex with 4 - 3/2 units.

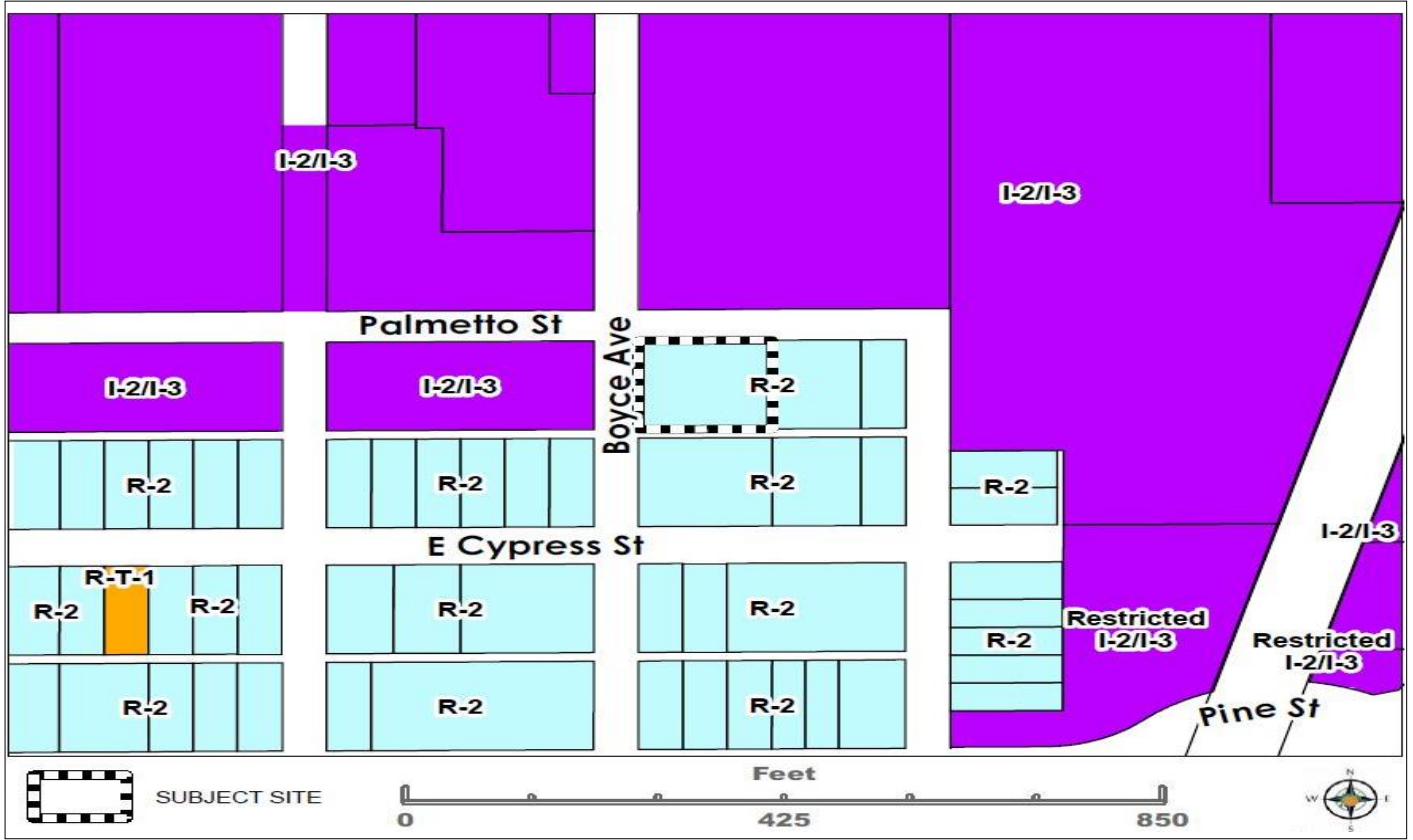
- 5. Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The setback variance request for the side building setback is the minimum variance that will make possible the reasonable use of these two structures.

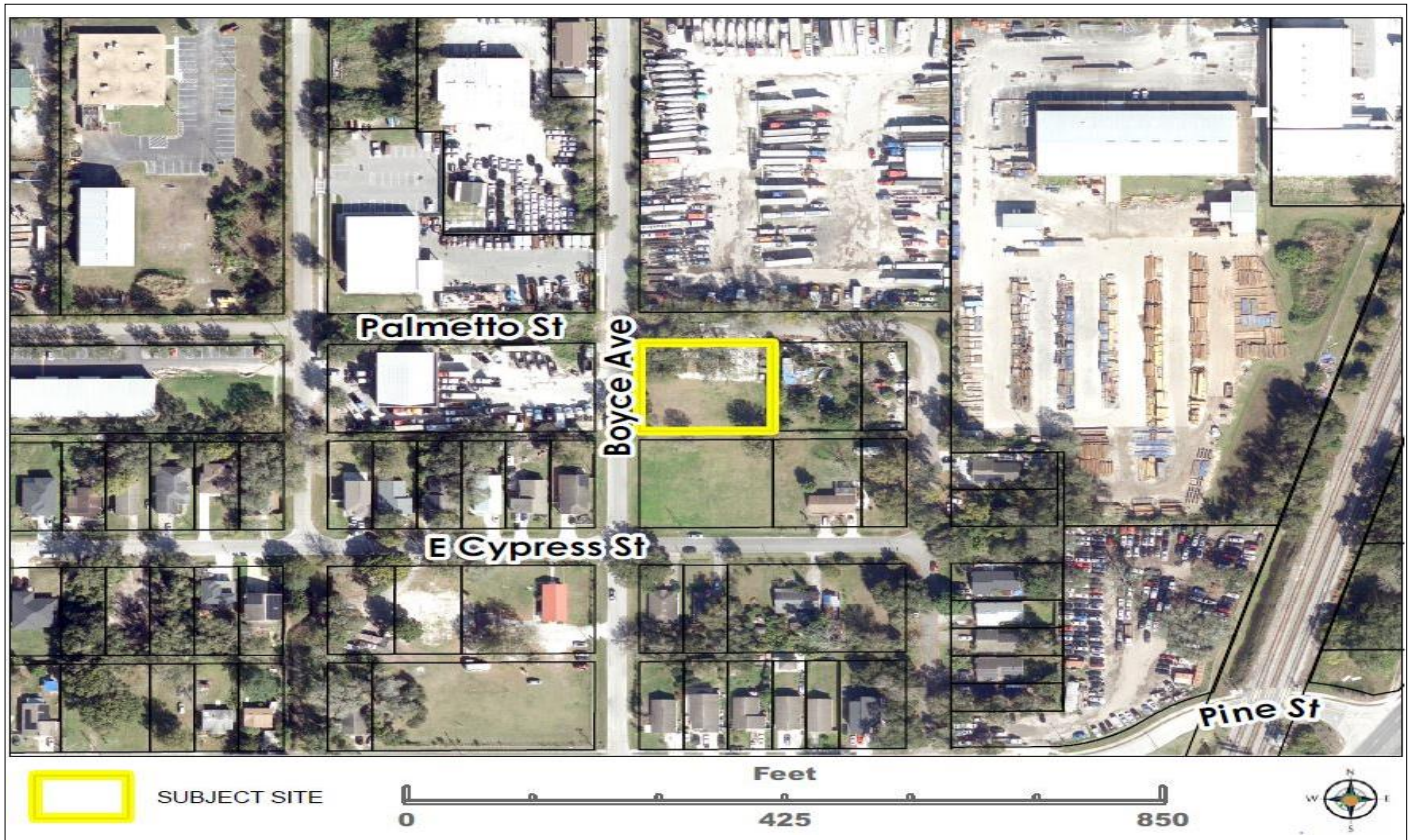
- 6. Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Approval of the zoning variance will be in harmony with the setback requirement of 10 ft since we are proposing a side setback of 11 ft 7 in.

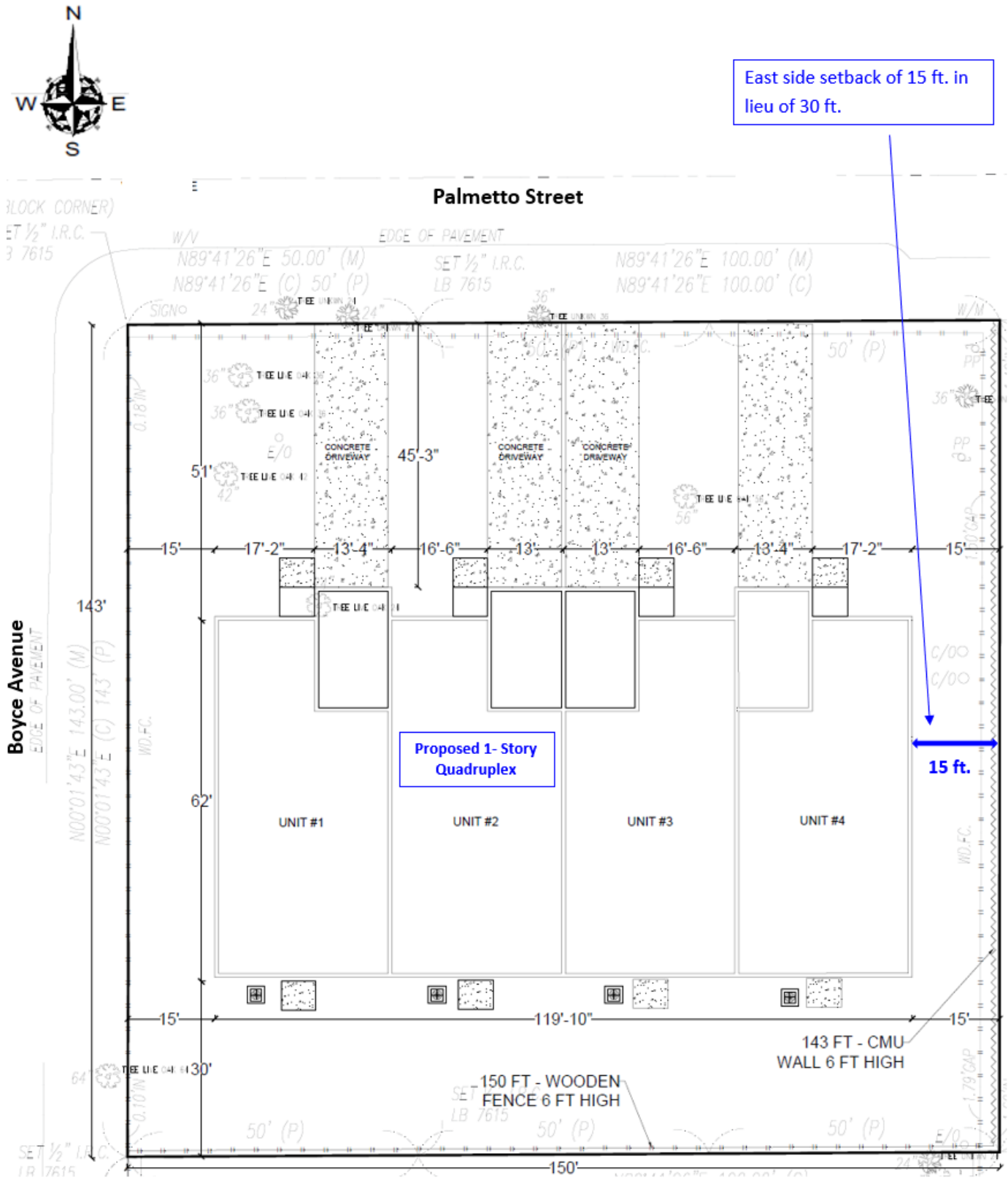
ZONING MAP



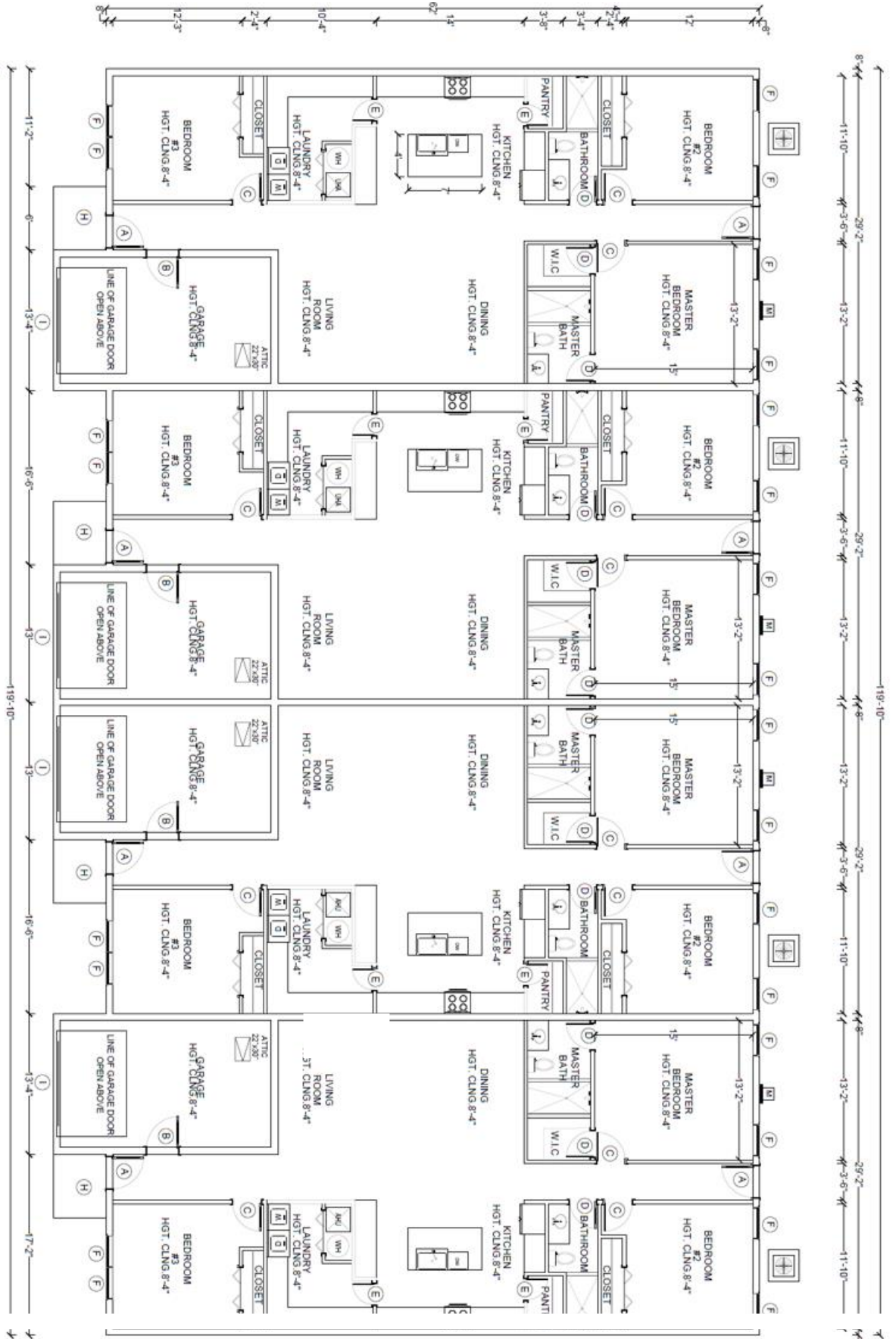
AERIAL MAP



SITE PLAN



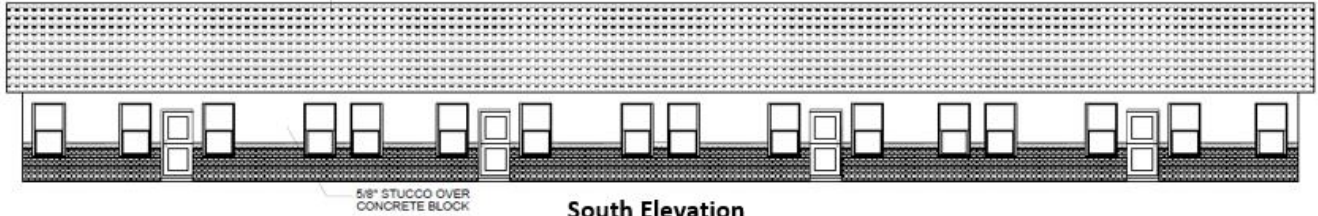
FLOOR PLAN



ELEVATIONS

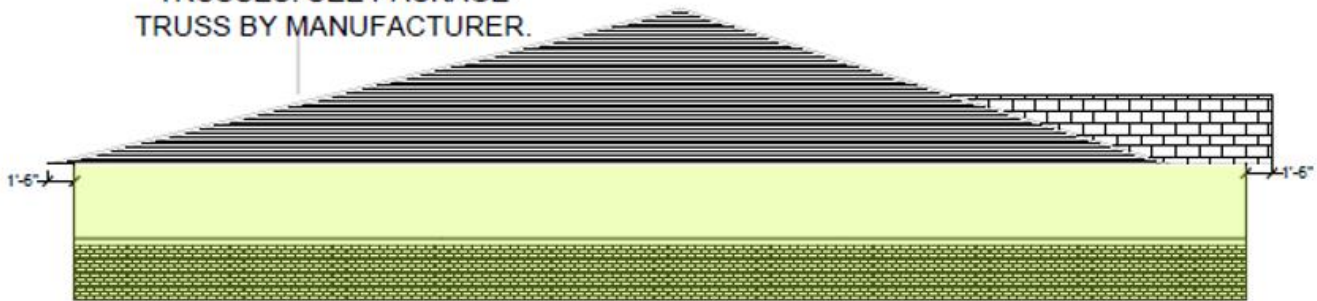


North Elevation



South Elevation

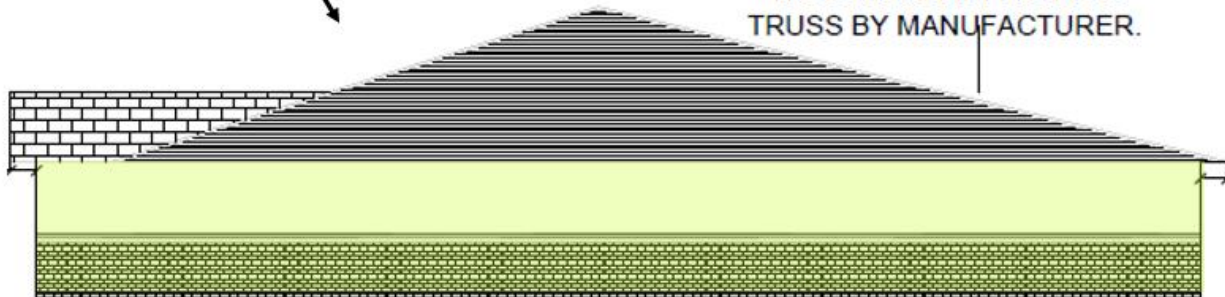
NEW ASPHALT SHINGLES OVER NEW ENGINEERING TRUSSES. SEE PACKAGE TRUSS BY MANUFACTURER.



East Elevation

The proposed quadruplex shall include two two-window panels on the east and west elevations to match the proposed architectural design on the proposed north façade.

NEW ASPHALT SHINGLES OVER NEW ENGINEERING TRUSSES. SEE PACKAGE TRUSS BY MANUFACTURER.



West Elevation

SITE PHOTOS



Facing southeast from Boyce Ave. towards Palmetto St. and the subject property



Palmetto Street, facing southwest towards front yard of property

SITE PHOTOS



Front yard, facing southeast towards pergola, deck, storage containers, and portable toilets to be removed



Adjacent property, facing northeast towards proposed location of quadruplex

SITE PHOTOS



Adajcent property, facing north towards unmaintained alley at rear of subject site

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 03, 2024**
Case #: **VA-24-09-080**

Commission District: **#1**
Case Planner: **Jenale Garnett (407) 836-5955**
Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): KEVIN MCCABE

OWNER(s): KEVIN MCCABE

REQUEST: Variance in the R-3 zoning district to allow an addition (screen room) with a 22.5 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 50 ft.

PROPERTY LOCATION: 6236 Masters Blvd. Unit E103, Orlando, FL 32819, southwest side of Masters Blvd., northeast of Lake Tibet Butler, west of S. Apopka Vineland Rd., south of Conroy Windemere Rd., west of I-4

PARCEL ID: 28-23-28-0519-05-103

LOT SIZE: +/- 0.19 acres (+/- 0.05 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 151

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets that the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by John Drago; unanimous; 6 in favor: Deborah Moskowitz, John Drago, Juan Velez, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 0 absent; 1 vacant):

1. Development shall be in accordance with the site plan and floor plan date stamped August 6, 2024, 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. Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the

Improvement resulting from the County's granting of the Variance request and, which shall inform all interested parties that the screen room is located no closer than 22.5 feet from the Normal High Water Elevation (NHWE) of Lake Tibet Butler.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that one (1) comment from the Homeowner's Association was received in favor of the request, and no comments were received in opposition to the request.

The applicant was present and agreed with staff presentation, noting there was a dilapidated screen room three years ago that was demolished.

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

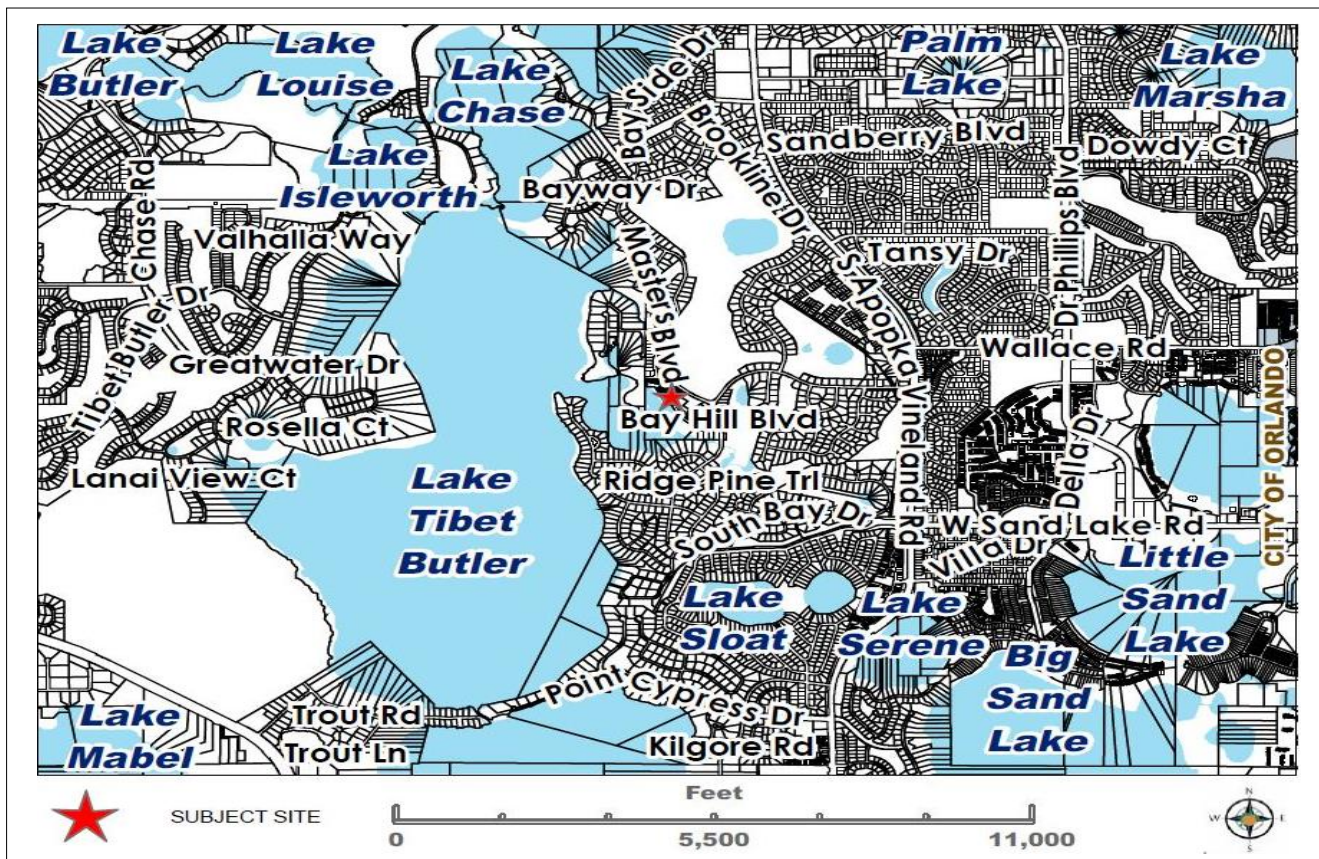
The BZA noted that the request was consistent with the additions on the adjacent units and no special privilege would be conferred.

The BZA unanimously recommended approval of the Variance by a 6-0 vote, with one seat vacant, subject to the four (4) conditions found 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-3	R-3 & R-1	R-3 & C-1	C-1 & R-1	Lake Tibet Butler
Future Land Use	R	R & LDR	R & C	C, LDR, & PR-OS	Lake Tibet Butler
Current Use	Condominium Complex	Condominium Complex & Single-family Residential	Condominium Complex & Tennis Pro Shop	Golf Club and Lodge	Lake Tibet Butler

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the R-3, Multiple-Family Residential District, which allows single-family homes and multi-family development. The Future Land Use is Rural/Agricultural (R), which is inconsistent with the R-3 zoning district, however, the site was developed in 1971 prior to the establishment of the Comprehensive Plan in 1991, and is recognized by Orange County as an existing use.

The subject property abuts the Lake Tibet Butler Marina to the immediate west and is a single unit within a condominium building that consists of six units. It is Unit E103 of the Bay Hill Apartments Condominium Plat, recorded in 1972. It is developed with a two-story 1,900 gross sq. ft. single-family condominium unit with a concrete patio. The property was purchased by the current owner in 2022.

Proposed is the installation of an attached 22 ft. by 12 ft., 264 sq. ft., 10 ft. tall screen room that is described as a pergola on the site plan, located at the rear of the condominium unit over the existing concrete patio. Per Sec. 38-79(18)(e) of the Orange County Code, a screen room located in a residential district that contains a Normal High Water Elevation (NHWE) line requires a 50 ft. setback from the NHWE. The screen room is proposed to be located 22.5 ft. from the NHWE, requiring the Variance. Even if the applicant were proposing a screen enclosure instead of a screen room the proposed setback would still encroach into the NHWE because although Sec. 38-1501 (footnote A.) allows screen enclosures attached to the principal structure to be the same distance as the respective zoning district requirements as measured from the NHWE it would have to be setback 30 ft. from the NHWE under that provision. A permit for the screen room that is described as covered lanai on permit B24005486 is on hold pending the outcome of this request. Staff recommends approval of the Variance, as the construction of a usable addition or improvement is difficult without the need for the request.

The Orange County Environmental Protection Division (EPD) has reviewed the request and has no objection.

As of the date of this report, no comments have been received in favor or in opposition to this request. A letter of support from the Bay Hill Apartments Condo P&R Housing Management has been received.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	10 ft. (Screen room)
Min. Lot Width:	85 ft.	420 ft.
Min. Lot Size:	15,000 sq. ft.	143,765 sq. ft. (Bay Hill Apartments Condo) 8,276 sq. ft. Condo building (2,178 sq. ft. acres upland)

Building Setbacks (Screen Room)

	Code Requirement	Proposed
Rear:	30 ft.	35.8 ft. Existing condominium unit (West)
Side:	10 ft.	252.8 ft. (North) 102.9 ft. (South)
NHWE	50 ft.	22.5 ft. (West – Variance)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special condition and circumstance particular to the subject property is the placement of the existing condo building, built in 1971, which restricts the area where any useable addition or improvement could be built that conforms to setback requirements.

Not Self-Created

The request is not self-created since the owner is not responsible for the existing condo building relative to the NHWE line which limits the area where an addition or improvement with useable area could be built that conforms to setback requirements.

No Special Privilege Conferred

Granting the Variance as requested would not confer special privilege as the orientation of the existing condo building and the year built restricts the area where any useable addition or improvement could be built that meets code. Also, there are neighboring condos that contain similar structures and appear to have similar setbacks to the NHWE.

Deprivation of Rights

Without approval of the requested Variance, the owner will be deprived of the ability to construct reasonable sized improvements to the property.

Minimum Possible Variance

The requests are the minimum possible as the design of the addition as proposed is substantially using the footprint of the existing concrete slab relative to the NHWE line. Furthermore, the proposed location of the improvement's setback as requested, is the minimum possible Variance.

Purpose and Intent

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The design of the addition as proposed generally uses the footprint of the existing uncovered patio relative to the NHWE line.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and floor plan date stamped August 6, 2024, 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. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance request and, which shall inform all interested parties that the screen room is located no closer than 22.5 feet from the Normal High Water Elevation (NHWE) of Lake Tibet Butler.
- C: Kevin McCabe
6236 Masters Boulevard, Unit E103
Orlando, FL 32819
- Manny Santos
278 Semoran Commerce Place
Apopka, FL 32703

COVER LETTER

Orange County Zoning Division
201 South Rosaline Ave. 1st. Floor,
Orlando, Fl. 32801
407-836-3111
BZA@ocfl.net

Re: Kevin M. McCabe
3626 Masters Blvd.
Orlando, Fl. 32819
310-415-0404
Permit No: B24900344

To whom it may concern:

We are respectfully requesting a variance for a replacement accessory structure pergola. The pergola is replacing an existing 12x12 wood pergola. The new aluminum pergola is a 12x22 as shown on the rendering attached. The structure involves the construction of engineered footer that are encroaching 12'-0" within the municipality setback of 50' from the high-water line. Granting this variance would allow me to utilize and beautify my back property as has been done for my homeowner's neighbors. The request would be adding to an area that is already occupied within the 50" setback.

Should you have any questions about this application, please feel free to contact me or my authorized agent.

Sincerely


Kevin M. McCabe.

COVER LETTER

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 a proposed zoning variance.
The special conditions of the structure involve pertain to the construction of engineered footer that are encroaching within the municipality setback of 50'-0'

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed 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.
The special conditions are that there is 50' from high water line set back of property to the house footprint. The 12" depth pergola is replacing an existing wood 12" depth pergola.

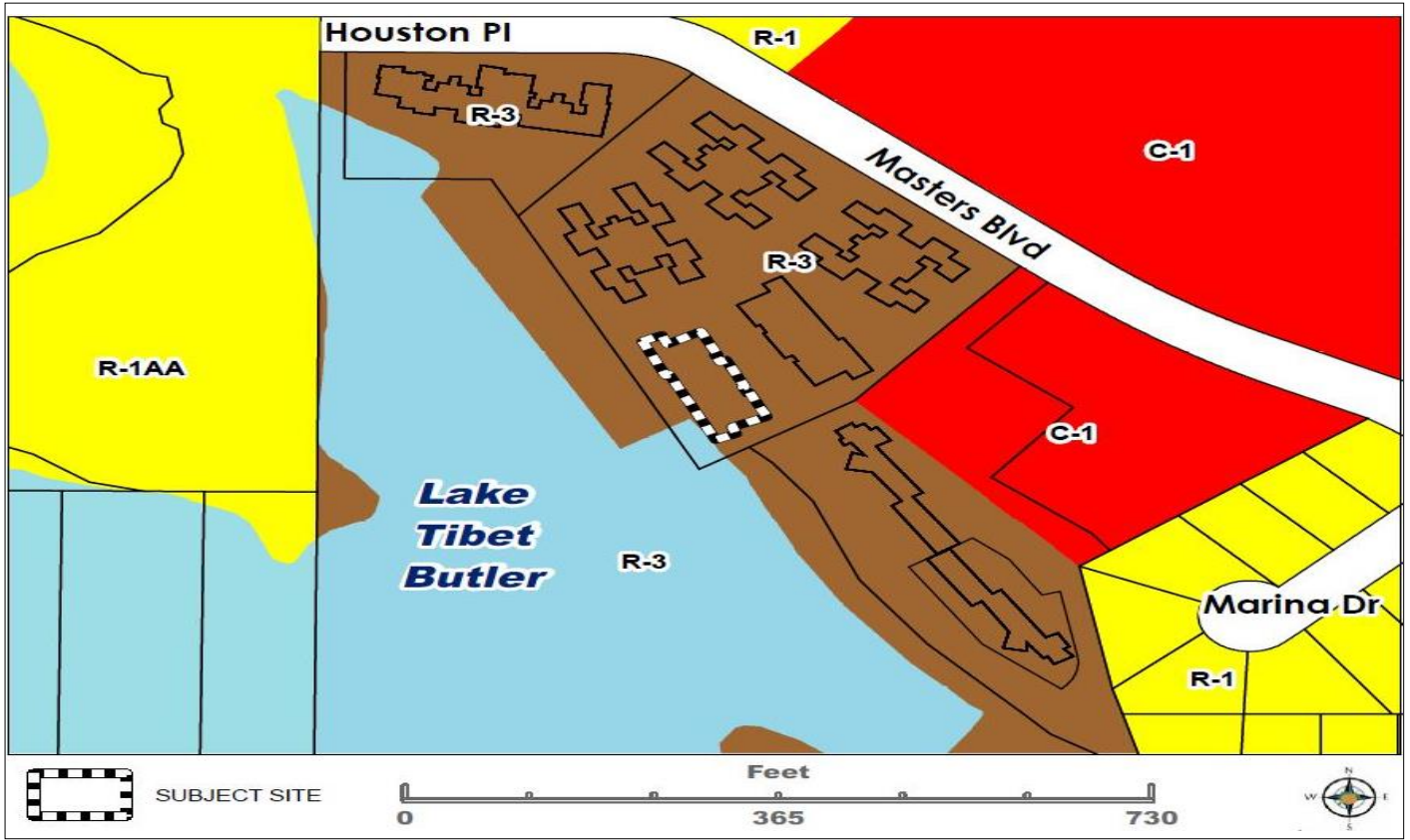
3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.
By granting this variance would allow me to utilize and beautify my back property as which has been done for many other homeowners.

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 property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.
Same answer provided earlier.

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.
This request would be adding to an area that is already occupying within the 50' setback.

6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
Same answer as #3

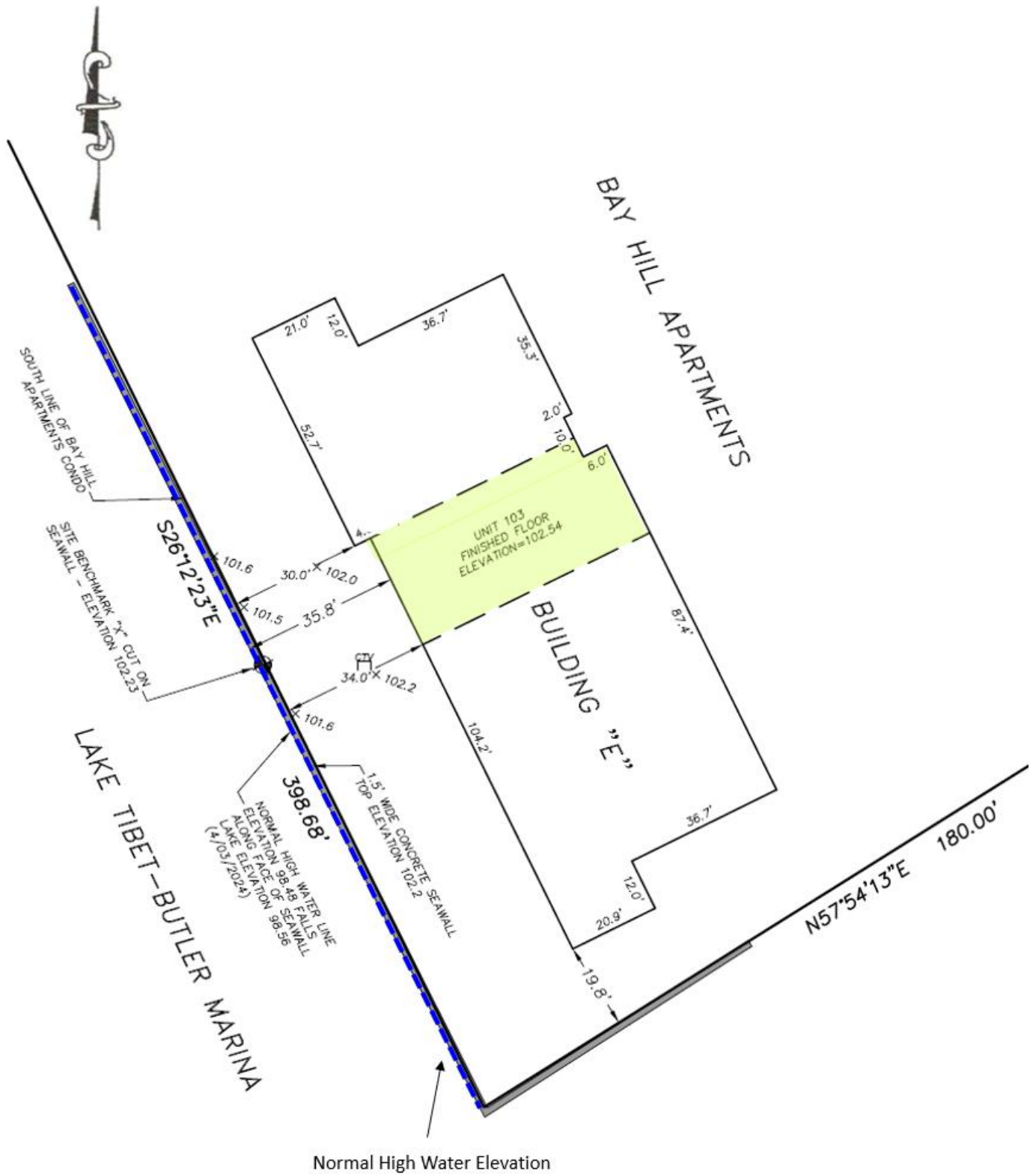
ZONING MAP



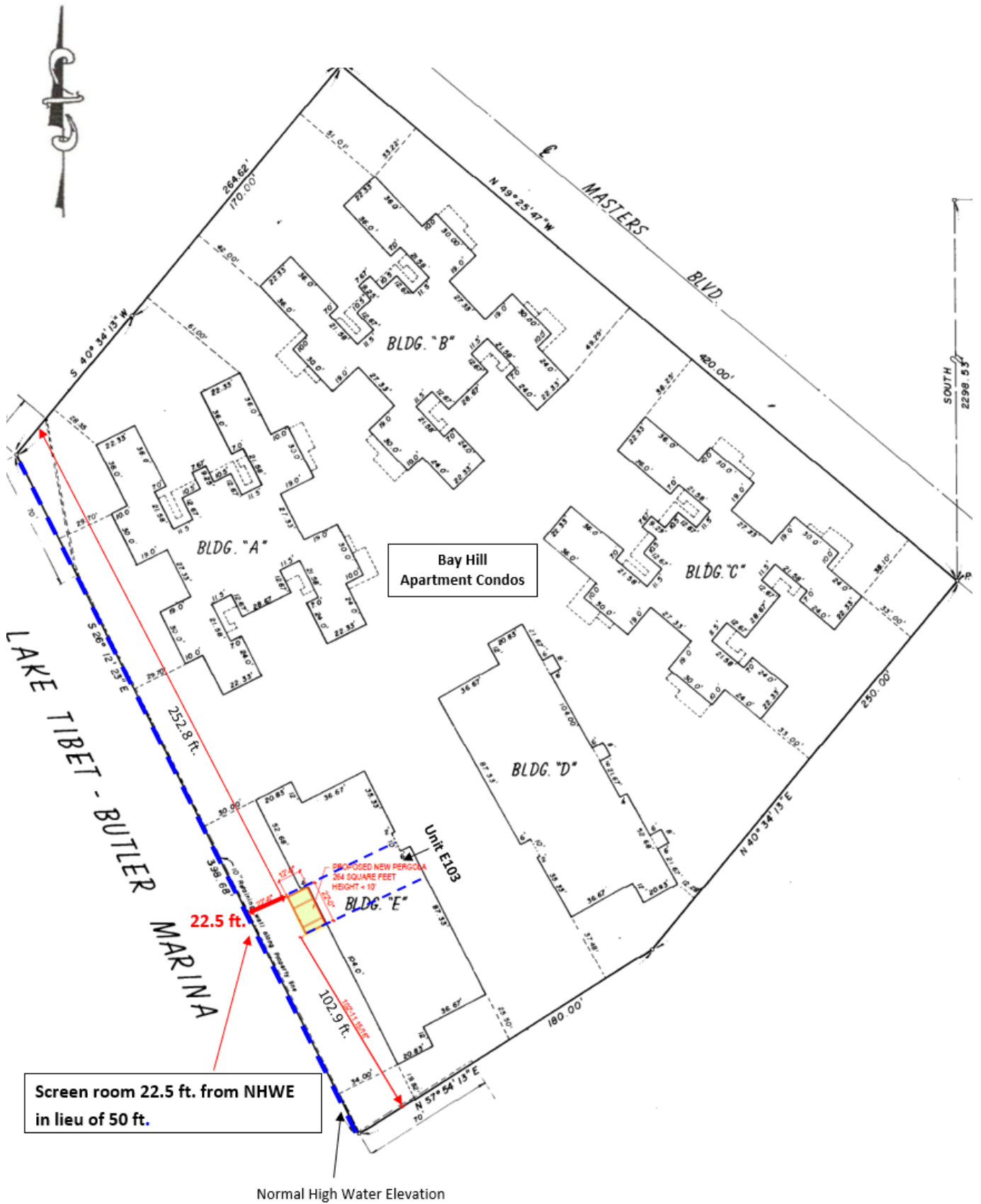
AERIAL MAP



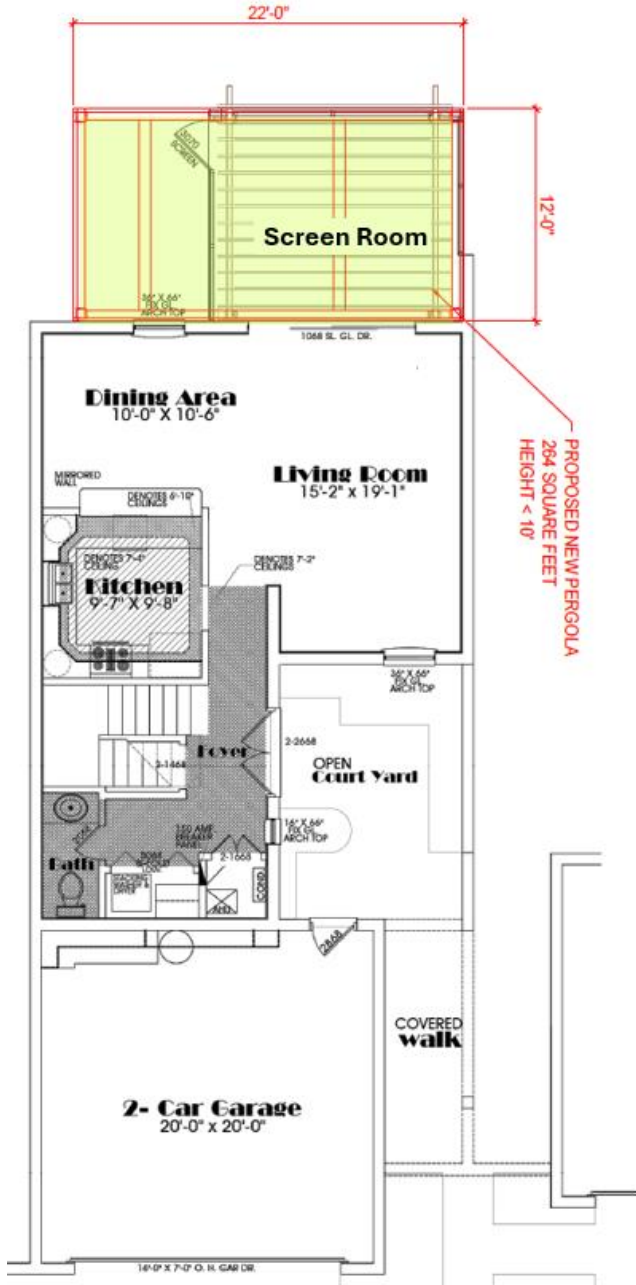
SURVEY FOR CONDOMINIUM BUILDING E



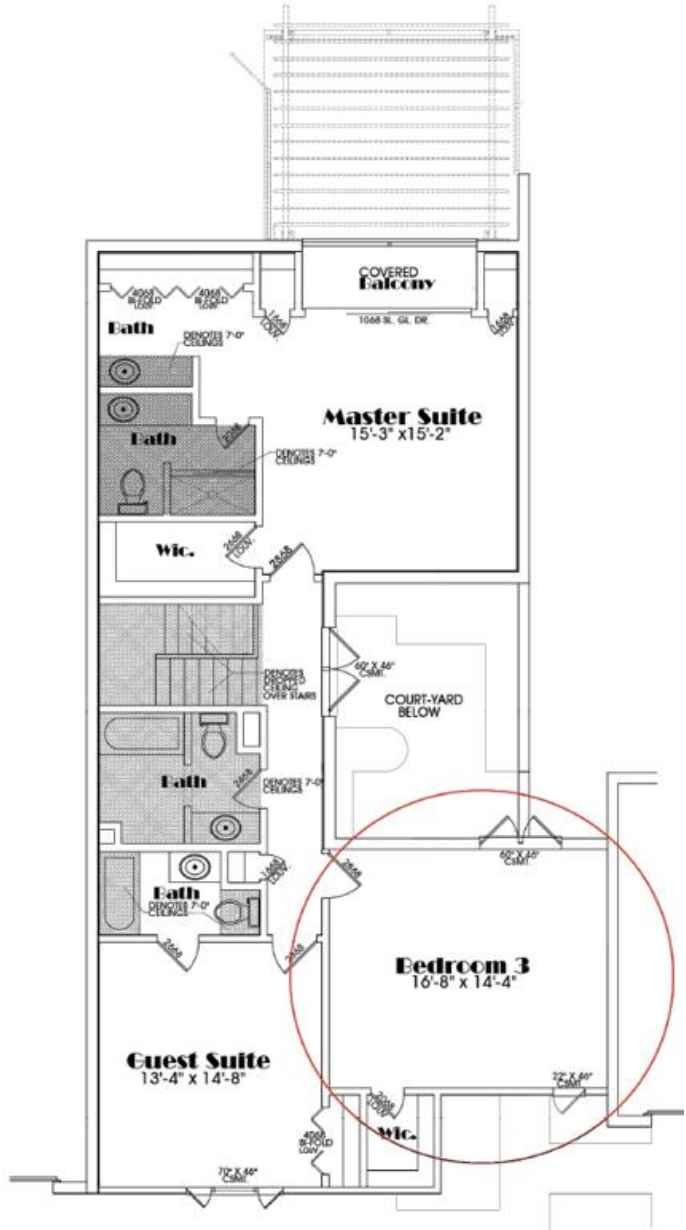
SITE PLAN



FLOOR PLAN FOR PROPOSED SCREEN ROOM AND EXISTING UNIT E103



First Floor



Second Floor

SITE PHOTOS



Facing northwest towards front of Condominium Building E



Facing west towards front of subject site (Unit E103)

SITE PHOTOS



Facing east towards proposed screen room location



Facing west from the existing concrete patio towards Lake Tibet Butler Marina

SITE PHOTOS



Facing southeast towards existing rear of adjacent condominium units

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 03, 2024**

Commission District: **#6**

Case #: **VA-25-01-110**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JAIME RODRIGUEZ

OWNER(s): 35TH STREET PROPERTIES LLC

REQUEST: Variance in the C-1 zoning district to allow the construction of a 7,500 sq. ft. building with a front setback of 10 ft. in lieu of 25 ft.

PROPERTY LOCATION: 1321 35th St., Orlando, FL 32839, northeast corner of 35th St. and S. Nashville Ave., west of S. Orange Blossom Trl., east of S. Rio Grande Ave., south of I-4

PARCEL ID: 03-23-29-0182-87-130

LOT SIZE: +/- 0.46 acres (+/- 20,255 sq. ft.)

NOTICE AREA: 1,200 ft.

NUMBER OF NOTICES: 398

DECISION: Recommended **APPROVAL** of a lesser Variance of 15 ft. in lieu of 25 ft. in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as modified (Motion by Sonya Shakespeare, Second by Juan Velez; 5 in favor: Deborah Moskowitz, Juan Velez, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 1 opposed: John Drago; 0 absent; 1 vacant):

1. Development shall be in accordance with the site plan dated June 20, 2023, as modified, 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 site plan shall include a pedestrian walkway with a direct connection from S. Nashville Avenue and 35th Street to the concrete sidewalk abutting the south side of the commercial building.

5. The exterior lighting photometric plan and exterior light fixtures shall be compliant with the county's exterior lighting ordinance. In addition, all pole mounted fixtures shall be full cutoff and with fixture color temperature of 3,500 K maximum. The photometric plan shall be submitted and approved by Orange County staff prior to the issuance of a Building Permit. In addition, glare visors shall be installed, and field-adjusted in such a manner as to restrict light distribution to the premises of the building or project.
6. The elevations shall include an extended stone water element along the south and west façades at a minimum; a finish that consists of stucco, brick, etc. on the south and west façades; a max allowance of thirty percent (30%) area of corrugated panels feature for the north secondary façade; a parapet along the primary façades and feature varied roof planes; and windows and awnings on all façades. Compliance with Chapter 9 Article 13 will be completed at permitting and additional measures may be required to comply with the code.

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

The applicant discussed the staff recommendation of denial, noting the reason for the design and configuration of the proposed structure.

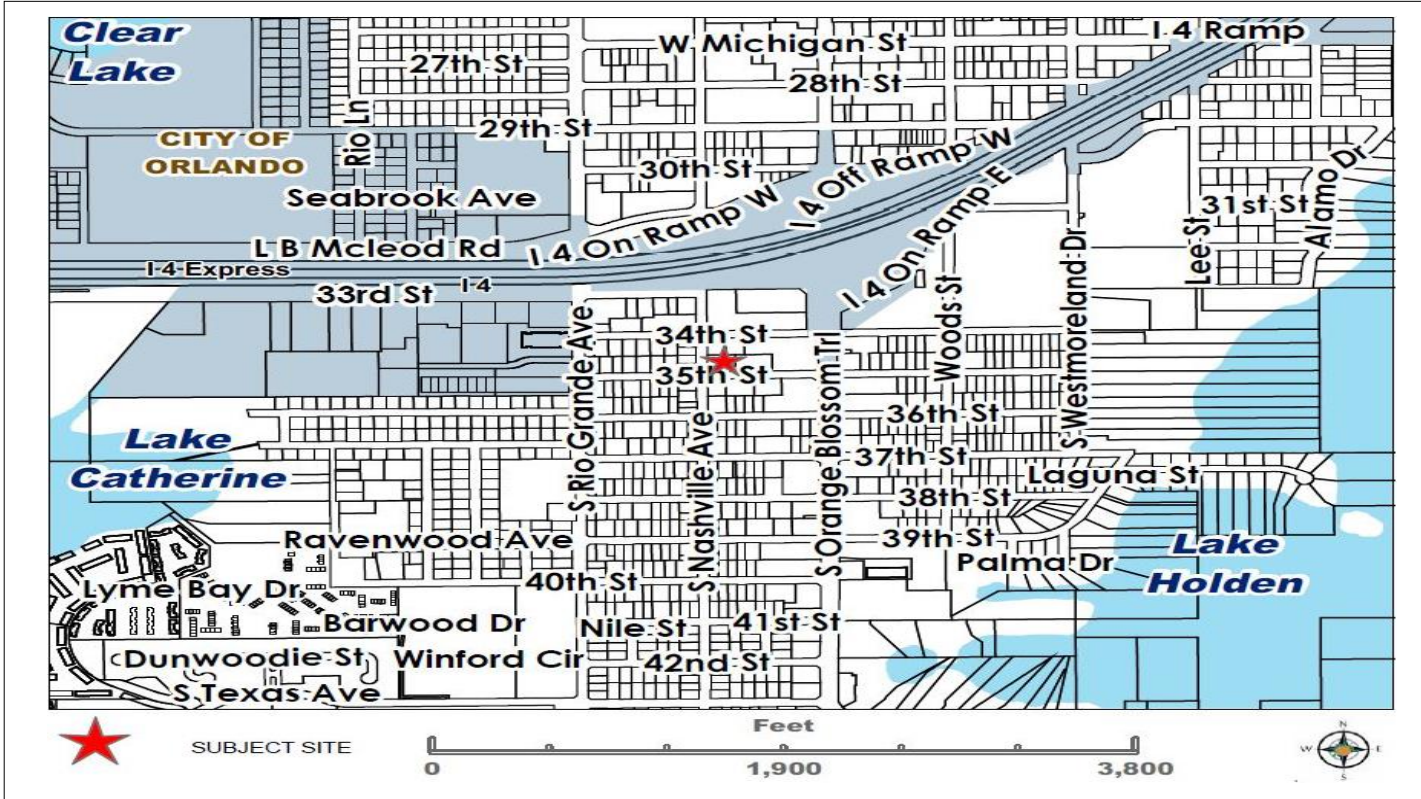
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the request determining the site can be modified to lessen the Variance and unanimously recommended approval of a lesser Variance of 15 ft. in lieu of 25 ft. by a 6-0 vote, with one seat vacant, subject to the six (6) conditions found in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	C-1	C-1	C-2 & R-1A	C-2	R-1A
Future Land Use	C	C	C & LDR	C	C
Current Use	Vacant	Vacant	Auto Services, Single-family residence	Vacant	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the C-1, Retail Commercial District, which allows for restaurants, retail stores, offices and various other commercial businesses. The Future Land Use is Commercial (C), which is consistent with the C-1 zoning district.

The area surrounding the subject site consists of commercial businesses, single-family homes, and vacant lots to the immediate north and east. The subject property is a vacant 0.46 acre parcel, platted in 1924 as lots 13, 14, and 15 of the Angebilt Addition No. 2 Plat, that conforms with the zoning regulations for the district. The property is located on the corner of S. Nashville Avenue and 35th Street. The frontage is considered S. Nashville Avenue since that is the width of the lot abutting the street with the highest volume of vehicular traffic and the side street is 35th Street. The current owner purchased the property in September 2007.

The proposal is to develop a 100 ft. by 75 ft., 7,500 sq. ft., 22 ft. tall metal building to lease for commercial uses. Although the proposed design of the structure appears as a warehouse, which is not allowed in the C-1 zoning district, the owner proposes to lease the building for permitted uses in the zoning district. The proposed building will contain metal siding, with metal siding and stone on the east façade facing the parking lot with a front west setback of 10 ft. in lieu of 25 ft., requiring a Variance. A permit for the construction of the 7,500 sq. ft. metal building (B23903755) has since expired.

Staff is recommending denial of the Variance since the proposed building is new construction and could be redesigned or reduced in size to lessen the Variance request or meet code, thereby eliminating the need for the Variance. For example, the drive aisle width could be reduced from 25 ft. to 22 ft., and the parking space dimensions could be reduced from 20 ft. by 10 ft. to 18 ft. by 9 ft., which provides an additional 5 ft. of space to shift the proposed building to the east on the site lessening the Variance request to 15 ft. instead of 10 ft. The building will be required to comply with Orange County Code Chapter 9, Article 13, which details the architectural standards and guidelines for commercial buildings. For example, the stone finish must be extended to street facing facades, and the massing of corrugated metal must be broken up with windows, doors, or additional architectural features which will be required at permitting. Therefore, the elevations provided are insufficient and will need to be modified to meet Chapter 9 Article 13. Furthermore, per Sec. 30-250 (c) (4) of the Orange County Code which details pedestrian accommodations requires pedestrian walkway connections between all building entrances, adjacent streets and sidewalks, and transit stops in adjacent rights-of-way. Therefore, the site plan will need to be modified to include a pedestrian walkway with a direct connection from S. Nashville Avenue and 35th Street to the concrete sidewalk abutting the south side of the commercial building.

The Orange County Environmental Protection Division has reviewed the request and stated all sound levels shall comply with the Orange County Code Chapter 15 Environmental Control, Article V Noise Pollution Control, Section 15-182, which pertains to maximum permissible sound levels.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	22 ft.
Min. Lot Width:	N/A	135 ft.
Min. Lot Size:	6,000 sq. ft.	20,255 sq. ft.

Building Setbacks (Commercial Building)

	Code Requirement	Proposed
Front: Nashville Avenue	25 ft.	10 ft. (West - Variance)
Rear:	20 ft.	65 ft. (East)
Side:	0 ft.	14 ft. (South)
Side Street: 35 th Street	15 ft.	20 ft. (North)

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances particular to the subject property since this is new construction of a commercial building, and the plans could be revised to lessen the request or meet all setbacks thus negating the need for the Variance.

Not Self-Created

The request is self-created in that it is new construction and there are alternatives to lessen the Variance request or eliminate the request.

No Special Privilege Conferred

Granting this Variance will confer a special privilege since there are other options to construct a commercial building that is in compliance with the code.

Deprivation of Rights

The applicant is not being deprived the right to construct a commercial building, and there is sufficient space on the property to meet the required setbacks.

Minimum Possible Variance

The Variance is not the minimum, since the site could be redesigned to lessen the request or meet code.

Purpose and Intent

Approval of the requested Variance will allow infill development and improvements in an appropriate location which is in harmony with the purpose and intent of the Zoning Regulations.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated June 20, 2023, as modified, 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 site plan shall include a pedestrian walkway with a direct connection from S. Nashville Avenue and 35th Street to the concrete sidewalk abutting the south side of the commercial building.
5. The exterior lighting photometric plan and exterior light fixtures shall be compliant with the county's exterior lighting ordinance. In addition, all pole mounted fixtures shall be full cutoff and with fixture color temperature of 3,500 K maximum. The photometric plan shall be submitted and approved by Orange County staff prior to the issuance of a Building Permit. In addition, glare visors shall be installed, and field-adjusted in such a manner as to restrict light distribution to the premises of the building or project.
6. The elevations shall include an extended stone water element along the south and west façades at a minimum; a finish that consists of stucco, brick, etc. on the south and west façades; a max allowance of thirty percent (30%) area of corrugated panels feature for the north secondary façade; a parapet along the primary façades and feature varied roof planes; and windows and awnings on all façades. Compliance with Chapter 9 Article 13 will be completed at permitting and additional measures may be required to comply with the code.

C: Jaime Rodriguez
3101 Maguire Boulevard, Suite 259
Orlando, FL 32803

1

To: Orange County Building Department

Variance Address: 1321 35th street orlando

This letter is to request a variance to allow a 10' setback on Nashville side in lieu of 25'. The lot is almost square 150'x135'. The building will be used for warehouse/workshop.

1. Special conditions and circumstances:

This lot is almost square (150'x135'). The proposed building with parking lot, landscaping and setbacks fits our site if the front of the property faces 35th street making the side setbacks to face Nashville Ave. Installing the building and entry as proposed will also block any noise, vehicle traffic to the neighborhood on the Nashville side. After talking to the neighbors in Nashville, they prefer this option also. Landscaping will be added to the Nashville side to also create a buffer towards the neighbors.

2. Not Self-Created

The existing conditions and dimensions of the lot will fit better or design to have the parking lot away from Nashville Ave and have the rear of the building facing also Nashville Ave.

3. No special privilege conferred.

We do not think there is any special privilege as we are only asking for a 10' setback in lieu of 25' on Nashville side

4. Deprivation of rights

We would like to build the 7,500 sqft building and because of the dimensions of the lot, it only fits with front and rear setbacks facing 35th street and side setbacks facing Nashville Ave. If we have to turn the building 90 degrees for the setbacks, the building will lose 15' reducing the square footage significantly.

5. Maximum Possible Variance

We are asking for a 10' setback on Nashville in lieu of 25'

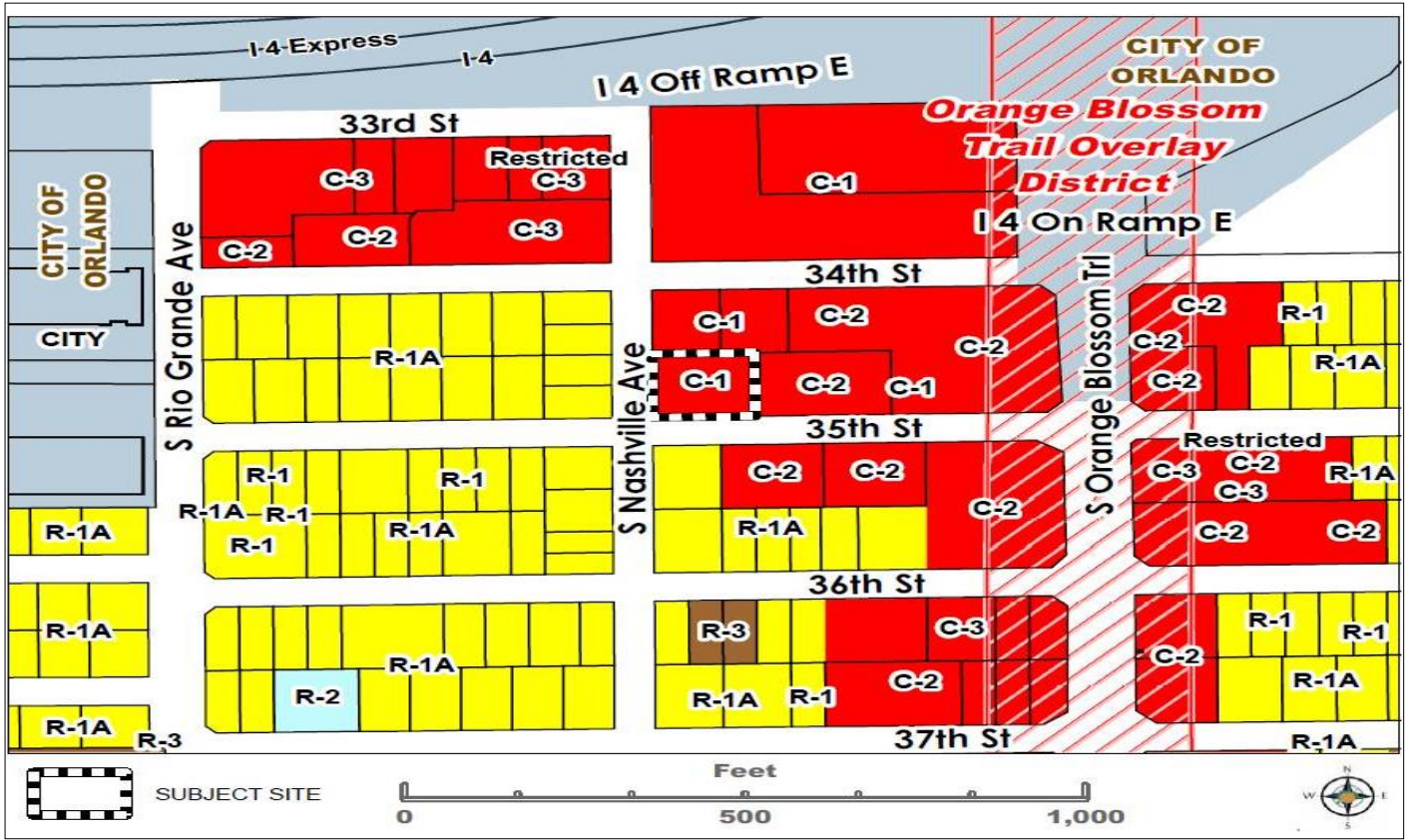
6. Purpose and Intent

This variance will not impact any neighbors or create any detrimental circumstances to the public welfare.

If you have any questions, let me know.

Sincerely,
Jaime Rodriguez

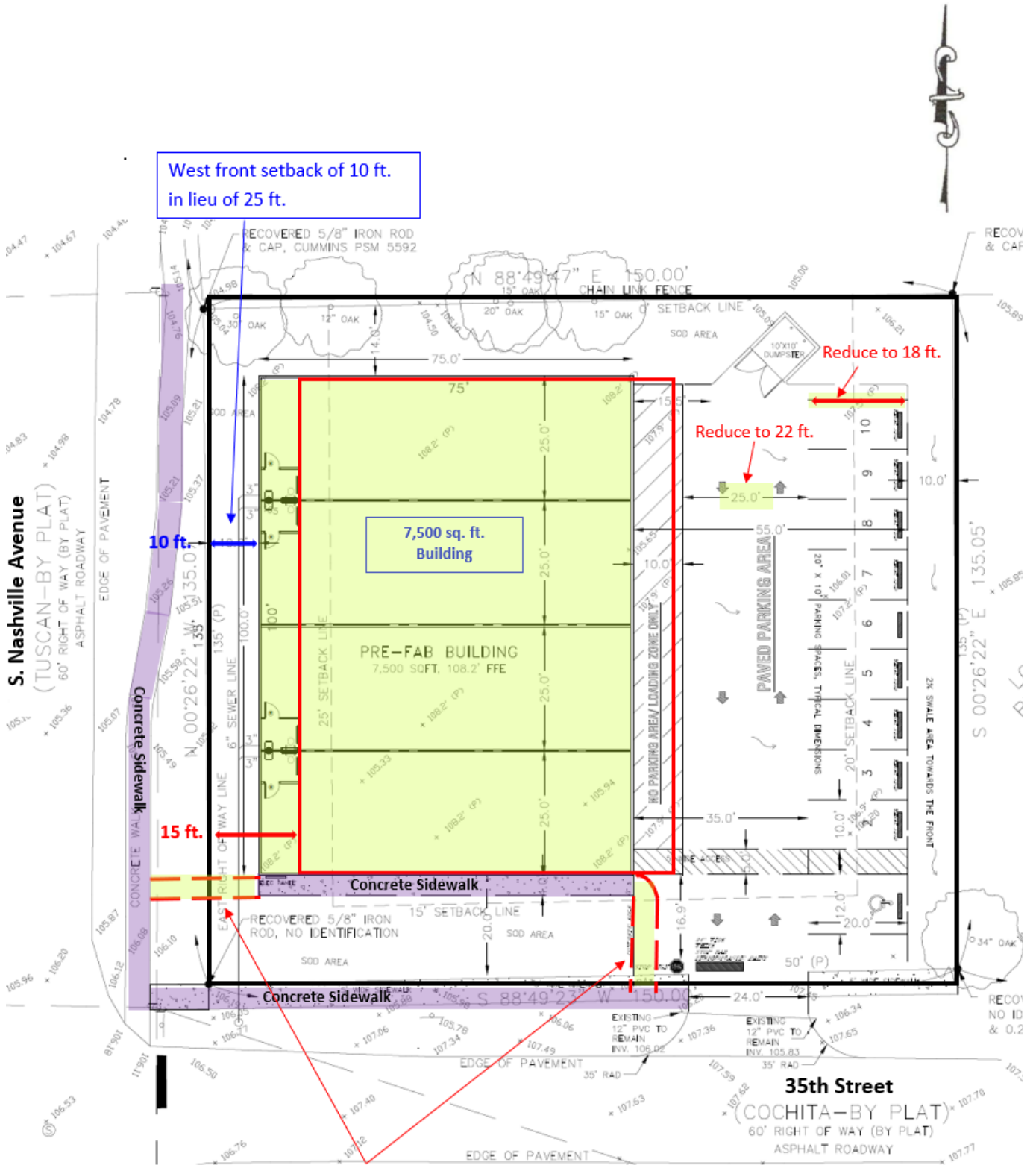
ZONING MAP



AERIAL MAP



SITE PLAN



West front setback of 10 ft.
in lieu of 25 ft.

7,500 sq. ft.
Building

Reduce to 18 ft.

Reduce to 22 ft.

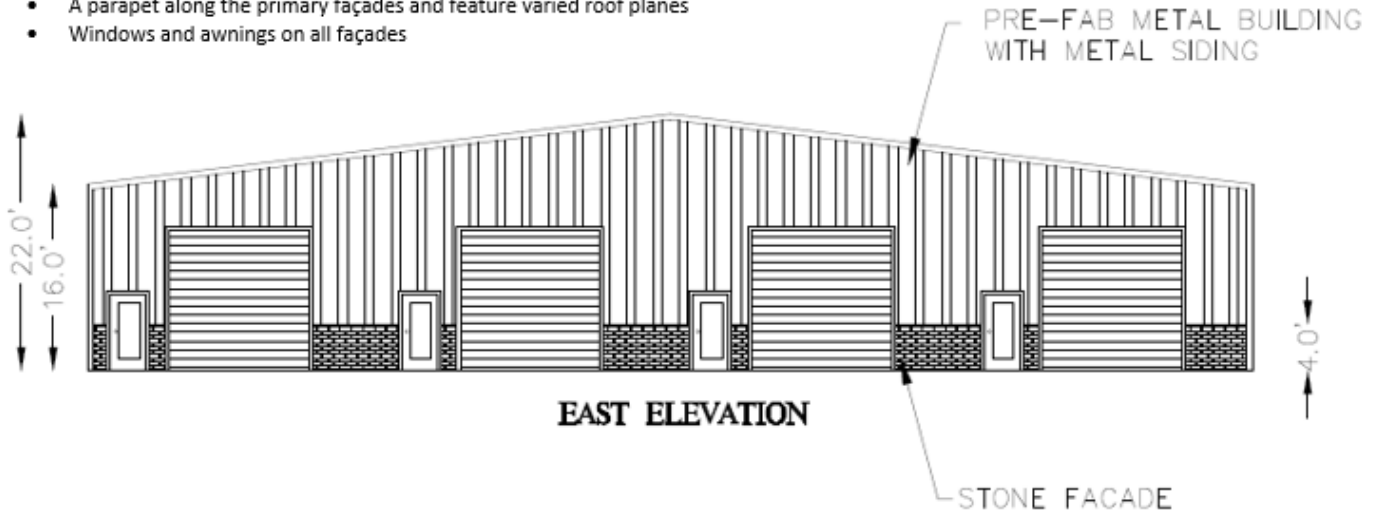
15 ft.

Pedestrian walkway to connect S. Nashville Ave. and
35th St. to concrete sidewalk abutting commercial

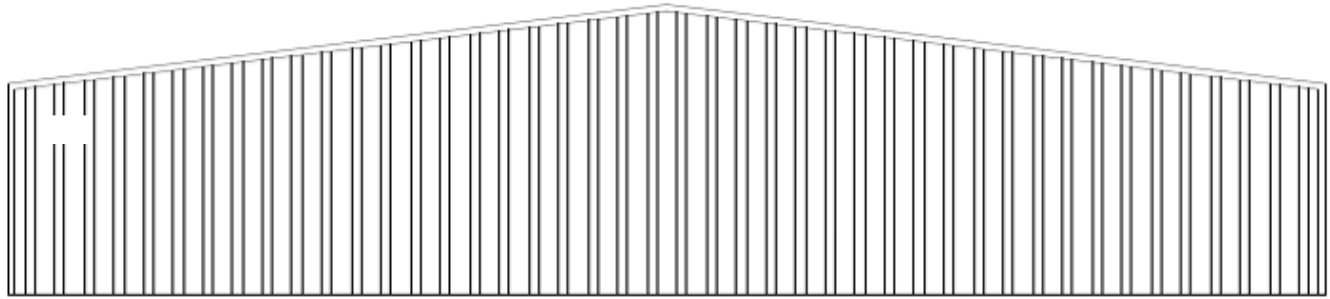
PROPOSED ELEVATIONS REQUIRED TO BE MODIFIED TO MEET CODE

The design of the commercial building shall be modified to include the following:

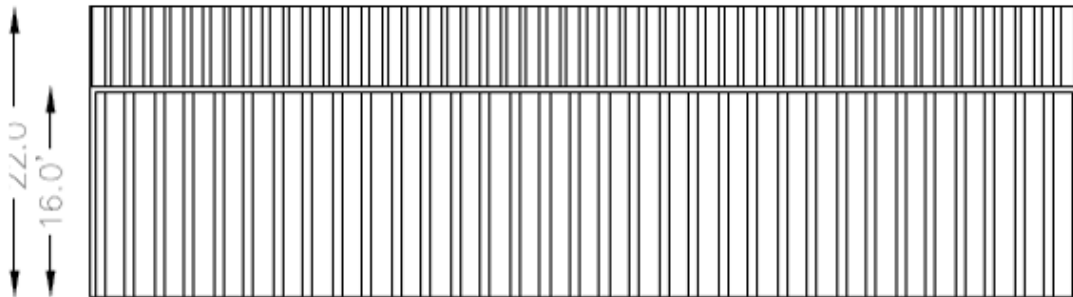
- An extended stone water element along the south and west façades at a minimum
- A finish that consists of stucco, brick, etc. on the south and west façades
- A maximum allowance of thirty percent (30%) area of corrugated panels feature for north secondary façades
- A parapet along the primary façades and feature varied roof planes
- Windows and awnings on all façades



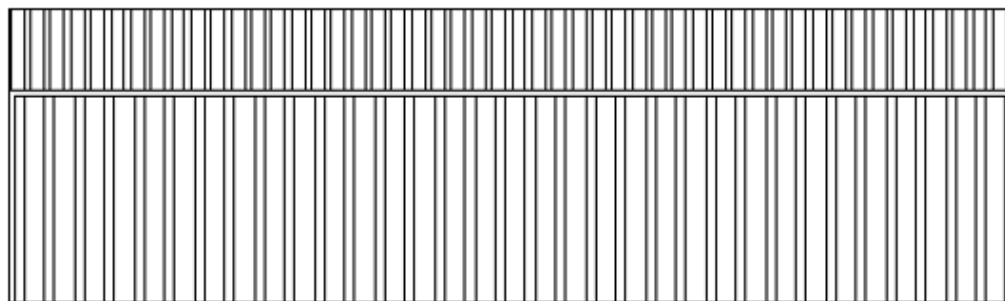
EAST ELEVATION



WEST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION

SITE PHOTOS



Facing northeast from corner of S. Nashville Ave. and 35th St. towards the subject property



Facing northwest from 35th St. towards proposed entrance to parking area location

SITE PHOTOS



Facing southeast from S.Nashville Ave. towards proposed location of Variance request

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 03, 2024**
Case #: **VA-24-10-107**

Commission District: **#1**
Case Planner: **Catherine Glase (407) 836-9615**
Catherine.Glase@ocfl.net

GENERAL INFORMATION

APPLICANT(s): DONN SHARPE
OWNER(s): ANDRE VALADAO MINISTRIES LLC
REQUEST: Variance in the R-CE zoning district to allow a minimum lot area of 0.75 acres (upland) in lieu of 1 acre.

PROPERTY LOCATION: 9712 Kilgore Rd., Orlando, FL 32836, west of Kilgore Rd., northeast of Pocket Lake, south of W. Sand Lake Rd., east of Winter Garden Vineland Blvd.

PARCEL ID: 04-24-28-0000-00-019

LOT SIZE: +/- 1.48 acres (+/- 0.75 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 43

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by John Drago; 5 in favor: John Drago, Juan Velez, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 1 opposed: Deborah Moskowitz; 0 absent; 1 vacant):

1. Development shall be in accordance with the site plan date stamped August 28, 2024, 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. Prior to the issuance of the single-family residence permit, a permit shall be obtained for the deck, or the deck shall be demolished.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation of approval of the

variance. Staff noted that as of the date of the meeting, no comments were received in favor to the request. However, a representative of a neighbor had called to voice their opposition to the request.

The applicant agreed with staff's presentation and noted that they went through the substandard lot of record research process, but it was determined this lot was jointly owned with another back in the 1970s, which disqualifies it from being recognized as a substandard lot of record, so this is the only path to allow them to build a home.

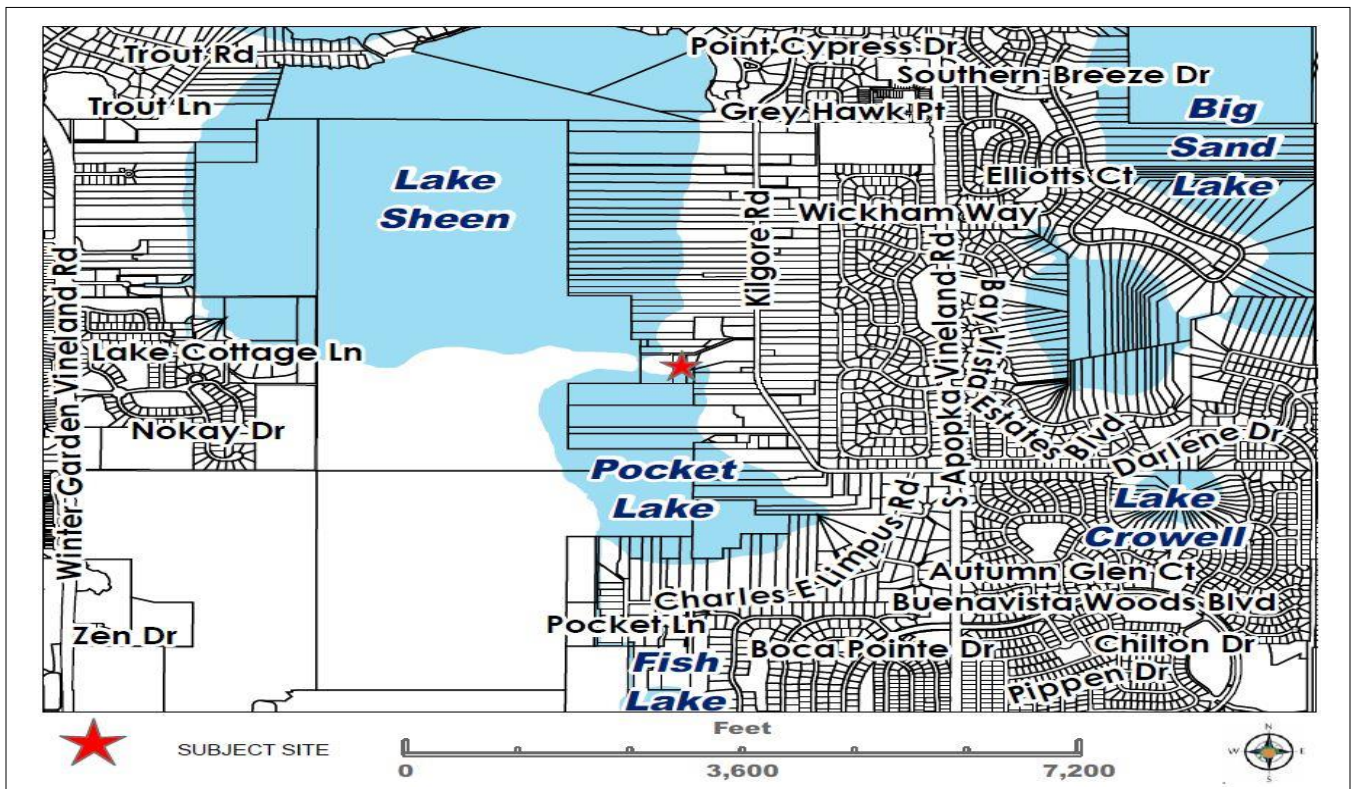
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the request, noting that the lot predates the zoning code, and the applicant would not be able to build on the lot if the Variance were not approved. They also stated that based on the Variance approval on the abutting lot, that precedence for the Variance had been established. The BZA recommended approval of the Variance by a 5-1 vote, with one seat vacant, subject to the four (4) conditions found 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-CE	R-CE	Pocket Lake	R-CE	R-CE
Future Land Use	Rural	Rural	Pocket Lake	Rural	Rural
Current Use	Vacant	Single-family residence	Pocket Lake	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-CE, Rural Country Estate District, which allows primarily single-family homes and certain agricultural uses with a minimum lot area of one (1) acre. The Future Land Use Rural (R), 1 dwelling unit/10 acres, which is consistent with the R-CE zoning district.

The area around the subject site consists of single-family homes, many of which are lakefront. The subject property is a vacant 1.48 acres (0.75 acres upland) lakefront lot, located on Pocket Lake. The property is unplatted, and is a substandard lot, as it does not meet the minimum lot size. The current owner acquired the property in June of 2022.

The previous residence was demolished in February of 2024 (B24002560). There was an existing boat dock with a deck on the property at the time of the staff site visit. The portion of the structure landward of the Normal High Water Elevation (NHWE) line does not comply with the 50 ft. setback measured to the NHWE line. The applicant has indicated the boat dock and deck will be demolished (Condition of Approval #4).

Per Orange County Code Sec. 38-1401, if two or more adjoining lots were under single ownership on or after October 7, 1957, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. The subject property, and the adjacent properties to the east and west, were under contiguous ownership in the 1970s. Thus, the parcel cannot be considered to be a substandard lot of record, and a variance is required for the lot area in order to build a single-family home on the property.

The subject property contains 0.75 acres (upland) in lieu of 1 acre, requiring the variance request. The proposal is to construct a 2 story 10,493 gross sq. ft. single-family home on the property, which complies with the performance standards for a lot zoned R-CE. Staff recommends approval of the request since it is in harmony and consistent with the size of lots in the surrounding neighborhood. Further, the adjacent lots to the north and south are developed with similar lot sizes as the subject property.

The Orange County Public Works Division has no concerns with the Variances but has noted the applicant shall appropriately execute and submit a Non-Maintenance Agreement and a Notice of Future Assessment to the Public Works Development Engineering Department before a Certificate of Occupancy (CO) is issued for the single-family residence. All other routed Divisions had no comments.

As of the date of this report, zero comments have been received in favor or opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	23.4 ft.
Min. Lot Width:	130 ft.	150 ft.
Min. Lot Size:	1 acre	0.75 acres upland (Variance Request)

Building Setbacks (Single-Family Residence)

	Code Requirement	Proposed
Front:	35 ft.	35 ft. (North)
Rear:	50 ft.	260 ft. (South)
Side:	10 ft.	10 ft. (East) 27 ft. (West)
NHWE:	50 ft.	55 ft. (East)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Special conditions and circumstances do exist for this lot as the owner will not be able to construct a single-family home without the Variance for lot size.

Not Self-Created

The substandard aspects of the parcel are not self-created, as the lot was in this configuration when the current owners purchased the property.

No Special Privilege Conferred

Granting the Variance will not establish special privilege since there are other properties in the area developed with single-family homes with similar lot sizes.

Deprivation of Rights

Without approval of the requested variance, the owners will be deprived of the ability to construct a single-family residence on the parcel.

Minimum Possible Variance

The requested variance is the minimum necessary to construct a single-family home on the property. The proposed single-family residence meets the setback requirements.

Purpose and Intent

Approval of the requests will be in harmony with the purpose and intent of the Code, which is to allow infill development of lawfully constructed residences. The lot size as proposed will not be detrimental to the

neighborhood as the proposed residence will be consistent with the lots in the area and meet all of the code requirements.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan date stamped August 28, 2024, 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. Prior to the issuance of the single-family residence permit, a permit shall be obtained for the deck, or the deck shall be demolished.

C: Donn Sharpe
 2700 Westhall Lane Suite 148
 Maitland, FL 32751



donn@goldstandard-res.com

To: Orange County BZA & BCC
RE: 9712 Kilgore RD B24005979 - Substandard Lot Variance

We are requesting a variance from the required 1 ac upland acreage for the R-CE district, to 0.75 ac upland per the attached drawings. Our total property acreage is 1.48 which includes lake front.

The property had a home which received a CO in 1991 and stood there until it was demolished by the current owner to make way for a new home. Unfortunately, this substandard lot was not discovered during due diligence of the property or through title. We had no reason to suspect any issues at purchase as there was an existing permitted home on the property.

We reached out to the county to start the sub-standard lot of record process. Our task was to determine if the property had changed configuration OR had any joint ownership since the adoption of the zoning code in the late 1950's.

Although the properties appear to have remained in the same configuration since 1959, there was joint ownership across all three properties by Marietta Kilgore in the 70s, and later broken up in the late 70s across multiple owners. The neighboring properties have since changed hands a few times since.

We are not asking for any additional variances, we are only requesting to build a home that previously had a home on it.

Thank you for your time and consideration in this matter.

2700 Westhall Lane Suite 148 Maitland, FL 32751

Mobile: 734.716.2383 Office: 407.591.6117

Permitting

Consulting

Expediting

COVER LETTER

- 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 a proposed zoning variance.

Property was purchased with home constructed on the property which was permitted and received a CO in 1991. Home was demolished in 2024 for a new home, however we received a denial in review that our property is no longer buildable due to the upland acreage not meeting 1 ac required by RCE zoning.

- 2. Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed 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.

We do not believe this was self created. A home was permitted to be built to county codes back in 1990 and got a CO in 1991. We planned to do the same when purchasing the property.

- 3. 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 to other lands, building, or structures in the same zoning district.

There are homes on both sides of our property and would hope to continue to have neighbors should they decide to rebuild in the future.

- 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 property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

We have invested considerable money into this project. We purchased a property with an existing home on it. This information did not come up in title, nor would we think to look for it with an existing home on the property.

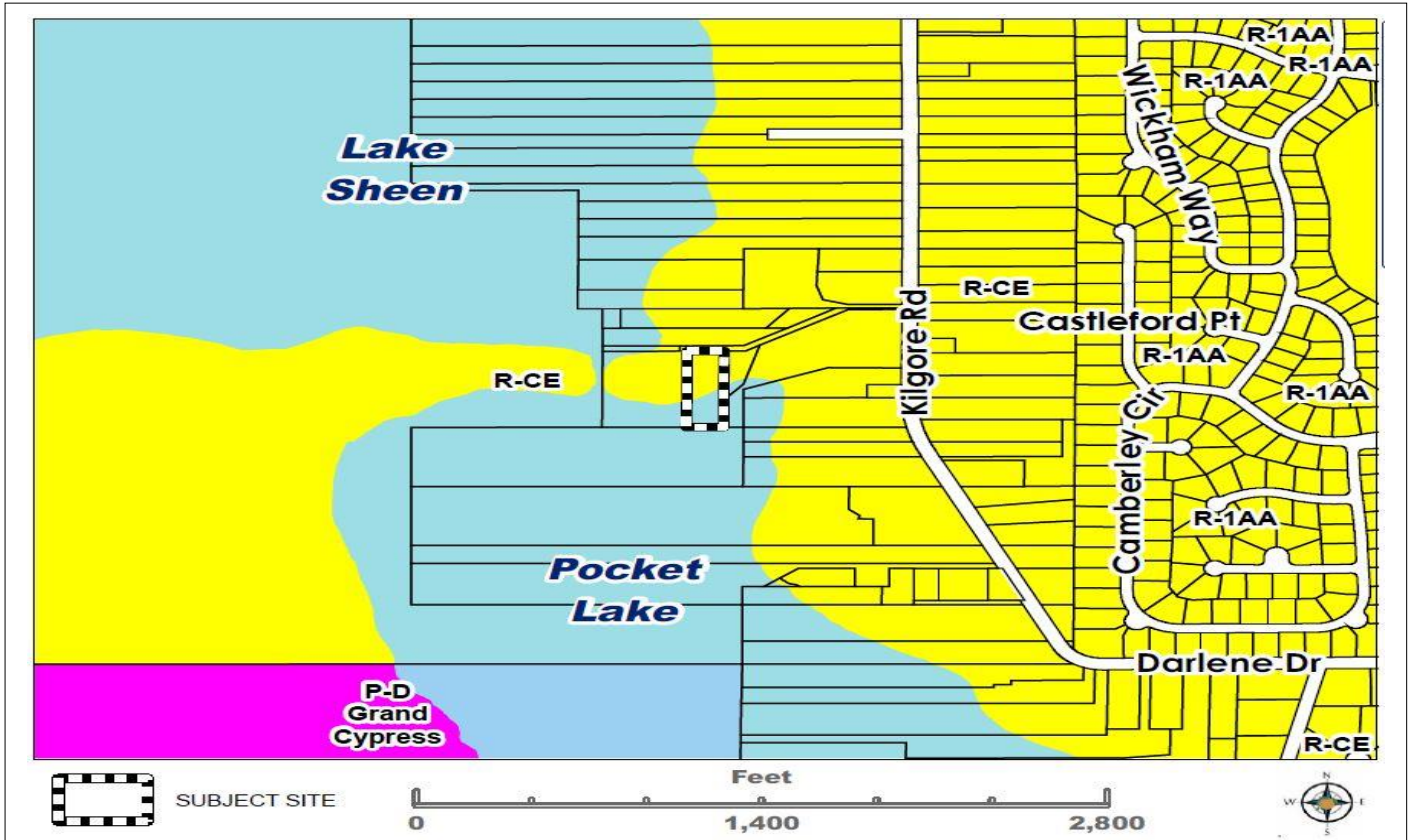
- 5. Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

We are only asking for the upland portion of the code to be granted a variance to make this a legal substandard lot. We have 0.75 ac upland, so we are asking for 0.25 as the variance. Our total property size is 1.48 acres, which includes lakefront.

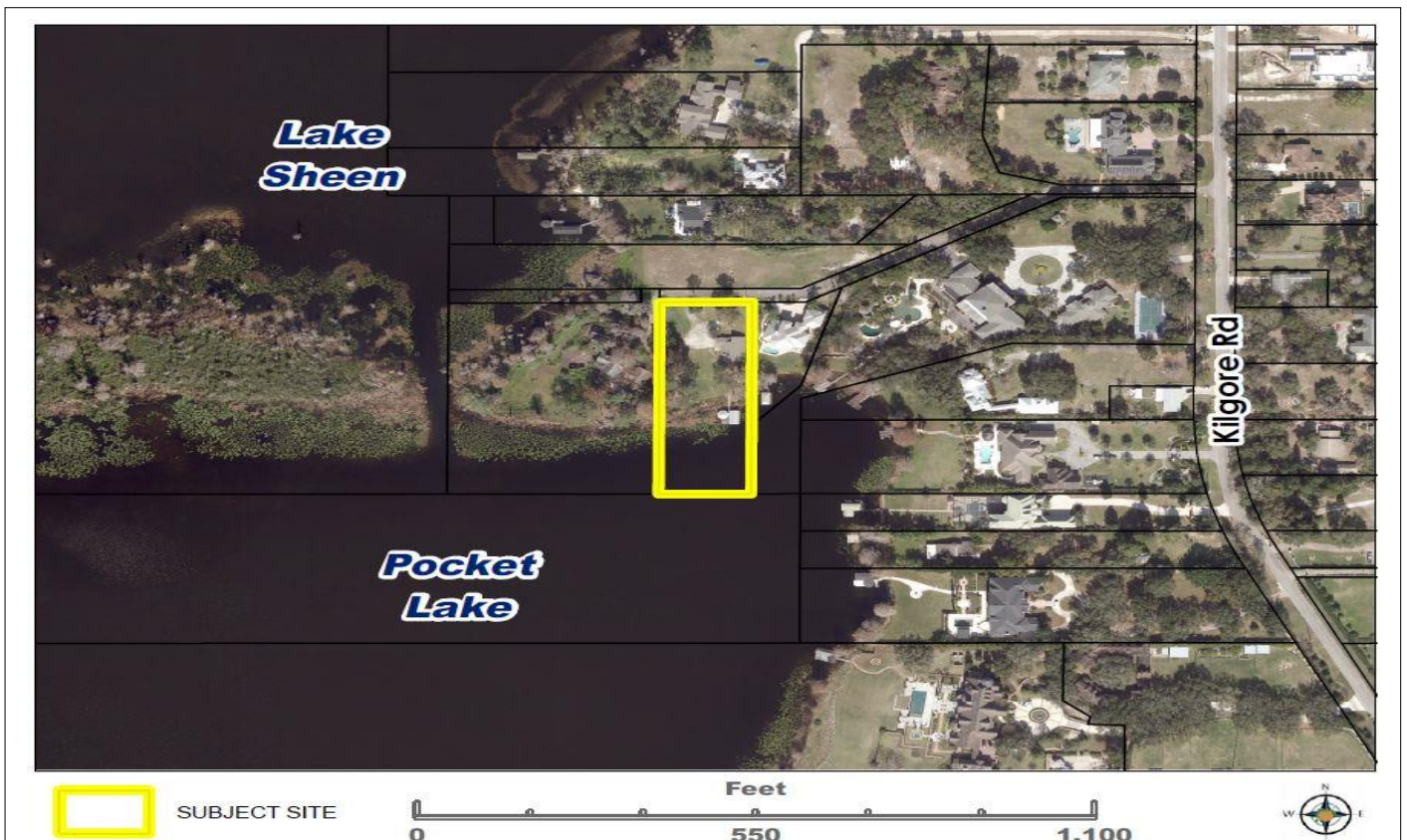
- 6. Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

There are large estate style properties like ours all around, and we are one of the larger properties in the area.

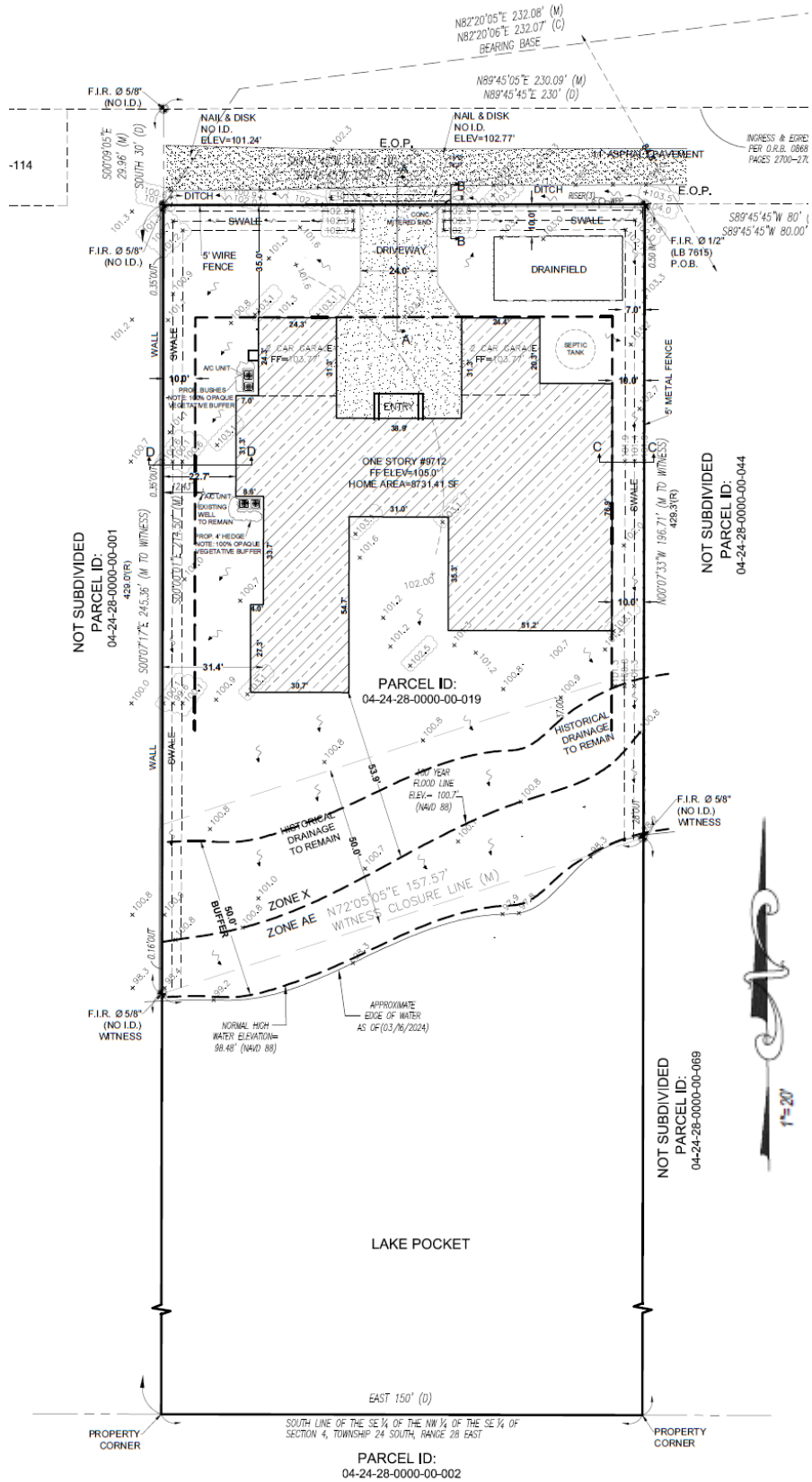
ZONING MAP



AERIAL MAP



SITE PLAN



SITE PHOTOS



Property facing south from private drive



Facing northeast towards the existing deck within NHWE setback to be removed

SITE PHOTOS



Facing south towards the existing dock to be removed



Facing south towards the existing boat dock to be removed

SITE PHOTOS



Facing north from back of property

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 03, 2024**
Case #: **VA-24-10-105**

Commission District: **#5**
Case Planner: **Catherine Glase (407) 836-9615**
Catherine.Glase@ocfl.net

GENERAL INFORMATION

APPLICANT(s): RICHARD DINGMAN
OWNER(s): RICHARD DINGMAN
REQUEST: Variance in the R-1A zoning district to allow a detached accessory structure (garage) in front of the principal structure in lieu of the side or rear.

PROPERTY LOCATION: 2405 Euston Road, Winter Park, Florida 32789, north side of Euston Rd., south of Lake Killarney, west of S. Orlando Ave., east of I-4, north of W. Fairbanks Ave.

PARCEL ID: 02-22-29-4068-02-300

LOT SIZE: +/- 1.08 acres (+/- 38,860 sq. ft. upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 70

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Roberta Walton Johnson, Second by Juan Velez; 5 in favor: Deborah Moskowitz, John Drago, Juan Velez, Roberta Walton Johnson, Sonya Shakespeare; 1 opposed: Thomas Moses; 0 absent; 1 vacant):

1. Development shall be in accordance with the site plan date stamped August 27, 2024, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation of denial of the variance. Staff noted that as of the date of the meeting, eleven (11) comments, 3 duplicates were received in favor and no comments in opposition to the request.

The applicant noted that he is a car collector, and that the construction of the new garage will be architecturally consistent with the existing home and garages and help to get more of the cars off of the street.

One person spoke in favor of the request and identified that he is also the contractor for the project. He presented photographs of the neighboring properties and showed the parking problem the community is facing.

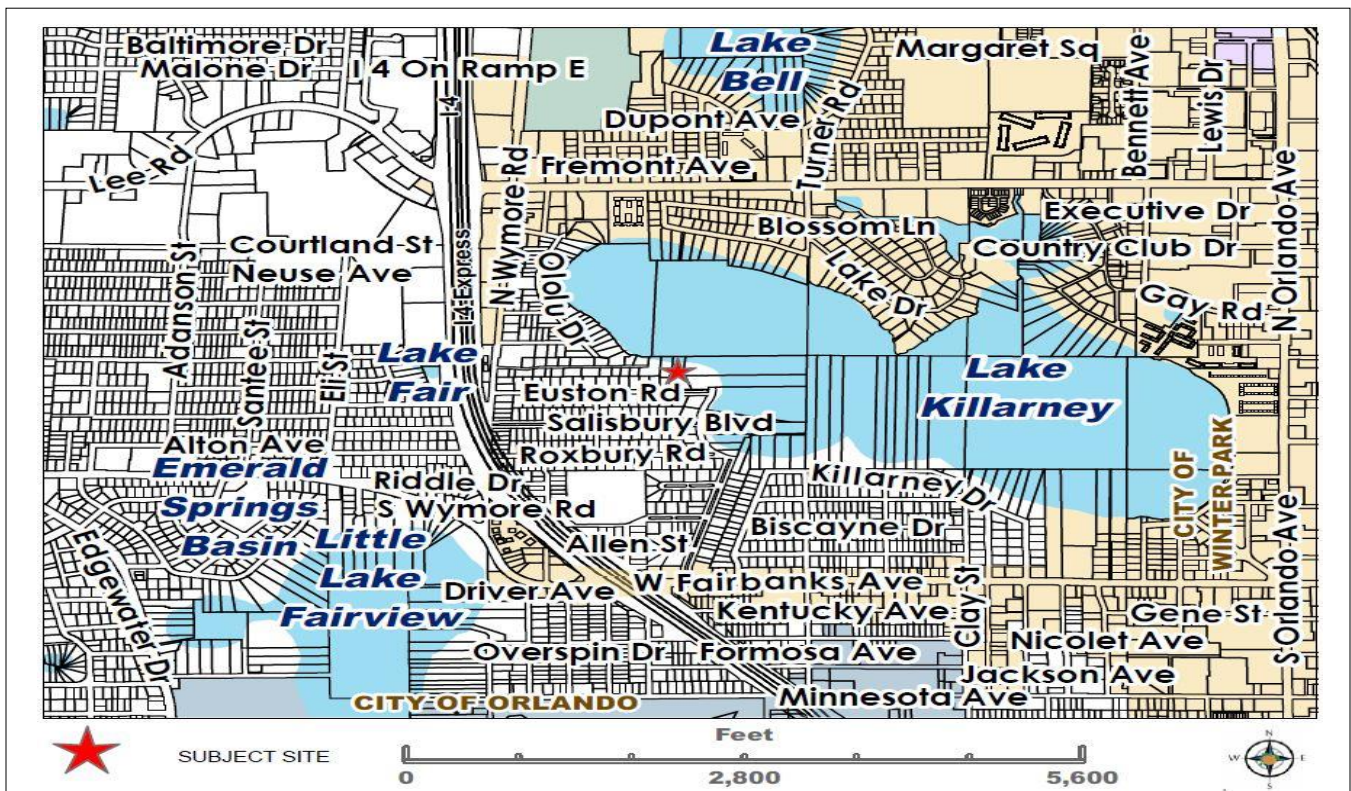
There was no one in attendance to speak in opposition to the request.

The BZA discussed the request, the limited areas for accessory structures to be constructed, and that the proposed detached accessory structure is attractive and consistent with the previous BZA approval in 2004 for the same request. The BZA recommended approval of the Variance by a 5-1 vote, with one seat vacant, subject to the three (3) conditions found in the staff report.

STAFF RECOMMENDATIONS

Denial, However, should the BZA find that the applicant has satisfied the criteria necessary to grant 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	R-1A	Lake Killarney	R-1A	R-1A	R-1A
Future Land Use	LDR	Lake Killarney	LDR	LDR	LDR
Current Use	Single-family residential	Lake Killarney	Single-family residential	Vacant	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling District, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The area around the subject site consists of single-family homes. The subject property is a 1.08 acre platted parcel of land, that conforms with the zoning regulations for the district. The property is a lakefront lot on Lake Killarney. It is developed with a 5,932 gross sq. ft. single-family home and 1,325 sq. ft. detached accessory structure (garage), constructed in 2009 with a permit. The current owner purchased the property in 1990.

The property owner obtained a variance in 2004 to construct an 18 ft tall 1,325 sq. ft. detached accessory structure (garage) in front of the principal residence in lieu of the side or rear. The approval was subject to the following five conditions: 1) Not to be used for residential dwelling purposes or for business purposes; 2) Not to be air conditioned; 3) No plumbing facilities other than one hose bib located on the exterior of the building; 4) Construction of berm and swale above the Normal High Water Elevation (NHWE) of the lake, as directed by the Orange County Environmental Protection Division, prior to obtaining building permits for the accessory building; 5) Flood plain permit required prior to obtaining permit for accessory building.

The proposal is to construct a one-story 1,040 sq. ft. detached accessory structure that will contain a 3-car garage. The structure is proposed to be located in front of the primary structure and will meet the setbacks for the R-1A zoning district. However, per Section 38-1426 (1) c. 2. (iii) of the Orange County Code, a detached accessory structure shall not be located in front of the principal structure unless the principal structure is located in the rear half (1/2) of the lot/parcel. The principal structure extends beyond the midpoint line of the subject property, requiring a Variance. While the request meets some of the standards for Variance criteria, it does not meet all the standards. Therefore, staff is recommending denial of this request. Based on staff analysis, the structure could be proposed as an attached accessory structure which would eliminate the need for a Variance.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	25 ft.	17 ft.
Min. Lot Width:	75 ft.	171 ft.
Min. Lot Size:	7,500 sq. ft.	1.08 acres

Building Setbacks (Detached Accessory Structure)

	Code Requirement	Proposed
Front:	Not permitted in front of the principal structure	Variance request in front of the principal structure 61.6 ft. (South)
Rear:	10 ft.	228.4 ft. (South)
Side:	7.5 ft.	102 ft. (East) 14 ft. (West)
NHWE	30 ft.	202 ft. (North)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are the location of the house and the Normal High Water Elevation line. Due to these conditions, the proposed accessory structure cannot be placed in the side or rear of the lot.

Not Self-Created

The request is self-created since the proposed structure could be attached to the existing residence eliminating the need for the variance.

No Special Privilege Conferred

Granting the requested Variance will confer special privilege not conferred to others under the same circumstances since an accessory structure could be constructed in a way which would meet code.

Deprivation of Rights

There is no deprivation of rights as the accessory structure can be constructed in a way which would meet code requirements, thereby eliminating the Variance.

Minimum Possible Variance

The request is not the minimum possible as an accessory structure can be constructed in a way which would meet code requirements, thereby eliminating the Variance.

Purpose and Intent

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the neighborhood. The detached accessory structure will be setback from the front property line by 61 ft. which is greater than what is required for a principal structure in that zoning district, thereby limiting any quantifiable negative impact to surrounding property owners.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan date stamped August 27, 2024, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Richard Dingman
2405 Euston Rd.
Winter Park, FL 32789

John Gigliotti
127 W. Fairbanks Ave., Unit 358
Winter Park, FL 32789

COVER LETTER

To: Orange County Zoning Division
Catherine Glass, Planner I
From: Richard Dingman
Project: 2405 Euston Road, Winter Park FL
Permit # B24 000 205 / VA-24-10-105
Date: 8-28-24

Please accept this cover letter with the application and drawings for my variance request.

The request :

I am requesting the location of proposed detached accessory structure to be in the front of the principle structure.

The setbacks, height and the square footage are proposed to be code compliant.

Thank you, Sincerely,

Richard Dingmann

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 a proposed zoning variance.

THE SUBJECT PROPERTY IS PECULIAR IN THAT IT IS MUCH DEEPER IN DEPTH THAN NEIGHBORING PROPERTIES AND SO ALLOWS THE PROPOSED ACCESSORY STRUCTURE TO BE IN THE FRONT YARD AND STILL BE OVER 40 FT. BACK FROM THE FRONT YARD SETBACK.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed 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.

THE LOCATION OF THE EXISTING RESIDENCE IS EXISTING AND THE USE OF THE PROPOSED ACCESSORY STRUCTURE AS A GARAGE NEEDS TO BE IN FRONT OF THE HOUSE.

3. **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 to other lands, building, or structures in the same zoning district.

THE ADDITION OF THE PROPOSED ACCESSORY GARAGE STRUCTURE DOES NOT CONFER ANY SPECIAL PRIVILEGE THAT IS DENIED TO OTHER LANDS OR STRUCTURES IN 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 property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

LITERAL INTERPRETATION WOULD DEPRIVE THE APPLICANT OF FULL USE OF THE PROPERTY IN THAT IT IS A VERY DEEP PROPERTY AND SO THE FRONT HALF OF THE PROPERTY IS VERY LARGE EASILY SUPPORTING THE PROPOSED DETACHED ADDITION.

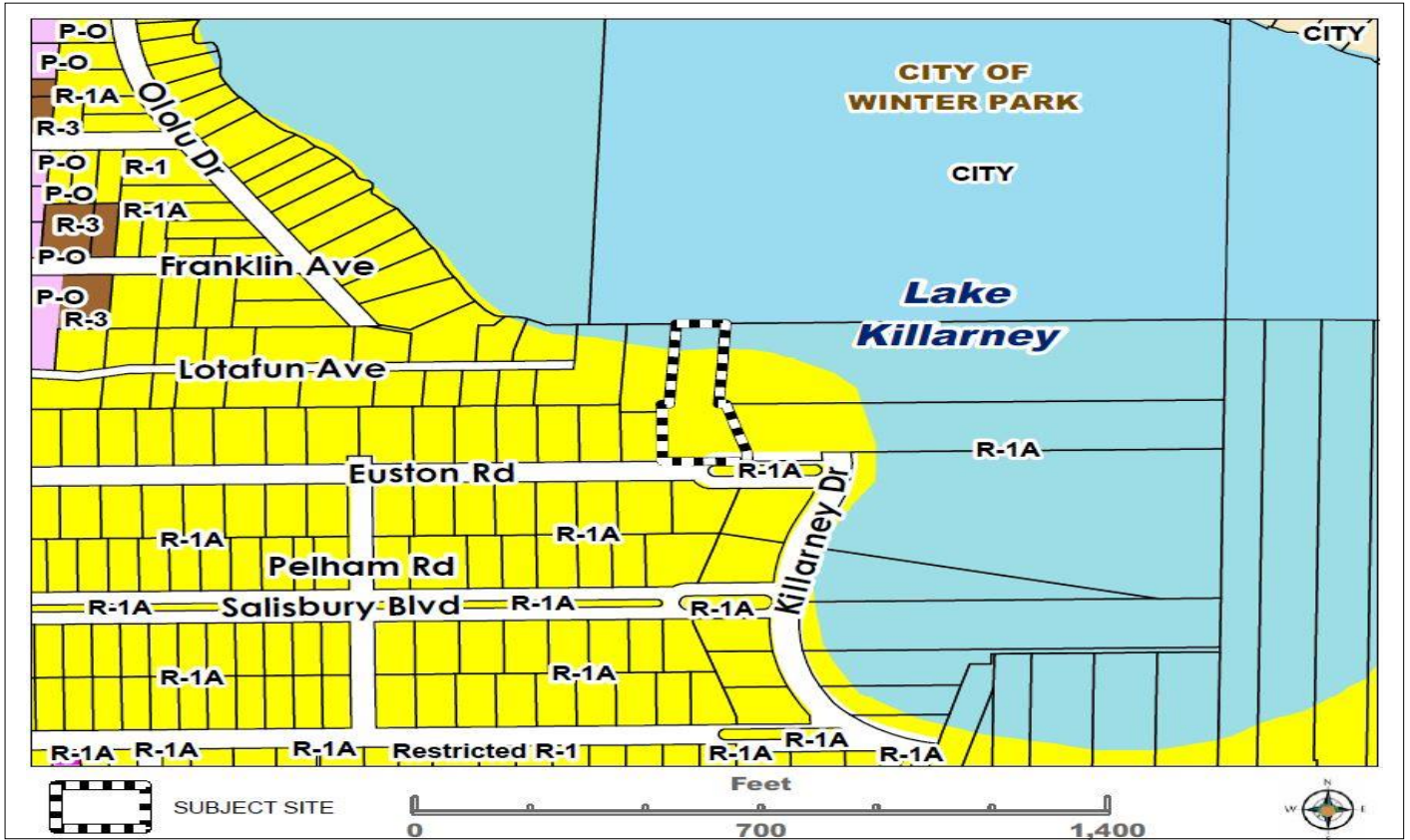
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

THE VARIANCE REQUEST IS THE MINIMUM VARIANCE THAT WILL ALLOW THE PROPOSED DESIGN TO BE CONSISTENT WITH THE DESIGN OF THE EXISTING RESIDENCE.

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

APPROVAL OF THE VARIANCE WILL ALLOW THE ADDITION TO BE IN HARMONY WITH THE EXISTING RESIDENCE AND WITH THE INTENT OF THE ZONING REGULATIONS AND STILL PROVIDE OVER 3 TIMES THE MINIMUM REQUIRED FRONT YARD.

ZONING MAP

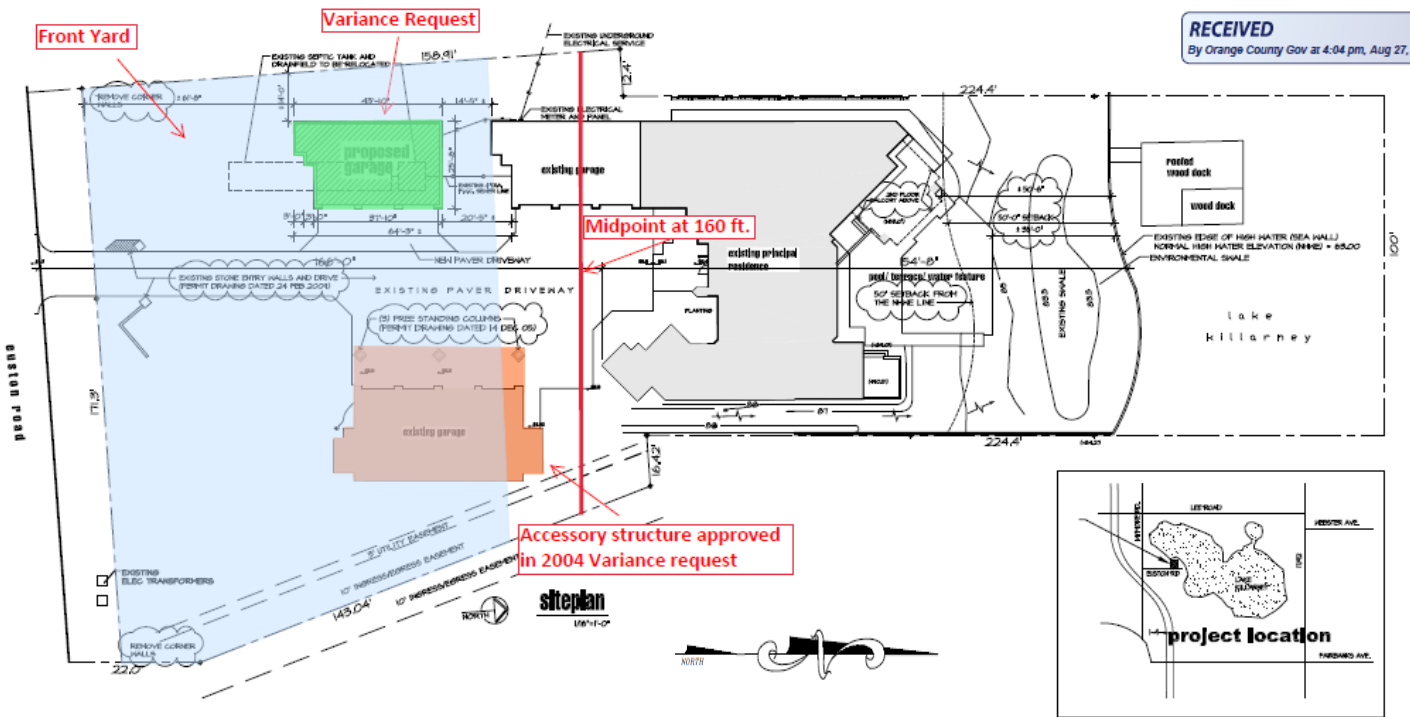


AERIAL MAP

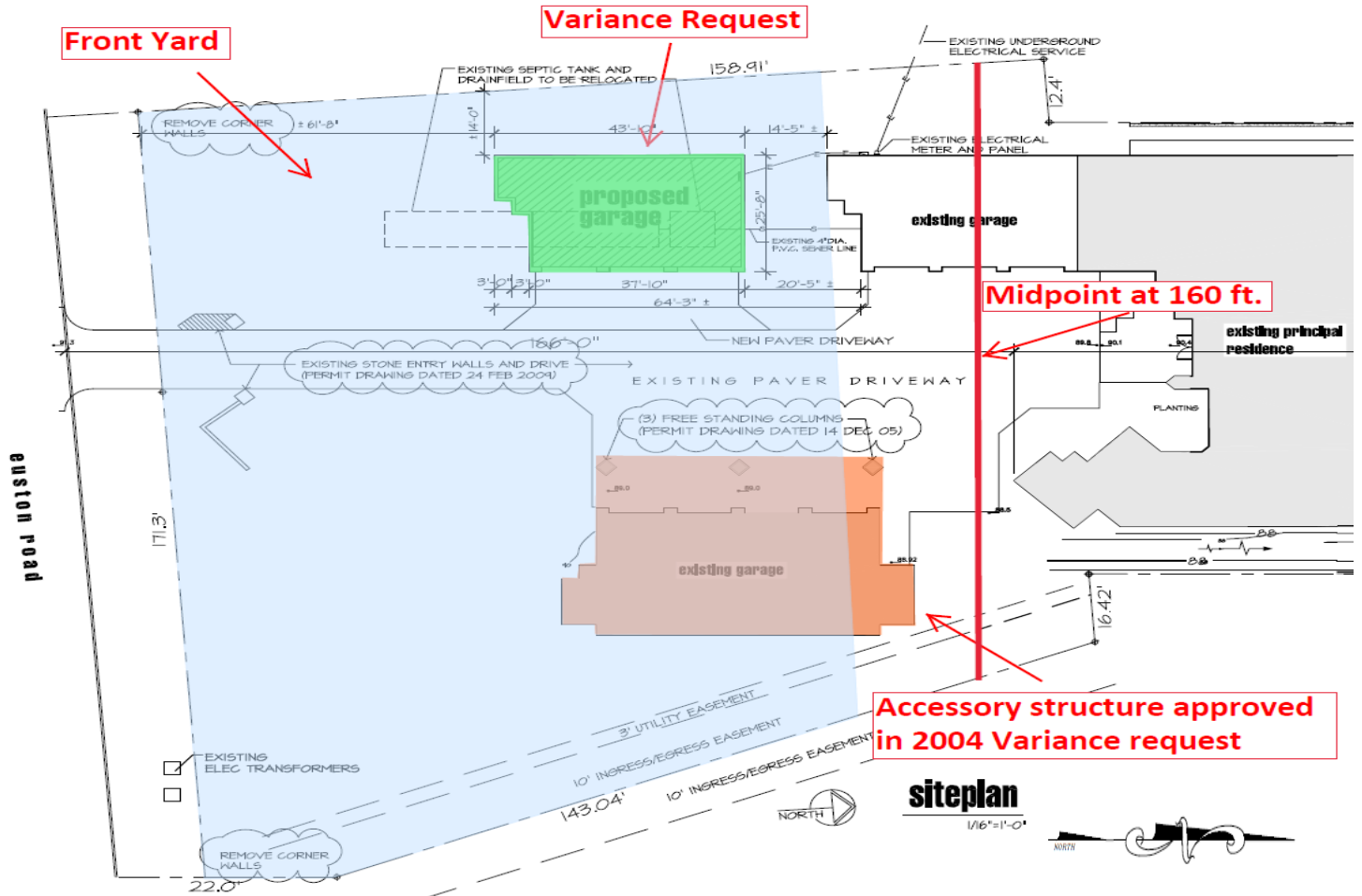


OVERALL SITE PLAN

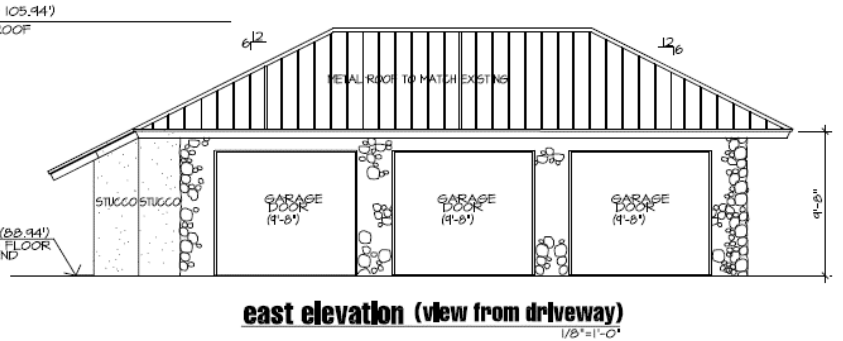
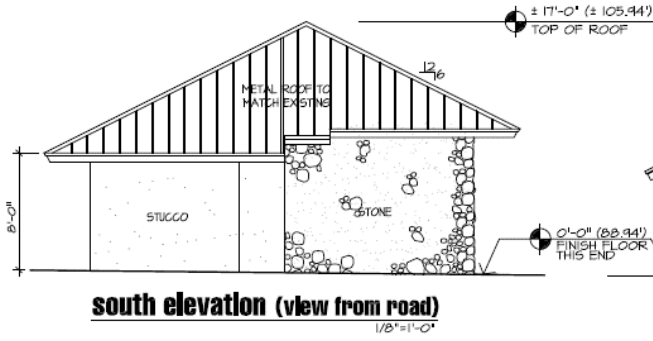
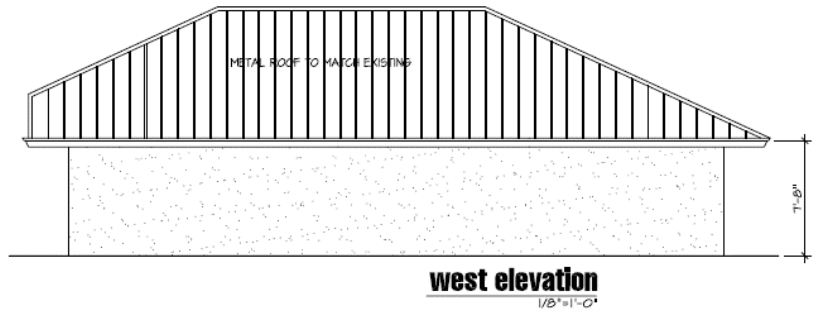
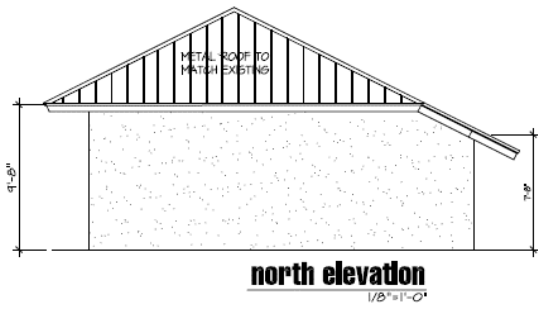
RECEIVED
By Orange County Gov at 4:04 pm, Aug 27, 2024



ZOOMED IN SITE PLAN



ELEVATIONS



SITE PHOTOS



Facing north from Euston Rd. towards front of subject property



Entrance driveway, facing north towards the existing single family home

SITE PHOTOS



Entrance driveway, facing north towards existing detached accessory structure approved by Variance



Location of proposed accessory structure facing west

SITE PHOTOS



Location of proposed accessory structure facing south



Existing detached accessory structure approved by Variance facing east

SITE PHOTOS



Existing attached accessory structure facing west

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 03, 2024**
Case #: **VA-24-07-060**

Commission District: **#3**
Case Planner: **James Gray (407) 836-5513**
James.Gray2@ocfl.net

GENERAL INFORMATION

APPLICANT(s): OMAR RAMOS - MADRIGAL COURT

OWNER(s): JUAN JOSE ARUACO; ESPERANZA VICTORIA RODRIGUEZ

REQUEST: Variances in the PD zoning district as follows:

- 1) To allow an existing residence with 1,407 sq. ft. of living area in lieu of a maximum of 1,343 sq. ft.
- 2) To allow a proposed residence with 1,882 sq. ft. of living area in lieu of a maximum of 1,343 sq. ft.
- 3) To allow an addition to a residence with a north rear setback of 7 ft. in lieu of 15 ft.
- 4) To allow a six-foot-high vinyl fence in the front yard setback in lieu of 4 ft.

PROPERTY LOCATION: 541 Madrigal Ct., Orlando, FL 32825, northeast side of Madrigal Ct., west of N. Chickasaw Trl., east of N. Goldenrod Rd., south of Valencia Ln., north of S.R. 408

PARCEL ID: 26-22-30-2060-00-490

LOT SIZE: +/- 0.21 acres (+/- 9,398 sq. ft.)

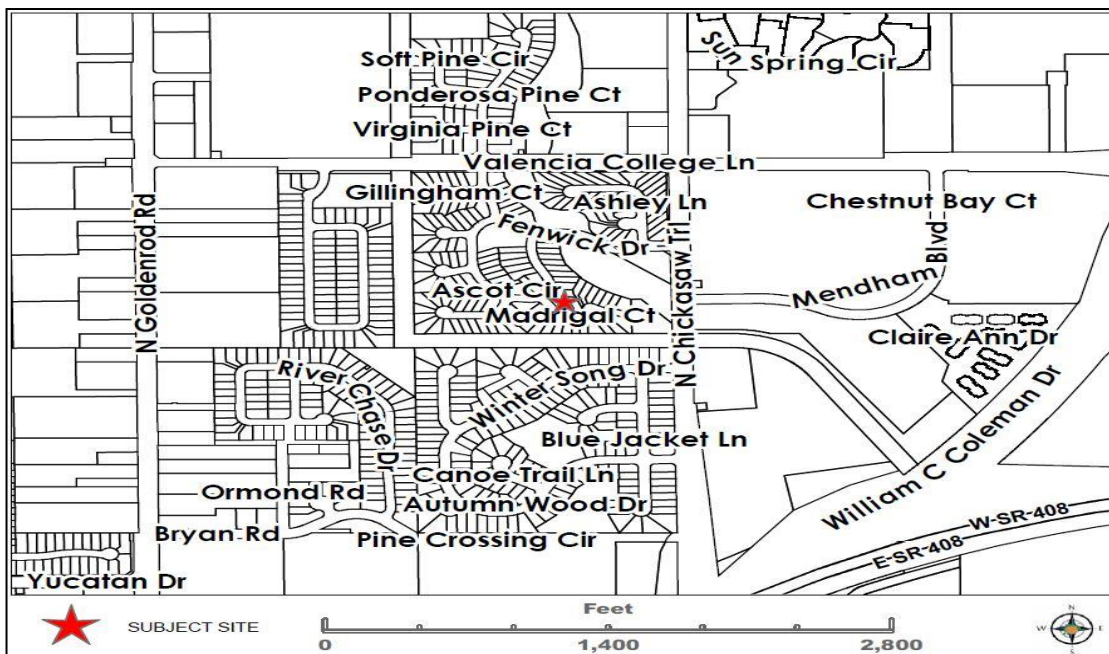
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 151

STAFF RECOMMENDATIONS

CONTINUED TO NOVEMBER 7, 2024, BZA MEETING

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 03, 2024**
Case #: **VA-24-10-106**

Commission District: **#3**
Case Planner: **Bryan Salamanca (407) 836-9616**
Bryan.Salamanca@ocfl.net

GENERAL INFORMATION

APPLICANT(s): RONALD K. FARRIMOND AND LOIS KRISTINE FARRIMOND

OWNER(s): RONALD K. FARRIMOND AND LOIS KRISTINE FARRIMOND

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

- 1) To allow an existing residence 44.9 ft. setback from the Normal High Water Elevation line in lieu of 50 ft.
- 2) To allow a proposed covered patio extension 36.7 ft. setback from the Normal High Water Elevation line in lieu of 50 ft.

PROPERTY LOCATION: 5842 Trinity Lane, Orlando, Florida 32839, west side of Trinity Ln., north of W. Oakridge Rd., west of Defiance Ave., east of S. Orange Blossom Trl.

PARCEL ID: 23-23-29-3986-00-020

LOT SIZE: +/- 0.76 acres (+/- 33,277 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 86

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Juan Velez, Second by Roberta Walton Johnson; 4 in favor: John Drago, Juan Velez, Roberta Walton Johnson, Sonya Shakespeare; 2 opposed: Deborah Moskowitz, Thomas Moses; 0 absent; 1 vacant):

1. Development shall be in accordance with the site plan date stamped September 10, 2024, and elevations date stamped August 28, 2024, 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. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance requests and, which shall inform all interested parties that the house is located no closer than 44.9 ft and the covered patio is located no closer than 36.7 ft from the Normal High Water Elevation (NHWE) of the Lake Jessamine.
5. Prior to the issuance of the permit for the covered patio, a permit shall be obtained for the screen enclosure, or it shall be removed.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation of approval for Variance #1 and denial of Variance #2. Staff noted that as of the date of the meeting, two comments had been received in opposition to the request and no comments were received in favor of the request.

The applicant noted the necessity of the requested Variance #2 in order to have the view to the lake and how they disagreed with the staff report. They stated that the open patio would not obstruct the view of the lake from anyone else.

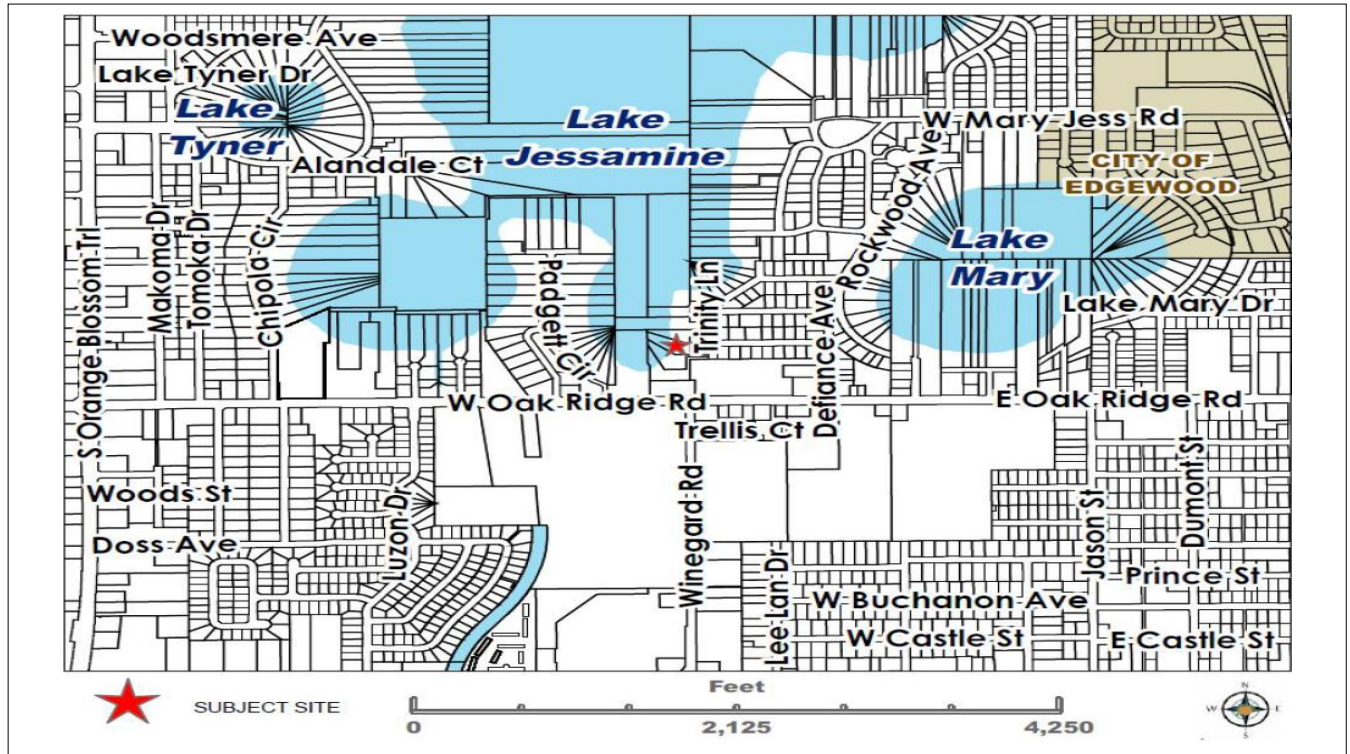
No one spoke in favor of the request. One person spoke in opposition of the request, and indicated that the request for Variance #2 would further reduce their visibility to the lake given the existing location of the residence and how it was located closer to the lake on the lot than their home.

The BZA discussed the request and discussed that the proposed Variance #2 would minimally impact the view from adjacent lots to the lake as the proposed covered patio is consistent within the existing footprint of the residence. The BZA recommended approval of the Variances by a 4-2 vote, with one seat vacant, subject to the five (5) conditions found in the staff report.

STAFF RECOMMENDATIONS

Denial of Variance request #2; approval of Variance request #1, subject to conditions in this report. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting both Variance requests, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family District, which allows for single family development, associated accessory structures, and requires a minimum lot area of 7,500 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The area around the subject property consists of single-family homes, many of which are lakefront. The subject property is a +/- 0.76 acre lot, located in the Jessamine Point – Phase 2 plat recorded in 1993 as Lot 2, and conforms with the zoning regulations of the district. The property is a lakefront flag lot with right-of-way adjacent along Trinity Lane to the east. The flag portion of the property starts at 25 feet in width and opens approximately 124 feet in width toward Lake Jessamine. It is developed with a 4,203 gross sq. ft. single-family home constructed in 1999, boat dock constructed in 2003, and pool and screen enclosure in 2004. The screen enclosure was not a part of the pool permit in 2003 based on staff research and public records request thus included as a part of this variance request, condition #5 is to retroactively receive an approved building permit for the existing screen enclosure. The property later received a permit in 2005 to construct an addition to the south side of the existing residence exactly 50 feet from the Normal High Water Elevation (NHWE) line. Based on the site plan provided, date stamped September 10, 2024, the existing addition to the residence is not

consistent with the permit approval and the 50 foot setback from the NHWE line thus the request for Variance #1 to recognize the non-conforming setback of the addition. The current owners purchased the property in 2016 and were not responsible for the addition done in 2005.

The project is to construct a 12 ft. by 46 ft. concrete pad covered with an 8.5 ft. by 46 ft. open-sided covered patio. The open-sided covered patio is 36.7 ft. from the NHWE in lieu of 50 ft., requiring Variance #2. The rear and side wall of the existing home to the south is currently located 44.9 ft. from the NHWE in lieu of 50 feet., requiring Variance #1. When the addition to the home was permitted in 2005, the addition was permitted at 50 ft. from the NHWE line but only constructed 44.9 ft. from the NHWE, requiring Variance #2.

The Orange County Environmental Protection Division, Stormwater, Code Enforcement, Transportation, and Development Engineering have all reviewed the request and have no objections.

Staff reviewed the request and recommends approval of Variance #1 as the request is to recognize the existing structure that was permitted 2005 under previous ownership. Further, staff recommends denial of Variance #2 as the request does not meet the six criteria for a Variance request. The property and the lakeview can still be enjoyed without the patio addition by utilizing the area under the screen enclosure or by converting a portion of that area to a code compliant patio. Furthermore, the applicant could adjust their plan and propose the structure as a detached patio which would only require a 30 ft setback from the Normal High Water Elevation line per section 38-1501(A) and 38-1426(1)(C)(2) of the Orange County code.

As of the date of this report, no comments have been received in favor and one comment has been received in opposition to this request. The objection was located outside of the notice buffer zone.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	14.1 ft. - Covered patio
Min. Lot Width:	75 ft.	124 ft.
Min. Lot Size:	7,500 sq. ft.	+/-33,277 sq. ft.

Building Setbacks (Covered Patio Addition)

	Code Requirement	Proposed
Front:	25 ft.	N/A
Rear:	30 ft.	N/A
Side:	7.5 ft.	18.10 ft - Covered patio (South)
NHWE:	50 ft.	44.9 ft. – Existing house (West – Variance #1) 36.7 ft. – Covered patio (West- Variance #2)

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1: The special conditions and circumstance particular to the subject property is that the home was constructed in a nonconforming location prior to the current owner purchasing the property.

Variance #2: There are no special conditions or circumstances particular to the subject property as the lot is of a similar size and configuration compared to most of the surrounding lots.

Not Self-Created

Variance #1: The current owner was not responsible for development of the property and the addition to the existing house in 2005.

Variance #2: The proposed covered patio is self-created as there are other alternative options to redesign and reduce the footprint of the patio to lessen the request, install a detached patio, or utilize the area under the screen enclosure to view the lake, thereby eliminating the Variance request.

No Special Privilege Conferred

Variance #1: The addition permitted in 2005 was constructed prior to the current owners acquiring the property thus are not responsible for the existing non-conformity.

Variance #2: Granting this Variance will confer a special privilege since there are other options to construct a covered patio that could meet code requirements.

Deprivation of Rights

Variance #1: Would allow the recognition of the existing location of the residence which otherwise would cause a hardship on the applicant for an existing residence.

Variance #2: The applicant is not being deprived the right to continue enjoying the view of the lake without this covered patio which could be re-designed in a code compliant manner.

Minimum Possible Variance

Variance #1: The requested variance is the minimum possible given that the addition was approved meeting code but constructed not in accordance with the approved plans since 2005.

Variance #2: The Variance request is not the minimum request. A smaller covered patio could be proposed.

Purpose and Intent

Approval of the requested Variances would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to adjacent properties. The covered patio will not be significantly visible from any of the surrounding properties due to the configuration of the lot.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan date stamped September 10, 2024, and elevations date stamped August 28, 2024, 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. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance requests and, which shall inform all interested parties that the house is located no closer than 44.9 ft and the covered patio is located no closer than 36.7 ft from the Normal High Water Elevation (NHWE) of the Lake Jessamine.
5. Prior to the issuance of the permit for the covered patio, a permit shall be obtained for the screen enclosure, or it shall be removed.

C: Ronald Farrimond and Kristine Farrimond
5842 Trinity Lane
Orlando, FL 32839

COVER LETTER

Ronald Kay and L. Kristine Farrimond
5842 Trinity Lane
Orlando, FL 32839-4013
(321) 750-6787

July 8, 2024

Allen McNeill, MPA
Chief Planner, Zoning Division
Planning, Environment, and
Development Services Department
201 S. Rosalind Ave., 1st Floor
Orlando, FL 32801
(407) 836-9620
Allen.McNeill@ocfl.net

Re: Variance for Building Permit B23019234

To Whom It May Concern:

We are applying for a variance to add a covered patio to the back of our house so that we can enjoy our backyard. We are getting old and have had several joint surgeries to reduce the pain when we walk. We don't want to put any medical records in this application, unless it is absolutely necessary because of public exposure.

We are asking you to let us bring the new patio out the same distance as the screened enclosure that surrounds the swimming pool, so it aligns with the enclosure. It would basically square the house and finish the overall design. Also, it would provide protection from the storms that come across the lake that batter the backside of the house, especially the windows.

FEMA defines Zone X as "the area determined to be above the 500-year flood...". If you look at the survey you will see that zone X starts about 30 feet from the house. Therefore, the new patio would be well above the 500-year flood plain, so attaching the new patio would have no impact on the house. It would actually help protect it.

The dimensions of the concrete pad would be 12' X 46' and it would be a minimum of 32' from the normal high-water mark (NHWM). The roof would extend about 9' from the house and it would be a minimum of 35' from the NHWM. The roof would be made with shingles which match the shingles that are currently on the house.

Our house would be like the other houses in the neighborhood in that several of them have patios which are closer than 30' to the NHWM. One of them even has a patio that goes past the NHWM into the water. Some of the houses are built within 50' of the NHWM.

As this relates to the variance criteria:

COVER LETTER (CONTINUED)

1. **Special Condition and Circumstances:** The county installed a storm drainage system on the southwest side of our house which moved the NHWM closer to our house. This storm drainage system is the reason we are only 32' from the NHWM on the southwest corner. FEMA has defined zone X as the 500-year flood plain and the new patio is about 30 feet above zone X. Also, the owners are getting old (late 60's) and have had several joint surgeries which makes it difficult for them to get around (medical records can be supplied if necessary; but we would like to avoid public exposure). Currently, it is very difficult for the owners to safely make use of the backyard.

2. **Not Self-Created:** We did not install the county drainage system. It moved the NHWM closer to our house. The owners' deteriorating Joint issues are a normal part of the aging process and will continue to get worse as they get older.

3. **No Special Privilege Conferred:** Approval of the variance will not confer any special privileges on the homeowners that other neighbors do not already have. Several of the neighbors have patios that already are past the 30' and 50' zoning distances from the NHWM. At least one of the houses has a patio that goes past the NHWM into the water. Some of the houses have been built closer to the NHWM than 50'.

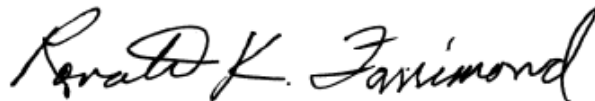
4. **Deprivation of Rights:** Currently there is nothing where the patio will be built. Therefore, when you open the door there is about a 12" to 24" drop, which creates a safety hazard. Currently the owners don't have similar use of their backyard as other neighbors. We are both getting old and have had several joint surgeries; this will provide a safe way to access the backyard.

5. **Minimum Possible Variance:** The variance being requested is the minimum needed to provide us with use of the backyard, given our disabilities.

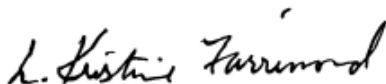
6. **Purpose and Intent:** The purpose of the variance would make it so that we can get the same enjoyment out of our property as the other property owners in the neighborhood.

Please let us know if you have any questions or need additional documentation.

Sincerely,

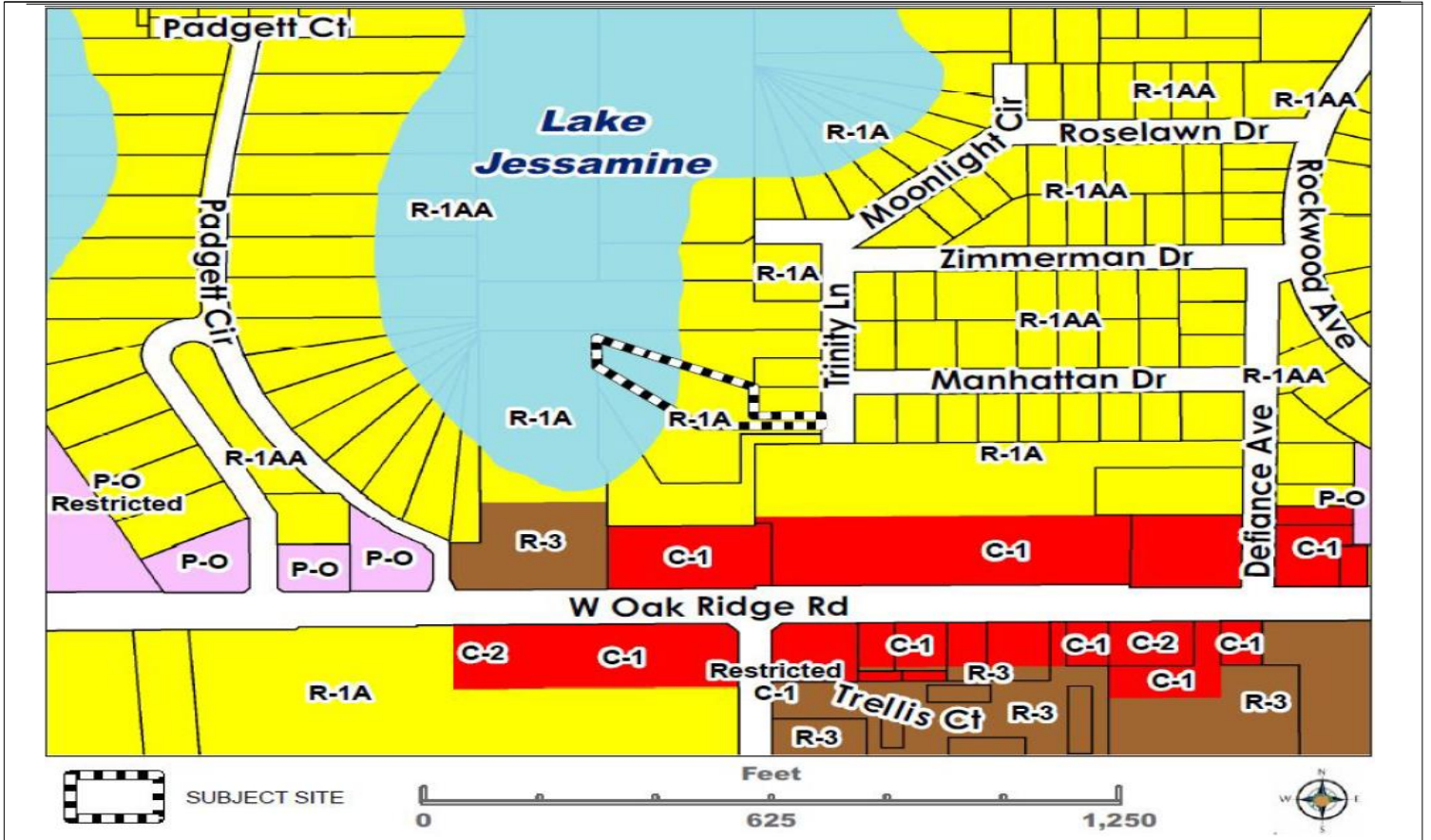


Ronald K. Farrimond

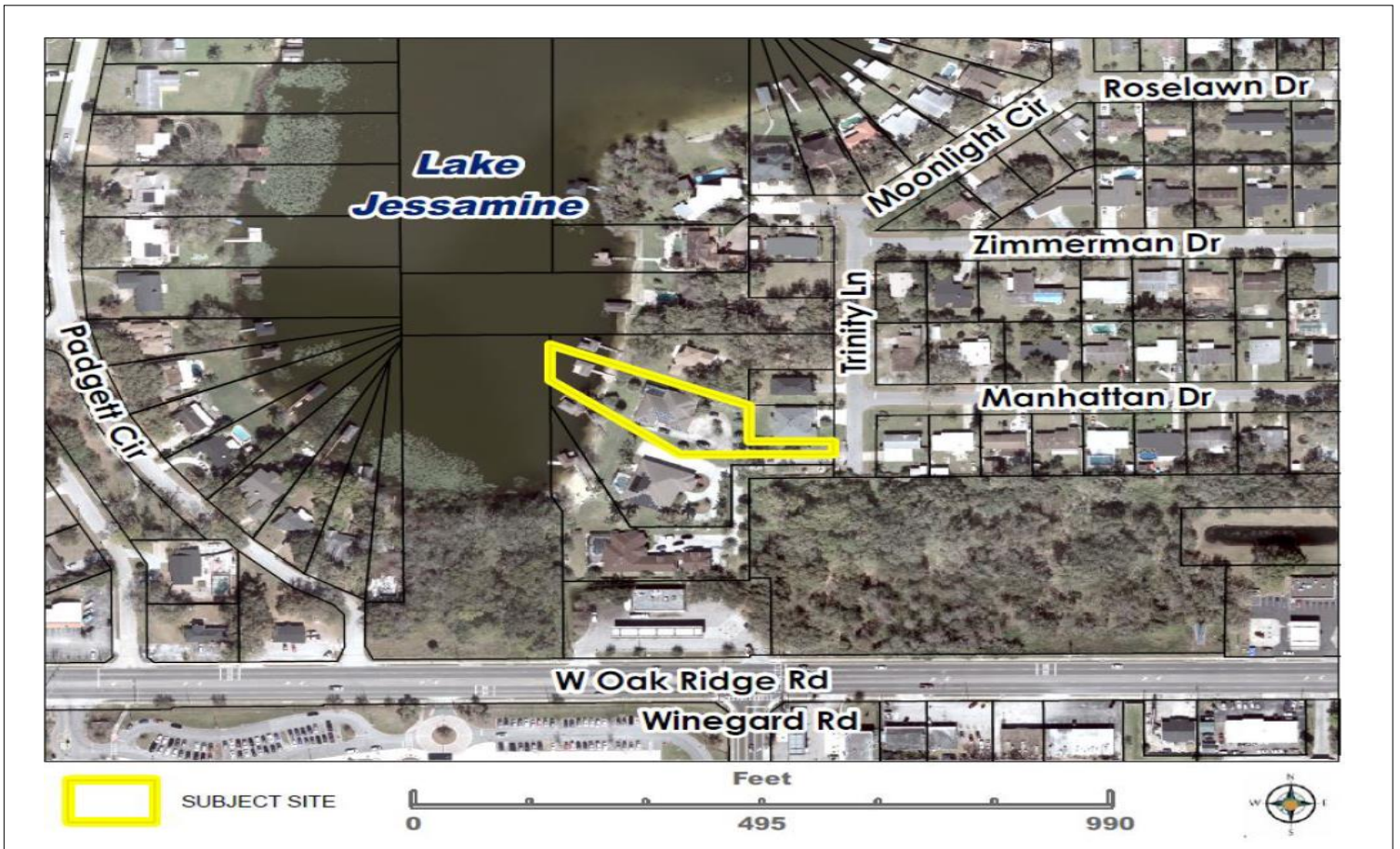


L. Kristine Farrimond

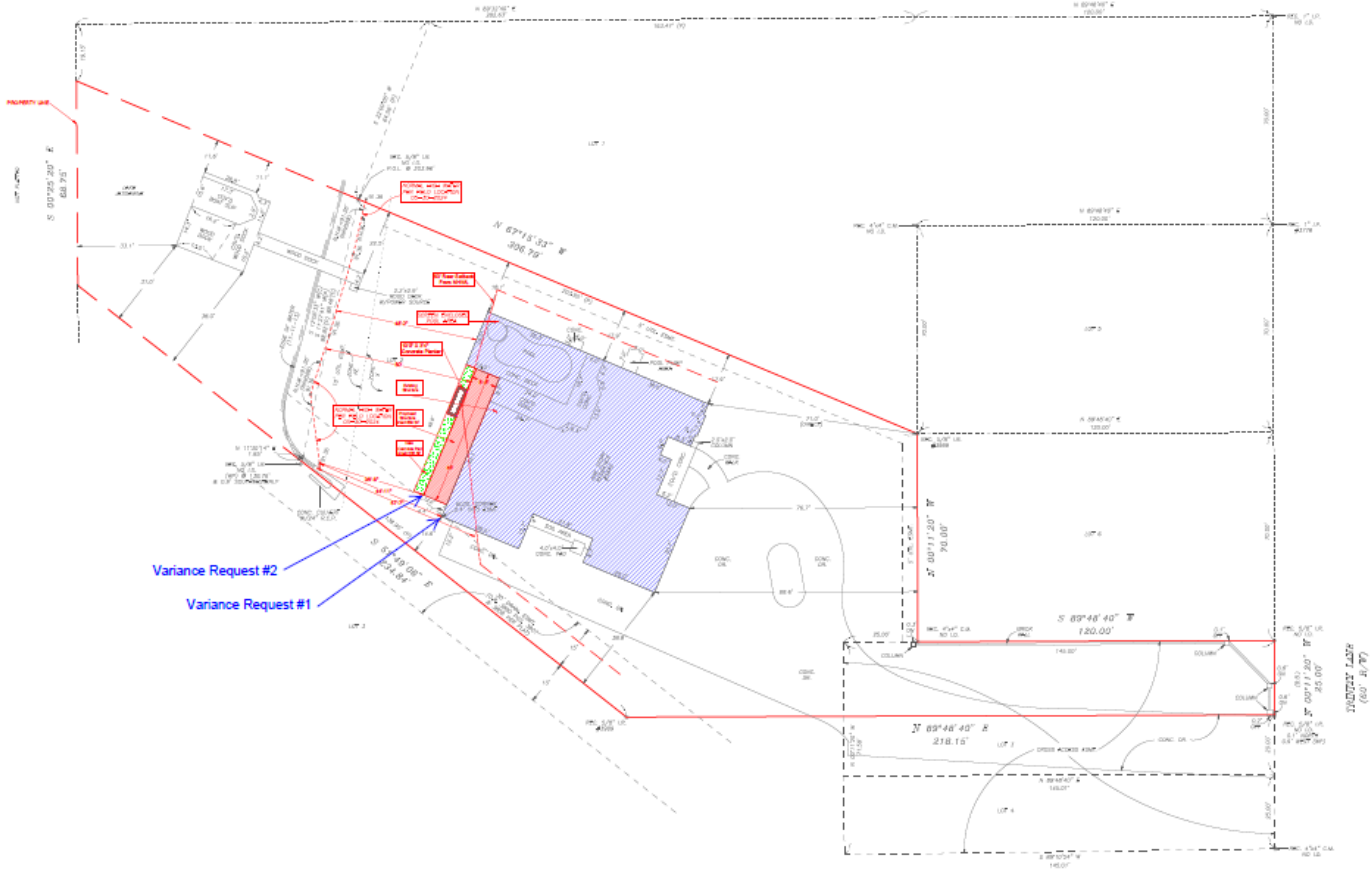
ZONING MAP



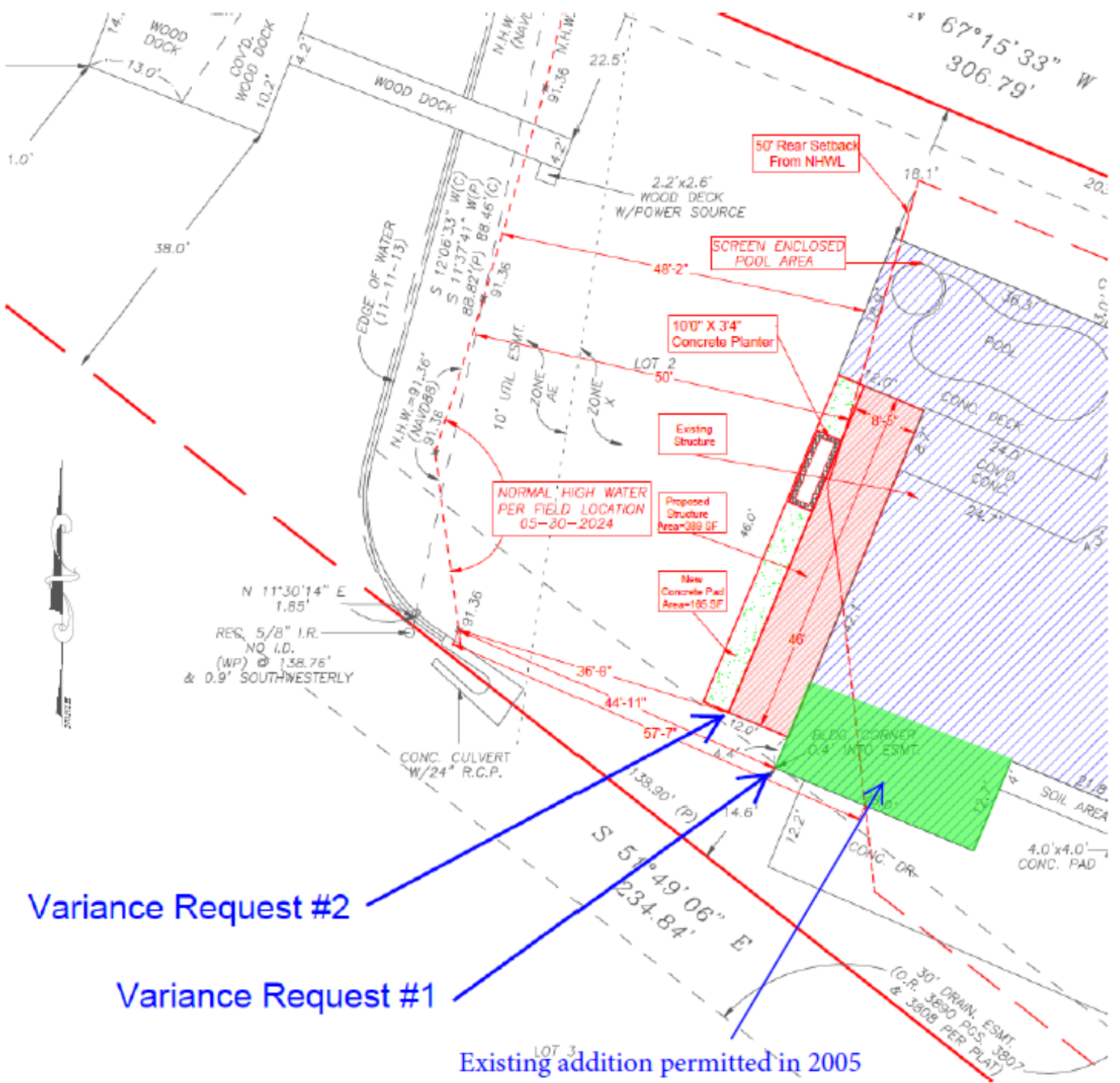
AERIAL MAP



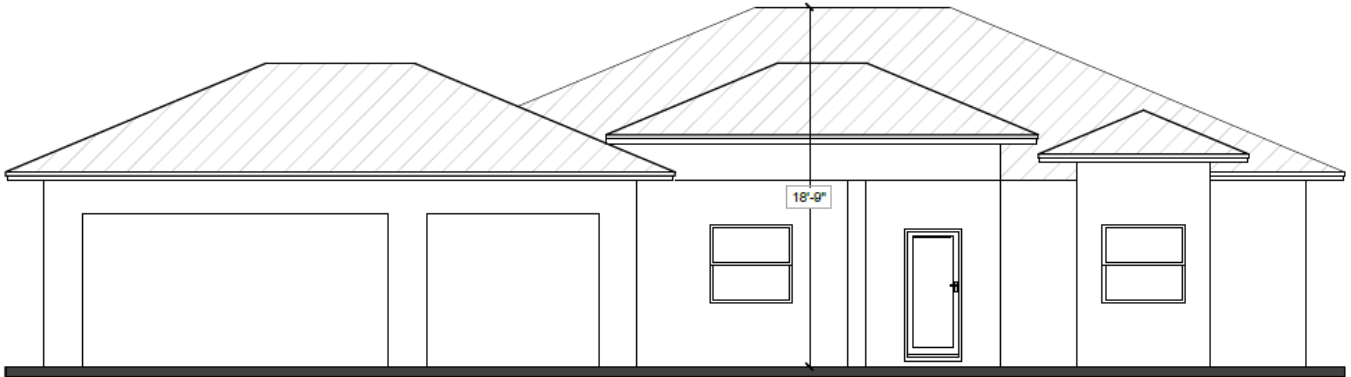
OVERALL SITE PLAN



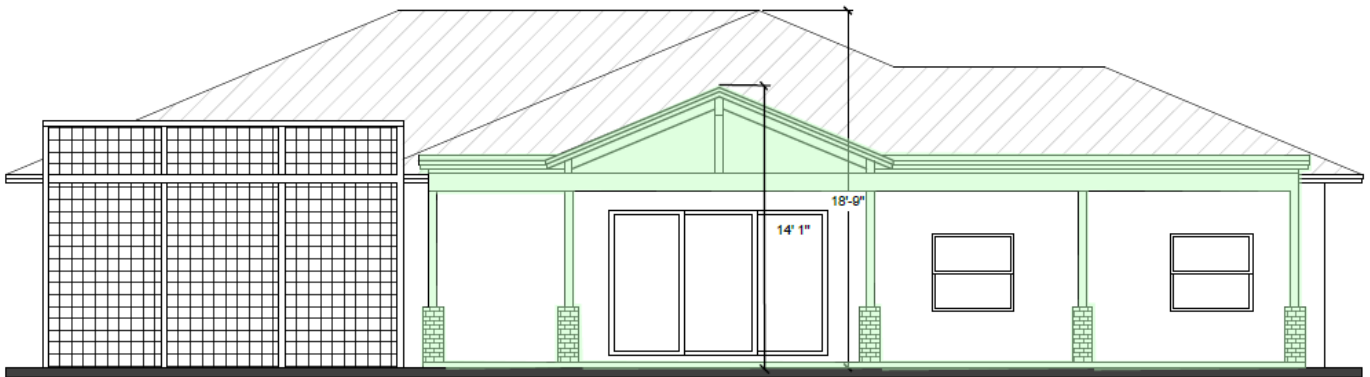
ZOOMED IN SITE PLAN



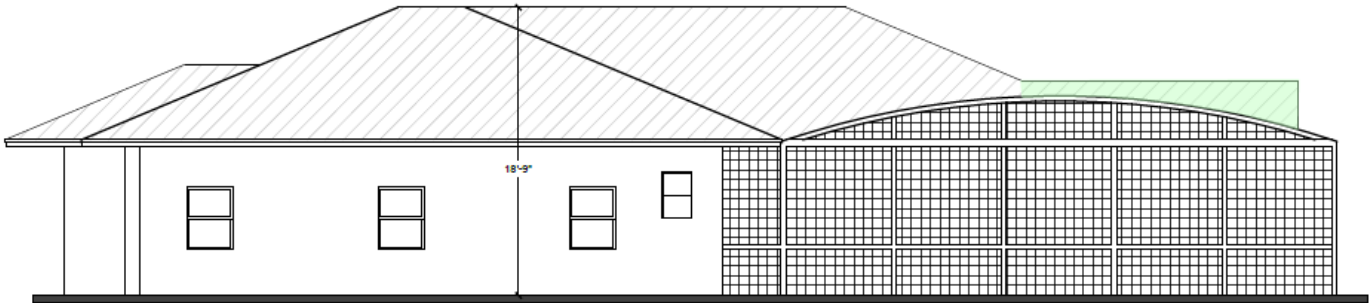
ELEVATIONS (PROPOSED)



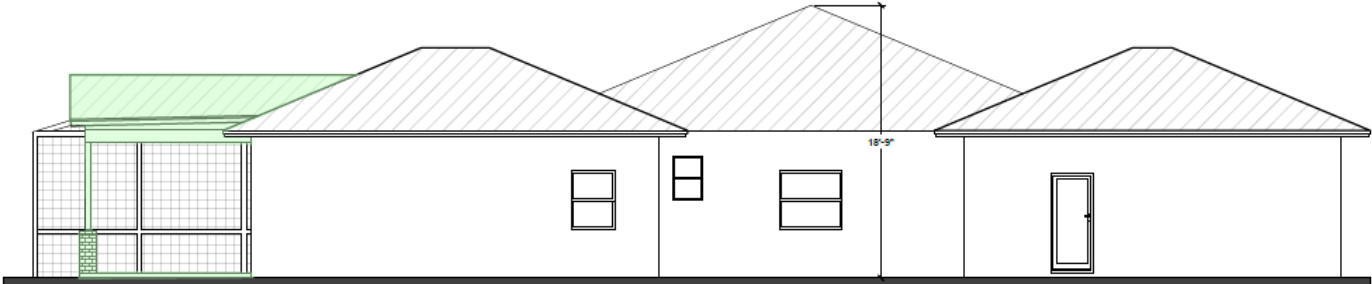
Facing West Elevation



Facing East Elevation



Facing South Elevation



Facing North Elevation

SITE PHOTOS



Rear yard facing northwest toward proposed porch location Variance #2



Side yard facing west with existing addition constructed in 2005 shown to the right Variance #1

SITE PHOTOS



Rear yard facing east towards the proposed location of the covered patio Variance #2



Rear yard facing southeast toward the proposed location of the covered patio and screen enclosure



BOARD OF ZONING ADJUSTMENT
201 S. Rosalind Ave.
Orlando, FL 32801