

**PLANNING, ENVIRONMENTAL, AND DEVELOPMENT, SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT**

July 14, 2026

The following is a public hearing before the Board of County Commissioners on July 14, 2026, at 2:00 p.m.

APPLICANT: KATELYN O'NEAL

OWNER: JORDAN KUPPINGER

CASE #: VA-26-05-037

REQUEST: Variances in the R-1AA zoning district from the Normal High Water Elevation as follows:
1) To allow a new residence with a setback of 16.6 ft. in lieu of 35 ft.
2) To allow a pool and deck with a setback of 3.2 ft. in lieu of 35 ft.

LOCATION: 9146 Bay Point Dr., Orlando, FL 32819, west side of Bay Point Dr., east side of Lake Tibet, east of Winter Garden Vineland Rd., south of Conroy Windermere Rd., west of S. Apopka Vineland Rd.

LOT SIZE: 18,211 sq. ft. (13,870 sq. ft. upland)

ZONING: R-1AA

DISTRICT: #1

PROPERTIES NOTIFIED: 87

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

Staff presented the proposal and reviewed the property's location, site plan, and site photos. Staff provided an analysis of the six criteria and the reasons for a recommendation for denial of the Variance requests. Staff also noted that no comments had been received in support or opposition.

The applicant was present and explained the need for the proposal, and the justification of the proposed configuration of the structures on the property.

No members of the public were present to speak in favor of or in opposition to the requests.

The BZA recommended approval of the Variance requests by a 6-0 vote, with one absent, subject to the four conditions found in the staff report, as modified:

1. Development shall be in accordance with the site plan and elevations date stamped May 4, 2026, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed nonsubstantial 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).

BZA HEARING DECISION:

A motion was made by Thomas Moses, seconded by Roberta Walton Johnson, and carried to recommend 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 conditions as modified (Motion by Thomas Moses, Second by Roberta Walton Johnson; unanimous; 6 in favor: John Drago, Juan Velez, Glenn Rubinstein, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 absent: Johnny Stanley).

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAY 07, 2026**

Commission District: **#1**

Case #: **VA-26-05-037**

Case Planner: **Jacqueline Boling (407) 836-5955**

Jacqueline.Boling@ocfl.net

GENERAL INFORMATION

APPLICANT(s): KATELYN O'NEAL

OWNER(s): JORDAN KUPPINGER

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PROPERTY LOCATION: 9146 Bay Point Dr., Orlando, FL 32819, west side of Bay Point Dr., east side of Lake Tibet, east of Winter Garden Vineland Rd., south of Conroy Windermere Rd., west of S. Apopka Vineland Rd.

PARCEL ID: 28-23-28-0600-00-210

LOT SIZE: 18,211 sq. ft. (13,870 sq. ft. upland)

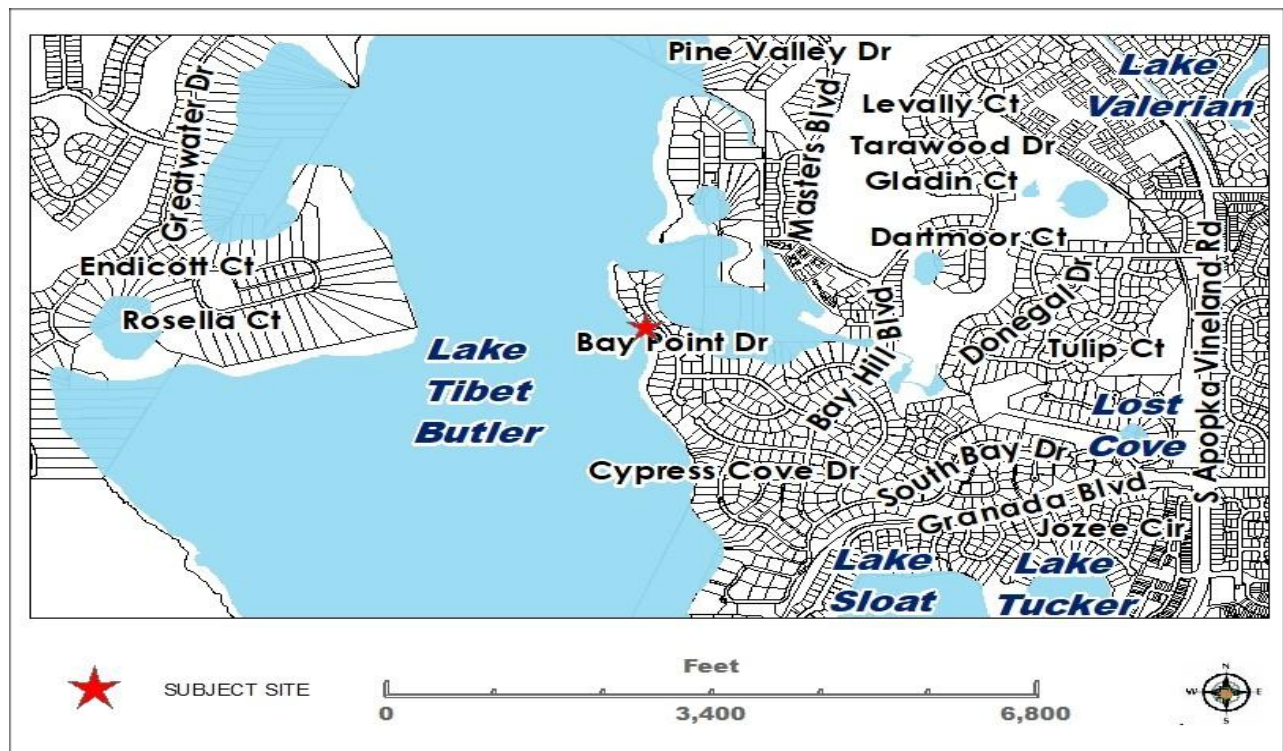
NOTICE AREA: 1,100 ft.

NUMBER OF NOTICES: 87

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of 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-1AA	R-1AA	R-1AA	R-1AA	R-1AA
Future Land Use	R	R	R	R	Water Body
Current Use	Single-family residence	Single-family residence	Vacant	HOA Tract	Lake Tibet

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1AA, single-family dwelling district, which allows single-family homes and associated accessory structures. The Future Land Use (FLU) is Rural (R), which is inconsistent with the R-1AA zoning district. The Planning Division reviewed the request and found that the property is vested for a single-family home, therefore single-family residential construction, expansions and ancillary uses are permitted.

The area around the subject site consists of single-family homes. The subject property is approximately 18,211 square feet in total area, with 13,870 sq. ft. of upland. It was platted in 1978 as Lot 21 of the Bay Point Plat and is considered a conforming lot. The subject lot is an interior lakefront lot with right-of-way along Bay Point Dr. to the east and Lake Tibet to the west. The property was purchased by the current owner in 2025 and is developed with a two-story, 6,384-gross-square-foot single-family home constructed in 1979, as well as a rear yard paver patio, pool, and boat dock. The submitted survey indicates that existing improvements comply with applicable code requirements, including the Normal High Water Elevation (NHWE) setback. The existing residence, including the pool and deck, is proposed for demolition.

The proposal is to construct an approximately 7,800-square-foot, two-story single-family residence with two two-car garages, along with a covered patio, pool, and deck located at the rear of the home. The proposed residence is shown with a 16.6 ft. setback from the Normal High-Water Elevation (NHWE) line. The typical NHWE setback for a property located in the R-1AA district is 50 ft. However, Section 38-1501 footnote 'A' of Orange County Code states that a lot which is part of a subdivision, the plat of which has been lawfully recorded,... on or before August 31, 1982,... which has a depth of less than one hundred fifty (150) feet above the NHWE contour, shall be exempt from the 50 ft. setback requirement set forth in Section 38-1501. Instead, the setbacks under the respective zoning district requirements shall apply as measured from the NHWE contour. Lot depth is measured as the distance measured from the midpoint of the front line to the midpoint of the opposite rear line of the lot, which in this instance is the NHWE line. The property depth is approximately 135 ft.; therefore, the minimum rear setback is 35 ft. from the NHWE, and the proposed residence will not comply with this setback requirement, therefore requiring Variance #1.

Section 38-79(10)c. establishes swimming pools, including all appurtenances thereto, such as pool decks, security fences, or screen enclosures, shall be subject to the setback requirements from the NHWE contour for water bodies. Footnote 'A' of Section 38-1501 of Orange County Code states the minimum setbacks from the NHWE contour for accessory structures and uses shall be the same distance as the setbacks which are used per the respective zoning district requirements as measured from the NHWE contour. The pool and deck are proposed to be located 3.2 ft. from the NHWE line where a 35 ft. setback is required, prompting Variance #2.

In the cover letter, the applicant identifies the need for four separate variance requests. However, these have been consolidated into two requests. This is because pool setbacks are measured from the edge of the deck rather than the waterline, and the covered patio is subject to principal structure setbacks, eliminating some of the original requests.

The request was routed to all reviewing divisions, and no objections were provided. As of the date of this report, no comments have been received in favor or in opposition to this request.

Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six Variance criteria are met. While the Variance requests meet some of the criteria, they do not meet all the criteria. Based on staff’s analysis the residence is not yet constructed and could be redesigned to lessen the Variance requests. Therefore, staff is recommending denial.

Site and Building Requirements

	Code Requirement	Proposed
Max Height:	35 ft.	30 ft.
Min. Lot Width:	85 ft.	120 sq. ft.
Min. Lot Size:	10,000 sq. ft.	13,681 sq. ft. upland

Building Setbacks

	Code Requirement	Proposed
Front:	30 ft.	30 ft.
Side (Principal Structure):	7.5 ft.	10 ft. (North) 10 ft. (South)
Rear/NHWE:	35 ft.	16.6 ft. (Covered Patio – Variance #1) 3.2 ft. (Pool and Deck – Variance #2)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

ALL VARIANCES NOT MET – No special conditions and circumstances exist as the home has not been constructed, and the proposed construction could be redesigned in a way to comply with all setback requirements for the lot. The buildable area of the lot once all required setbacks are applied is approximately 5,550 sq. ft.

Not Self-Created

ALL VARIANCES NOT MET – The need for the Variances are self-created as all existing structures on the property will be demolished allowing the owner the ability to redesign the development to comply with all setback requirements for the lot.

No Special Privilege Conferred

ALL VARIANCES MET – Granting the Variances as requested would not confer special privilege as several other properties in the area appear to have NHWE setbacks similar to the requests.

Deprivation of Rights

ALL VARIANCES NOT MET – Without approval of the requested Variances, the owner will not be deprived of the ability to build a home with a pool and deck that complies with code.

Minimum Possible Variance

ALL VARIANCES NOT MET – The requested Variances do not represent the minimum necessary to accommodate a new single-family home, pool, and deck, as the proposed development could be redesigned to eliminate or reduce the extent of the requests.

Purpose and Intent

ALL VARIANCES NOT MET – Approval of the requested Variances would not be in harmony with the purpose and intent of the Zoning Regulations, which are designed to minimize the impacts that structures, including single-family homes, pools, and decks, may have on adjacent lake resources. These regulations aim to maintain appropriate setbacks to reduce potential environmental and visual impacts. Granting the Variances would be inconsistent with these objectives, as it would allow development in closer proximity to the lake than intended by the code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations date stamped January 17, 2026 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 principal structure is located no closer than 16.6 feet and the pool and deck is located no closer than 3.2 feet from the Normal High Water Elevation (NHWE) of Lake Tibet.

C: Katelyn O'Neal
900 W. Lake Holden Pt.
Orlando, FL 32805

Orange County Zoning Division
201 South Rosalind Ave, 1st Floor
Orlando, FL 32801

To the Board of Zoning Adjustment,

I am writing to request a variance to Sec. 38-1501 rear setback requirement from NHWE criteria at the residence of 9146 Bay Point Drive for a variance for a (1)primary residence setback from NHWE to be 26' in lieu of 35', (2)pool setback from NHWE to be 6'1" in lieu of 35', (3)pool deck setback from NHWE to be 3'2" in lieu of 35' and (4)covered patio setback of 16'6" in lieu of 35'. Property is zoned as ORG-R-1AA and located with the Bay Point of Bay Hill Property Owners Association.

Special Conditions & Circumstances: Property was platted prior to 1982. It is positioned with less than 150ft from street to NHWE. The property is not square with the N side property line shorter than the S property line, causing the rear/west property line at NHWE to be angled. In order to conform to code on the front setback and HOA requirement at 30ft, a variance would be required to adjust the rear setback to allow for primary residence, covered patio and pool/pool deck. Additionally, the seawall on the property cuts landward around cypress trees, creating a non-linear NHWE line on the property.

Not Self-Created: The current property owner has no control over the lot platting. Constrained lot and special conditions listed above are not self-created. The existing SFR, covered patio, and pool/pool deck were permitted to be built within the 35ft setback requirement.

In purchasing the property, the real estate survey provided during closing showed larger dimensions that would have allowed for construction of the SFR without a variance. After purchase of the property, the property owner acquired a detailed elevation survey for permitting the proposed structures and changes to the existing pool, which varied significantly from the original survey. Based on the new dimensions, a variance would now be required to build the proposed SFR and adjustments have been made to the proposed structures for minimum possible variance.

No Special Privilege: Approval of this variance would simply allow for a new primary residence, covered patio and pool/pool deck to be constructed which is a right conferred to others on the same street and on Lake Tibet. There is a record of 14 homes on the street having approved variance for pool/pool deck and 7 properties with approved variance for SFR. Examples of homes that have already received a NHWE variance include:

- 9161 Bay Point Drive – VA-16-11-139 Approved SFR at 26ft to NHWE
- 9236 Bay Point Drive – VA-13-06-023 Approved SFR at 29.7ft to NHWE
- 9154 Bay Point Drive – VA-25-11-060 Approved Pool/Pool Deck at 3.67ft to NHWE
- 9105 Bay Point Drive – VA-10-01-004 Approved Covered porch at 16.5ft to NHWE

This request for variance does not expand beyond existing precedent on the street.

Deprivation of Rights: The special conditions of the property would prevent construction without a variance. Granting of a variance allows the property owner their basic property right of enjoyment to which neighboring lakefront owners have previously been granted via NHWE setback variances.

Minimum Possible Variance: The proposed residence, patio and pool location is the only location on the property with sufficient space to build while maintaining HOA requirements for front setback and residence size that adhere to the covenants of the neighborhood. Additionally, the request for variances for the pool/deck does not extend beyond the existing permitted pool and pool deck distance to NHWE. The variance requested is therefore the minimum possible to allow for new construction on the lot as platted.

Purpose and Intent: Variance would be in harmony with the purpose and intent of the existing zoning regulations and does not adversely affect the neighborhood. The property maintains a structurally sound seawall which provides a barrier to the lake from any erosion impact. Lake levels over the past 10 years show only a 0.639ft difference between Min and Max water level. (Source: OC Stormwater Water Level Sampling Lake Tibet 2016-2026)

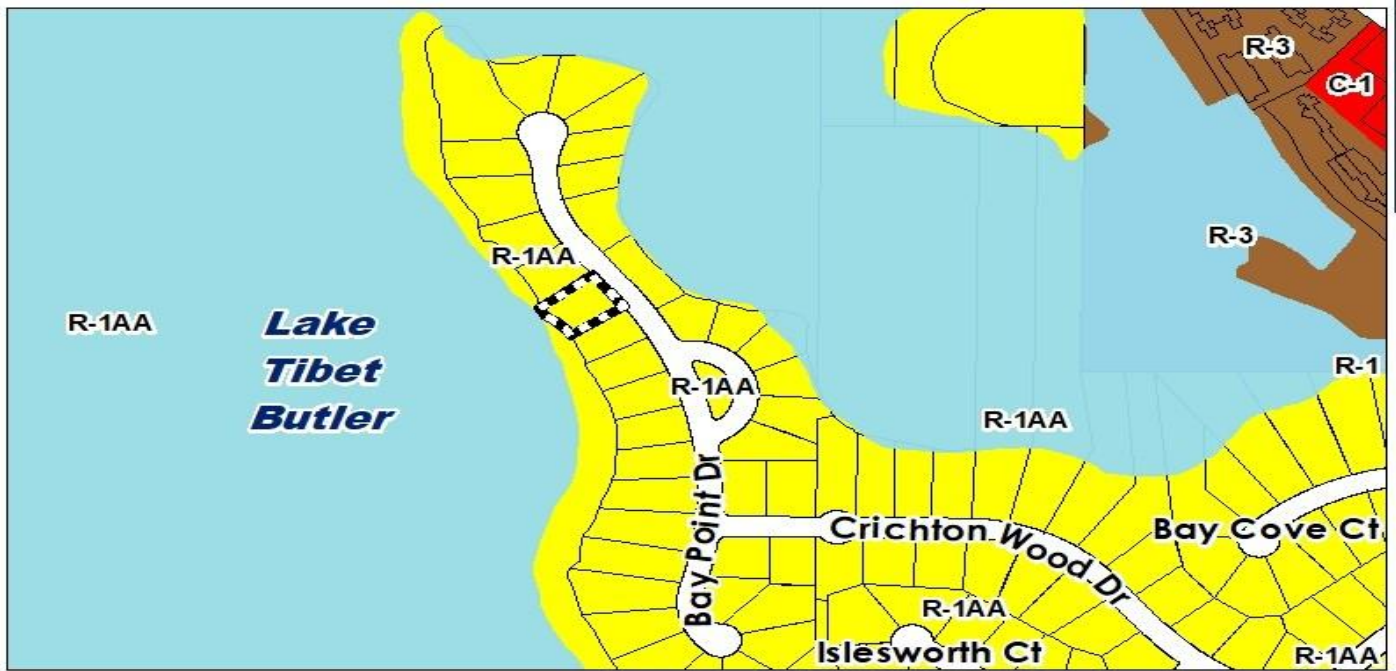
In summary, I am requesting a variance to Sec. 38-1501 Setback requirement criteria from NHWE for a proposed primary residence, covered patio, and pool/pool deck. Only a variance would allow the property owner to construct these proposed changes to the property with the special circumstances outlined above.

Thank you for your time and consideration of this variance request.

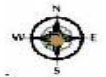
With Respect,

Katie O'Neal
Authorized Agent

ZONING MAP



SUBJECT SITE



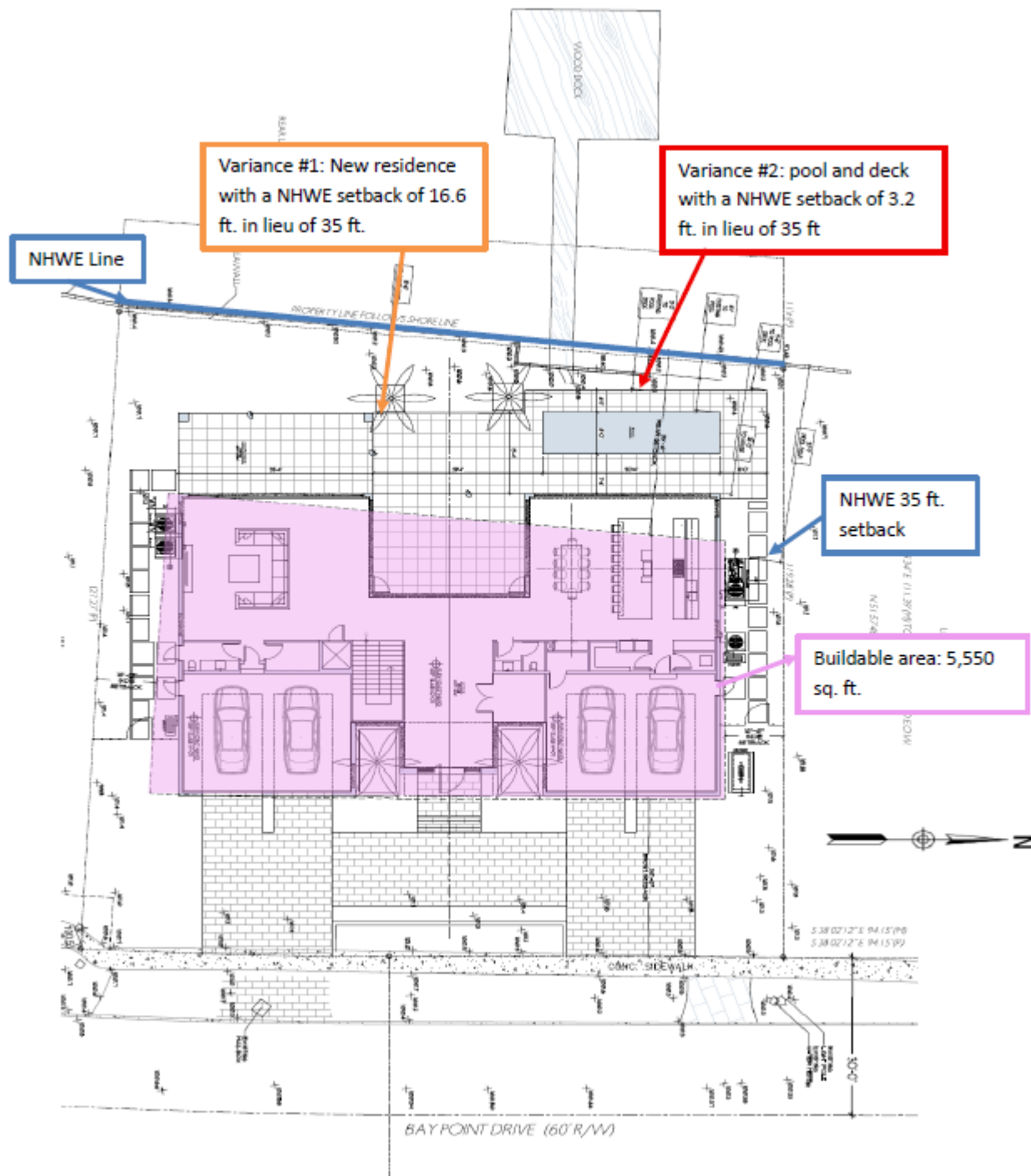
AERIAL MAP



SUBJECT SITE



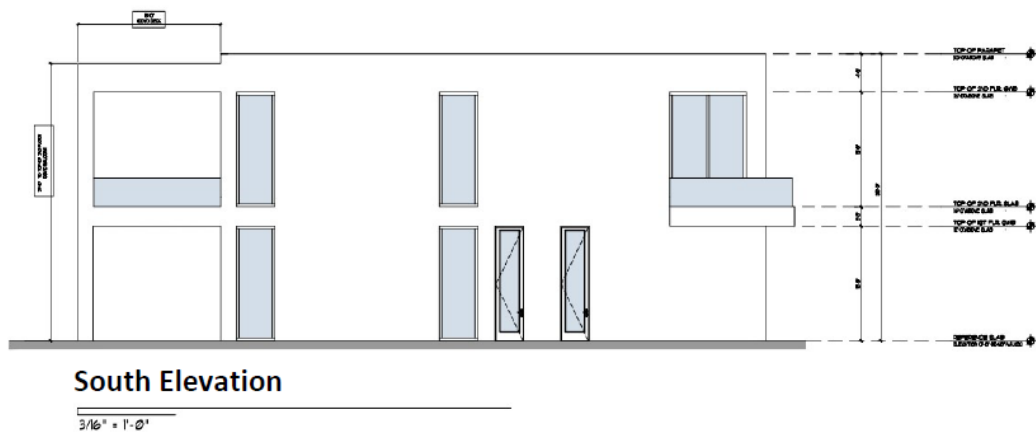
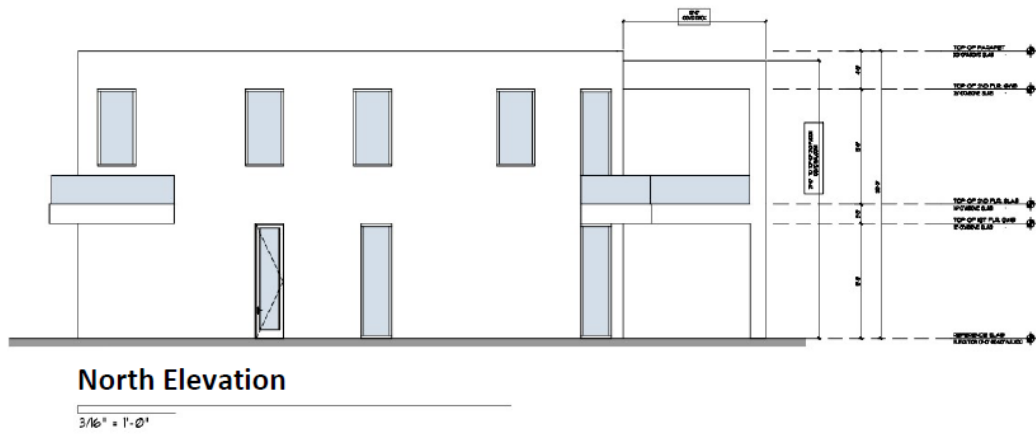
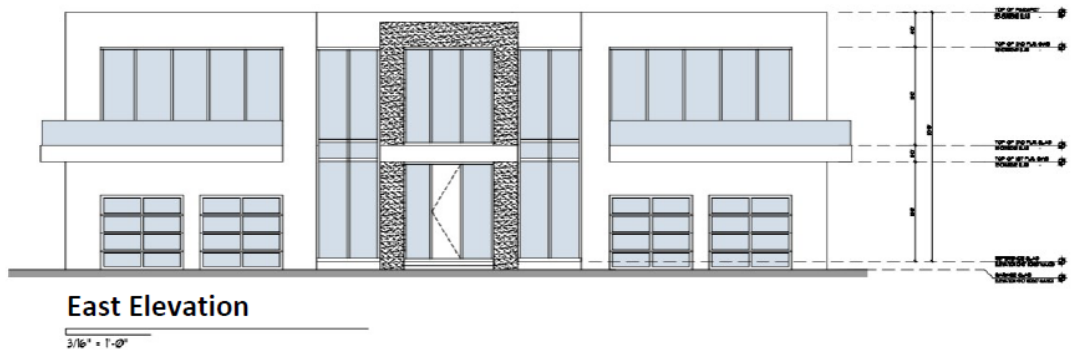
SITE PLAN



◀ Z



ELEVATIONS



SITE PHOTOS



Subject property facing south



Facing south west towards the backyard of subject property and Lake Tibet

SITE PHOTOS



Facing north towards the back yard of subject property.



Facing northwest towards the location of the proposed pool and deck and new residence.