



*Orange County Zoning Division*

**VA-18-09-119**

**APPLICANT/APPELLANT:**

**ARACELIA CUEVAS**

**DECEMBER 18, 2018**



# Background

<b>CASE:</b>	<b>VA-18-09-119</b>
<b>APPLICANT:</b>	<b>Aracelia Cuevas</b>
<b>ZONING:</b>	<b>R-2, Residential District</b>
<b>FUTURE LAND USE:</b>	<b>LMDR, Low-Medium Density Residential (10 du/ac)</b>
<b>ADDRESS:</b>	<b>8262 Fort Thomas Way, Orlando, FL 32828</b>
<b>LOCATION:</b>	<b>Southerly corner of the intersection of Fort Thomas Way and Fort Jefferson Blvd.</b>
<b>TRACT SIZE:</b>	<b>75 ft. x 109 ft. (avg)/.19 ac.</b>
<b>DISTRICT:</b>	<b>3</b>



# Background

## **REQUEST:**

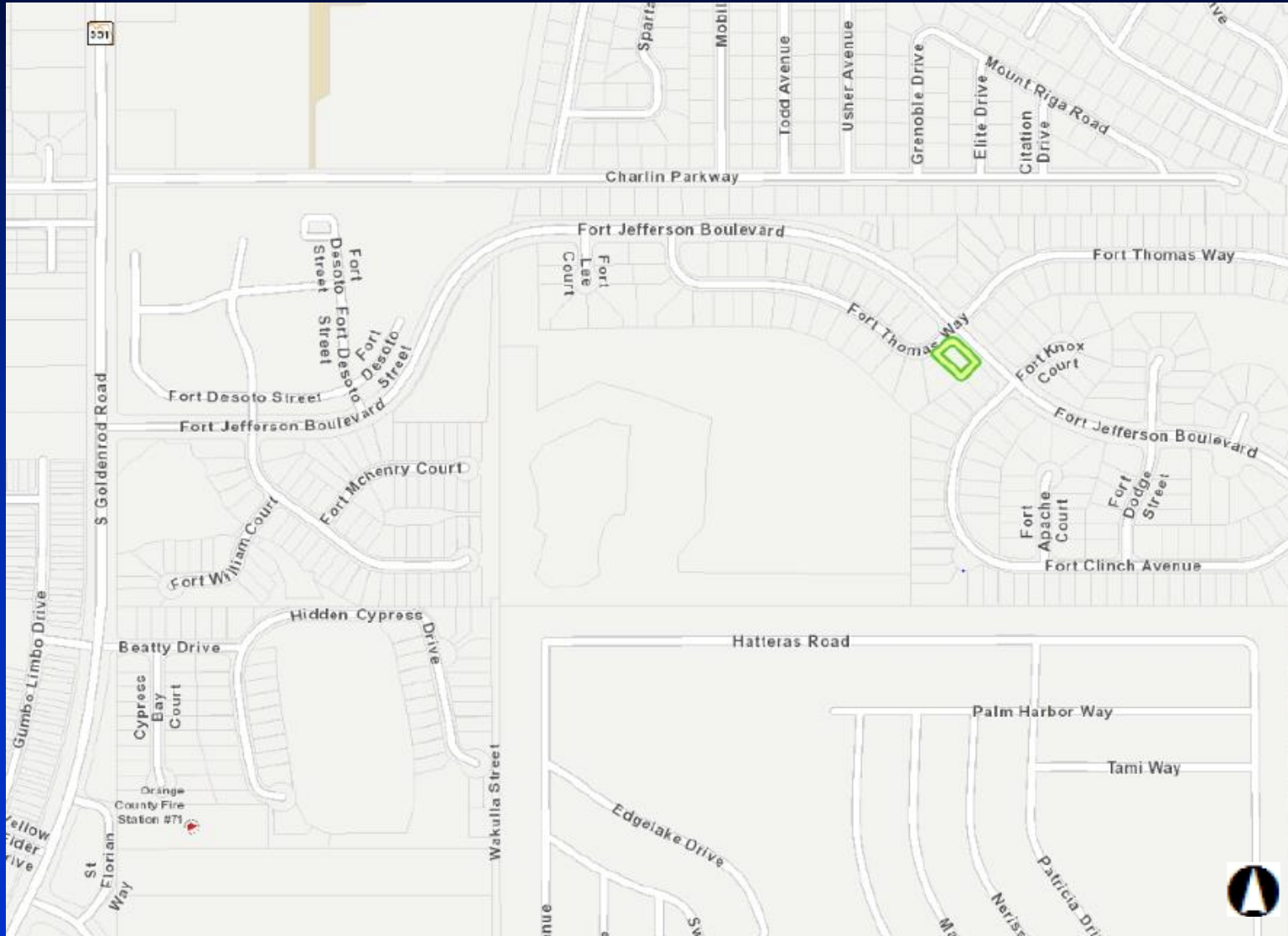
**Variances in the R-2 zoning district as follows:**

- 1) Variance to validate a completely enclosed porch 24 ft. from the rear (east) property line in lieu of 25 ft.**
- 2) Variance to validate a lanai with a permanent roof 14 ft. from the rear property line in lieu of 25 ft.**

**This request is the result of Code Enforcement Action**



# Location Map





# Zoning Map





# Aerial Map





# Close-Up Aerial Map





# History

- **1993 – The home was constructed.**
- **2004 – The applicant purchased the property.**
- **August 2006 – A permit was issued for a screen porch at the rear of the home. The screen porch was later enclosed without a permit (approx. 2010).**
- **January 2014 – A covered lanai was constructed without a permit between the enclosed porch and the rear lot line.**
- **April 2018 – The applicant was cited by Code Enforcement for numerous items including enclosing the screen porch, and adding the covered lanai without permits.**

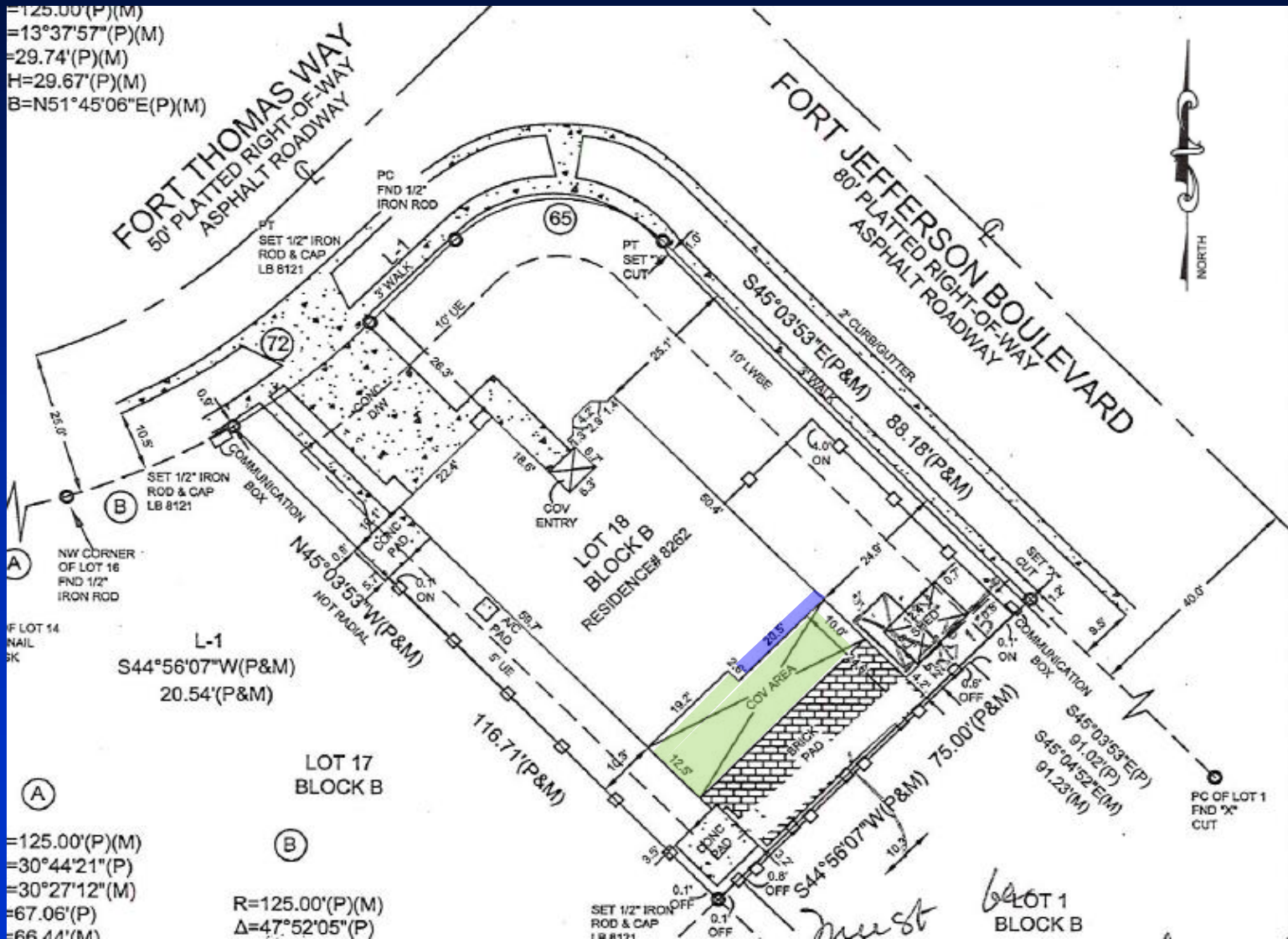




# History

- **September 2018 – The BZA made a series of motions but failed to make a recommendation to the BCC. The County Attorney’s office remanded it back to the October 2018 BZA hearing for decision only.**
- **September – October 2018 – The applicant modified the roof color to match based on discussion at the September BZA hearing that the color should be consistent.**
- **October 2018 – The BZA recommended approval of variance #1 allowing the enclosed porch to remain, and recommended denial variance #2 regarding the covered lanai.**

# Site Plan





# Site Photograph





# Site Photograph



08/14/2018 14:13



# Site Photograph





# Site Photograph





# Site Photograph (received October 3)





# Site Photograph (received October 3)







# Staff Analysis

- 1. The subject property is in the R-2, Residential District. This zoning district provides for a variety of single-family residential units both detached and attached.**
- 2. The property was platted in 1992, and is a corner lot. The required setbacks for lots platted prior to March 3, 1997 are 25 ft. in the front and rear, 6 ft. on the side, and 15 ft. on the side street yard.**
- 3. The existing setbacks for the home are 28.3 ft. on the front, 24.9 ft. on the side street, 10.1 ft. on the side, and 14 ft. on the rear.**
- 4. The applicant could construct a 9.9' deep lanai along the north/side street side of the house and meet code.**



## Staff Analysis

5. The requested variances are to allow the existing enclosed porch 24 ft. from the rear property line and the existing lanai 14 ft. from the rear property line.
6. Code Enforcement cited the applicant on July 10, 2013, for new construction of an accessory structure without a permit. The violation was cleared in August 9, 2013, after construction on that structure ceased and the materials were removed.
7. Aerial photos show that sometime in 2013, the porch addition and covered lanai were added.

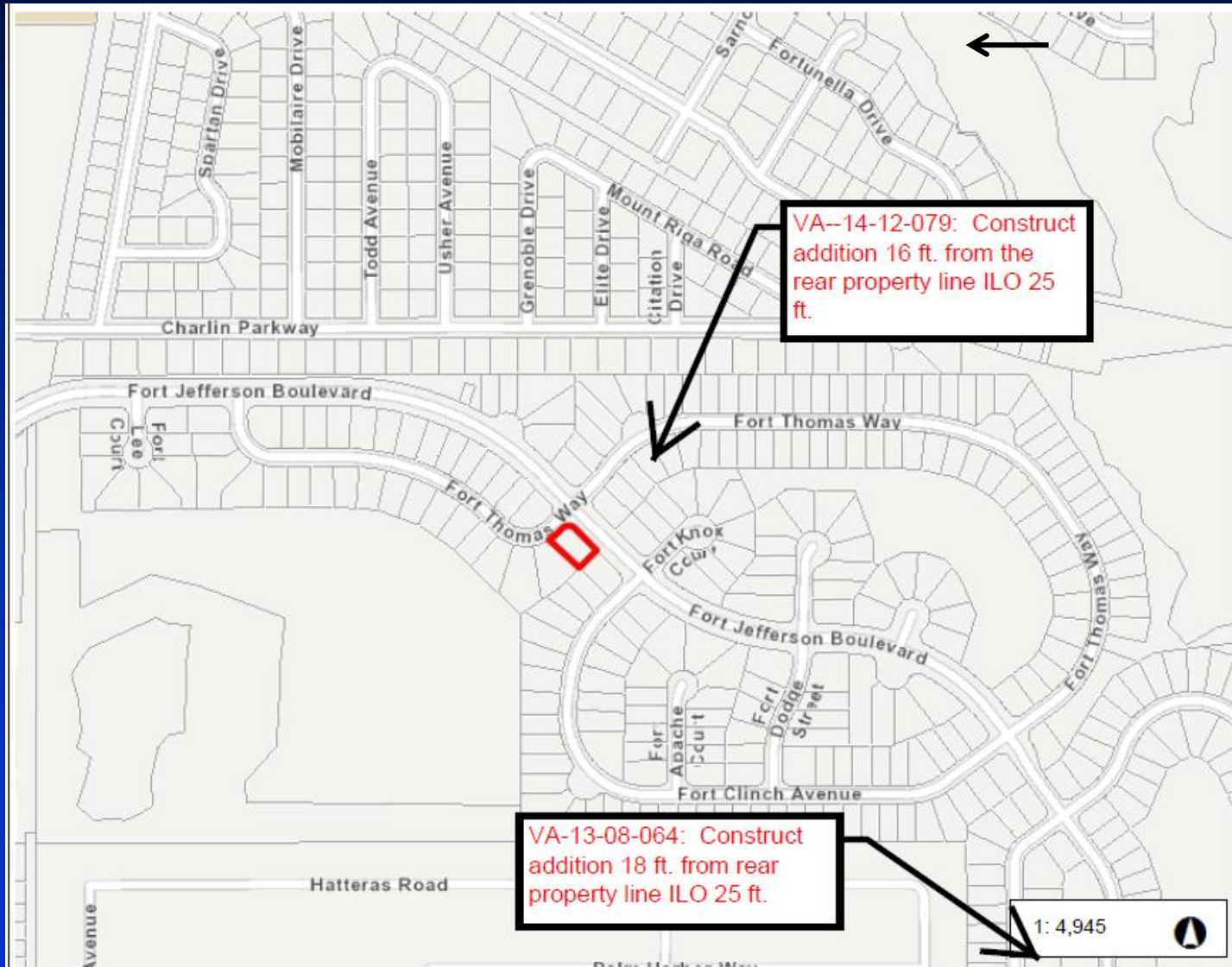


# Staff Analysis

- 8. Code Enforcement cited the property again on April 11, 2018 for work without zoning approval and/or permits for: a metal gazebo, driveway expansion, concrete slab, fencing, pavers, relocated shed, side entry door, additions to the rear of structure, and conversion of a permitted screened porch to enclosed living space.**
- 9. Staff recommended denial of both variances in that there were no special conditions or circumstances regarding the property and denial of the variances would not deprive the applicant the rights enjoyed by others. A open air lanai could be constructed along the side street yard and meet the required setbacks.**



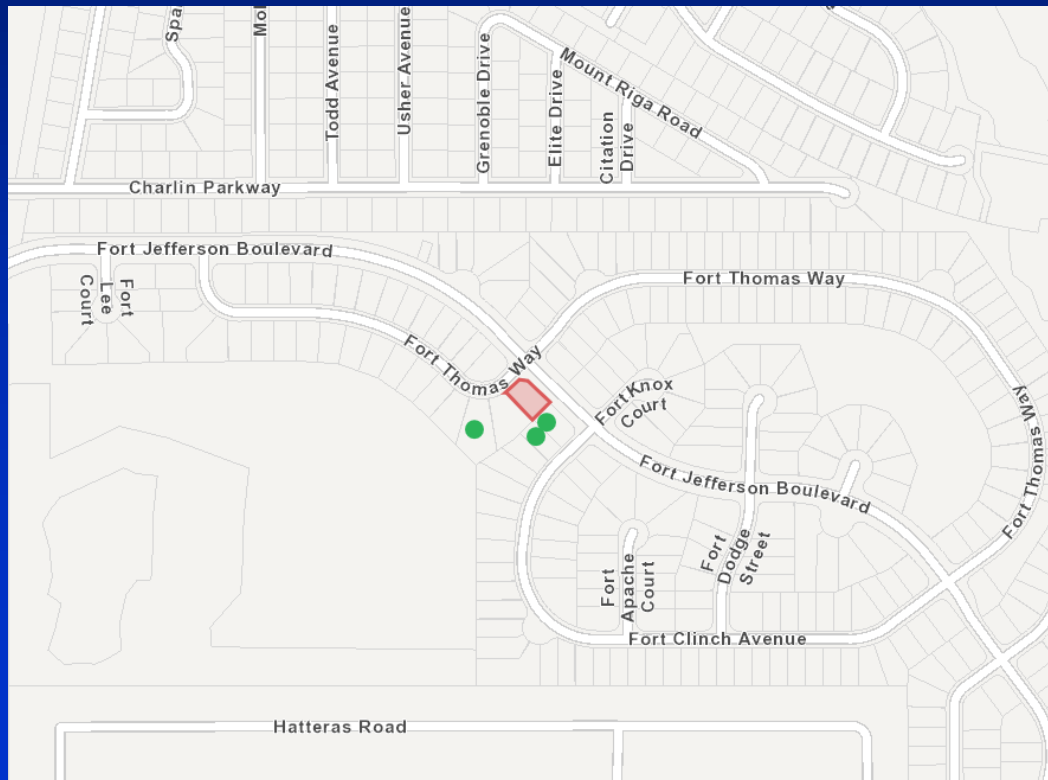
# Previous BZA Approvals





# Public Feedback

- Staff mailed out 116 notices within a 500 ft. radius
- Staff received 3 letters in support of the request
- Staff received 0 letters in opposition to the request





# Variance Criteria

## Section 30-43 (3), Orange County Code

### VARIANCE CRITERIA

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for 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 property and which are not applicable to other properties
2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant
3. No Special Privileges Conferred - Approval will not confer on the applicant any special privilege
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
5. Minimum Possible Variance - The minimum variance that will make possible the reasonable use of the land, building, or structure
6. Purpose and Intent - Approval will be in harmony with the purpose and intent of this Chapter and will not be injurious to the neighborhood



## BZA Findings

- Request #1 was the minimum variance necessary.
- The lanai was built by the applicant, therefore it was a self-created hardship.
- There are two different roof styles which do not match, however the applicant modified the roof color so that it would match.



## BZA Recommendation

- The BZA made the finding that the standards of variance criteria were met for variance #1 and were not met for variance #2. The BZA recommended approval of variance # 1 and denial of variance #2 with the following conditions:





# Conditions of Approval

- 1. Development in accordance with the site plan dated July 18, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.**
- 2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.**



# Conditions of Approval

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain permits for the unpermitted improvements within 180 days of final action on this application by Orange County, or this approval becomes null and void.
5. The color of the roof shall be maintained in a monochromatic fashion.



## Requested Action

- Approve the applicant's request; or
- Approve the applicant's request with modifications and/or conditions; or
- Approve the applicant's request in part and deny it in part; or
- Deny the applicant's request.

\*Any approval is subject to standard conditions of approval.