



Planning, Environmental &  
Development Services  
Department



Orange County Board of Zoning Adjustment

# Recommendations Booklet

Hearing Date:

**January 4, 2024**

Zoning Division

**BOARD OF ZONING ADJUSTMENT (BZA)**  
**ORANGE COUNTY GOVERNMENT**

**Board Member**

**District**

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**

Ted Kozak, AICP

Chief Planner

Nick Balevich

Planner II

Jenale Garnett

Planner I

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT  
RECOMMENDATIONS  
JANUARY 4, 2024**

<b>Case #</b>	<b>Applicant</b>	<b>Commission District</b>	<b>Staff Recommendation</b>	<b>BZA</b>	<b>Page #</b>
VA-23-12-119	Herbert Betancourt	5	Request #2, Approval w/Conditions Requests #1, 3, 4, & 5 Denial	Requests #2 & 5 Approval w/Conditions Requests #1, 3, & 4 Denial	1
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**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 Jan 23, 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 Requirements

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

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District	Min. Lot Area <sup>M</sup> (sq.ft.)	Min. Living Area/floor area (sq.ft.)	Min. Lot width (ft.)	<sup>A</sup> Min. Front yard (ft.)	<sup>A</sup> Min. Rear yard (ft.)	<sup>A</sup> Min. Side yard (ft.)	<sup>A</sup> 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 <sup>A</sup>	L	
	Mobile home 2 acres	850	100	35	50	10	15	35	50 <sup>A</sup>	L	
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 <sup>A</sup>	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 <sup>A</sup>	L	
NR	One family dwelling, 4,500	1,000	45 <sup>C</sup>	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1748
	Two dwelling units, 8,000	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1748
	Three dwelling, 11,250	1,000	45 <sup>C</sup>	20	20	5	15	35/3 stories	50 <sup>A</sup>	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 <sup>A</sup>	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 <sup>A</sup>	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 <sup>A</sup>	L	38-1741
	One family dwelling, 4,500	1,000	45 <sup>C</sup>	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1741
	Two dwelling units, 11,250	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1741
	Three dwelling, 11,250	500 per dwelling unit	85	20	20	10	15	35/3 stories	50 <sup>A</sup>	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 <sup>A</sup>	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 <sup>A</sup>	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 <sup>A</sup>	L	38-1734
	One family dwelling, 4,500	1,000	45 <sup>C</sup>	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1734
	Two dwelling units, 8,000	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 <sup>A</sup>	L	38-1734

District	Min. Lot Area <sup>M</sup> (sq.ft.)	Min. Living Area/ floor area (sq.ft.)	Min. Lot width (ft.)	<sup>A</sup> Min. Front yard (ft.)	<sup>A</sup> Min. Rear yard (ft.)	<sup>A</sup> Min. Side yard (ft.)	<sup>A</sup> 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 <sup>A</sup>	L	
	Mobile home 2 acres	850	100	35	50	10	15	35	50 <sup>A</sup>	L	
	Three dwelling, 11,250	500 per dwelling unit	85	20	20	10	15	35/3 stories	50 <sup>A</sup>	L	38-1734
	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 <sup>A</sup>	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 <sup>A</sup>	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 <sup>A</sup>	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 <sup>A</sup>	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 <sup>A</sup>	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 <sup>A</sup>	L	38-880
I-1A	N/A	N/A	N/A	35	25 <sup>N</sup>	25 <sup>N</sup>	15	50; or 35 within 100 feet of any residential use or district	50 <sup>A</sup>	L	38-907
I-1/I-5	N/A	N/A	N/A	35	25, or 50 ft. when abutting residential district <sup>N</sup>	25, or 50 ft. when abutting residential district <sup>N/O</sup>	15	50; or 35 within 100 feet of any residential use or district	50 <sup>A</sup>	L	38-932
I-2/1-3	N/A	N/A	N/A	25	10, or 60 ft. when abutting residential district <sup>P</sup>	15, or 60 ft. when abutting residential district <sup>P</sup>	15	50; or 35 within 100 feet of any residential use or district	50 <sup>A</sup>	L	38-981

District	Min. Lot Area <sup>M</sup> (sq.ft.)	Min. Living Area/floor area (sq.ft.)	Min. Lot width (ft.)	<sup>A</sup> Min. Front yard (ft.)	<sup>A</sup> Min. Rear yard (ft.)	<sup>A</sup> Min. Side yard (ft.)	<sup>A</sup> 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 <sup>A</sup>	L	
	Mobile home 2 acres	850	100	35	50	10	15	35	50 <sup>A</sup>	L	
I-4	N/A	N/A	N/A	35	10, or 75 ft. when abutting residential district <sup>N</sup>	25, or 75 ft. when abutting residential district <sup>N</sup>	15	50; or 35 within 100 feet of any residential use or district	50 <sup>A</sup>	L	38-1008
U-R-3	Four or more dwelling units, 15,000	500 per dwelling unit	85 <sup>I</sup>	20/25 <sup>H</sup>	30	10 <sup>B</sup>	15	35	50 <sup>A</sup>	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 abut 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. The maximum height of any structure shall be two (2) stories or thirty-five (35) feet; provided, that no structure (exclusive of single-family and two-family dwellings) shall exceed one (1) story in height within one hundred (100) feet of the side or rear lot line of any existing single-family 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: **JAN 04, 2024**

Commission District: **#5**

Case #: **VA-23-12-119**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** HERBERT BETANCOURT

**OWNER(s):** NYMA WHITMIRE, CARTER WHITMIRE

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

- 1) To allow for an existing detached accessory ~~structure~~ dwelling unit\* (treehouse) 11 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft. DENIED
- 2) To allow an existing detached accessory structure (gazebo) 3.8 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft. APPROVED
- 3) To allow an existing detached accessory structure (outdoor shower) 12.9 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft. DENIED
- 4) To allow an existing detached accessory structure (pergola) 15.1 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft. DENIED
- 5) To allow an existing pool/deck with a south side setback of 3.5 ft. in lieu of 5 ft. APPROVED

Note: This is a result of Code Enforcement

\*Accessory dwelling unit was advertised, but not applicable.

**PROPERTY LOCATION:** 4715 Shorecrest Dr., Orlando, FL 32817, east side of Shorecrest Dr., west side of Lake Martha, north of University Blvd., west of S.R. 417.

**PARCEL ID:** 01-22-30-4848-02-040

**LOT SIZE:** +/-1.92 acres (+/- 0.90 acres upland)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 78

**DECISION:** Recommended **APPROVAL** of the Variance requests **#2** 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; and, **DENIAL** of the Variance requests **#1**, **#3**, and **#4**, 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) (Motion by Deborah Moskowitz, Second by Thomas Moses; 4 in favor: Thomas Moses, Deborah Moskowitz, John Drago, Roberta Walton Johnson; 1 opposed: Juan Velez; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the survey received November 20, 2023, and elevations received October 11, 2023, as modified to remove the treehouse, pergola, and outdoor shower structure, 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 of the existing pool and deck, the portion of the fence which encroaches into the adjacent property shall be removed.
5. A permit shall be obtained for the existing pool and deck 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.
6. 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 gazebo is located no closer than 3.8 feet from the Normal High Water Elevation (NHWE) of Lake Martha.

**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 of Variances #1, #3, #4, and #5, and for approval of Variance #2. Staff noted that no comments were received in favor of the requests, and four (4) comments were received in opposition to the requests.

The applicant provided reasons for the Variances and compared the location of the structures relative to the NHWE within the area, with the proposed structures on the subject property.

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

Code enforcement staff briefly discussed the history of citation.

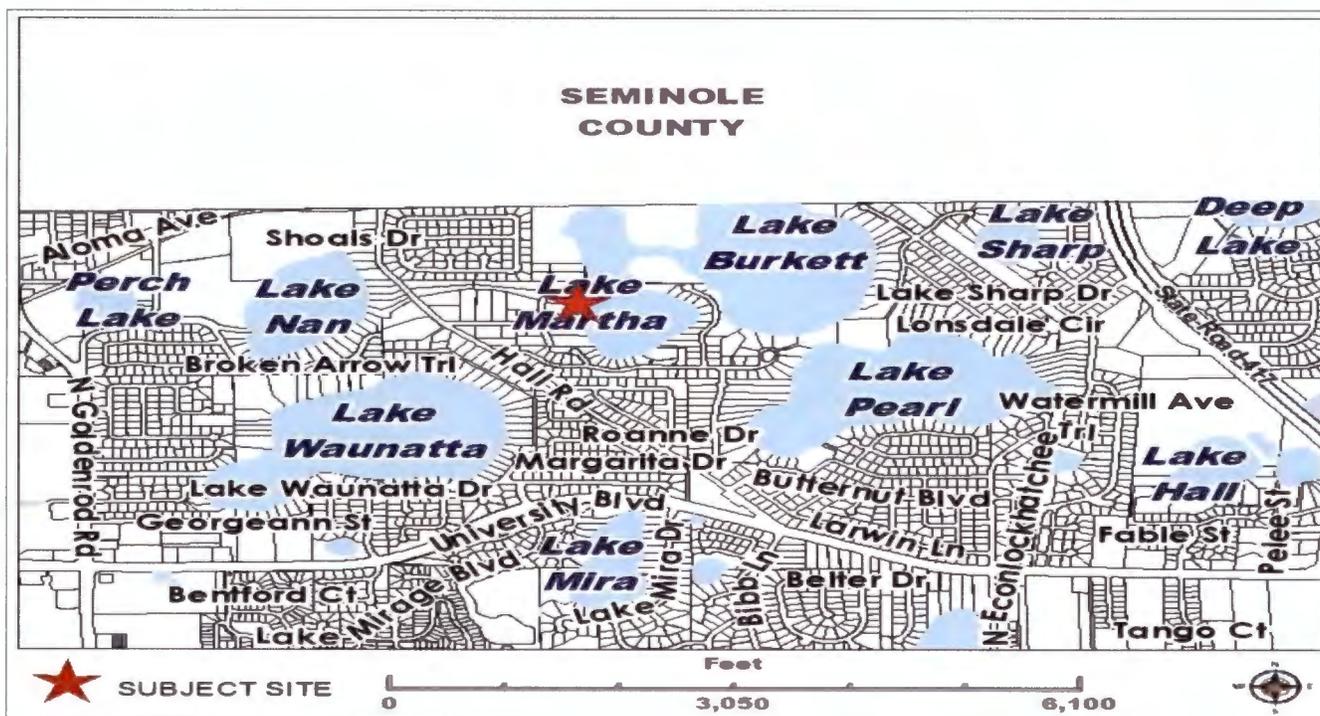
The BZA discussed the requests, noted that the unpermitted structures could have been built to meet code requirements, noted that over time the owners constructed additions to the treehouse and within the rear yard without permits and recommended denial of Variances #1, #3, and #4, and recommended approval of Variances #2 and #5 by a 4-1 vote, with one absent and one seat vacant, subject to the four (4) conditions in the staff report, with an amendment to Condition #4 as follows, "Prior to the issuance of any building permit of the existing pool and deck, the portion of the fence which encroaches into the adjacent property shall be removed."

Additionally, to include added Condition #5, which states, "A permit shall be obtained for the existing pool and deck 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." and the addition of Condition #6, which states, "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 gazebo is located no closer than 3.8 feet from the Normal High Water Elevation (NHWE) of Lake Martha."

### STAFF RECOMMENDATIONS

Denial of Variances #1, #3, #4, and #5, and approval of Variance #2, subject to the conditions in this report. However, if the BZA should find that the applicant has satisfied the criteria for the granting of all the Variances, staff recommends that the approval be subject to the conditions in this report.

### LOCATION MAP



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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-1AA	R-1AA	R-1AA	Lake Martha	R-1AA
Future Land Use	LDR	LDR	LDR	Lake Martha	LDR
Current Use	Single-family residential	Single-family residential	Vacant	Lake Martha	Single-family residential

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**BACKGROUND AND ANALYSIS**

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**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 on lots a minimum of 10,000 sq. ft. or greater. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1AA zoning district.

The area surrounding the subject site is comprised of single-family homes, many of which are lakefront. The subject property is comprised of Lot 4 and a portion of Lot 5 of the Lakeside Terrace Plat, recorded in 1953, and is considered to be a conforming lot of record. It is a +/- 1.93 acre platted parcel of land located on Lake Martha, of which +/- 0.90 acres is upland. The remainder of the parcel is either wetland or submerged property under Lake Martha. The subject property is developed with a 5,915 gross sq. ft. two story single-family home, constructed in 1959, with an attached 2-car garage and pool and deck. Improvements to the property include a 144 sq. ft. gazebo constructed in 1999 (B99017295), a 2,012 sq. ft. addition and a 1,380 sq. ft. porch addition built in 2002 (B02013242), and a 595 sq. ft. screen enclosure at the rear of the existing residence over the existing deck installed in 2011 (B11004392). Additionally, there are several detached accessory structures installed without permits including a 3-story-22.3 ft. high 2,030 sq. ft. accessory structure built as a treehouse, a 131 sq. ft. pergola, and an 80 sq. ft. outdoor shower structure. The year of installation for these structures cannot be ascertained via aerial photography due to the heavily vegetated property. The owners purchased the property in 1998.

A Code Enforcement citation was issued in December 2022 (CE#: 616540) for the construction of an accessory structure in the tree without permits.

The proposal is to allow the recognition of existing improvements which includes the 3-story treehouse located in the rear yard with a 11 ft. setback from the NHWE line in lieu 35 ft., requiring Variance #1. The owner is proposing to convert the ground floor from an enclosed room to an open covered deck. The second level consists of a changing room, and on the third level an open sun deck, which will remain the same. Other improvements include the 12 ft. by 12 ft., 12 ft. tall gazebo with a 3.8 ft. setback from the NHWE in lieu of 35 ft., requiring Variance #2, and an 8 ft. tall outdoor shower structure along the north side in the rear yard of the home with a 12.9 ft. setback from the NHWE in lieu of 35 ft., requiring Variance #3. Also, there is a pergola with a height of 8 ft. located in the rear yard 15.1 ft. from the NHWE in lieu of 35 ft., requiring Variance #4. The existing pool and deck located at the rear of the residence with a south side setback of 3.5 ft. in lieu of 5 ft., requiring Variance #5. Furthermore, there is a fence that encroaches into the adjacent property to the south, which will be removed. As per Sec. 38-1501, the NHWE setback requirements for accessory structures are the same as the district setbacks, which in this case is the R-1AA zoning district.

Staff has reviewed the request and recommends denial for Variances #1, #3, #4 and #5. Based on staff analysis, the existing location of the detached accessory structures were installed without permits and could be relocated to comply with the code. There is sufficient space in the rear yard of the property for the structures to be moved in a manner that meets code. Additionally, the existing pool and deck appeared in 2006 via aerial photography to have been renovated without permits, and the previously constructed pool and deck in 2005 via aerial photography appeared to meet code. However, staff is recommending approval of Variance #2 to recognize the existing non-conforming setback of the permitted gazebo to remain in the same location since 1999 as indicated in the issued permit.

The Orange County Environmental Protection Division has reviewed the request and has no objection to the proposal.

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.	22.3 ft. (existing treehouse) 12 ft. (gazebo) 8 ft. (outdoor shower) 8 ft. (pergola)
Min. Lot Width:	85 ft.	176.5 ft.
Min. Lot Size:	10,000 sq. ft. (0.23 acres)	+/-1.92 acres (+/- 0.90 acres upland)

**Building Setbacks**

	Code Requirement	Proposed
Front:	30 ft.	52.8 ft. house (West)
Rear:	35 ft.	425 ft. house (East)
Side:	10 ft. (accessory structure) (greater than 15 ft. high) 5 ft. (pool and deck)	37 ft. treehouse (North) 79.6 ft. treehouse (South) 3.5 ft. (South – Variance #5)
NHWE	35 ft. (accessory structure)	11 ft. treehouse (East – Variance #1) 3.8 ft. gazebo (East- Variance #2) 12.9 ft. outdoor shower (East – Variance #3) 15.1 ft. pergola (East – Variance #4)

**STAFF FINDINGS**

**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

**Variances #1, #3, #4, and #5:** There are no special conditions or circumstances as there are other options to relocate the detached accessory structures to a location that will meet code, eliminating the need for the

Variations. Furthermore, the pool and deck could have been constructed in a manner to meet code as it was expanded after 2005 without obtaining a permit.

**Variance #2:** The special condition and circumstance particular to this particular request is the gazebo being permitted in the same location in 1999.

#### **Not Self-Created**

**Variations #1, #3, #4 and #5:** The request is self-created since there are alternatives available to relocate the detached accessory structures to a location that will meet code, and the structures were built without a permit. Also, the pool and deck could have been renovated in a manner to be code compliant.

**Variance #2:** The request is not self-created since the permitted gazebo has been in the same location since 1999 as permitted.

#### **No Special Privilege Conferred**

**Variations #1, #3, #4 and #5:** Granting the Variations as requested would confer special privilege since all the developed properties in the surrounding area do not have Variance requests for similar detached accessory structures and pool and decks.

**Variance #2:** Due to the permitted gazebo being in the same location and configuration since year built, granting the requested Variance will not confer any special privilege conferred to others under the same circumstances.

#### **Deprivation of Rights**

**Variations #1, #3, #4 and #5:** There is no deprivation of rights since code compliant options are available to relocate the detached accessory structures to a location that meets code requirements. The pool and deck could have remained as installed in the same configuration prior to 2006 which met code requirements.

**Variance #2:** Without approval of the requested Variance, the owners will be deprived of the right for the permitted gazebo to remain in the same location since 1999.

#### **Minimum Possible Variance**

**Variations #1, #3, #4 and #5:** The requests are not the minimum possible as the detached accessory structures could have been built in a code compliant manner since there is sufficient space in the rear yard of the property. Also, the pool and deck could have been renovated in a manner to meet code.

**Variance #2:** Due to the existing setbacks and location of the gazebo, the Variance is the minimum possible.

#### **Purpose and Intent**

Approval of the requested Variations will allow improvements to the site, which will be in harmony with the purpose and intent of the Zoning Regulations. Also, it will allow for the existing structures non-conforming setbacks to remain. Furthermore, the detached accessory structures and pool and deck will not be significantly visible from any of the surrounding properties, thereby limiting any quantifiable negative impact to surrounding property owners.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the survey received November 20, 2023, and elevations received October 11, 2023, as modified to remove the treehouse, pergola, and outdoor shower structure, 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 of the existing detached structures and the pool and deck, the portion of the fence which encroaches into the adjacent property shall be removed.

C: Herbert Betancourt  
4112 Firewater Court  
Orlando, FL 32829

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COVER LETTER

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2886 Aloma Oaks Drive, Oviedo, Florida 32765  
Phone: (407) 232-4579; email: [gsharp@cfllr.com](mailto:gsharp@cfllr.com)

Fla. Lic. # AA26002910

Nov. 20, 2023

Ms. Jenale J. Garnet, MPA, MURP  
Orange County Zoning Division  
Planning, Environmental, and Development Services Department  
201 S. Rosalind Ave.  
Orlando, FL 32801

Sent via e-mail to: [Jenale.Garnett@ocfl.net](mailto:Jenale.Garnett@ocfl.net)

**RE: 4715 Shorecrest Drive  
Orlando, FL**

Dear Ms. Garnet,

We are hereby submitting this application to the Board of Zoning Adjustment for the purposes of getting an approval for existing structures located on the above noted property address. Said structures include a three story observation deck, a gazebo, an outdoor shower structure, a pool deck and a lanai as depicted in the sketches and site plan provided with this application. Certain structures are located within close proximity to the lake edge and are constructed of wood. The pool deck is within the minimum setback of the southern edge of the property. It is understood that if we were to get this approval, we will then undergo the building permitting process through Building Safety for said structures. The actual application for such will be submitted under separate cover after this phase of the work.

Should there be any further requirements to complete this application, please advise.

Thank you and best regards,

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Sharp'.

George W. Sharp, AIA  
Principal

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COVER LETTER

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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.

There are no special conditions or circumstances existing peculiar to the land.

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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 and circumstances do not result from the actions of this homeowner. The hardship is not self-imposed nor self-created. The structure is located in the only possible location to be effective as a sun deck.

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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.

We are not requesting for a variance that would not be allowed on other properties of similar use.

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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.

The construction of an observation deck overlooking the lake on other properties exists. The resulting structure, will provide such on this property.

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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 will vacate and clear the ground level space for purposes of acknowledging the flood plain as specified by the FEMA Flood Plans. PLEASE SEE ATTACHMENT PAGE

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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.

The proposed structure will respect the FEMA 100 yr Flood level.

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ATTACHMENT TO EXTEND CRITERIA # 5

Request is made for an allowance of the Pool Deck to be closer to the property line at a distance of 3'- 6", instead of the minimum allowable under zoning ordinances.

Additionally, we acknowledge that the chain link fence on the south side of the property was installed beyond the property limits. Owner is taking steps to correct this.

ZONING MAP

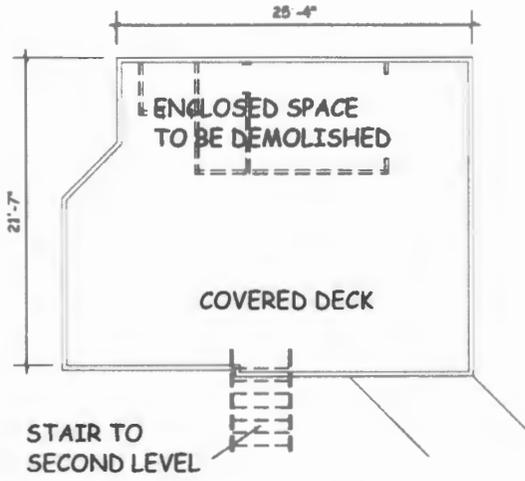


AERIAL MAP

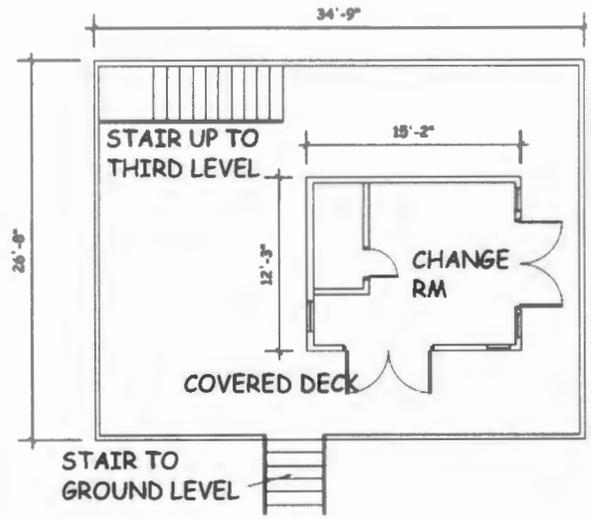




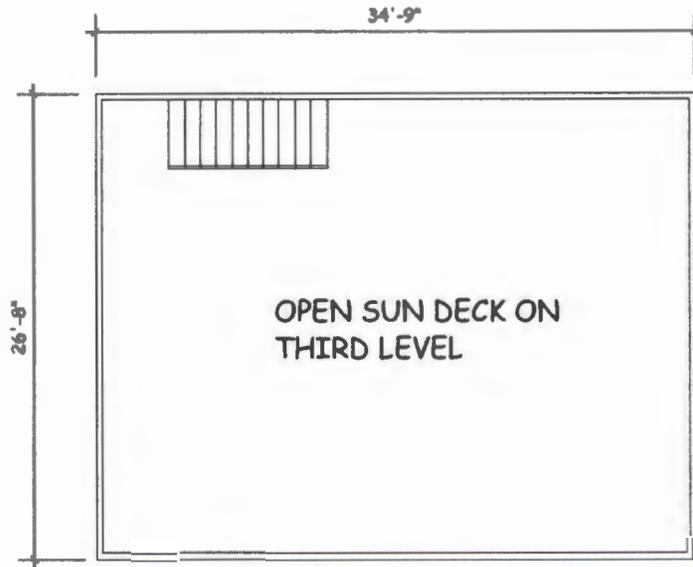
TREEHOUSE FLOOR PLAN



Ground Level



Second Level



Third Level

TREEHOUSE ELEVATIONS

OPEN SUN DECK ON  
THIRD LEVEL



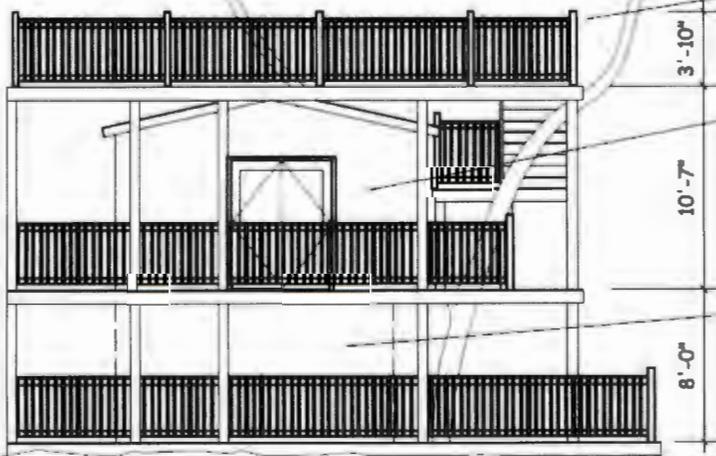
West Elevation

South Elevation

OPEN SUN DECK ON  
THIRD LEVEL

LAKESIDE CHANGE  
ROOM

EXISTING ROOM  
ENCLOSURE ON  
FIRST LEVEL TO BE  
REMOVED



East Elevation

**SITE PHOTOS**



**Facing east from Shorecrest Dr. towards front of subject property**



**Rear yard, facing northeast towards pool and deck**

**SITE PHOTOS**



**Rear yard, facing northeast towards treehouse**



**Rear yard, facing west from gazebo towards proposed treehouse ground level modifications**

**SITE PHOTOS**



**Rear yard, facing southeast toward outdoor shower structure**



**Rear yard, facing east towards pergola**

**SITE PHOTOS**



**Rear yard, facing east towards gazebo and Lake Martha**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#1**

Case #: **VA-24-01-121**

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

**Jenale.Garnett@ocfl.net**

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## GENERAL INFORMATION

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**APPLICANT(s):** GREGORY AUERBACH, VERONICA AUERBACH

**OWNER(s):** GREGORY AUERBACH, VERONICA AUERBACH

**REQUEST:** Variance in the PD zoning district to allow a pool and deck in front of the principal structure in lieu of the side or rear.

**PROPERTY LOCATION:** 7779 Wandering Way, Orlando, FL 32836, east side of Wandering Wy., west of S. Apopka Vineland Rd., north of Fenton St.

**PARCEL ID:** 10-24-28-6670-00-460

**LOT SIZE:** +/- 0.40 acres (17,498 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 75

**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 Juan Velez; unanimous; 5 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan received October 23, 2023, 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 for denial. Staff noted that eight (8) comments were received in favor of the request, and one (1) comment was received in opposition to the request.

The applicant responded to the staff recommendation of denial, discussed their interpretation of what constitutes a side street yard versus the county's determination of the actual front yard and noted that to propose the relocation of the pool/deck on the east rear yard of the property adjacent to the retention area would be difficult due to the existing rear yard slope.

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

The BZA discussed the request, determined that there are constraints to install a pool/deck in the east rear yard, and unanimously recommended approval of the Variance by a 5-0 vote, with one absent and one seat vacant, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

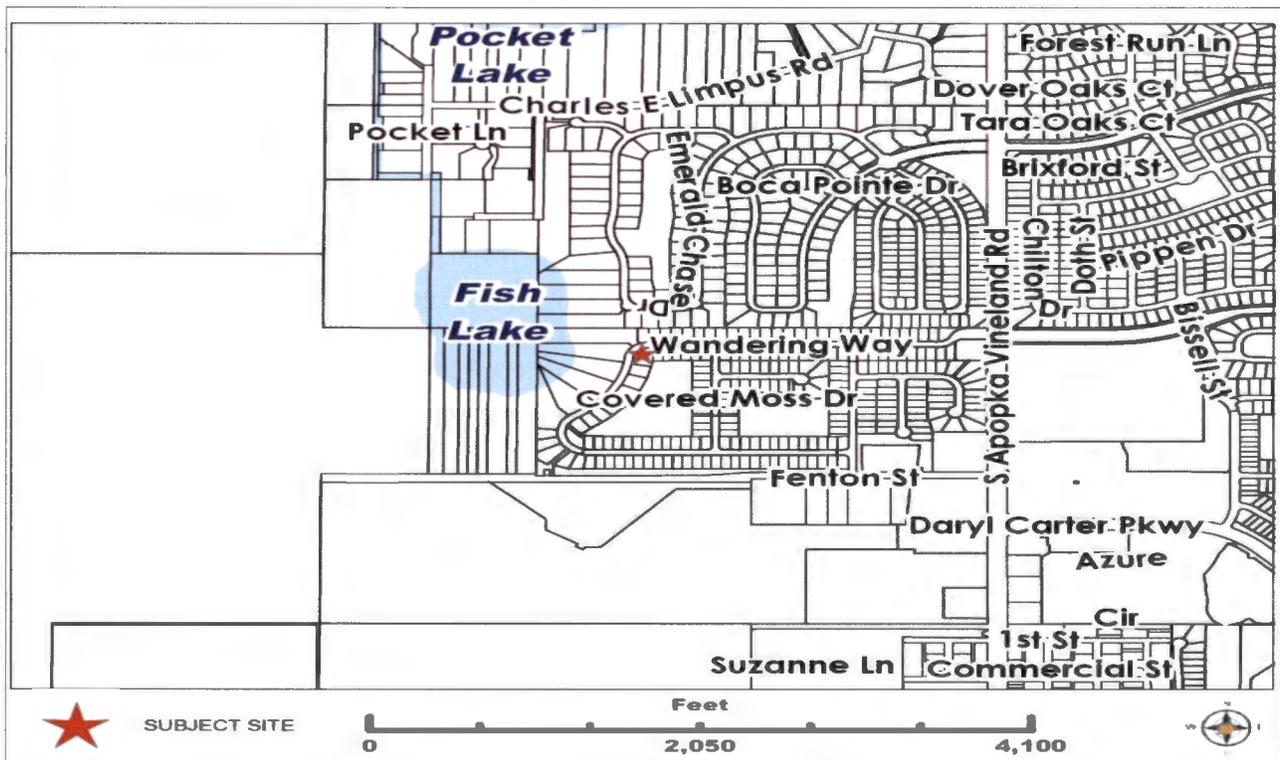
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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the Variance, staff recommends that the approval be subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	Kerina Parkside PD	Kerina Parkside PD	Kerina Parkside PD	Kerina Parkside PD	Kerina Parkside PD
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential, Retention	Single-family residential

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the Kerina Parkside Planned Development (PD), which allows single-family, multi-family, assisted living, commercial and office uses. The Future Land Use is Low Density Residential (LDR), which is consistent with the Kerina Parkside PD zoning district.

The area surrounding the subject site consists of single-family homes. The site also abuts a retention pond to the rear. The subject property is an irregularly shaped +/- 0.40 acre lot with an unusually continuous frontage, such that there is the frontage along Wandering Way, one side yard to the south, and the rear yard to the east. It was platted in 2018 as Lot 46 of the Philips Grove plat and is a conforming lot of record. It is currently developed with a 6,842 gross sq. ft. two story single-family home (B18011010) with an attached garage and covered patio, constructed in 2020. Given the unique shape of the lot, there is a large undeveloped portion along Wandering Way to the north of the house. There is a 10 ft. utility easement along the extended frontage, and a 5 ft. drainage easement along the south and east of the property line. None of these easements are affected by the Variance requested. The property was purchased by the current owner in 2019.

The proposal is to install a 3,200 sq. ft. pool and deck to the north of the existing house which will meet required setbacks but is located in front of the house in the front yard. Per Section 38-79 (10) (b) of the Orange County Code, no swimming pool, wading pool, jacuzzi, tennis court, spa, or hot tub (including all appurtenances thereto) shall be located in the front yard of the principal building. As a result of the continuous frontage, the proposed pool and pool deck will be located in front of the primary residence facing Wandering Way, requiring a Variance.

Staff is recommending denial of the Variance since there is an option to modify the design by minimizing the size and locating the pool and deck in the rear of the existing residence, thereby eliminating the Variance. Although the proposed location of the pool and deck would be screened by a 5 ft. tall metal gate covered with shrubs, several of the surrounding lots along Wandering Way consist of a pool and deck that appear to be considerably smaller in size than the proposed pool and deck and located in the rear of those residences.

As of the date of this report, eight comments have been received in favor of this request, including one from the Homeowner's Association, and no comments have been received in opposition to this request.

### Building Setbacks for the pool and deck

	Code Requirement	Proposed
Front:	Not permitted in front	19.8 ft. (In front yard – Variance)
Rear:	5 ft.	21.8 ft. (East)
Side:	5 ft.	46 ft. (South)

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### STAFF FINDINGS

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#### **VARIANCE CRITERIA**

##### **Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are the unusual lot shape resulting from the extended frontage, which results in a very large front yard, and no side street yard or secondary side yard.

##### **Not Self-Created**

The request is self-created since the rear yard provides space to locate a pool and deck in a code compliant location, similar to the other properties in the neighborhood.

##### **No Special Privilege Conferred**

Granting the Variance as requested would confer special privilege as the rear yard provides space for the relocation of a pool and deck to meet code requirements, as evident from multiple properties in the neighborhood.

##### **Deprivation of Rights**

There is no deprivation of rights since a code compliant option is available to minimize and locate the pool and deck in a code compliant location.

##### **Minimum Possible Variance**

The request is not the minimum possible as the rear yard provides space to locate a modified pool and deck to meet the required setbacks.

##### **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 pool and pool deck will not be significantly visible from any of the surrounding properties due to the proposed location, which is facing Wandering Way and is screened by a 5 ft. tall metal fence covered with shrubs.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received October 23, 2023, 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: Gregory Auerbach and Veronica Auerbach Construction  
7779 Wandering Way  
Orlando, FL 32836

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## COVER LETTER

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Auerbach – 7779 Wandering Way

October 13, 2023

To Whom It May Concern:

We began the process of building our home in May of 2018, as a young family of three including a six-month-old and another baby on the way. At that time, we felt we were building our forever home with plans to have the house and property grow with our family. We were excited about the possibilities of the house structure itself as well as the plot of land that accompanied it – an open field of possibilities, space that was not as common in the Dr. Philips area. In April of 2019, construction finally concluded and we moved into our home with a toddler and an infant, excited for the future in the neighborhood.

Throughout the building process, we always planned on having a pool for our children to grow up with. My husband is from Seattle and wanted his children to be able to experience the “Florida childhood” that I enjoyed, which of course, in his mind, included having our very own pool. Because of this, we paid for the plumbing stubs necessary for this pool and had that installed on the left side of our home. This is the same side that has the large, flat, yard overlooked by picture windows upstairs and our family room windows downstairs – the perfect location for a pool. This area was fenced and privacy hedged several years ago for the longer-term use of the space. By contrast, the area behind our home is small with a steep slope leading down to a pond (which, as all Florida waters do, does have alligator inhabitants). While we did construct a fence there, as well (without privacy hedging), building a pool in that location would be significantly constrained for the property and would require extra reinforcements to our home foundation. We also believe it would be further complicated due to drainage issues from our neighbor’s pool build.

Our young family has grown and is complete with three little ladies dancing and cartwheeling throughout the household. Our youngest daughter just completed her survival swim course, highly motivated by the concept of being allowed to have her own pool (once the course was fully completed). We generally assumed the HOA would be our biggest hurdle in acquiring our pool, so we were thrilled when they gave it full approval without any hesitation. We informed our daughters that they would finally be allowed to have their own pool in their own yard, just like all of their friends in the neighborhood, and had the visit from the pool company saying that we expected to be breaking ground within a week.

When we shortly thereafter learned that we did not receive permitting from the county, we were disappointed and hugely confused. When we purchased our home, we were never informed that there would be any form of limitations regarding what we can do with our land. In fact, it was quite the opposite. Our home builders made us believe that our options were limitless with the ample amount of yard space we were buying – a rare find in new construction these days. To anyone that sees our home and knows our lot, we have a large side/rear yard space. Classifying it as “frontage” seemed inconsistent with the housing in the area and was never something that was even on our radar due to how the house and road is positioned. It’s also inconsistent with what we have seen in other properties not far from our own house. In use, our yard has never functioned, as a “front yard” and we know no-one that has viewed it that way. From as soon as we could, the area has been completely fenced and privacy hedged in.

In considering the application, we feel it important to note that a pool in our yard would be significantly less visible from the street than that of any of our neighbors with pools. It will be further setback from the street on all sides (at least 25’ from our property line) and mostly behind hedging. In many cases, other pools, even those located “behind” a house, are just five (5) feet from a property line and fifteen (15) from the street. In these

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## COVER LETTER

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Auerbach – 7779 Wandering Way

examples the pools are also visible from the street itself, something we're doing all we can to avoid. We feel that the pool would therefore enhance property and neighborhood value as an upgrade over the open grass area that currently exists.

Outside of the neighborhood, we ask that you review the properties located at:

- 7981 Snowberry Cir, Orlando, Florida 32819
- 1520 Maravilloso Loop, Windermere, Florida 34786
- 9958 Kilgore Rd, Orlando, Florida 32836
- 1110 Alabama Dr, Winter Park, Florida 32789
- 1149 Alabama Dr, Winter Park, Florida 32789

In these cases, there seems to be a pool (if not other structures) similarly on the side of the house with an extended frontage. Most are within a 10-minute drive of our own home and all within the county. While instances may be fewer, there are simply only so many cases in the community whereby there is space similar to what we have.

We ask that you look at the photos of our property and the letters from our neighbors- taking into account our quick HOA approval and recognize that our yard is truly a side/rear yard as a functional "backyard". That is how we had envisioned others seem to see it to be and how it has always been used.

We have only informed our eldest daughter (age 5, Kindergarten) of the potential of not being allowed to have a pool. She has had a very hard time understanding because "everyone else is allowed to." She asked to write her own note and to try and "help," so we have also included that with our application along with letters from several of our neighbors in the area.

Thank you for your time and consideration. We would be happy to host you so you can see, yourself, the area and what we have done to enhance privacy. Please do not hesitate to reach out.



Veronica Auerbach  
407.276.6047

veronicasauerbach@gmail.com

Auerbach – 7779 Wandering Way

VARIANCE REQUEST

- Request for – Variance to Allow for Construction of Pool
- Reason – Permitting was denied citing “continuous frontage” of the side/rear yard of the property
- Construction – Steel / Reinforced gunite concrete
- Square Feet (Proposed) – Full Area +/- 2,350sf including Pool +/- 1,200sf
- Dimensions (Proposed) – 51' x 67' – 78'
- Distance from Property Lines – 21+’ to 52+’ (varies based on location)
- Height (Proposed) – 0 (in ground pool)

1. **Special Conditions and Circumstances**

The area that is being discussed is entirely on the side of our residence with a curving road. The space is enclosed with a 5' fence that is nearly entirely lined with privacy hedging that extends above the fencing. It is a quarter circle running from the side of one house to the side of our house.

2. **Not Self-Created**

The house was built this way on the plot of land.

3. **No Special Privilege Conferred**

Everyone that looks at our land, consistent when we purchased, viewed the area being discussed as simply the side of the residence, not any sort of 'frontage'. There are also other examples of houses in the county whereby there is a pool area that is on the side of the house with a road passing in front (or similarly curved along the side).

4. **Deprivation of Rights**

With the zoning (we did not know of prior), it would seem we cannot build anything in the yard space that came with the house. Because of the house placement and slope of the backyard, unique to this corner of the pond/lake area behind the house, and subsequent property line, it would be difficult to build a pool of any size and not to the size that we would like.

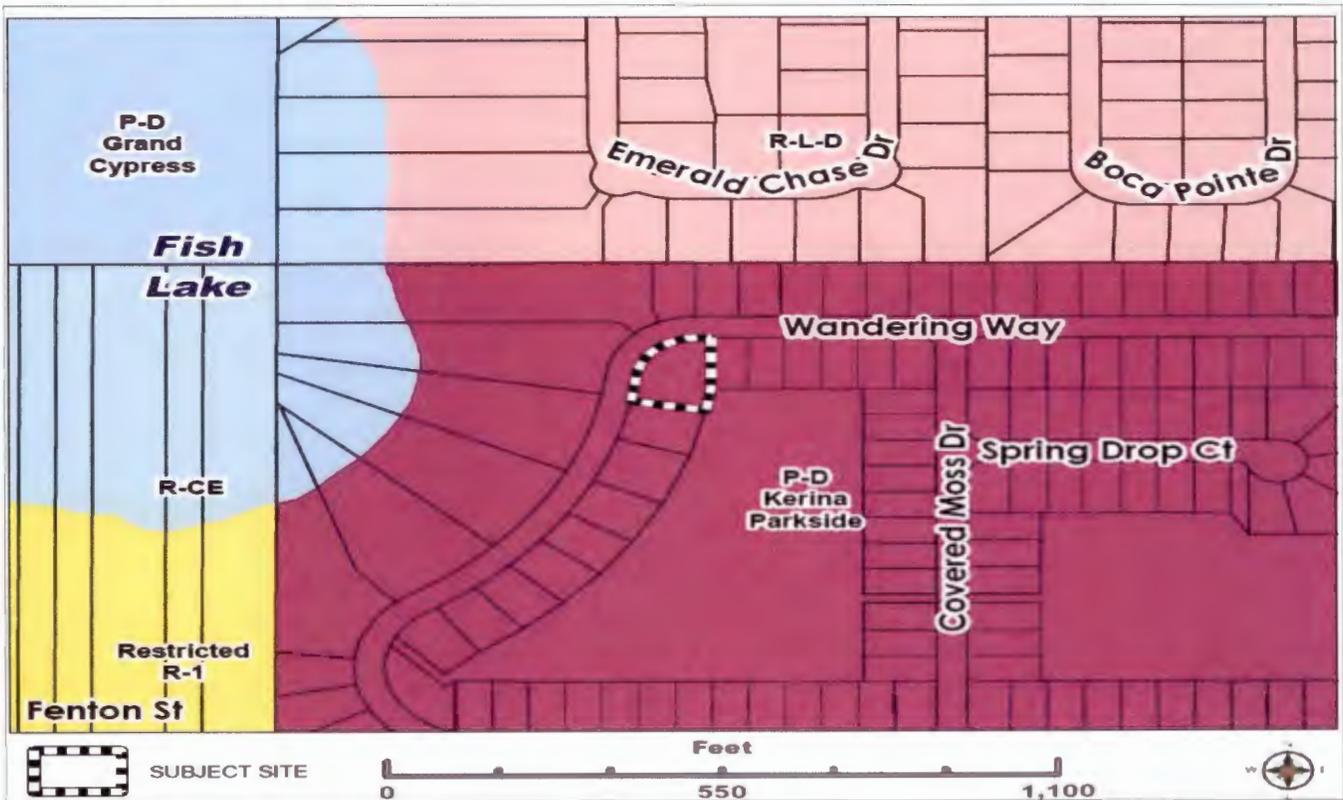
5. **Minimum Possible Variance**

We are asking for a variance of the "frontage" classification that what we feel is our "side" yard.

6. **Purpose and Intent**

The proposed pool area is completely within a privacy fence and hedging and is proposed to have a second shorter, fence around. The proposal does not look to be inconsistent with anything else in the county.

ZONING MAP



AERIAL MAP







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RENDERINGS OF PROPOSED POOL AND DECK

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**SITE PHOTOS**



**Facing northeast from Wandering Way towards front of subject property**



**Facing southwest from Wandering Way towards street view of proposed location of pool and deck**

**SITE PHOTOS**



**Front yard, facing south towards proposed location of pool and deck**



**Rear yard, facing southeast towards covered patio area**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#1**

Case #: **VA-24-01-123**

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

[Jenale.Garnett@ocfl.net](mailto:Jenale.Garnett@ocfl.net)

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## GENERAL INFORMATION

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**APPLICANT(s):** AUSTIN HAMMONDS

**OWNER(s):** SAMANTHA WERDER, RANDOLPH WERDER

**REQUEST:** Variance in the R-CE zoning district to allow a 2-story detached accessory structure in front of the principal structure in lieu of the side or rear.

**PROPERTY LOCATION:** 8759 Charles E. Limpus Rd., Orlando, FL 32836, west side of Charles E. Limpus Rd., south of Darlene Dr., west of S. Apopka Vineland Rd.

**PARCEL ID:** 10-24-28-0000-00-003

**LOT SIZE:** +/- 1.09 acres

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 57

**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; unanimous; 4 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses; 0 opposed; 2 absent: Roberta Walton Johnson, Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received October 27, 2023, 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 permit for the detached accessory structure, a permit shall be obtained for the shed or the shed 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 for denial. Staff noted that no comments were received in favor or in opposition to the request.

The applicant responded to the staff recommendation to locate the proposed garage in the rear yard, mentioned the desire to utilize the existing driveway instead of installing additional concrete, noted that the location of the proposed structure in the rear yard would eliminate useable play areas, could impact the existing trees they wish to preserve, and could possibly negatively impact the well and septic system.

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

The BZA discussed the proposed location of the detached accessory structure, determined that there are constraints relative to the well, septic tank, and existing trees to construct the detached accessory structure in a manner to meet code and unanimously recommended approval of the Variance by a 4-0 vote, with two absent and one seat vacant, subject to the four (4) conditions in the staff report.

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### STAFF RECOMMENDATIONS

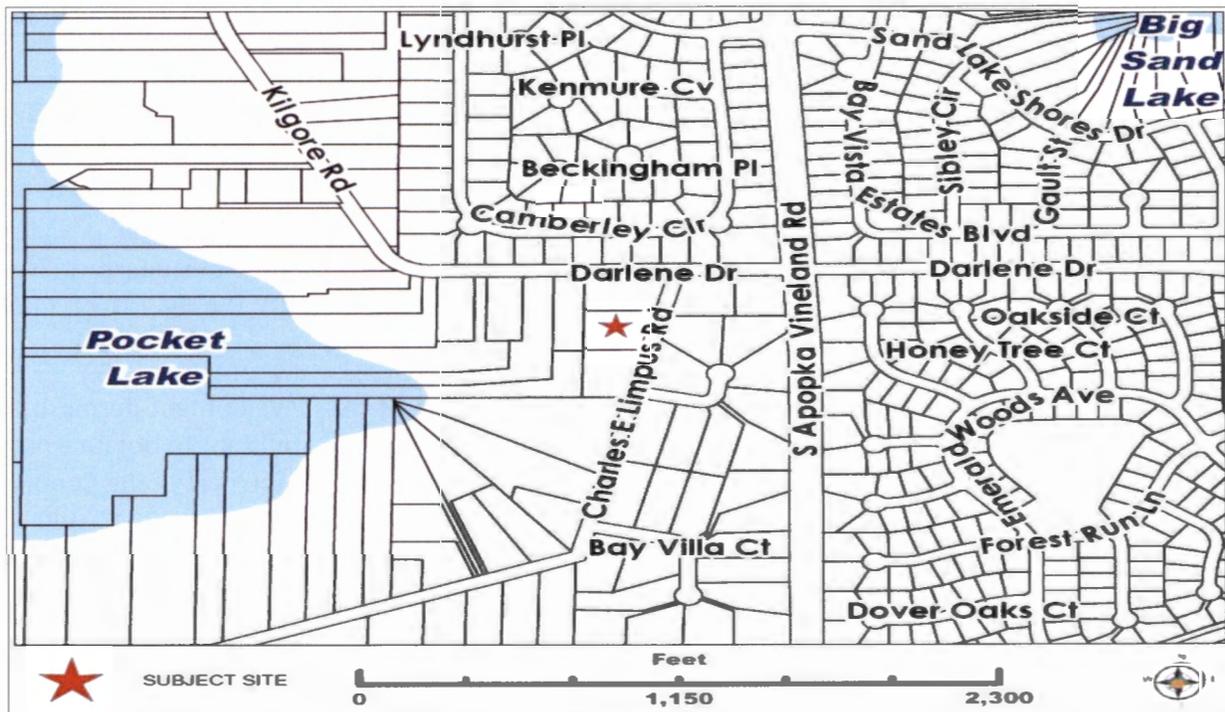
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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a Variance, staff recommends that the approval be subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

	Property	North	South	East	West
Current Zoning	R-CE	R-CE	R-CE	R-CE	R-CE
Future Land Use	R	R	R	R	R
Current Use	Single-family residential				

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the R-CE, Country Estate District, which allows primarily single-family homes and associated accessory structures on a minimum of one acre lots. The Future Land Use of the property is Rural (R), which is consistent with the R-CE zoning district.

The area around the subject site consists of single-family homes. The subject property is a +/- 1.09 acre unplatted parcel of land and is considered to be a conforming parcel of record. It is developed with a 4,694 gross sq. ft. one-story single-family home constructed in 1984 with an attached 1,350 sq. ft. screen enclosure over the existing pool (B15006684) installed in 2015. Also, there is a 120 sq. ft. detached accessory structure (shed) located in the rear of the property, which the year of installation cannot be ascertained via aerial photography due to the heavy canopy of trees. Although the shed meets setbacks, there is no record of a permit. The property was purchased by the current owners in 2009.

The proposal is to construct a two-story 2,488 sq. ft. detached accessory structure that will contain a 3-car garage on the ground level and a storage room on the second level. The structure is proposed to be located in front of the primary structure and will meet the setbacks for the R-CE zoning district. However, per Section 38-1426 (3) 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 Variance #1. While the request meets some of the standards for Variance criteria, it does not meet all of the standards. Therefore, staff is recommending denial of this request. Based on staff analysis, the vacant portion of the rear yard provides sufficient space to relocate the proposed detached accessory structure in a code compliant location, thereby eliminating 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:	35 ft.	24.7 ft.
Min. Lot Width:	130 ft.	210 ft.
Min. Lot Size:	1 acre	1.09 acres

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	35 ft.	35 ft. (East)
Rear:	50 ft.	143.2 ft. (West)
Side:	10 ft.	20 ft. (South) 132.8 ft. (North)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

There are no special conditions or circumstances as there are other options to locate the detached accessory structure to a location that will meet code, eliminating the need for the Variance.

**Not Self-Created**

The request is self-created since there are alternatives to construct a detached accessory structure in a code compliant location.

**No Special Privilege Conferred**

Granting the requested Variance will confer special privilege not conferred to others under the same circumstances since a detached accessory structure could be placed in a location that meets code.

**Deprivation of Rights**

There is no deprivation of rights as the detached accessory structure can be constructed in a location which complies with code requirements.

**Minimum Possible Variance**

The request is not the minimum possible as the proposed detached accessory can be constructed in a location 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 not be significantly visible from any of the surrounding properties due to the existing tree canopy and the existing landscaping surrounding the property, thereby limiting any quantifiable negative impact to surrounding property owners.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received October 27, 2023, 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 permit for the detached accessory structure, a permit shall be obtained for the shed or the shed shall be removed.

C: Austin Hammonds  
772 W. Smith Street  
Orlando, FL 32804

SAHA  
DEVELOPMENT GROUP

**SAHA Development Group LLC**  
**CRC1333094**  
1705 Edgewater Drive  
P.O. Box 540782  
Orlando, FL 32804  
407.765.4037

Cover Letter/Variance Criteria - 8759 Charles E Limpus Rd Variance

Please see attached architectural plans to see *detailed* width, length, and height. It also showed the elevations as well as boundary survey.

Request is for a detached garage

Detached Garage : 30'x40' 2 story garage with loft and a balcony  
CMU first floor and wood second  
Match existing roof pitch  
Architectural Shingle  
2488 sq ft total area  
1st floor sf 520 AC / Garage 680 sf / 2nd floor sf ac 1200 / Balcony 88  
20' side property line set back  
35' front property line set back  
Garage Height Roughly 26'

Reason for request

The current house sits behind the rear half of the lot except for the existing attached garage. In the survey it looks like part of the house that is under air is in the front set back. We are not sure how much that matters, but the point is to express all under air of the house is behind the rear property line. Looking at numbers, the under air living is around 3500 sq ft with gross area around 4700. Currently a portion of the existing attached garage pokes into the front half of the property around 13' - 15'. Roughly 300 sq ft in total. In other words, about 7% of the structure sits in front of the rear half property line and that is the issue not allowing the clients to build a new garage in the front half of the lot.

*(A detached accessory structure may not be located in front of the principal structure unless **the entire principal structure is located in the rear half (½) of the lot/parcel**, or when located on a lot/parcel with five (5) or more developable acres. The entire principle structure is not located within the rear half, therefore, **the proposed structure cannot be located in the front of the principle structure.**)*

**We feel we are an excellent candidate for a variance considering we are 93% within compliance of code!**

(Please see attached boundary survey)

The proposed detached garage would sit 35' from the front property line and 20' from the side property line. The property is also fully engulfed with a landscape hedge across the front and wouldn't be seen from the street. You currently can mainly only see the driveway. With how many unique estate

# SAHA

DEVELOPMENT GROUP

properties there are around the limpus road area, the proposed detached garage would fit in wonderfully and keep with the high end feel of the neighborhood.

We are happy to address any visual concerns on the main garage side facing the street should that be of any concern to an appearance review board.

Special Conditions and Circumstances

We feel that with only 7% of the structure, and it not being under air, in the front half of the lot then a variance would be a perfect fit to allow the detached garage to be on the front half the property line. We are 93% in compliance of the code on an existing house and feel this is a great example of someone that needs the special condition/variance allowed!

Not self - created

This is not self created. There is a well and wooded area if the building was pushed behind the rear half. It also doesn't benefit any future owners to basically only have a front yard

NO special privilege conferred

We cannot think of any conflicting

Deprivation of Rights

This would create an undo hardship in a few ways. To name one: moving the well and septic lines to account for this would make for undo hardship. In regards to rights commonly enjoyed by others - We believe a majority of home owners already have existing structures in the front half of their yards all through this area. Things like tennis courts and accessory structures are in the front half. We brings these up only to show that these inclusions help distinguish the neighbored, not hurt it.

Minimum possible variance

The architect says we have hit code on all setbacks if accounting for a small portion of the property was not sitting in the front half set back.

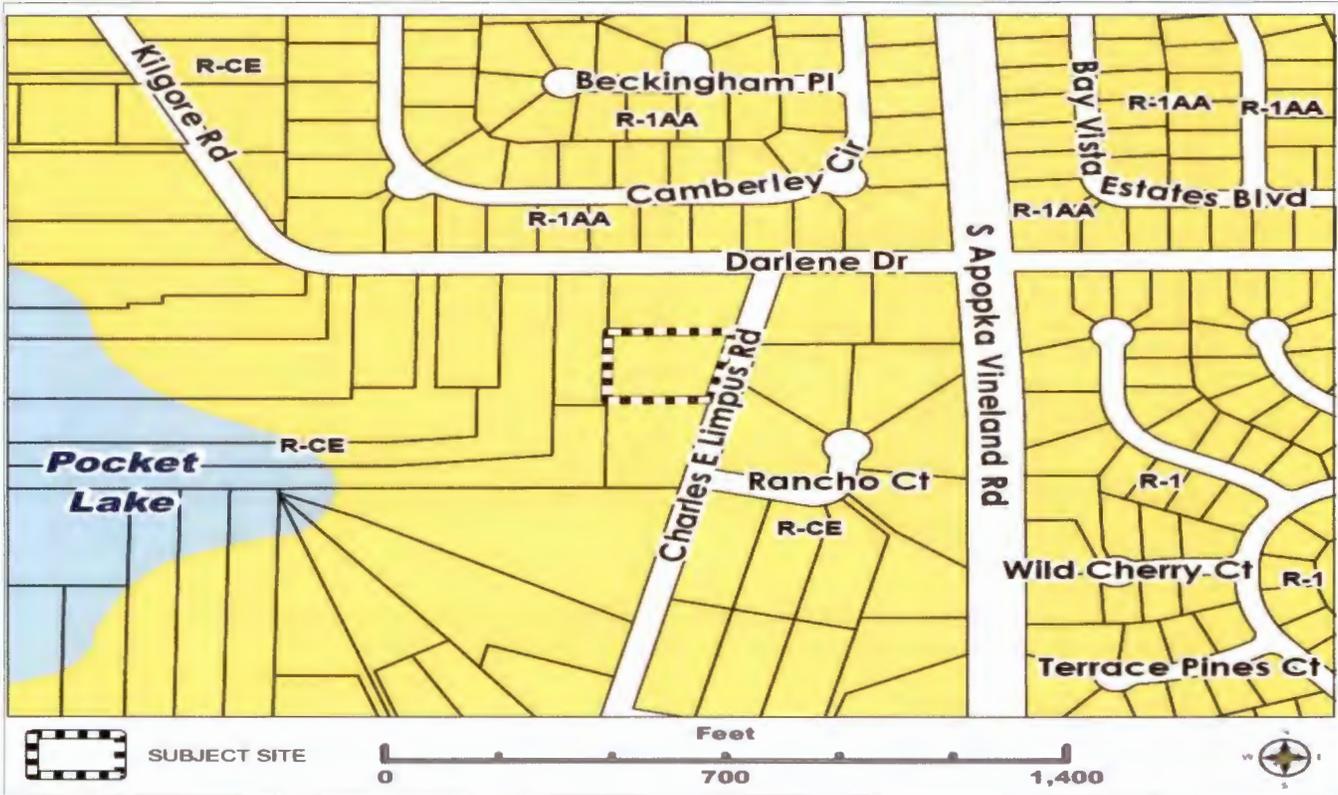
Purpose and Intent

We feel the purpose and intent follows the theme of zoning and theme of the neighborhood. It adds value to the clients, the county, and the neighborhood. It does not create anything that is unharmonious. This ADU, if allowed, will not be injurious or otherwise detrimental to the public welfare. It will hardly be seen, if at all. When seen - it will be beautiful to view and fit neatly inside the neighborhood aesthetic!

We look forward to earning this variance request!

Austin Hammonds  
CRC1333094  
407-765-4037

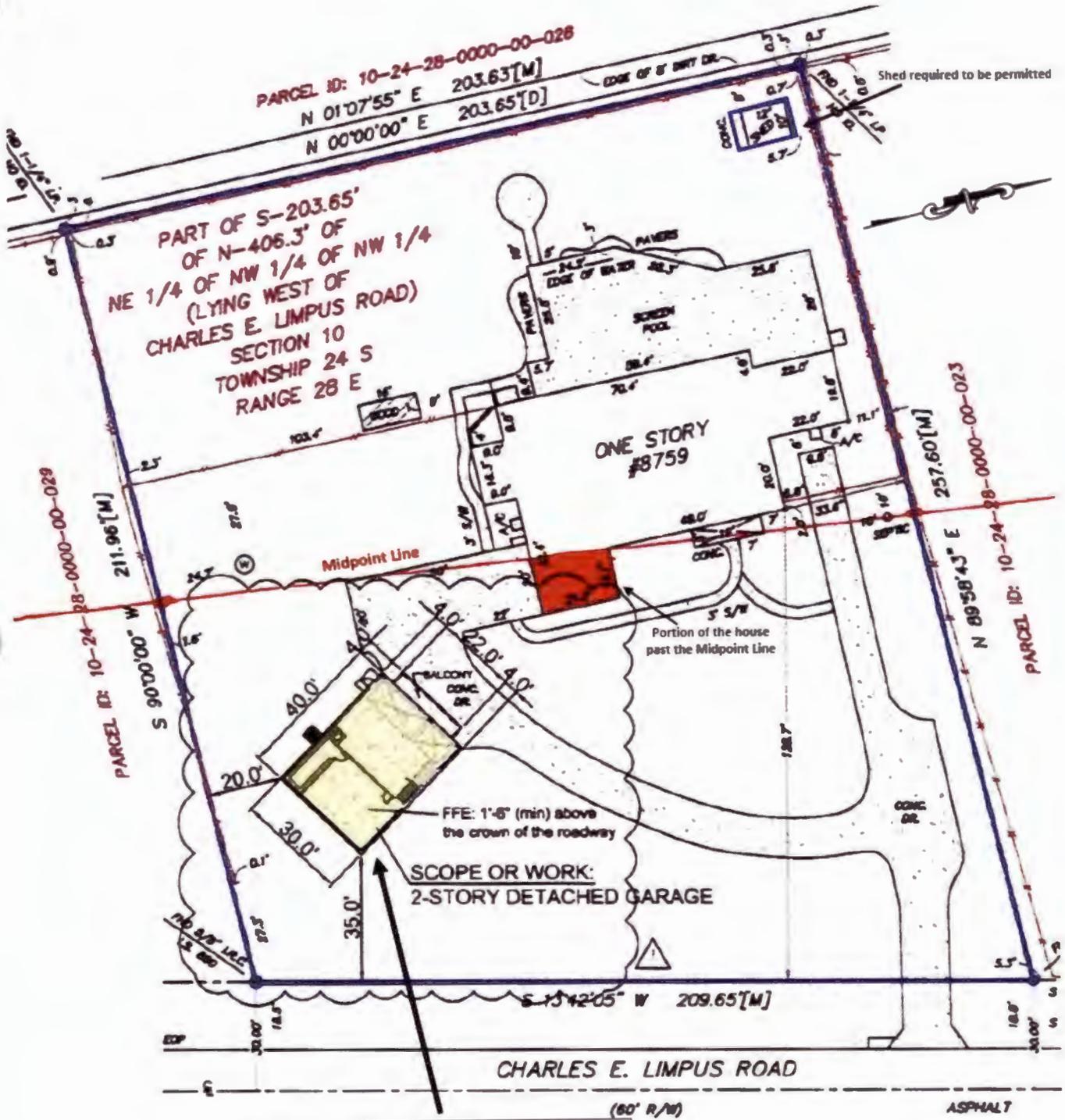
ZONING MAP



AERIAL MAP



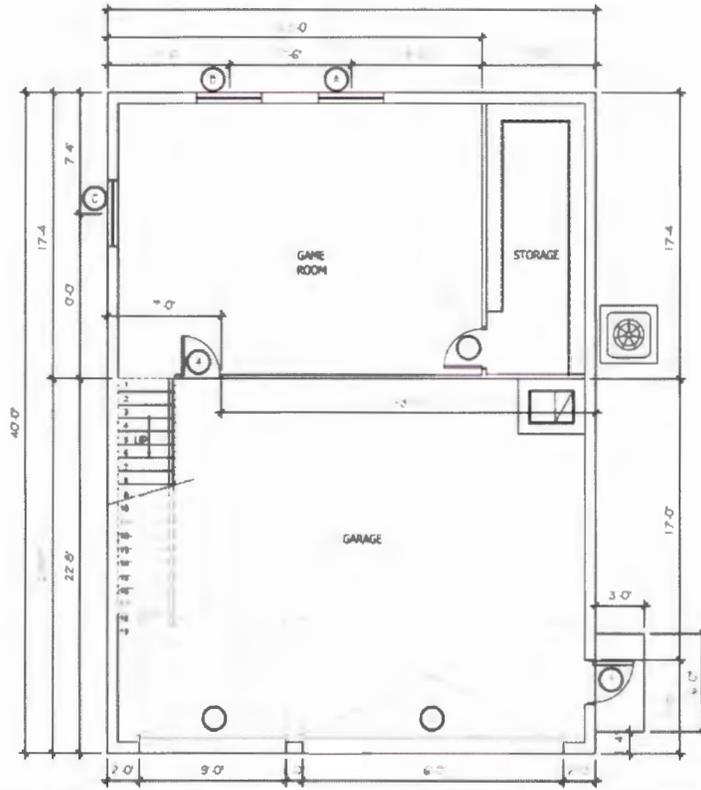
SITE PLAN



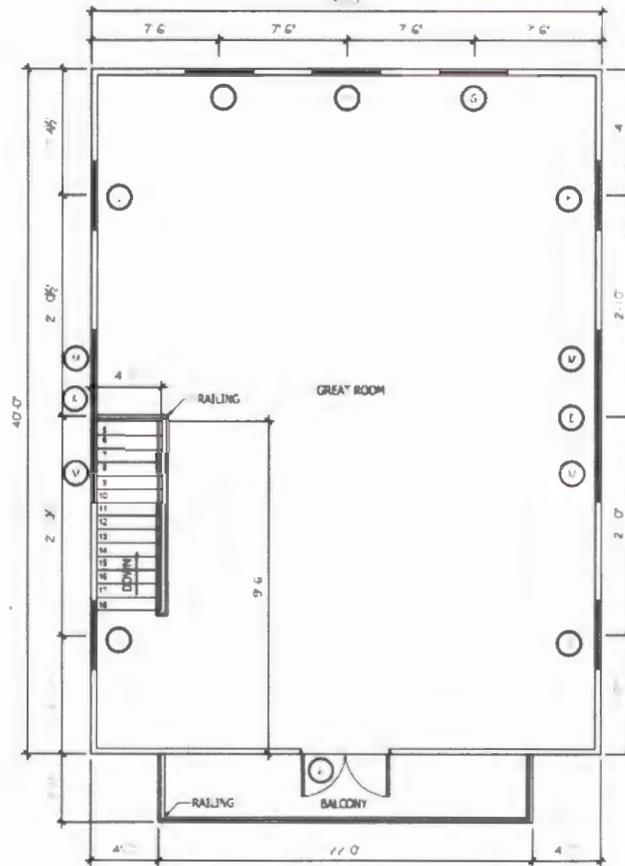
2,488 sq. ft. two-story detached accessory structure in front of the primary structure

# FLOOR PLAN

## First Floor



## Second Floor

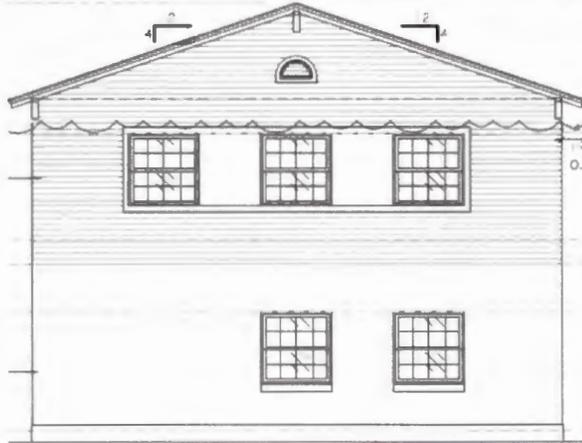


# ELEVATIONS

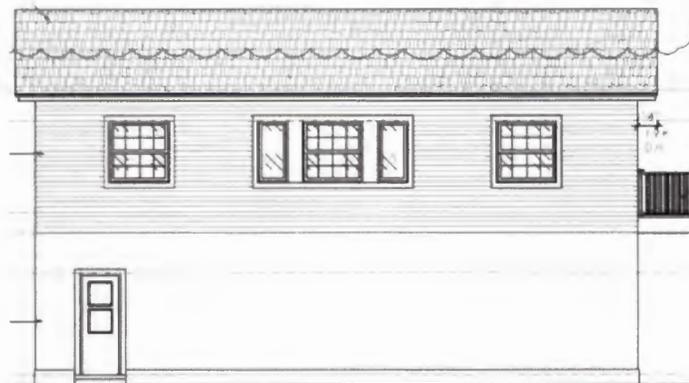
**Front Elevation - Northwest**



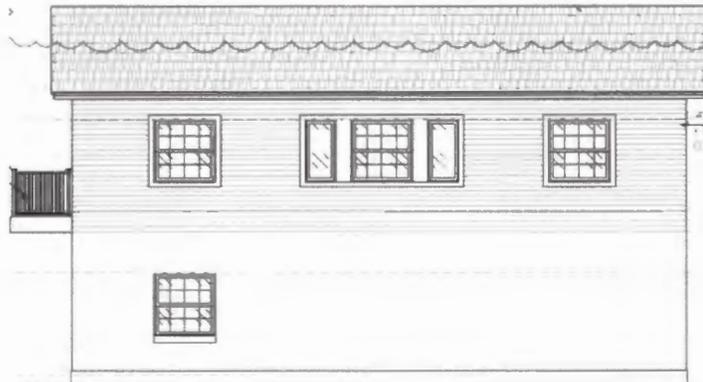
**Rear Elevation - Southeast**



**Right Elevation - Northeast**



**Left Elevation - Southwest**



**SITE PHOTOS**



**Facing southwest from Charles E. Limpus Rd. towards front of subject property**



**Facing west from Charles E. Limpus Rd. towards entrance of property**

**SITE PHOTOS**



**Entrance driveway, facing west towards split driveway and existing residence**



**Split driveway, facing south towards access to proposed structure**

**SITE PHOTOS**



**Front yard, facing southeast towards proposed location of detached accessory structure**



**Front yard, facing north towards attached garage to the existing residence**

**SITE PHOTOS**



**Rear yard, facing northwest towards existing screen enclosed pool and deck**



**Rear yard, facing south towards vacant portion of backyard**

**SITE PHOTOS**



**Rear yard, facing northeast towards back yard**



**Rear yard, facing west towards existing unpermitted shed**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#5**

Case #: **VA-24-01-129**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** DREW PINER

**OWNER(s):** DREW PINER, MARIA PINER

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

- 1) To allow the conversion of an existing 300 sq. ft. screen room to living area with an east rear setback of 24 ft. in lieu of 30 ft.
- 2) To allow an existing residence with a north side setback of 7 ft. in lieu of 7.5 ft.

**PROPERTY LOCATION:** 536 Cornwall Rd., Winter Park, FL 32792, northeast corner of Cornwall Rd. and Fitztooth Dr., west of S.R. 436., south of University Blvd, north of Banchory Rd.

**PARCEL ID:** 09-22-30-9427-07-100

**LOT SIZE:** +/- 0.18 acres (8,152 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 90

**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 Deborah Moskowitz, Second by Juan Velez; unanimous; 4 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses; 0 opposed; 2 absent: Roberta Walton Johnson, Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan received November 7, 2023, and elevations received November 22, 2023, 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 for approval. Staff noted that five (5) comments were received in favor of the request, and no comments were received in opposition to the request.

The applicant’s representative agreed with the staff presentation and had nothing further to add.

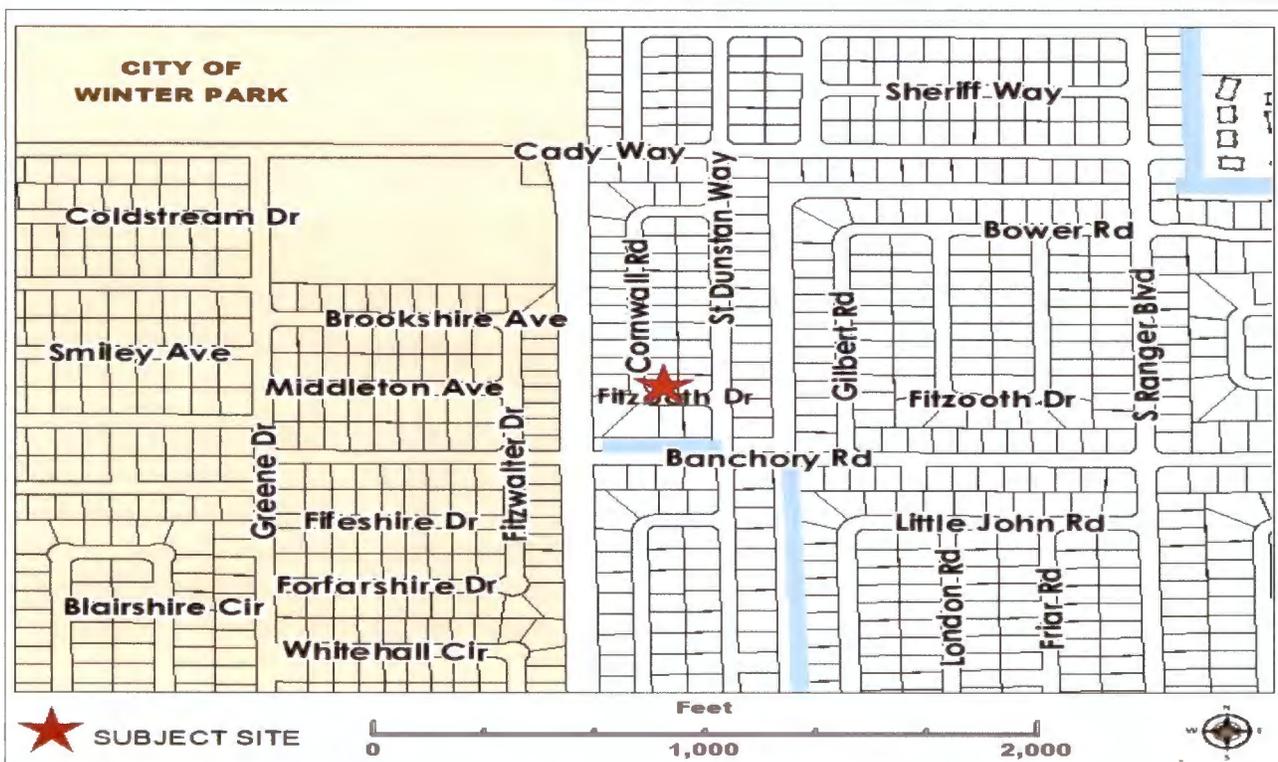
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Variances by a 4-0 vote, with two absent and one seat vacant, subject to the three (3) conditions 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-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential				

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## BACKGROUND AND ANALYSIS

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### **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 subject property is a 0.18 acre lot, platted in 1963 as Lot 10 in Block G of the Winter Park Pines Unit Four Plat, and is a conforming lot of record. The property is located on the corner of Cornwall Road and Fitzooth Drive and is developed with a 1-story, 2,389 gross sq. ft. single-family home with an attached 2-car garage and a 300 sq. ft. screen room constructed in 1964. The frontage is considered Cornwall Road since it is the narrowest portion of the lot abutting a public street and the side street is Fitzooth Drive. There is a 6 ft. utility easement that runs along the north side of the property and a 7 ft. utility easement along the east. The easements are not affected by the Variance request. The property was purchased by the current owner in 2023.

The existing screen room is 25 ft. by 12 ft., 9.3 ft. in height with a 24 ft. east rear setback. Per 38-79 (18) of Orange County Code, a screen room is permitted to encroach up to 13 ft. into the required rear yard, which would allow it to be up to 17 ft. from the rear yard, which makes the existing improvements conforming. Proposed is the conversion of the existing screen room to living area using the footprint of the existing screen room. The living area is considered an addition to the principal structure, requiring Variance #1 for a 24 ft. east rear setback in lieu of 30 ft. Additionally, the residence has an existing non-conforming setback of 7 ft. from the north side property line in lieu of 7.5 ft., requiring Variance #2 to recognize the existing condition.

Staff recommends approval of Variance #1 as the existing footprint in relation to the rear property line renders any useable addition or improvements difficult without the need for the request. Furthermore, the addition will not be significantly visible from any of the surrounding properties due to the 6 ft. wood fence along the sides and 6 ft. concrete block wall along the rear of the property line. There are several homes in the surrounding area that received Variances to construct additions which did not meet the rear setbacks for the R-1A zoning district. Additionally, staff is recommending approval of Variance #2 since the existing residence has been in the same location for over 59 years. A permit for the conversion of the existing screen room to an addition (B23021638) is on hold pending the outcome of this request.

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

### **District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	9.3 ft. (addition)
Min. Lot Width:	75 ft.	83.4 ft.
Min. Lot Size:	7,500 sq. ft.	8,152 sq. ft.

**Building Setbacks**

	Code Requirement	Proposed
Front:	25 ft.	25.1 ft. (West)
Rear:	30 ft.	24 ft. (East – Variance #1)
Side:	7.5 ft.	7 ft. (North – Variance #2)
Side Street:	15 ft.	15.8 ft. (South)

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**STAFF FINDINGS**


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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special condition and circumstance particular to the subject property is the placement of the existing home on a corner lot, built in 1964, which restricts the area where a usable living area could be built that conforms to setback requirements.

**Not Self-Created**

The request is not self-created since the owners are not responsible for the existing home in relation to the rear property line which limits the area where an addition or accessory structure with useable area could be built that conforms to setback requirements. Furthermore, the existing residence has been in the same location for over 59 years.

**No Special Privilege Conferred**

Granting the Variances as requested would not confer special privilege as several other properties in the area appear to have approved Variances for additions with rear setbacks similar to the request, the orientation of the existing residence, and the year built.

**Deprivation of Rights**

Without approval of the requested Variance#1, the owners will not be able to convert the existing screen room into the proposed living area. Also, the approval of Variance #2 will allow the recognition of the existing location of the residence since 1964, and would allow for reconstruction in the same location in the event it would need to be reconstructed.

**Minimum Possible Variance**

The request is the minimum possible as the design of the addition as proposed is using the footprint of the existing screen room. Furthermore, the existing setback and location of the residence is the minimum possible.

**Purpose and Intent**

Approval of the requested Variances 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.

Since the request will allow the existing north side setback to remain, the proposed request will not be detrimental to the surrounding neighborhood. Also, the design of the converted living area for Variance #2 as proposed is using the footprint of the existing screen room, and the rear setback would be compatible with other residences in the surrounding area. Furthermore, the addition will not be significantly visible from any of the surrounding properties due to the 6 ft. wood fence along the sides and 6 ft. concrete block wall along the rear of the property line.

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#### CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received November 7, 2023, and elevations received November 22, 2023, 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: Drew Piner  
536 Cornwall Road  
Winter Park, FL 32792

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## COVER LETTER

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### COVER LETTER WITH VARIANCE CRITERIA FOR 536 CORNWALL ROAD, WINTER PARK, FL 32792

#### **Special Conditions and Circumstances.**

The applicants are seeking to enclose and improve an existing screened porch structure which measures 12' width x 24' length to add more conditioned living space, with no enlargement or increase in either the size of the structure or the current encroachment into the 30' rear yard setback. Applicants recently purchased the house and the structure to be enclosed has existed for many years. Applicants are not increasing the size or height of the structure which measures 99" highest peak closest to current exterior wall to 94" lowest peak to proposed enclosed exterior wall with frame construction and stucco finish. The structure is screened from adjacent properties by existing fencing, walls and vegetation, so the enclosed room would have the same visibility and impact to neighboring homes and the street that it now has. In addition, a number of other homes in the neighborhood appear to have portions of houses or other structures within the 30' rear yard setback, so the enclosed structure would be similar to and in harmony with other properties and with the neighborhood generally.

#### **Not Self-Created.**

As described above, the structure to be enclosed existed when the applicants purchased the home in September, 2023. The applicants want to enclose the structure to create more functional living space and improve the overall appearance of the house. The structure would retain its current size, configuration and location.

#### **No Special Privilege Conferred.**

Applicants are not requesting to construct a new structure within the setback where one does not already exist. Again, a number of other homes in the neighborhood appear to have portions of the houses or other structures within the 30' rear yard setback. The applicants are providing letters of support from a number of other neighbors, including letters of support from all adjacent neighbors.

#### **Deprivation of Rights.**

The existing structure is treated differently than an enclosed structure for technical setback purposes, though there would be little to no actual or practical difference between the existing structure and an enclosed room in terms of impact on neighboring properties – given the small size, same height and same location, together with existing fences walls and vegetation, enclosing the existing structure would create no new impacts to adjacent properties. In addition, the applicants also would be similarly situated as other homeowners in the neighborhood.

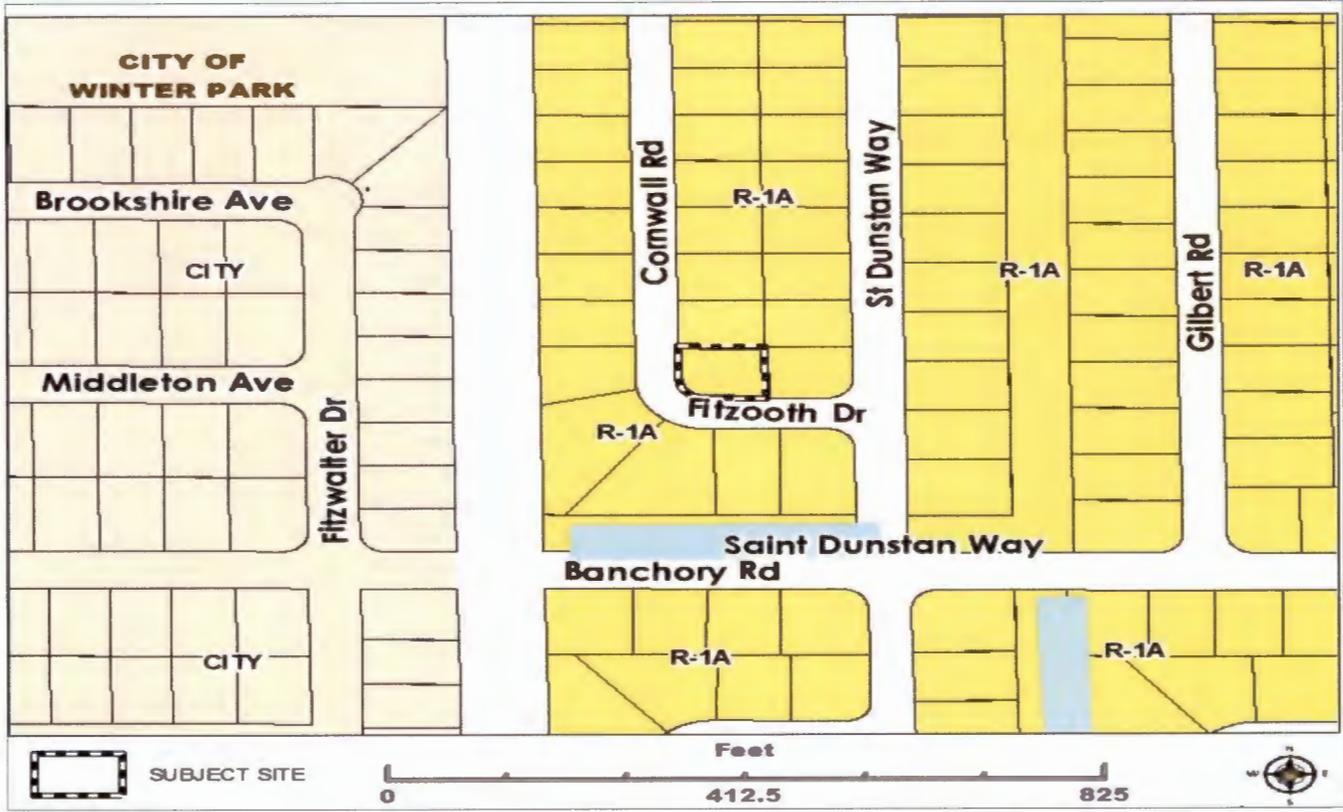
**Minimum Possible Variance.**

Applicants are requesting no change to the size, configuration or location of the existing structure, so its location within the 30' setback would remain the same as it now exists.

**Purpose and Intent.**

Granting the requested variance will not be injurious to the neighborhood or detrimental to the public welfare – the enclosed room would be similar to and compatible with other homes in the neighborhood and the distance of other homes/structures from the applicable rear property lines. The enclosure will improve the overall function and appearance of applicants' home without negatively impacting neighbors and other properties. The applicants are requesting to improve an existing structure; they are not requesting to build new structures that encroach into the setback. In these ways, the request is in harmony with the purpose and intent of the Zoning Regulations.

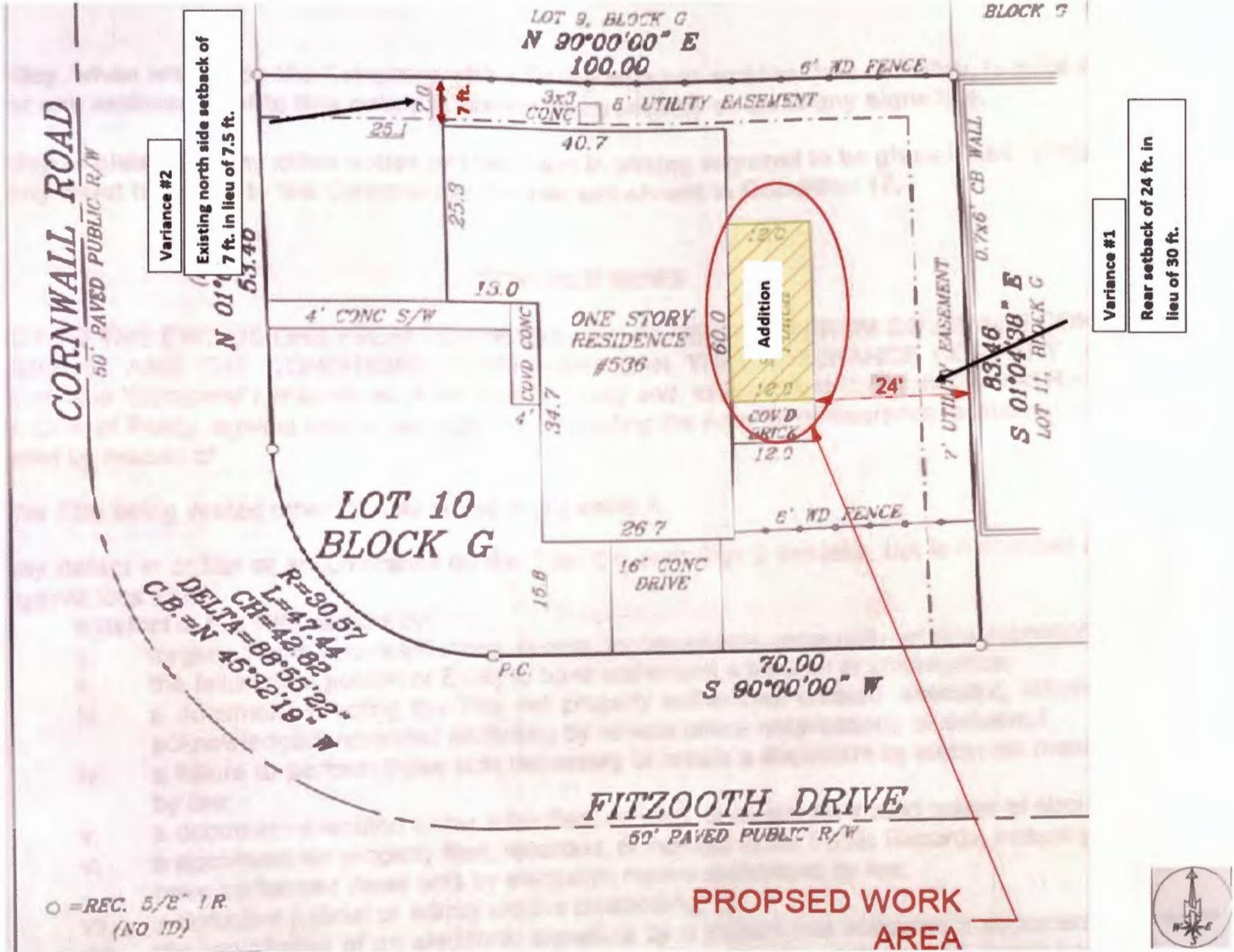
ZONING MAP



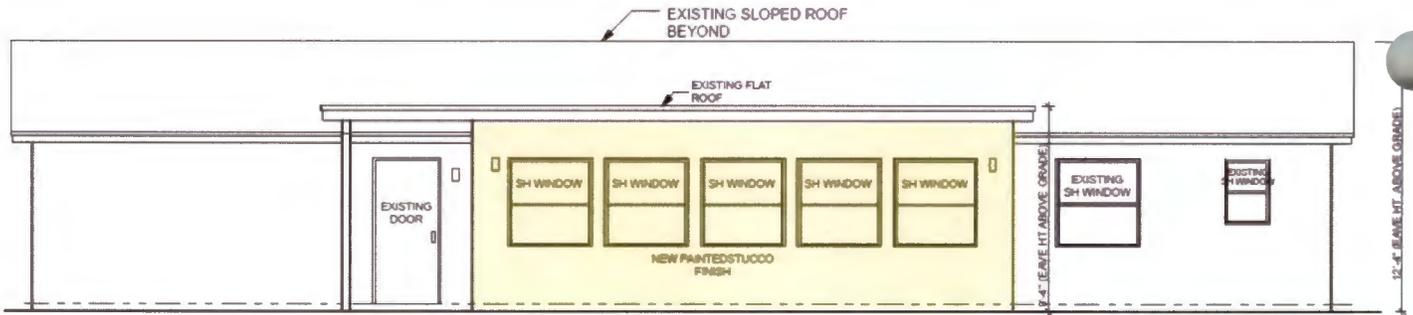
AERIAL MAP



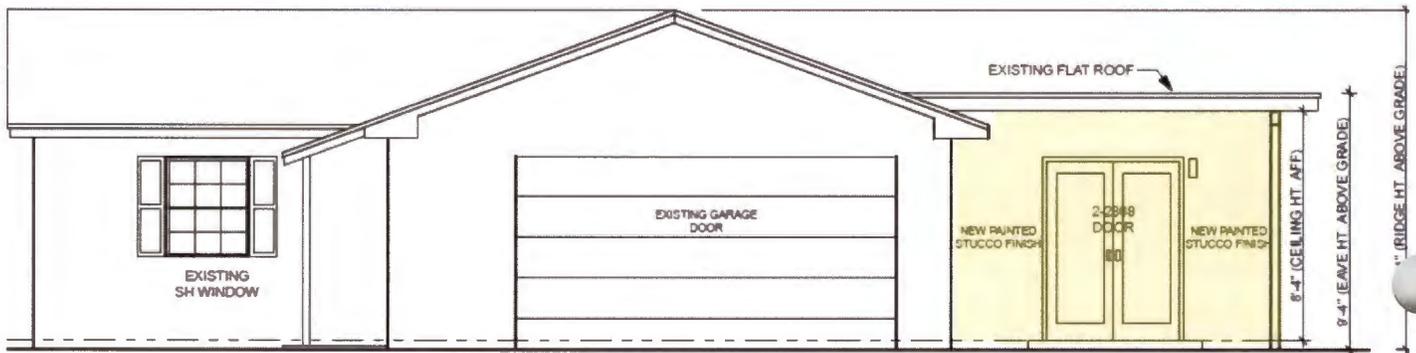
SITE PLAN



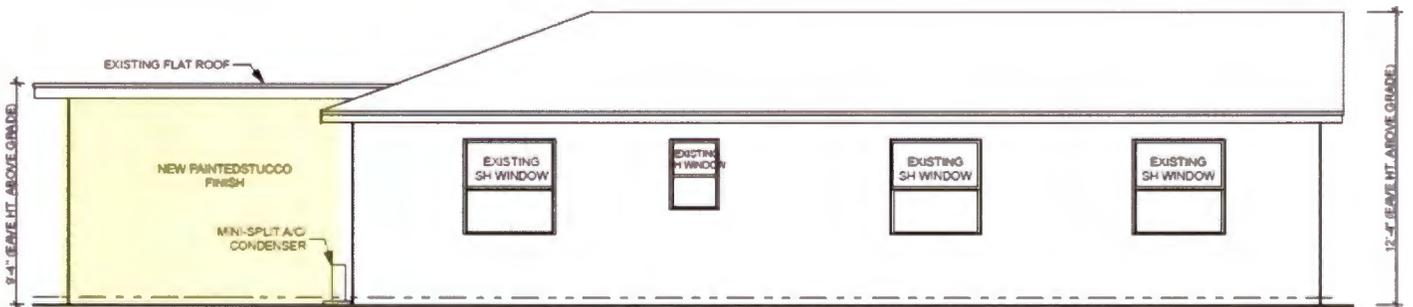
# ELEVATIONS



**East Elevation**



**South Elevation**



**North Elevation**

**SITE PHOTOS**



**Facing northeast from corner of Cornwall Rd. and Fitzooth Dr. towards front of subject property**



**Side street, facing west from Fitzooth Dr. towards side of existing residence**

**SITE PHOTOS**



**Rear yard, facing northwest towards rear of existing residence and proposed addition**



**Rear yard, facing southwest towards proposed conversion**

SITE PHOTOS



Facing southeast from Cornwall Rd. towards existing non-conforming side setback

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#3**

Case #: **VA-24-01-130**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** JOHN AGUDELO

**OWNER(s):** JOHN AGUDELO

**REQUEST:** Variance in the R-1A zoning district to allow the conversion of an existing shed to an Accessory Dwelling Unit not designed to be similar and compatible with the same exterior finish and with materials designed to be similar and compatible with the primary dwelling unit.

**PROPERTY LOCATION:** 2634 E. Compton Ave., Orlando, FL 32806, south side of E. Compton Ave., east of S. Bumby Ave., west of Conway Gardens Rd., south of Michigan St.

**PARCEL ID:** 06-23-30-0816-00-280

**LOT SIZE:** +/- 0.3 acres (13,374 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 134

**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 Juan Velez, Second by John Drago; unanimous; 4 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses; 0 opposed; 2 absent: Roberta Walton Johnson, Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received November 7, 2023, 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 for approval. Staff noted that no comments were received in favor or in opposition to the request.

The applicant agreed with the staff presentation.

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

The BZA unanimously recommended approval of the Variance by a 4-0 vote, with two absent and one seat vacant, subject to the three (3) conditions in the staff report.

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**STAFF RECOMMENDATIONS**

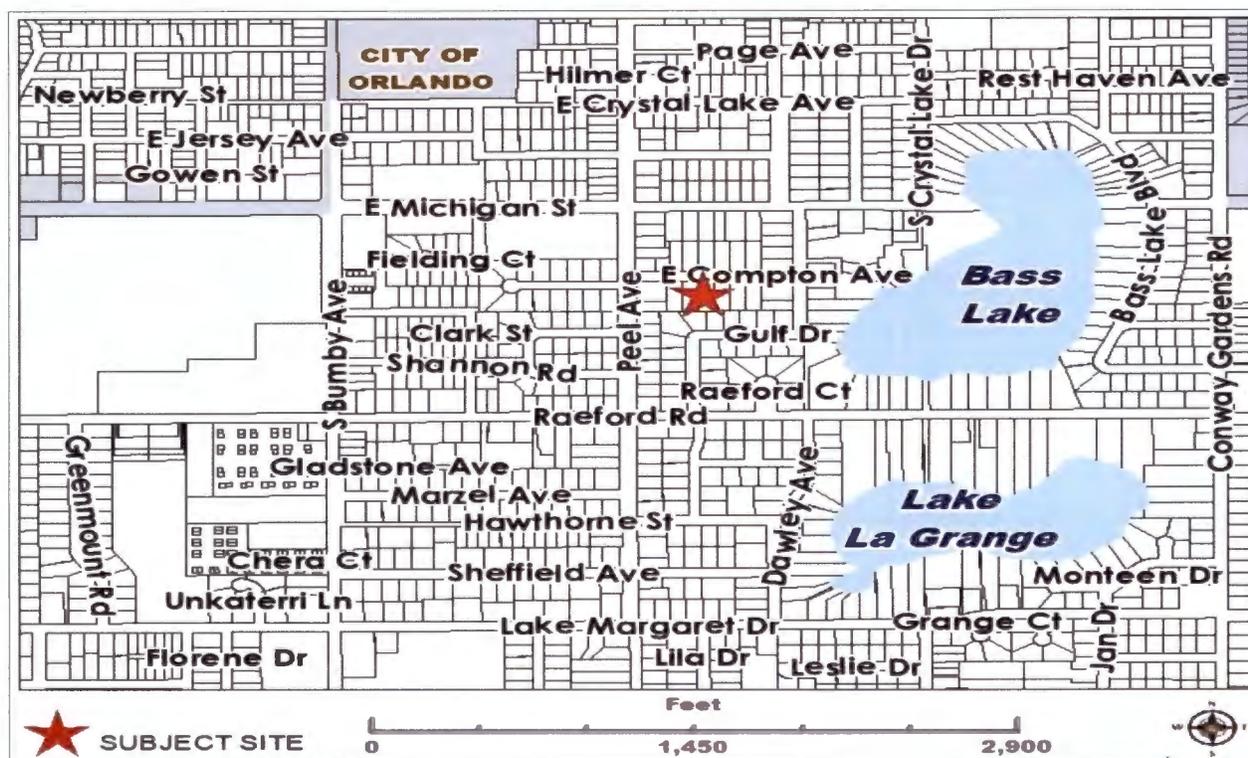
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Approval, subject to the conditions in this report.

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**LOCATION MAP**

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**SITE & SURROUNDING DATA**

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	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				

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## BACKGROUND AND ANALYSIS

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### **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 +/- 13,374 sq. ft. lot, platted in 1952 as Lot 28 of the Boone Terrace Plat, and is a developed non-conforming lot of record. The property is developed with a 1-story, 1,878 gross sq. ft. single-family home constructed in 1953, and an existing 463 sq. ft. detached accessory structure (storage shed). No record of permits for the accessory structure are available and due to a heavy canopy of trees prior to 2000 where it is visible, the year of installation cannot be ascertained via aerial photography. The property was acquired by the current owner in 2023.

The proposal is for the conversion of the 32.6 ft. by 14.2 ft., 8.5 ft. tall existing shed into an Accessory Dwelling Unit (ADU) with 1 bedroom and 1 bathroom. Per Sec.38-1426 (b) (3) (j) of the Orange County Code, an ADU shall be designed to be similar and compatible with the primary dwelling unit, with the same exterior finish material and similar architectural details. The existing residence's exterior consists of concrete/cinder block and grey vinyl siding with a flat roof. Although the ADU will meet the required rear and side setbacks, the exterior material consists only of vinyl siding, necessitating the Variance.

Staff recommends approval as the vinyl material, color, and the architectural design of the ADU will be similar to a large portion of the existing residence. Further it will not be significantly visible from any of the surrounding properties due to the 6 ft. wood fence along the side and rear of the property, and the landscaping along the abutting rear property line. A permit to convert the detached shed into an ADU, B23016276, is on hold pending the outcome of this request.

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.	8.5 ft. (ADU)
Min. Lot Width:	75 ft.	70 ft. (developed)
Min. Lot Size:	7,500 sq. ft.	13,374 sq. ft.

### **Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	Not permitted in front	Not permitted in front
Rear:	5 ft. (accessory structure 15 ft. high or less)	21.4 ft. (South)
Side:	5 ft. (accessory structure 15 ft. high or less)	45.3 ft. (East) 10.3 ft. (West)

**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The special conditions and circumstances particular to this property include the size of the lot and the location of the ADU on the lot relative to the adjacent street, as well as the limited visibility of the ADU from the street.

**Not Self-Created**

The request is not self-created since the owners are not responsible for the existing exterior of the shed.

**No Special Privilege Conferred**

The Variance for exterior materials would not confer special privilege that is denied to others in similar circumstances.

**Deprivation of Rights**

Without the requested Variance, the exterior cladding of the existing shed to be converted into an ADU would need to be modified to match the materials of the primary structure.

**Minimum Possible Variance**

The requested Variance is the minimum possible to allow the structure to remain without completely resurfacing the exterior of the structure to match the residence.

**Purpose and Intent**

The purpose and intent of the accessory structure and ADU requirements is to be consistent with the design of the primary structure. However, given the lack of visibility of the structure on the lot from the adjacent street, the 6 ft. wood fence along the side and rear of the property, and the landscaping along the abutting rear property line, it will not be detrimental to adjacent properties or the character of the neighborhood.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received November 7, 2023, 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: John Agudelo  
2634 E. Compton Street  
Orlando, FL 32806

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## COVER LETTER

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John Agudelo  
2634 E Compton St  
Orlando, FL 32806  
November 7, 2023

Orange County Government  
Board of Zoning Adjustments (BZA)

**Subject: Variance Application for Proposed Accessory Dwelling Unit (ADU) at 2634 E Compton St, Orlando, FL 32806 (Parcel ID: 06-23-30-0816-00-280)**

I am writing to formally submit my application for a variance in compliance with the City Zoning Regulations for the proposed Accessory Dwelling Unit (ADU) at 2634 E Compton St, Orlando, FL 32806. I kindly request your consideration and approval for the variance request specifically related to Section 38-1426(b)(j) of the Code, which pertains to the "appearance" requirement for ADUs. This section stipulates that the ADU should be designed to be similar and compatible with the primary dwelling unit, using the same exterior finish material and similar architectural details.

The existing detached building on the subject property, which I intend to convert into an ADU, currently features vinyl siding. In contrast, the primary single-family house on the property is primarily block siding with some portions that has vinyl siding. The vinyl siding for the existing detached building is in good condition. My request for a variance is motivated by the impracticality and significant cost involved in removing all the vinyl siding of the existing detached building and reconstructing the ADU using block construction. Given this constraint, I am seeking approval to retain the existing vinyl siding for the ADU, while ensuring that it maintains a similar and compatible appearance with the primary dwelling. The ADU will be painted the same color as the primary single-family house.

**To provide you with more detailed information about the proposed ADU:**

**Existing Building Conversion:** The proposed ADU will be created by converting an existing detached building on the property.

**Variance Request:** The variance request is specific to the "appearance" requirement outlined in Section 38-1426(b)(j) of the Code. It pertains to the use of the existing vinyl siding of the detached building to meet the appearance requirement.

**ADU Dimensions:** The proposed ADU will have dimensions of 32 feet, 9 5/8 inches in length and 14 feet, 2 3/8 inches in width, resulting in a total square footage of ~462 square feet.

**ADU Height:** The proposed ADU will have a height of 8 feet, 6 inches.

**ADU Distance from Property Lines:** The ADU will be located at a distance of 10.3 feet from the west property line, 45.3 feet from the east property line, and 21.4 feet from the rear property line.

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## COVER LETTER

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**Please refer to the following justification demonstrating how the variance requirement fulfills the six standards required for variance approval:**

**1. Special Conditions and Circumstances:**

The primary house was constructed in the 1950s, and the existing detached building proposed for conversion to an ADU, was built in the 1980s, present unique conditions. The variance request is not based on zoning violations or nonconformities on neighboring properties, but rather on a variation in exterior finish materials between the existing building and primary dwelling unit on the subject property. The primary house has block siding, while the existing detached building has vinyl siding that is in good condition.

**2. Not Self-Created**

The special conditions and circumstances leading to this variance are in no way the result of the actions or choices of the applicant. The property was purchased with the existing detached building already having vinyl siding and primary house having block siding. The necessity to retain the vinyl siding of the detached building arises from the pre-existing condition of the building. The applicant did not create the hardship, but seeks a reasonable solution to work within the constraints of the existing property configuration.

**3. No Special Privilege Conferred**

The variance request pertains exclusively to the appearance requirement, and does not grant any additional rights or exemptions beyond what is permissible under the chapter to other properties in the same zoning district.

**4. Deprivation of Rights**

Adhering to the strict interpretation of the appearance requirement in the code for the proposed ADU would impose undue financial burden and practical difficulties without serving any substantial public interest.

**5. Minimum Possible Variance**

The requested zoning variance is the minimum variance necessary to enable the practical use of the existing building. It seeks to retain use of the existing vinyl siding of the detached building while ensuring compatible appearance with the primary dwelling. Any further structural alteration would impose unnecessary financial hardship to the applicant.

**6. Purpose and Intent**

The variance request will not harm the neighborhood or be determinantal to the public welfare. It primarily pertains concerns the choice of exterior finish material and architectural details of the proposed ADU while maintaining structural integrity and safety.

In seeking this variance, I will ensure that the proposed ADU design is in harmony with the surrounding area and does not detract from the character of the neighborhood. I believe that granting this variance would allow for a more efficient and cost-effective conversion of the existing building into an ADU while preserving the overall aesthetic quality of the property.

I appreciate your time and attention to this application and look forward to the opportunity to discuss it further with you or the relevant authorities as needed. If there are any additional documents or information required to support this application, please do not hesitate to let me know.

Sincerely,

John Agudelo

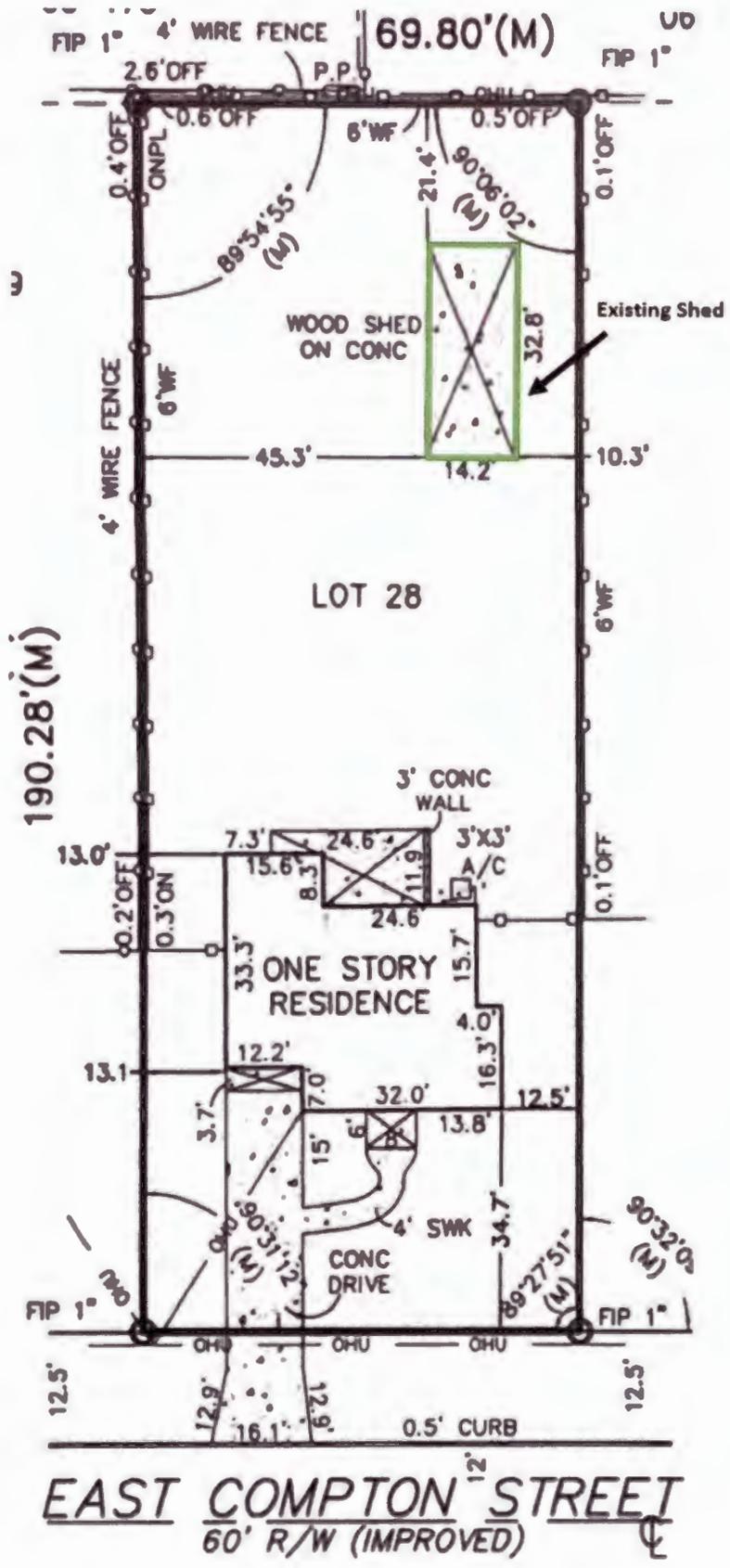
ZONING MAP



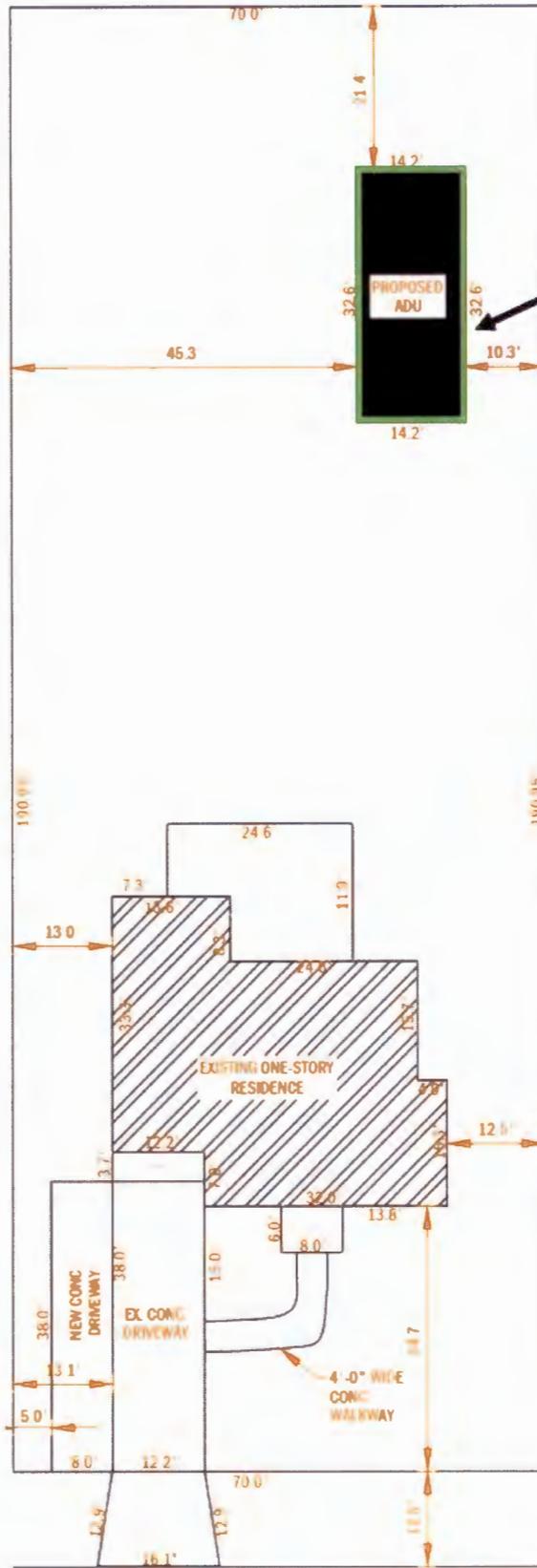
AERIAL MAP



SURVEY



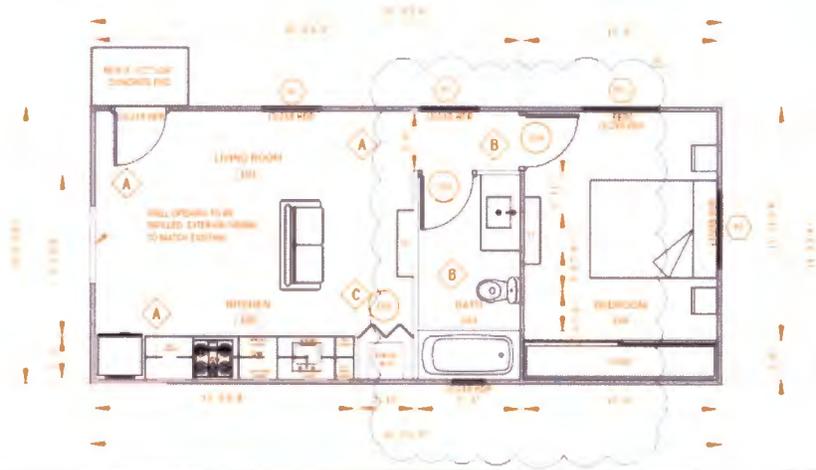
# SITE PLAN



Shed proposed to be converted to an ADU not designed to be similar and compatible with the same exterior finish and with materials designed to be similar and compatible with the primary dwelling unit.

EAST COMPTON STREET

FLOOR PLAN AND ELEVATIONS FOR PROPOSED ADU

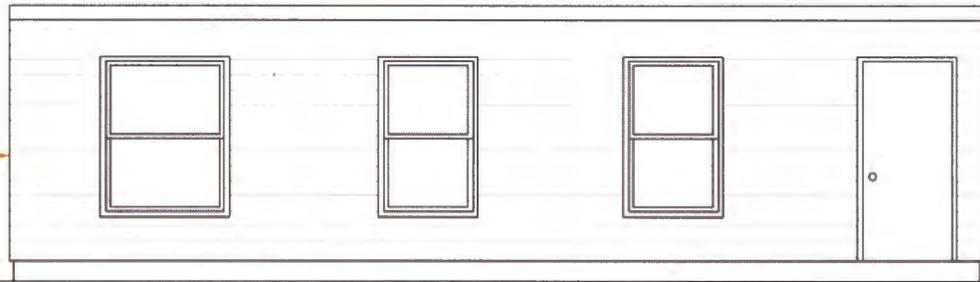


T.O. ROOF  
EL. @ 8'-6" FIN. FLOOR

GREY VINYL SIDING  
TO MATCH PRIMARY  
BUILDING

FIN. FLOOR  
EL. @ 0'-0"

FIN. GRADE

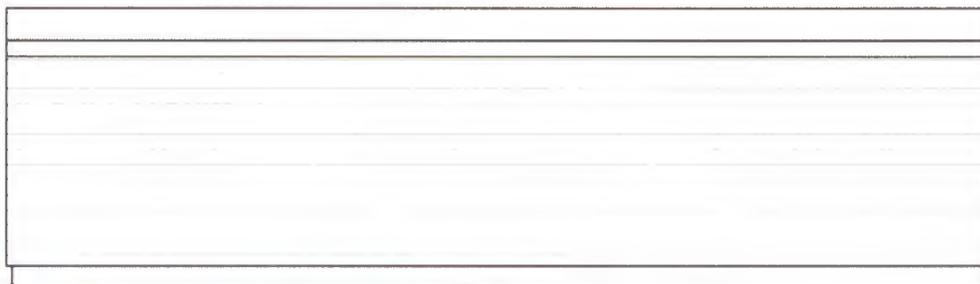


East Elevation

T.O. ROOF  
EL. @ 8'-6" FIN. FLOOR

FIN. FLOOR  
EL. @ 0'-0"

FIN. GRADE



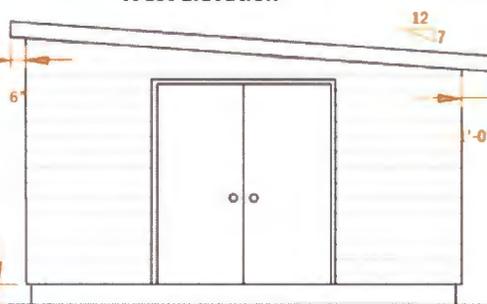
West Elevation

T.O. ROOF  
EL. @ 8'-6" FIN. FLOOR

B.O. SOFFIT  
EL. @ 7'-0" FIN. FLOOR

FIN. FLOOR  
EL. @ 0'-0"

FIN. GRADE



North Elevation

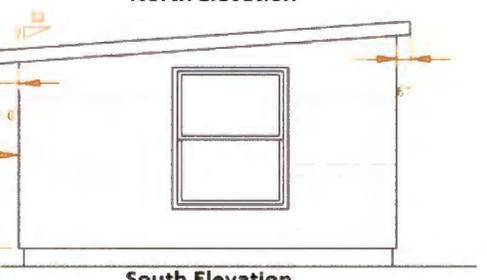
T.O. ROOF  
EL. @ 8'-6" FIN. FLOOR

B.O. SOFFIT  
EL. @ 7'-0" FIN. FLOOR

FIN. FLOOR  
EL. @ 0'-0"

FIN. GRADE

GREY VINYL SIDING  
TO MATCH PRIMARY  
BUILDING



South Elevation

**SITE PHOTOS**



**Facing south from E. Compton Ave. towards front of subject property**



**Rear yard, facing north towards rear of existing residence**

**SITE PHOTOS**



**Side yard, facing southwest towards existing shed**



**Rear yard, facing west towards proposed ADU conversion**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#2**

Case #: **VA-24-01-126**

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

**Jenale.Garnett@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** KELLY GENOVES FOR CHURCH OF GOD PROPHECY OF THE LAST DAYS

**OWNER(s):** CHURCH OF GOD PROPHECY OF THE LAST DAYS INC.

**REQUEST:** Variances in the R-3 zoning district for the installation of an Electronic Message Center (EMC) sign as follows:

1) To allow a cumulative total of 68.66 sq. ft. of ground signage in lieu of 32 sq. ft. of ground signage.

2) To allow an EMC copy area of 33.75 sq. ft. in lieu of 8 sq. ft. of copy area.

**PROPERTY LOCATION:** 4602 N. Pine Hills Rd., Orlando, FL 32808, west side of N. Pine Hills Rd., north of North Ln., east of N. Powers Dr., south of Clarcona Ocoee Rd.

**PARCEL ID:** 06-22-29-0000-00-009

**LOT SIZE:** +/- 9.1 acres

**NOTICE AREA:** 600 ft.

**NUMBER OF NOTICES:** 206

**DECISION:** Recommended **DENIAL** of the Variance requests 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) (Motion by John Drago, Second by Roberta Walton Johnson; 4 in favor: John Drago, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson; 1 opposed: Juan Velez; 1 absent: Sonya Shakespeare; 1 vacant):

**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 of the Variances. Staff noted that no comments were received in favor of the requests, and one (1) comment was received in opposition to the requests.

The applicant discussed the staff recommendation of denial and noted the proposed sign is due to the location of the church is towards the rear of the property and the large front yard, which impacts advertisement of their religious institution along N. Pine Hills Road.

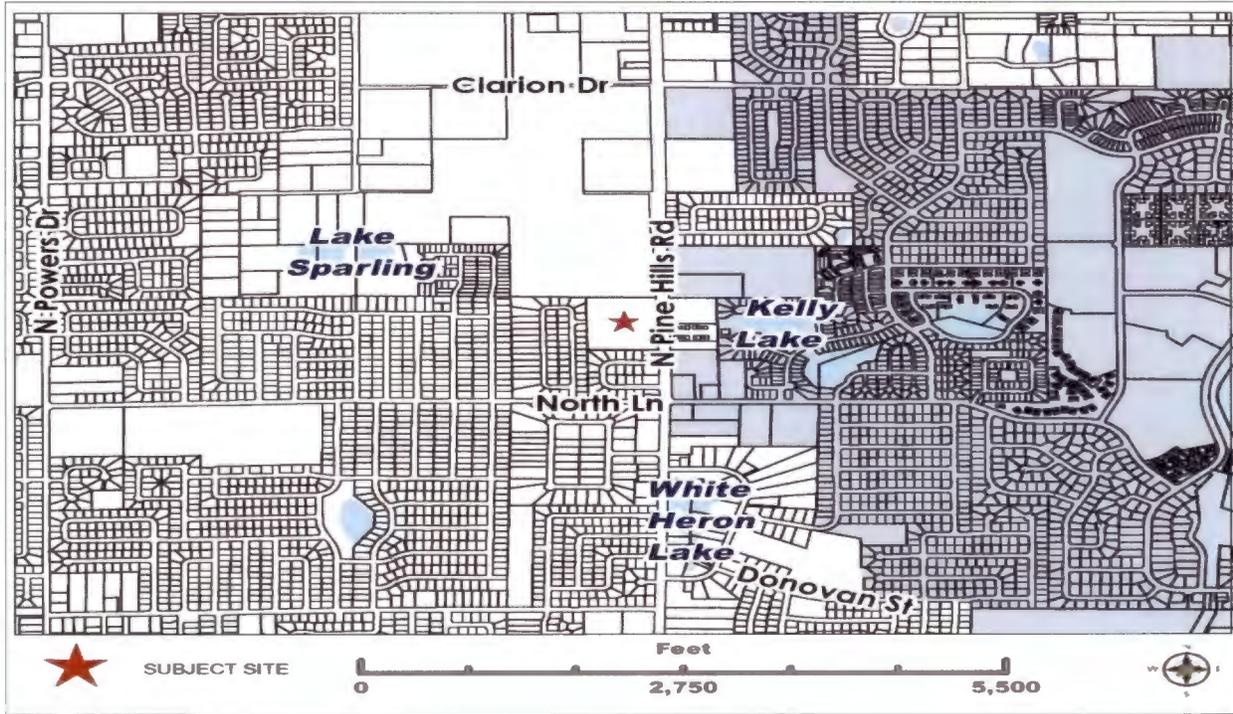
There was one in attendance to speak in favor of the request and no one was in attendance to speak in opposition to the request.

The BZA discussed the requests, the potential distraction for motorists of the proposed sign's illumination and the size relative to the fence, the distance to N. Pine Hills Road and the distance to the adjacent tree and recommended denial of the Variances by a 4-1 vote, with one absent and one seat vacant.

**STAFF RECOMMENDATION**

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-3	Hubbard Construction PD	R-1A, P-O	R-1A, R-2	R-1A
Future Land Use	MDR	C	LDR, O	LDR, LMDR	LDR
Current Use	Religious Institution, Day Care Stormwater Retention Pond	Pine Hills Transportation Center	Single-family residential, Office	Multi-family residential, Religious Institution, Preschool Academy	Single-family residential

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the R-3, Multiple-Family Residential district, which allows single-family homes, duplexes, and multi-family development as well as accessory structures. The Future Land Use is Medium Density Residential (MDR), which is consistent with the R-3 zoning district.

The area around the subject site consists of single-family and multi-family homes, a religious institution, a preschool academy, a transportation center for the School Board of Orange County to the immediate north, and an office use to the immediate south. The subject property is a 9.14 acre unplatted parcel that conforms with the R-3 zoning district. The site is developed with a 15,713 gross sq. ft. (B17903579) religious institution with a day care center that was constructed in 2019. Since then, there has been some unpermitted improvements such as sinks installed adjacent to the west property line and adjacent to the stormwater/retention pond area. There is a 10 ft. utility easement along the west property line, which is not affected by the Variance requested. The property was purchased by the current owner in 2014.

A Code Enforcement citation was issued in December, 2023 (CE#: 633502) for the installation of a concrete slab, a partial wood fence around the slab, and two outdoor sinks, all without permit.

Prior BZA cases:

1. June 1998: Special Exception approval (SE-98-06-007) to allow a church use with attendant educational and recreational facilities and Variance approval for unpaved parking in lieu of paved. No permit was submitted within 2 years of approval and the Special Exception subsequently expired.
2. February 2003: Special Exception approval (SE-03-02-009) to construct a religious facility to include an ancillary child day care center (up to 150 children), school with academic curriculum (grades K-5), gymnasium and administrative uses and Variance approval to allow unpaved parking in lieu of paved, and to allow a maximum height of 55 ft. for the church building in lieu of 35 ft. The proposed religious facility was not built within 3 years of approval and the Special Exception subsequently expired.
3. July 2014: Special Exception approval (SE-14-07-032) to construct a religious use facility to include a child day care center for up to 40 children and Variance approval to allow for unpaved parking spaces in lieu of paved. Once again, no permit was submitted within 3 years of approval and the Special Exception subsequently expired.
4. June 2016: Special Exception approval (SE-16-06-051) to construct a 39,840 sq. ft. sanctuary with a maximum of 1,250 seats, allow a child day care within the sanctuary building for up to 150 children, and to construct a 27,600 sq. ft. building housing 12 classrooms, a gymnasium, and office space and Variance approval to allow a sanctuary to be constructed with a maximum height of 55 ft. in lieu of 35 ft. A reduced size sanctuary of 15,713 sq. ft. was ultimately constructed.

The proposal is to allow an 8 ft. high electronic message center (EMC) ground sign with 68.66 sq. ft. of copy area of which 33.75 sq. ft. is the EMC copy area. Per Section 31.5-75 of the Orange County Code, a maximum number of one (1) ground sign or wall sign may be permitted on a parcel in a residential district with a maximum allowable copy area of 32 sq. ft. for any such sign. Although the proposed ground sign meets the required 10 ft setback from all property lines, the proposed signage is 68.66 sq. ft. in lieu of 32 sq. ft., requiring Variance #1. The same section of code also states an EMC shall be permitted provided it does not exceed twenty-five (25) percent of allowable copy area which the proposed sign consists of 33.75 sq. ft. of EMC copy area, where 8 sq. ft. is the maximum permitted, requiring Variance #2.

Staff is recommending denial of the Variances since the EMC ground sign could be designed to comply with the code. Furthermore, there are no properties in the surrounding area which contain similar signage.

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:	15 ft. (ground sign)	8 ft.
Min. Lot Width:	45 ft.	668.7 ft.
Min. Lot Size:	4,500 sq. ft.	398,201 sq. ft.

**Sign Setbacks**

	Code Requirement	Proposed
Front:	10 ft.	11 ft. (East)
Rear:	10 ft.	574.5 ft. (West)
Side:	10 ft.	174.5 ft. (North) 205 ft. (South)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

There are no special conditions or circumstances as there are other options to lessen the total square footage and the EMC copy area of the signage to meet code, eliminating the need for the Variances.

**Not Self-Created**

The requests are self-created since this is a new sign and could be designed with a smaller sign and EMC copy area to meet code.

**No Special Privilege Conferred**

Granting the Variances as requested would confer special privilege since there are no other properties in the surrounding area that contain similar signage. No Variances for such signs have been granted.

**Deprivation of Rights**

There is no deprivation of rights since a code compliant EMC ground sign could be installed.

**Minimum Possible Variance**

The requested Variances are not the minimum possible since the applicant has alternative to reduce the sign square footage and lessen the EMC copy area to meet code, thereby eliminating the need for the Variances.

**Purpose and Intent**

Approval of the requested Variances would not be in harmony with the purpose and intent of the Zoning Regulations and will be detrimental to the neighborhood since the signage would be inconsistent with the

developed properties along N. Pine Hills Road. Further, the purpose of the sign code is to ensure that a consistent amount/location of signage is permitted for all properties, and to avoid sign clutter. The granting of the Variances for additional ground sign square footage in excess of the limit will exceed the amount of signage which is allowed by the sign code. This would be contrary to the purpose and intent of the code.

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#### CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received November 2, 2023, and sign specifications received December 18, 2023, 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 permit for the sign, the unpermitted improvements located on the west side of the property shall be removed or a permit shall be obtained.

C: Kelly Genoves  
1490 Kastner Place, Suite 1050  
Sanford, FL 32771

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## COVER LETTER

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### Variance Cover Letter --- Church Of God Prophecy Of The Last Days

Code states that we are allowed a max of 32 SF for our proposed monument sign. It also states that we are allowed two monument signs, based on our lot. And also, that the electronic message board cannot exceed 25%, of the 32 SF allowance.

We are proposing ONE monument sign at 68.66 SF because the existing location has a frontage of 670 LF and almost 10 acres of land with one church entrance.

Two monument signs would confuse the patrons as to where the entrance exists.

The road conditions are a four-lane arterial road with center turning lanes. The width of the road and the speed of the road render a 25% allowance for the EMC to be ineffective for this traffic scenario.

The nature of the area is primarily commercial, and this proposed 68.66 SF monument sign would be effectively seen and promote business and generate family values, being a church for the community taking part in community outreaches and events.

An appropriately sized sign will give the church the ability to effectively communicate with the surrounding area, activities and services that they now and in the future will offer to the community. The church offers food outreaches and many other services, at not only no cost to the public.

With the amount of lot frontage that we have, it only makes sense that we be allowed to combine our two signs into one, being easier and more pleasing to the eye and consolidated so that the landscape will be preserved and the huge old oak tree will be complimented and remain intact with the sign near, giving the ability for the sign to be aligned with the tree, in the center of the property.

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.

we have almost ten acres of land, with a lot of other businesses surrounding. we have a huge beautiful oak tree to preserve and compliment with one sign.

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.

a special condition was required and obtained (approved) prior to building the church itself

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 proposed sign will not affect any of the surrounding businesses negatively.

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.

there will not be any financial affects or losses to any surrounding businesses

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 proposing approval for a 68.66 SF monument sign on our 10 acre property that has over 600 SF of lot frontage

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.

this sign will have no negative affect on the neighborhood or public welfare. It will have a positive affect, we are a church for the people and community.

ZONING MAP



AERIAL MAP



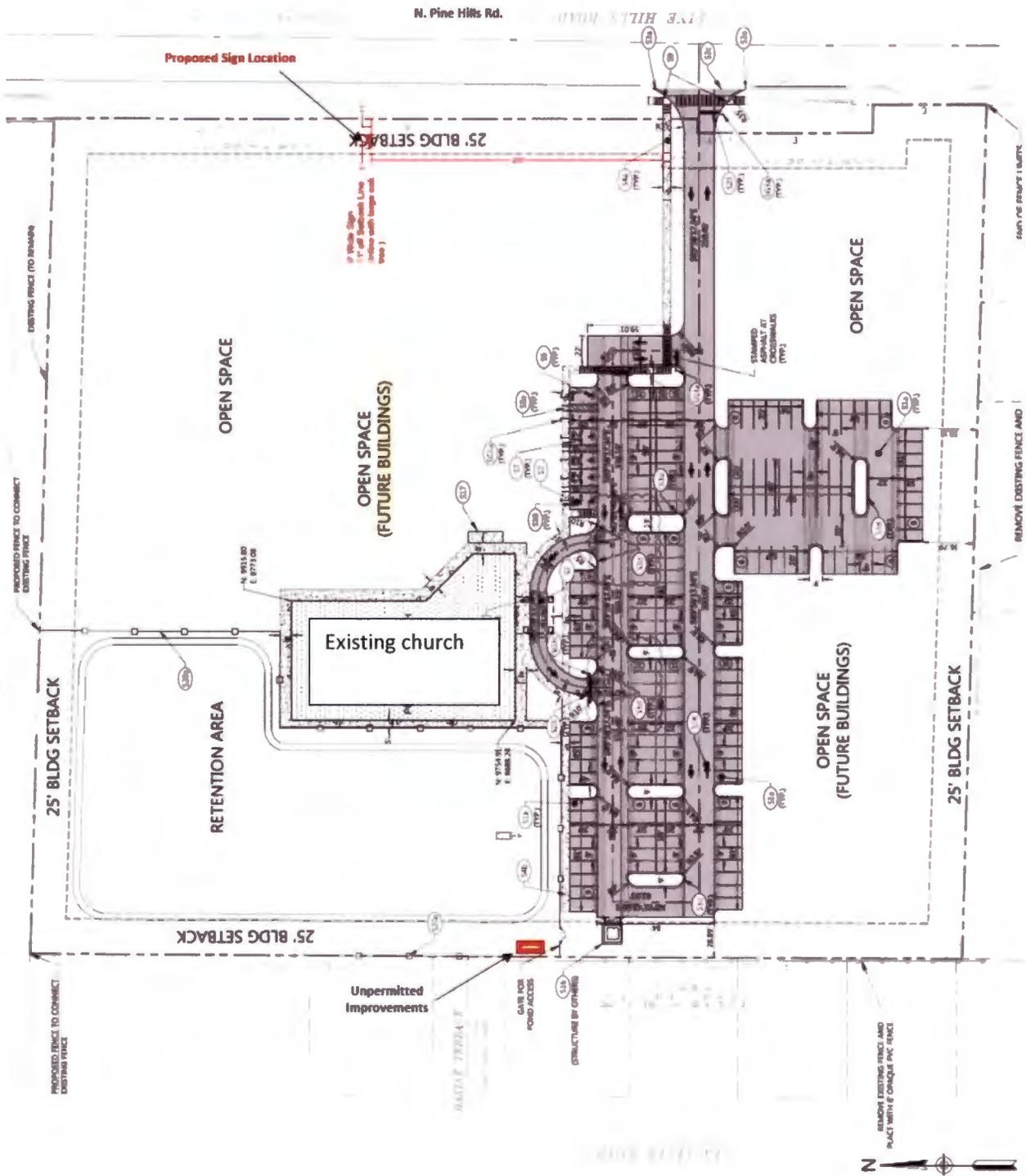
# SITE PLAN FOR PROPOSED SIGN LOCATION

**Variance #1**

Total cumulative of 68.66 sq. ft. in lieu of 32. sq. ft.

**Variance #2**

EMC copy area of 33.75 sq. ft. in lieu of 8 sq. ft.



PROPOSED SIGN SPECIFICATIONS



CUSTOM CORNERSTONE  
POLARIS COLOR 10mm 128x224  
LED CABINET: 4' 5" x 7' 7" Remote USB  
Sk: 1008227-1c-s Cust: 1801488  
12/18/2023 F/tCrowe SOLD  
Scale: 1/2"=1' Cabinet Color: Black

**SITE PHOTOS**



**Facing northwest from adjacent sidewalk towards N. Pine Hills Rd. and front of subject property**



**Facing southwest from adjacent sidewalk towards property along N. Pine Hills Rd.**

**SITE PHOTOS**



**Facing west from N. Pine Hills Rd. towards access driveway to property**



**Parking area, facing north towards the front of the religious institution**

**SITE PHOTOS**



**Front of property, facing southeast towards proposed location of sign**



**Facing north towards unpermitted improvements at west side of property**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#5**

Case #: **VA-23-12-117**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** ALEX GOETZ FOR GOOD PERSONAL STORAGE

**OWNER(s):** GOOD MCCULLOCH RD STORAGE, LP

**REQUEST:** Variance in the PD zoning district to allow a 114 sq. ft. ground sign in lieu of 57.9 sq. ft.

**PROPERTY LOCATION:** 4989 N. Tanner Rd., Orlando, FL 32826, east side of N. Tanner Rd., south of Mcculloch Rd., north of Lake Pickett Rd.

**PARCEL ID:** 01-22-31-0000-00-018

**LOT SIZE:** +/- 2.16 acres

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 130

**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; 4 in favor: John Drago, Juan Velez, Deborah Moskowitz, Roberta Walton Johnson; 1 opposed: Thomas Moses; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and sign specifications received November 20, 2023, 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 plat shall be recorded before issuance of a building permit for the ground sign.

**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 support, and 1 comment was received in opposition.

The applicant and owner noted an effective frontage of 267 feet along Tanner Rd., including the adjacent utility easement, and the special circumstances surrounding the request since the Tanner Rd. frontage is reduced by the that utility easement.

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

The BZA noted that there was a smaller frontage due to the easement, noted the commercial zoning and the unique circumstances, stated justification for the six (6) criteria and recommended approval of the Variance by a 4-1 vote, with one absent and one seat vacant, subject to the four (4) conditions in the staff report.

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### STAFF RECOMMENDATIONS

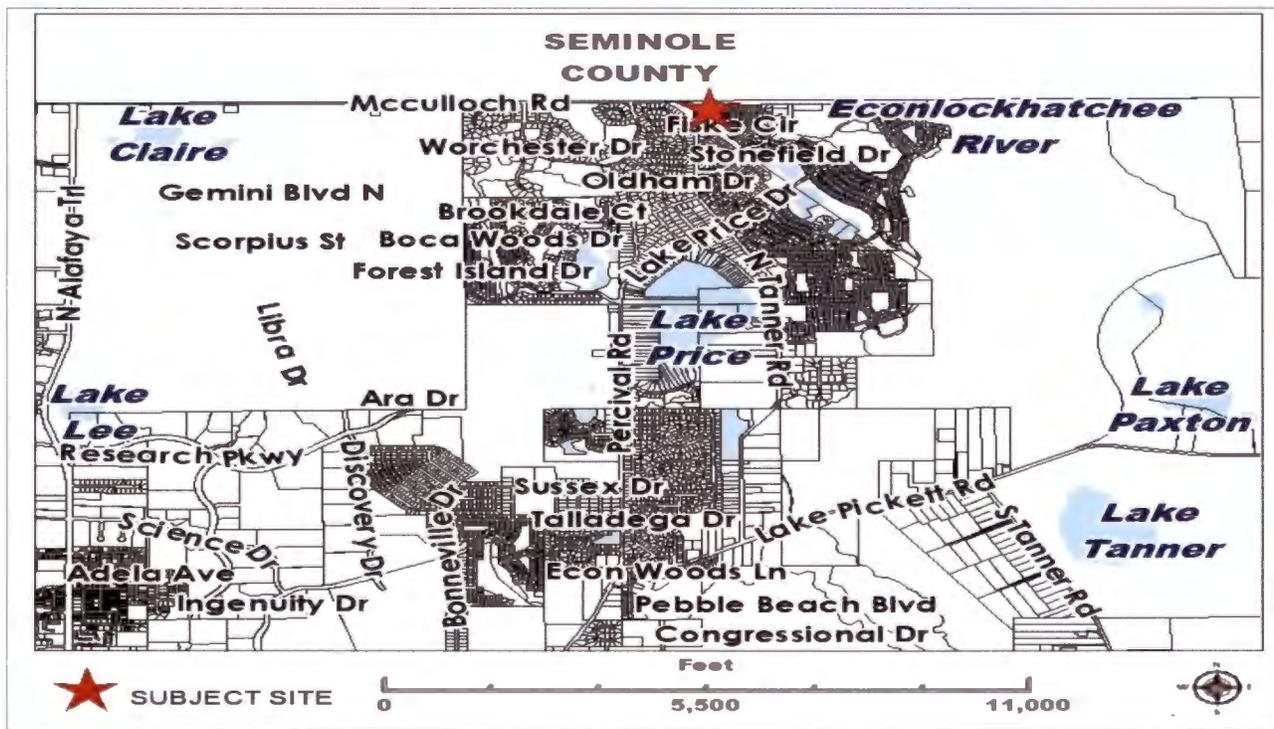
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Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the Variance, staff recommends that the approval be subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	Rybolt Property West PD	Rybolt Property West PD	Rybolt Property West PD	Rybolt Property West PD	R-1A
Future Land Use	C	C	LMDR	LMDR	LDR
Current Use	Vacant	Commercial, Vacant	Vacant, retention	Single-family residential	Vacant

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the Rybolt Property West Planned Development, which allows commercial and residential uses. The Future Land Use is Commercial (C), which is consistent with the zoning district.

The subject property is a vacant 2.16 acre unplatted lot, proposed to be developed with a mini-storage building, and is considered to be a conforming parcel. The property was originally a 3.52 acre parcel, however the southern portion of the subject property containing 2.168 acres was recently conveyed and deeded on November 14, 2023, for which a plat is currently under review (PR-23-02-006). The property was purchased by the current owner in 2023.

Sec. 31.5-15 of the Orange County Code allows 0.5 sq. ft. of ground signage for each linear foot of right-of-way frontage. The property has right-of-way frontage along N. Tanner Rd., which would allow a maximum of 57.9 sq. ft. of ground signage for this property, based on 115.84 linear feet of frontage. The proposal is to install 114 sq. ft. of ground signage, requiring a Variance.

Staff is recommending denial since the applicant is not being deprived of signage, as a ground sign could be permitted with a maximum of 57.9 sq. ft., and the request for 114 sq. ft. of ground signage is excessive. Further, the proposed use is for a storage facility which will be visible from the street, and wall signage is also allowed on the structure, also increasing visibility from the street.

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

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances**

There are no special conditions and circumstances particular to the subject property, as the applicant could request a conforming ground sign, which would eliminate the need for the Variance.

**Not Self-Created**

The request for the Variance is self-created, since there are alternatives which will eliminate the need for the request.

### **No Special Privilege Conferred**

Granting the Variance as requested will confer special privilege as other properties are able to comply with the sign code.

### **Deprivation of Rights**

There is no deprivation of rights as the applicant could request conforming signage.

### **Minimum Possible Variance**

The requested Variance is not the minimum possible since there are alternatives which will meet Code requirements.

### **Purpose and Intent**

The purpose of the sign code is to ensure that a consistent amount/location of signage is permitted for all properties, and to avoid sign clutter. The granting of a Variance for an additional ground sign square footage in excess of the limit will exceed the amount of signage which is allowed by the sign code. This would be contrary to the purpose and intent of the code.

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## **CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan and sign specifications received November 20, 2023, 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 plat shall be recorded before issuance of a building permit for the ground sign.

C: Alex Goetz  
6300 Hazeltine National Dr.  
Orlando, FL 32822

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COVER LETTER

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6300 Hazeltine National Dr. Suite 118  
Orlando, FL 32821  
(407) 410-8624  
www.kpmfranklin.com

September 5, 2023  
Revised October 27, 2023  
Revised November 17, 2023

Orange County Government  
Zoning Division  
201 S Rosalind Avenue  
Orlando, FL 32801

**Subject: Tanner Road Retail  
Sign Variance Request**

We would like to request a variance for the Tanner Road Retail site located at 4989 N. Tanner Road, Orlando Florida 32826, a portion of parcel 01-2-31-0000-00-018, described in the submitted deed.

Per Orange County Code, we understand the monument sign copy area is to be 0.5 square-feet per 1 foot of linear frontage with a maximum of 120 SF Maximum frontage per sign face. The property in question has 115.8 feet of linear frontage along Tanner Road. Therefore, our property is allowed 57.9 square feet of total sign copy area. We understand that signage has a maximum height limit of 15'.

Sign Variance:

We would like to request a total allowance of 114 Square Feet for the sign on Tanner Road. This variance will allow space for two tenants with an entrance along Tanner Road to have a sign copy area at the main entrance.

We would like the following circumstances be considered in the Variance Request.

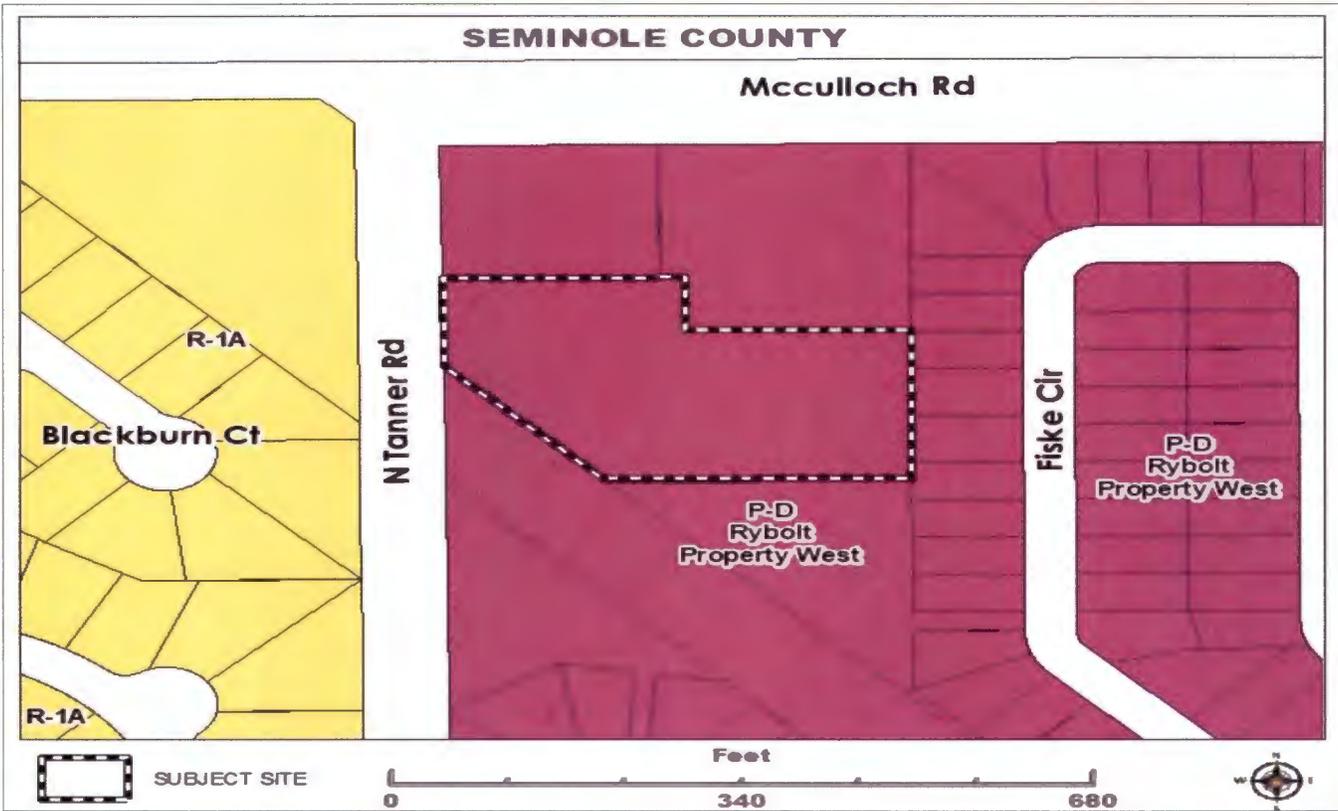
1. **Special Conditions and Circumstances** - The northern parcel has access along McCulloch Road, however in its dead-end configuration, the parcel does not receive optimum visibility. An increase in the copy area at the main entrance, on Tanner Road, will allow for the necessary visibility for the northern tenant.
2. **Not Self-Created** - The request is not self-created because the property has a dead end on McCulloch Road, and our main entrance is off Tanner Road due to the existing Traffic. Furthermore, there are 152 additional frontages along Tanner Road which has been claimed as a utility easement and under control of the power company. The effective frontage of the property would be 267 feet along Tanner Road without the easement.
3. **No Special Privilege Conferred** - Granting the sign variance will not confer a special privilege as this variance is being requested under the basis of the unusual burden of the traffic patterns and easement location.
4. **Deprivation of Rights** - Without the additional copy area, the adjacent northern parcel will be a disadvantage based on the limited frontage on Tanner Road.
5. **Minimum Possible Variance** - The signage variance is the minimum necessary to meet the demand of the development.
6. **Purpose and Intent** - We would like a variance to ensure visibility is maintained to the end user of the development.

We have enclosed a proposed Site Plan showing the location of the proposed sign along with a conceptual sign plan for reference. We appreciate your consideration.

Sincerely,

Alex Goetz, PE  
Project Manager  
KPM Franklin  
407-994-4453 | AGoetz@kpmfranklin.com

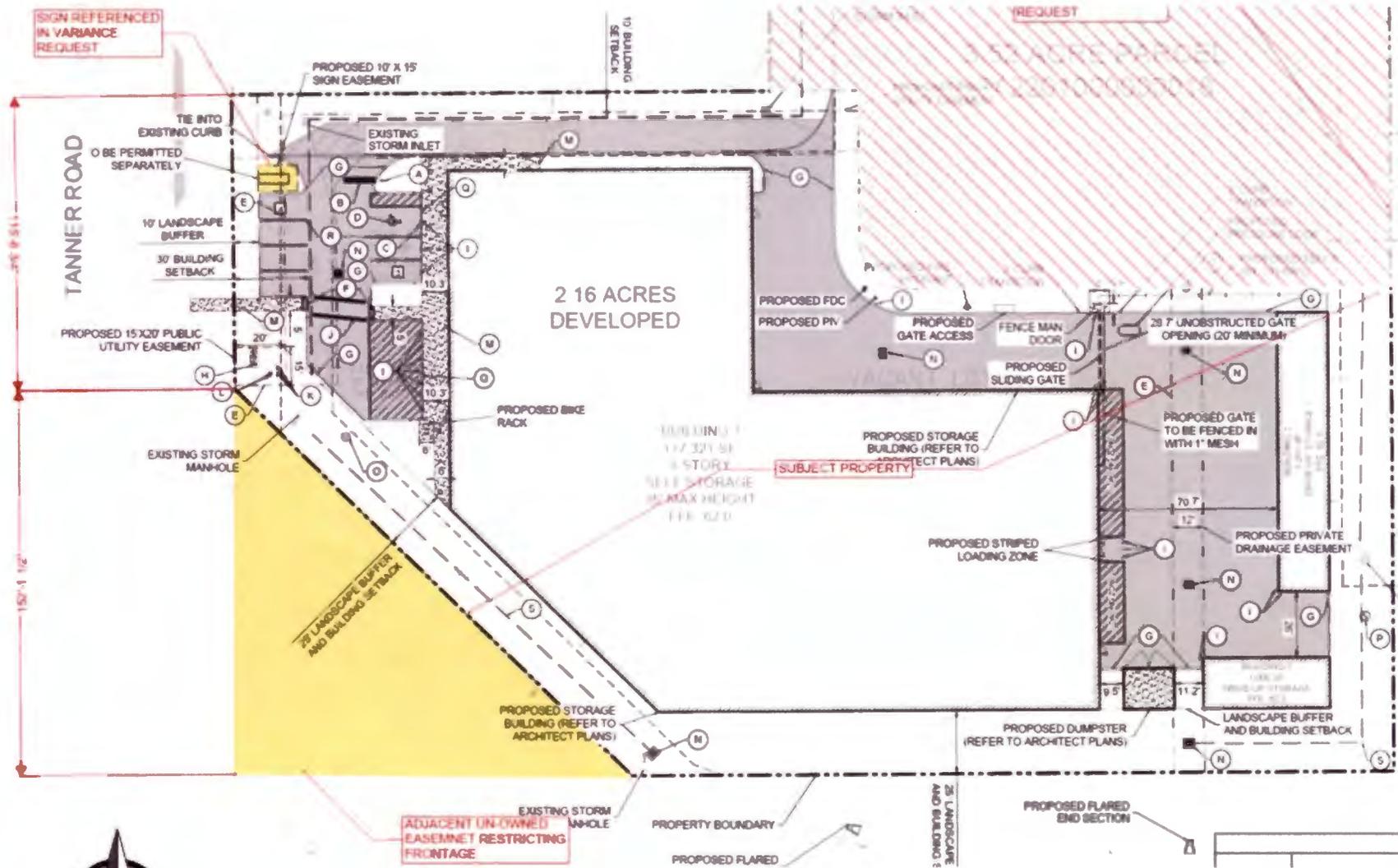
ZONING MAP

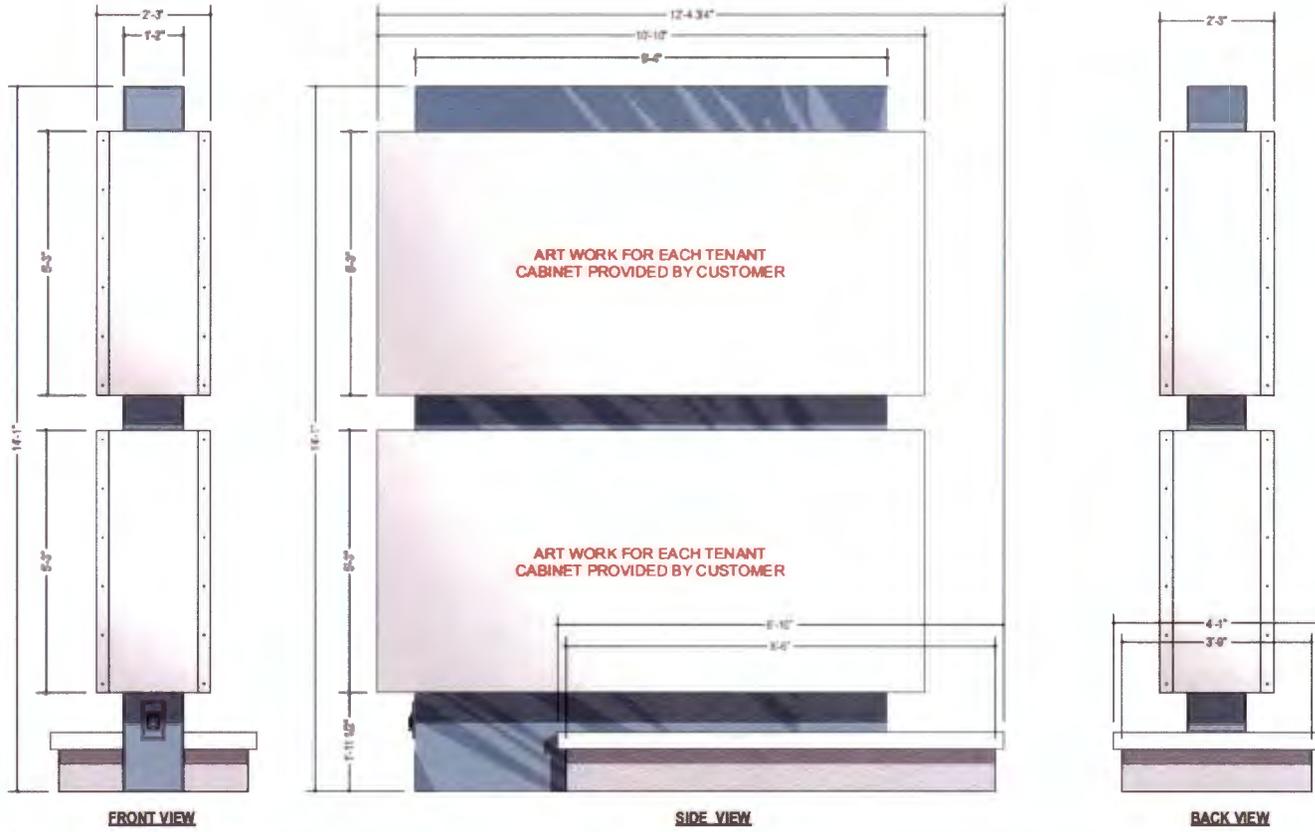


AERIAL MAP



SITE PLAN





**Illuminated D/F Monument Sign**

**Note:** Customer to provide high resolution art work or vector format art work for each Tenant Cabinet  
 Boxed Signage Per-Cabinet : 56.875 SQ.FT. Total: 113.75 SQ.FT.

Scale: 1/2"=1'-0"

**SITE PHOTOS**



**Proposed sign location from N. Tanner Rd. facing east**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#4**

Case #: **VA-24-01-124**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** REYNALDO BUFFILL

**OWNER(s):** REYNALDO BUFFILL

**REQUEST:** Variance in the R-1A-C zoning district to allow a 6 ft. high fence in the front yard in lieu of 4 ft. high.

Note: This is subject to Code Enforcement.

**PROPERTY LOCATION:** 2038 Paprika Drive, Orlando, FL 32837, southwest side of Paprika Dr., north of Ginger Mill Blvd., west of S. Orange Blossom Tr., north of S.R. 417.

**PARCEL ID:** 22-24-29-2988-02-040

**LOT SIZE:** +/- 0.19 acres (8,302 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 130

**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 Deborah Moskowitz, Second by Roberta Walton Johnson; unanimous; 5 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and elevations dated September 12, 2023, as modified to remove or relocate the carport in a conforming location, 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 existing carport on the south side of the property shall be removed or permitted in a conforming location and relocated as such before obtaining a permit for the fence.

- The fence shall be relocated outside of the 5 ft. utility easement, or documentation shall be provided from the easement holder indicating approval for a fence within the easement.

**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 no comments were received in support or in opposition.

The applicant agreed with the staff recommendation and noted that the carport will be permitted in a compliant location.

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

The BZA discussed the Variance, noted that if the property was considered as a corner lot a Variance would not be required, stated justification for the six (6) criteria and unanimously recommended approval of the Variance by a 5-0 vote, with one absent, and one seat vacant, subject to the five (5) conditions in the staff report.

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### STAFF RECOMMENDATIONS

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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-1A-C, Residential Cluster district, which allows single-family homes. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A-C zoning district.

The area surrounding the subject site consists of single-family homes. The subject property is an 8,302 sq. ft. lot, located in the Ginger Mill Phase 2 Plat, recorded in 1985, and is considered to be a conforming lot of record. It is developed with an 1,847 gross sq. ft. single-family home, constructed in 1986, a gazebo and shed that were permitted in 2023, and an unpermitted carport that encroaches into the side setback. The owner purchased the property in 2016.

The property has continuous frontage along Paprika Dr. on the north and east sides of the property, such that there is a front and rear yard and only one side yard. The property is subject to a 20 ft. front yard setback for structures and fences greater than four ft. in height on the north and east sides. There is a 6 ft. high fence located in the front setback along the north side of the property where a maximum of 4 ft. high fence height is allowed, requiring a Variance. The applicant contends that a wood fence was installed by the original owner in 1986 at the time the house was constructed. Since 2019 the current owner has been replacing a panel at a time with vinyl fencing, and did not know that a permit was required. The property has a 5 ft. utility easement on the west and along the Paprika Dr. frontage. The subject fence is located within said utility easement on the north and permission from the easement holder for this fence within the easement will be required prior to obtaining a permit. Further, the owner asserts that the existing carport will be removed or relocated in a conforming location prior to obtaining a permit for the fence.

A Code Enforcement citation was issued in May, 2023 for the installation of a fence, a pool and structures without a permit (Incident 623098). The pool has been removed and other structures have been removed or permitted except for a carport on the south side of the property. The applicant applied for a permit (F23013301) in June, 2023 for the fence which is on hold pending the outcome of the request.

Staff has reviewed the request and recommends approval. The property has continuous frontage along Paprika Dr. on the north and east sides. The 6 ft. high fence is on the north side of the property and abuts the neighbor's fence to the west, which is also 6 ft. high but not subject to the same height restriction, as the neighbor's fence is considered to be in a side street setback on a corner lot. Thus both fences are the same height. Further, there are many other properties in the immediate area with a 6 ft. high fence in similar locations, but that are subject only to the side street setback requirements as corner lots, and not the continuous frontage requirement.

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 fence height within front yard:	4 ft.	6 ft. (Variance)
Min. Lot Width:	75 ft.	88 ft.
Min. Lot Size:	7,500 sq. ft.	8,302 sq. ft.

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are that the lot is constrained by a continuous frontage on the north and east, limiting the fence height to four feet on the north. Further, the fence would be a continuation of the adjacent 6 ft. high fence to the west.

**Not Self-Created**

The request is not self-created since the proposal is for a 6 ft. high fence in a location that would be compliant if the lot did not have a continuous frontage.

**No Special Privilege Conferred**

Granting the requested Variance will not confer any special privilege since the fence location would be compliant if the lot did not have a continuous frontage. Further, it abuts the neighbor’s fence to the west, which is also 6 ft. high, and is similar to other existing fences on corner lots in the neighborhood.

**Deprivation of Rights**

Without the requested Variance, the owner would not be permitted to have a fence at a height that is similar to other existing fences on corner lots in the neighborhood.

**Minimum Possible Variance**

The requested Variance is the minimum to allow the fence to remain in a location and with a height that is similar to other existing fences in the neighborhood. Further, it abuts the neighbor’s fence to the west, which is also 6 ft. high.

**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 surrounding neighborhood, since the proposal is to allow a fence at a similar height and location as the adjacent property to the west, and is similar to other existing fences in the neighborhood.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations dated September 12, 2023, as modified to remove or relocate the carport in a conforming location, 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 existing carport on the south side of the property shall be removed or permitted in a conforming location and relocated as such before obtaining a permit for the fence.
5. The fence shall be relocated outside of the 5 ft. utility easement, or documentation shall be provided from the easement holder indicating approval for a fence within the easement.

C: Reynaldo Buffill  
2038 Paprika Drive  
Orlando, FL 32837

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**COVER LETTER**

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To Whom It May Concern:

September 21, 2023

The following is a Variance request concerning a fence height on the North side of the property at 2038 Paprika Dr. Orlando, FL 32837.

I moved to this home in 2016. At that time there was an existing six (6') height wood fence at the property. The existing wooden fence had been damaged by several storms over the years and had been repaired several times. I started to replace the wood fence 1 to 3 panels at a time with vinyl every time I could buy materials and had time. As a result of my action, now I have a fence that is in code violation for not having a Permit for Vinyl. Immediately I initiated the permit process and the permit has been denied because the property has a continuous front with no differentiation between the North and East side property line and the fence cannot be higher than (4'). I was told I had 3 options as follows:

1. Lower the fence to 4' height.
2. Move fence back 20'.
3. Apply for a Variance.

The first option will affect the privacy and security of both my property and my family as I have a 9-year-old son who plays in the yard and have valuables that could be easily stolen. The second option renders my back yard space useless as a playground or recreational space.

There are currently 3 lots in the Ginger Mill community (2128 Paprika Drive, 12470 Coriander Dr. and 12368 Coriander Drive) that have the same condition as my lot and all of them have a 6' fence.

My request for this Variance does not affect the community negatively but rather helps to beautify the area. Please note that the original fence was installed by the builder Greater Homes in 1986, 37 years ago. The actual fence is in the same location (this data was provided by 2 neighbors that are original homeowners) as the original fence and has the same height as the original. This Fence does not hinder or obstruct the view of traffic as the road is wide and the curve is gradual. Also there are no driveways next to my fence and a 4' fence wouldn't match the rest of the neighborhood fences which are 6' high and would look awkward.

Please excuse my ignorance for thinking that replacing an aged and damaged fence needed a permit and approve my request which will aid in my family's safety, security and privacy.

Thank you for hearing my petition.



Reynaldo Buffili

Owner 2038 Paprika Drive, Orlando, FL 32837

**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.

Special conditions exist as the lot has a continuous front and a permit can not be issued with a 6 ft. height fence. Even though the fence is on the side of the property and not the front.

**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 fence has existed since 1986 and was installed by the home builder. The only difference between now and then is the material type.

**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.

No special privilege will be conferred as the fence is located at the side of the house and not the front. Also there are other lots with the same condition and they all have 6 ft. height fences.

**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.

Mr. Buffill and his family would be deprived of their right of privacy and security in their own home by a rule that does not apply to 99% of other properties.

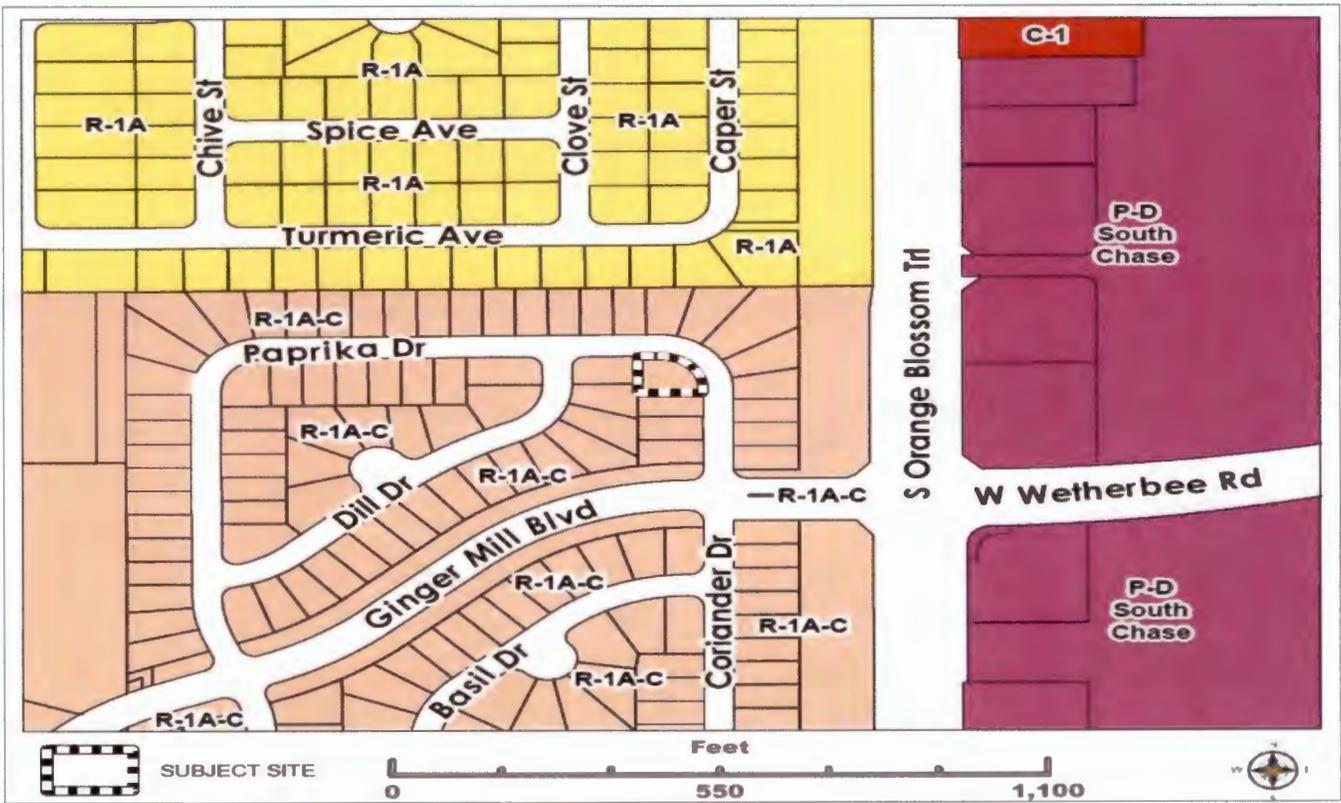
**5. Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The variance requesting is the minimum variance that will make possible the reasonable use of the land.

**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.

The fence matches style, height and design of other properties in the surrounding area. Therefore the existing fence is not out of character and will not be detrimental to adjacent properties or the community.

ZONING MAP

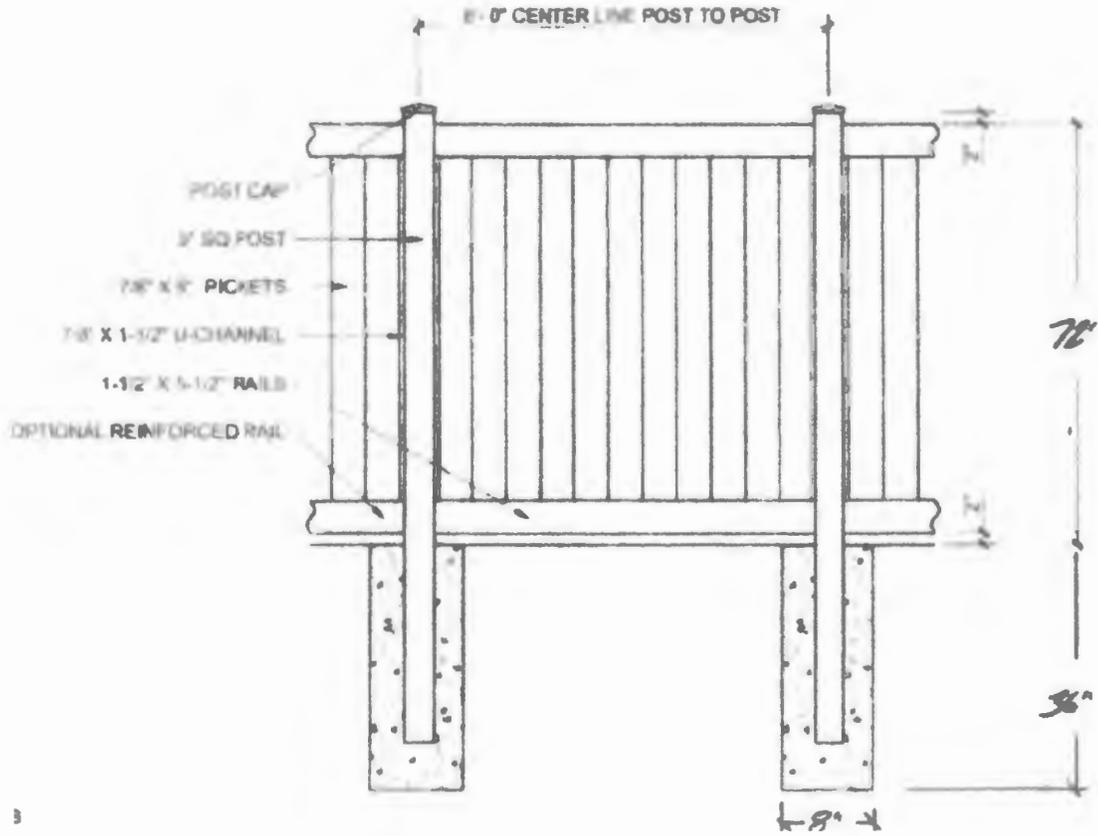


AERIAL MAP





FENCE DETAIL/ELEVATION



**SITE PHOTOS**



**Fence from Paprika Dr. facing west**



**Fence from Paprika Dr. facing south**

**SITE PHOTOS**



**Fence from inside yard, facing west**



**Unpermitted carport behind shed facing east**

**SITE PHOTOS**



**Similar fence on a corner lot in neighborhood**



**Similar fence on a corner lot in neighborhood**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#4**

Case #: **VA-24-01-125**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** JOSE ESCAMILLA

**OWNER(s):** JOSE ESCAMILLA

**REQUEST:** Variance in the R-1 zoning district to allow a west rear setback of 6.4 ft. in lieu of 15 ft. for an existing 2 story Accessory Dwelling Unit.

Note: This is subject to Code Enforcement.

**PROPERTY LOCATION:** 10501 Sepal Ct., Orlando, FL 32825, west terminus of Sepal Ct., west of Flowers Point Ln., south of Flowers Ave., east of Murdock Blvd., south of E. Colonial Dr.

**PARCEL ID:** 20-22-31-2803-00-290

**LOT SIZE:** +/- 0.16 acres (7,361 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 83

**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 Deborah Moskowitz, Second by Thomas Moses; unanimous; 5 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received November 3, 2023, 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 for the existing accessory structure (trellis) in the rear yard in a conforming location, or it shall be removed before obtaining a permit for the ADU.

5. Evidence of homestead exemption shall be received prior to issuance of a permit for the ADU.
6. The ADU shall be painted to match the color of the house.
7. Six-foot high podocarpus shrubs shall be planted every 3 feet between the northwest corner of the property and the northeast property line.

**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 since the ADU was constructed without first obtaining a permit. Staff noted that no comments were received in support or in opposition.

The owner discussed the need for the request and stated that the structure was built over existing concrete where a shed had previously been installed.

Code Enforcement briefly provided the history of the violation and noted that the structure can be seen from the street.

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

The BZA discussed the installation of the structure without first obtaining a permit, the adjacent wooded area and existing trees located at the rear of the property, stated justification for the six (6) criteria and unanimously recommended approval of the Variance by a 5-0 vote, with one absent and one seat vacant, subject to the five (5) conditions in the staff report, the addition of Condition #6, which states, "The ADU shall be painted to match the color of the house." and the addition of Condition #7, which states, "Six-foot high podocarpus shrubs shall be planted every 3 feet between the northwest corner of the property and the northeast property line."

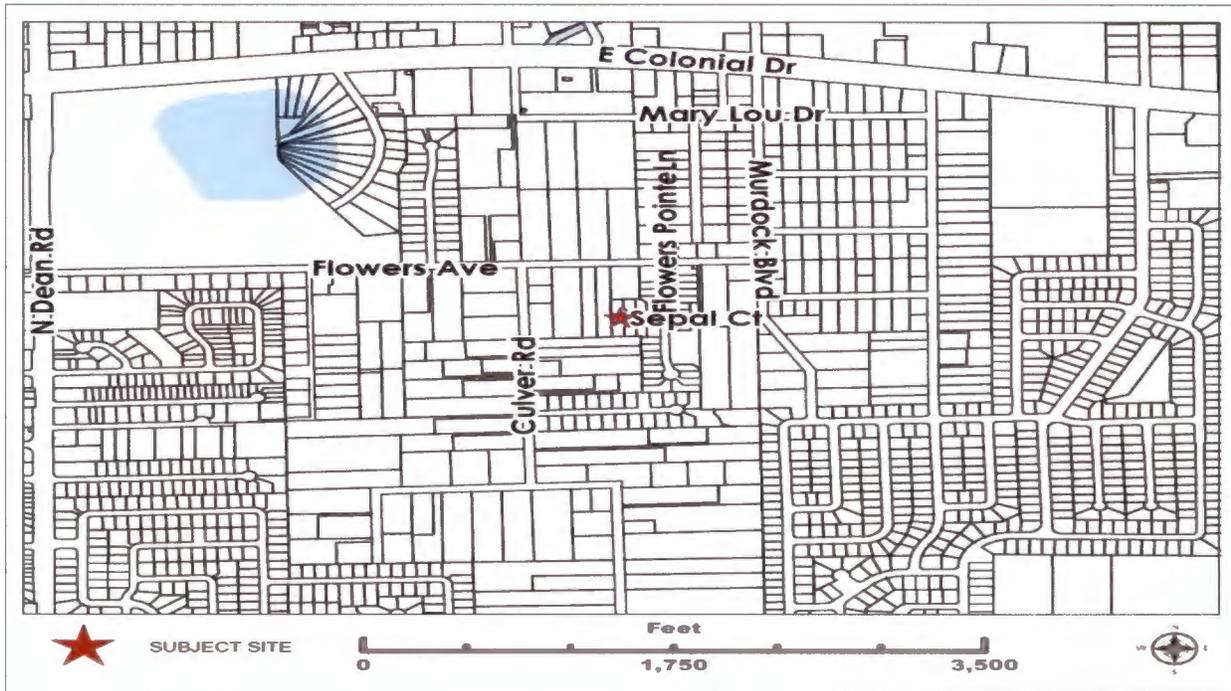
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#### **STAFF RECOMMENDATIONS**

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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-1	R-1	R-1	R-1	R-1
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential				

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

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

The area surrounding the subject site consists of single-family homes. The subject property is a 7,361 sq. ft. lot, located in the Flowers Pointe Phase 3 Plat, recorded in 1994, and is considered to be a conforming lot of record. It is developed with a 3,169 gross sq. ft. single-family home, constructed in 1995, an Accessory Dwelling Unit (ADU) and an accessory structure (trellis), both installed in the rear yard after 2018 without permits. The owner purchased the property in 2018.

The applicant constructed a 15.6 ft. high, 2 story 14 ft. x 15.6 ft. ADU in the rear yard of the property, located 6.4 feet from the rear property line in lieu of 15 ft., requiring a Variance. A Code Enforcement citation was issued in June, 2023 for an addition to the rear of the house, and an accessory structure/ADU in the rear yard

without permits (Incident 623612). A permit has been submitted for the addition to the house (B23018794), and the owner applied for a permit (B23013419) in June, 2023 for the ADU which is on hold pending the outcome of the request.

Staff has reviewed the request and is recommending denial. The ADU was constructed without a permit, and the structure could have been set back in a manner and corrected at the time of permitting to meet code. The applicant is not being deprived of the right to have an ADU on the property, as there is ample room in the rear yard to construct a conforming ADU.

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.	15.6 ft.
Min. Lot Width:	50 ft.	75 ft.
Min. Lot Size:	5,000 sq. ft.	7,361 sq. ft.

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	25 ft.	26.34 ft. (East-House)
Rear:	25 ft. (House) 15 ft. (2 story ADU)	29.36 ft. (West-House) 6.4 ft. (West-ADU-Variance)
Side:	6 ft.	15.66 ft. (South-House) 13.4 ft. (North-House) 13.4 ft. (North -ADU)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

There are no special conditions and circumstances particular to the subject property, as the ADU was constructed without a permit, the setback could have been corrected at the time of permitting to meet code, and there is ample room in the rear yard to construct a conforming ADU.

**Not Self-Created**

The request is self-created since the ADU was constructed without a permit.

**No Special Privilege Conferred**

Granting the requested Variance will confer special privilege that has not been given to neighbors who have obtained permits and built structures in compliant locations.

**Deprivation of Rights**

The owner is not being deprived of the right to have an ADU on the property in a compliant location.

**Minimum Possible Variance**

The requested Variance is not the minimum, as there is ample room in the rear yard to construct a conforming ADU.

**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 surrounding neighborhood, since the ADU is only 15.6 ft. in height, and is not visible from the street.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received November 3, 2023, 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 for the existing accessory structure (trellis) in the rear yard in a conforming location, or it shall be removed before obtaining a permit for the ADU.
5. Evidence of homestead exemption shall be received prior to issuance of a permit for the ADU.

C: Jose Escamilla  
10501 Sepal Court  
Orlando, FL 32825

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## COVER LETTER

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Jose Escamilla

10501 Sepal Ct  
Orlando Florida, 32825  
(407)394-2210

Dear Board of Zoning Adjustment,

I am writing to request a variance for an existing Accessory Dwelling Unit, the variance would be to allow a west rear setback of 6.4 ft. in lieu of 15' ft. for an existing 2 story Accessory Dwelling Unit The tea ADU is located at 10501 Sepal Ct Orlando Fl 32825.

A couple months ago I received a coding violation for this tea ADU house. Since then I have been working on pulling a building permit for this tea ADU. During the process of pulling this permit myself I received a comment from the zoning department requiring a 15' rear setback. I have decided to apply for a variance in hopes of having the current setback to be accepted.

This tea ADU was built after the pandemic as a family project. During this time our two daughters were having a hard time adapting to online school. It was harsh for them since this was such a drastic change for them. At first they were trying to adapt but then we noticed they were having a bit of a hard time adapting, this was seen by their drop in grades. We decided that having the tiny tea ADU in the backyard would help them create a routine again, for example getting ready and going into the tea ADU to have their classes there instead of them just being in their bedrooms all day. Since both of our daughters were doing online classes, we decided to build them a quiet space where they could both be on their zoom classes and study without having to be distracted by the noises in the main house.

The tea ADU is 10 feet by 15.7 feet and is made of wood. It has a pitched roof and is covered with shingles. This tea ADU was built entirely with my family, we did not have any labor from outside people. When I started building this tea ADU I decided to build it on top of a concrete pad that the previous owners had built. The previous owner also had a shed in this same spot. This can be found on the original site plan of the house when I purchased this home. I had assumed that the concrete pad for their shed was up to code. So I decided to build the tea ADU in the exact place. I did not realize that the existing concrete pad would not be up to code with the construction of this tea ADU.

I believe that I should be granted a variance because the tea ADU is a small, non-obtrusive structure that does not have a negative impact on the neighborhood. Since my neighboring lot does not have any structures near my property line I believe that this accessory structure is not bothering anyone. I do not believe that this had any impact on my neighbors, since we were able to build this tea ADU without causing any obstructions or loud noises.

I have attached the following documents to support my request:

- Original site plan of when the house was purchased
- Neighbors letters
- A site plan showing the location of the tea ADU
- A photograph of the tea ADU
- Map view of neighboring lots

I would appreciate it if you would consider my request for a variance. Thank you for your time and consideration.

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## COVER LETTER

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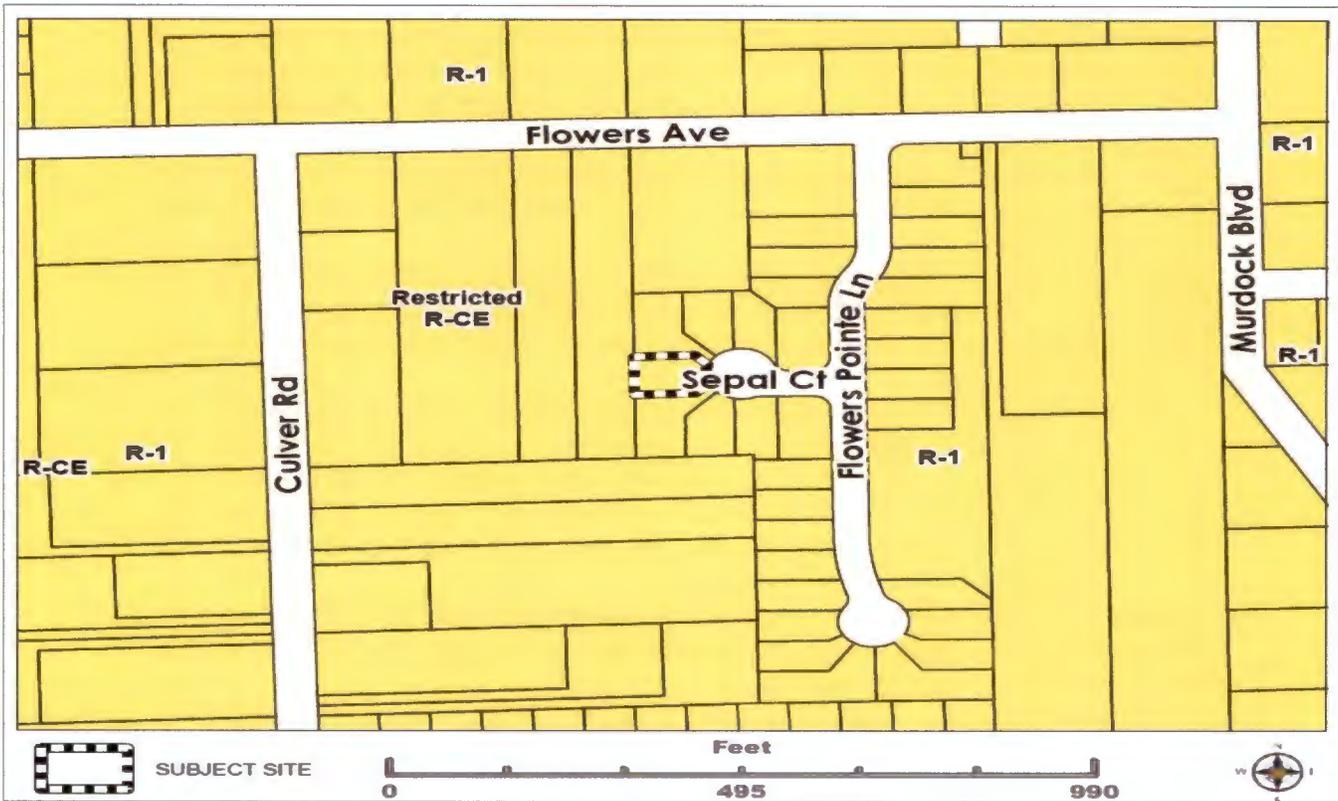
1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.
  - a. *The special condition peculiar to this land would be the already existing concrete pad. I had assumed that the concrete pad for their ADU was up to code. So I decided to build the tea ADU in the exact place.*
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.
  - a. *When we bought this property, the previous owner had this concrete pad installed and used it to place a ADU on top of it. When we used it we assumed the rear set back requirement was met. Now I am applying to have the variance of having the rear set back to 6.4 instead of the 15' that the zoning department is requesting. I believe that there are no hardships created since from the rear property line the neighboring lot has their house about 373 ft from the tea ADU.*
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.
  - a. *I believe that if the variance is approved it will grant me any type of special privilege over those who have had their variance denied in the same zoning district since this was built out of necessity.*
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.

*This property was not purchased with the intent to develop. The construction was due to the fact that my daughters needed a quiet space. And having a place to study has allowed them to focus on their education since after quarantine everyone had to adapt to studying at home. This tea ADU has allowed them to stay focused and succeed in school.*
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 already existing concrete pad that was placed here was used to build the now standing tea ADU. The current tea ADU is located 6.4' from the rear property line. The zoning requirement for the rear setback is 15'. Since this structure was built with the intent of being a permanent addition to the lot, applying for this variance is our only option. We are currently in the process of pulling this building permit, having this variance accepted will allow us to resolve the zoning comment.*
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.

I further understand that the Board will consider whether the variance is in the public interest. I believe that granting this variance would be in the public interest because it would allow me to use my property in a way that is consistent with its zoning designation. It would also allow me to provide a safe and quiet place for my daughters to study.

ZONING MAP



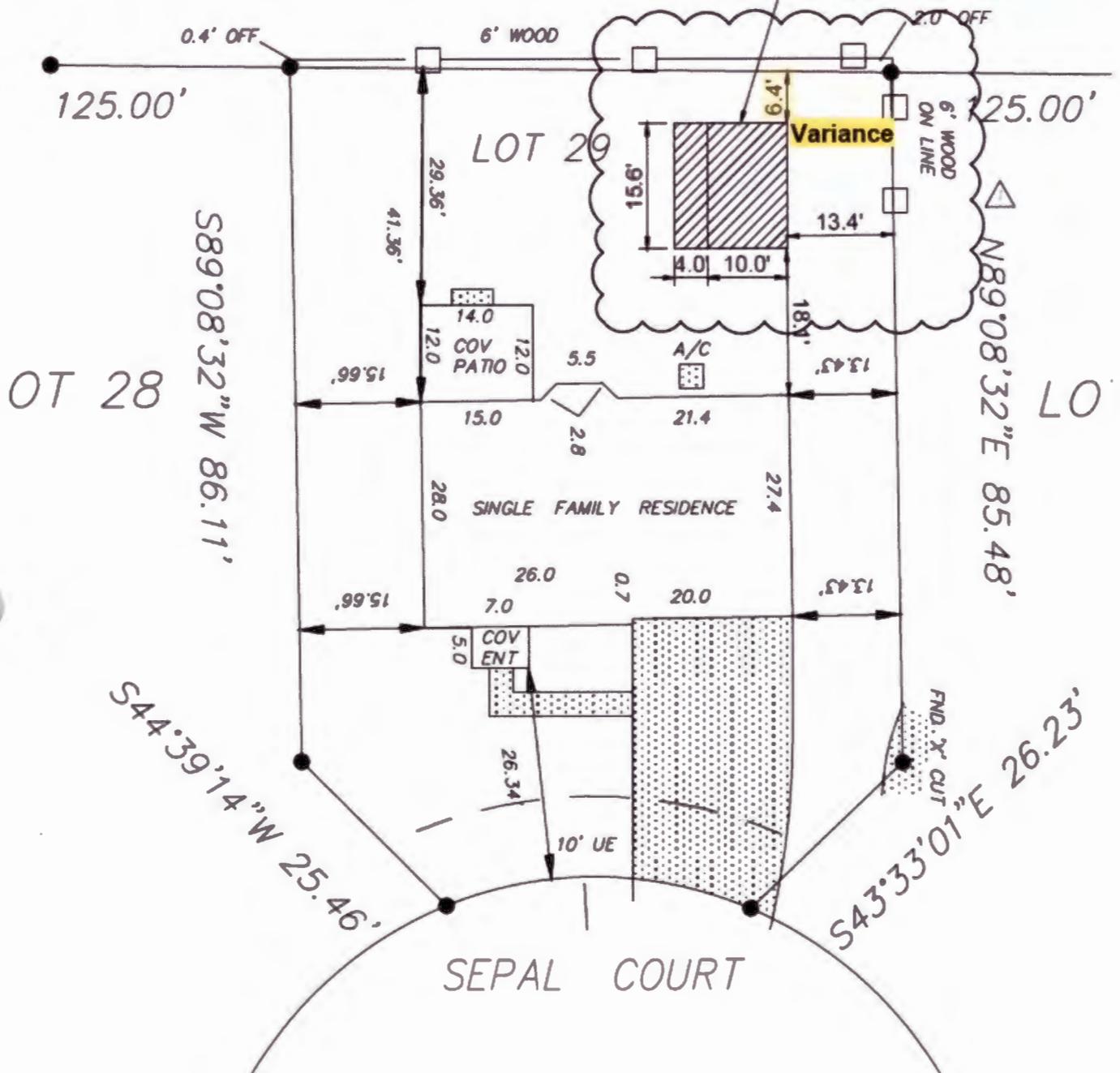
AERIAL MAP



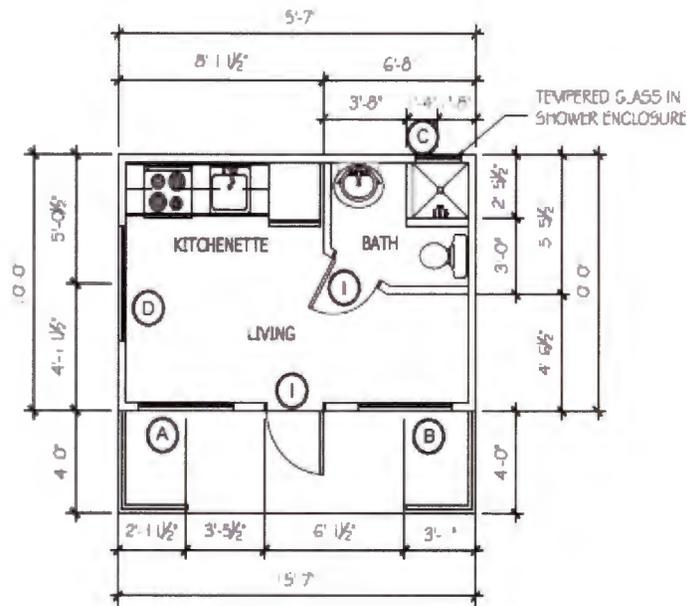
SITE PLAN

SCOPE OF WORK:  
DETACHED LIVING  
MINI TEA SHED

$N00^{\circ}37'40''E$  75.11'

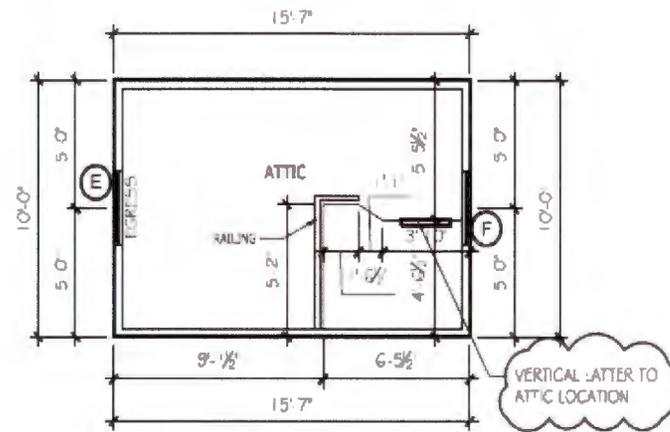


FLOOR PLANS



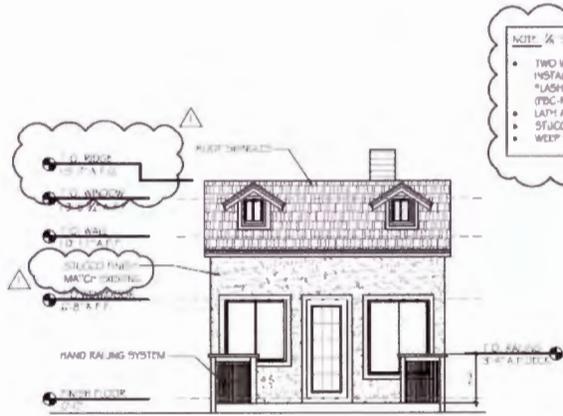
FIRST FLOOR PLAN

1/8"=1'-0"



ATTIC FLOOR PLAN

1/8"=1'-0"

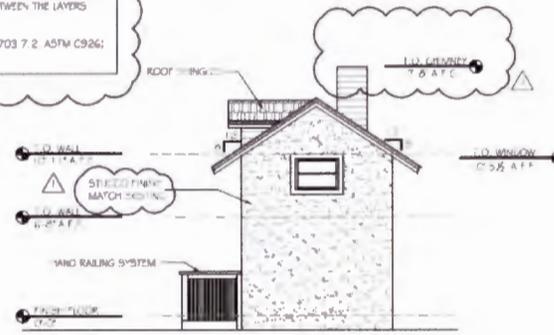


FRONT ELEVATION

1/8"=1'-0"

NOT: 3/8" STUCCO FINISH WT-1

- TWO WATER RESISTIVE BARRIERS INSTALLED AS REQUIRED BY R703.2. THE INDIVIDUAL LAYERS SHALL BE INSTALLED INDEPENDENTLY SUCH THAT EACH LAYER PROVIDES A SEPARATE CONTINUOUS PLANE AND ANY FLASHING INTENDED TO DRAIN TO THE WATER RESISTIVE BARRIER IS DIRECTED BETWEEN THE LAYERS (IBC RESIDENTIAL R703.2 ONE LAYER AND R703.7.3 STUCCO)
- LATH AND LATH ATTACHMENT (R703.1)
- STUCCO (EXTERIOR PLASTER THICKNESS OVER CONCRETE OR WOOD FRAME, R703.7.2 ASTM C926)
- WEEP SCREED FOR FRAME TRANSITIONS AND TERMINATIONS (R703.7.2)

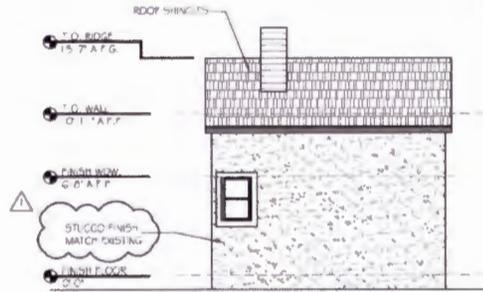


RIGHT ELEVATION

1/8"=1'-0"

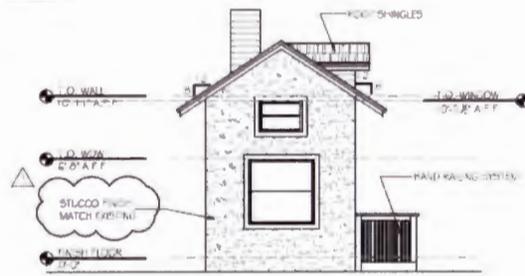
NOTES:

- IBC 2020 (7th EDITION) 1607.6 HANDRAILS SHALL BE DESIGNED RESIST A LINEAR LOAD OF 50 POUNDS PER LINEAR FOOT (PLF) AND A CONCENTRATED LOAD OF 200 POUNDS IN ACCORDANCE TO 4.5.1 OF ASCE 7
- 4" MAX. SPACING BETWEEN GUARDRAIL INTERMEDIATE RAILS FOR BALCONY IBC RS 2
- TREAD AND RISER DIMENSIONS IN ACCORDANCE WITH SECTION RLS 1-7.5
- THE RISER HEIGHT SHALL BE NOT MORE THAN 7 3/4" AND THE TREAD DEPTH SHALL BE NOT LESS THAN 10 INCHES



REAR ELEVATION

1/8"=1'-0"



LEFT ELEVATION

1/8"=1'-0"

**SITE PHOTOS**



**Front from Sepal Ct. facing west**



**ADU facing west in rear yard**

SITE PHOTOS



ADU with 6.4 ft. west setback facing north



Unpermitted trellis in rear yard

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#1**

Case #: **VA-24-01-127**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** EMILY NAGLE, EVAN NAGLE

**OWNER(s):** EMILY NAGLE, EVAN NAGLE

**REQUEST:** Variances in the R-CE zoning district to allow an addition (lanai) as follows:

- 1) To allow a west rear setback of 42 ft. in lieu of 50 ft.
- 2) To allow a 42 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 50 ft.

**PROPERTY LOCATION:** 30 Live Oak Road, Winter Garden, FL 34787, west side of Live Oak Rd., east side of John's Lake, west of Remington Rd., south of W. Colonial Dr.

**PARCEL ID:** 30-22-27-4017-00-160

**LOT SIZE:** +/- 0.35 acres (+/- 0.32 acres upland)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 109

**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 Thomas Moses, Second by John Drago; unanimous; 5 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received November 21, 2023, 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 house is located no closer than 42 feet from the Normal High Water Elevation (NHWE) of Johns Lake.

**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 was received in support, and no comments were received in opposition.

The applicant had nothing to add.

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

The BZA discussed the age of the house, noted the location of the septic and drainfield, and that there were no other alternative locations to construct an addition, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 5-0 vote, with one absent and one seat vacant, subject to the four (4) conditions in the staff report.

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### STAFF RECOMMENDATIONS

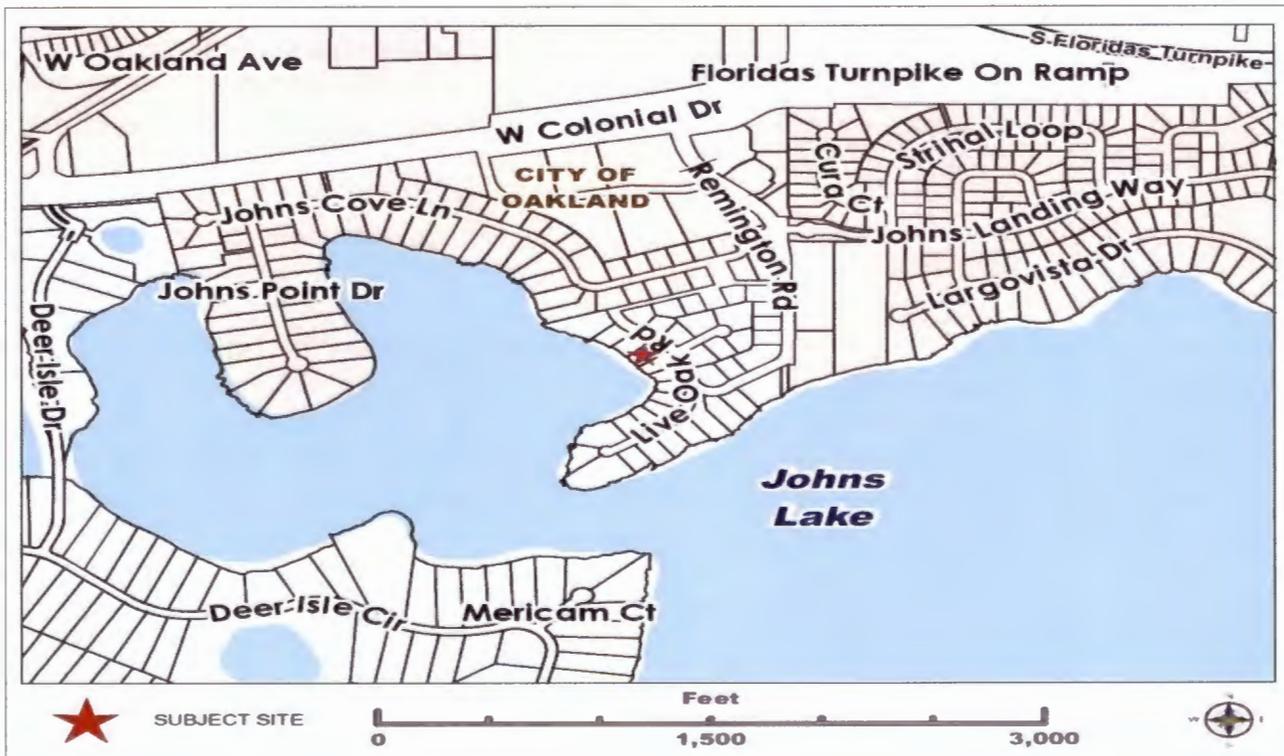
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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-CE	R-CE	R-CE	R-CE	Johns Lake
Future Land Use	R	R	R	R	Johns Lake
Current Use	Single-family residence	Single-family residence	Single-family residence	Vacant	Johns Lake

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the R-CE, Rural Country Estate District, which allows for single family development on one (1) acre lots and certain rural uses. The Future Land Use is (R) Rural, which is consistent with the R-CE zoning district.

The area around the subject site consists of vacant lots, and single-family homes, many of which are lakefront. The subject property is a +/- 0.35 acre (0.32 acres upland) lot, located in the John's Lake Homesites plat, recorded in 1958, and is considered to be a non-conforming lot of record due to the size and the width. It is developed with a 1,914 gross sq. ft. single-family home, constructed in 1958. The applicant purchased the property in 2022. The property backs up to Johns Lake with a Normal High Water Elevation (NHWE) line on the west side.

The applicant is proposing to construct a second story addition to the existing house that will include the addition of a two-story covered porch at the rear of the house 42 ft. from the west rear property line, in lieu of 50 ft., requiring Variance #1, and 42 feet from the Normal High Water Elevation (NHWE) of Johns Lake in lieu of 50 ft., requiring Variance #2. The existing residence was constructed as existing in 1958, prior to the current NHWE setback requirements.

The Orange County Environmental Protection Division has reviewed the request and has no objections as there will be no wetland impacts.

Staff recommends approval since the rear setback does not impact neighboring properties, as the subject property backs up to Johns Lake, and there is no other location for an expansion to the home that would not encroach into the NHWE setback. The R-CE setbacks were intended for larger sized lots with greater width and depth than the subject property. Expanding the house in the front is not an option as the septic tank and drain field are located in the front yard. Further, the existing residence was built in 1958 in the current location, and the request is not noticeable from the street.

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.	22.6 ft.
Min. Lot Width:	130 ft.	100 ft. (Developed lot of record)
Min. Lot Size:	1 acre	0.35 acres (0.32 acres upland) (Developed lot of record)

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	35 ft.	35 ft. (East)
Rear:	50 ft.	42 ft. Addition (West– Variance #1)
Side:	10 ft.	12.9 ft. (North) 10.9 ft. (South)
NHWE:	50 ft.	42 ft. Addition (West – Variance #2)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are the Normal High Water Elevation (NHWE) line which coincides with the rear setback on the west side of the property, as well as the placement of the existing home, the location of the septic tank and drain field in the front yard, and the size of the lot, relative to the larger setback requirements of the R-CE zoning district, all of which restrict the area where any addition could be built.

**Not Self-Created**

The need for the Variances are not self-created, since the owners are not responsible for the location of the NHWE line, and the placement of the existing home, as built in 1958, making any improvements to the property difficult without the need for Variances.

**No Special Privilege Conferred**

Granting the Variances as requested would not confer special privilege as the proposal is to utilize the available lot area in order to construct an addition in the only possible location available.

**Deprivation of Rights**

Without the requested Variances, the owners will not be able to construct a useable addition in the only feasible location.

**Minimum Possible Variance**

The requested Variances is the minimum necessary to construct any improvement.

**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 and will maintain the existing character of the neighborhood, since the NHWE setback and the rear setback does not affect neighboring properties.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received November 21, 2023, 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 house is located no closer than 42 feet from the Normal High Water Elevation (NHWE) of Johns Lake.

C: Emily Nagle, Evan Nagle  
30 Live Oak Road  
Winter Garden, FL 34787

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## COVER LETTER

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To whom this may concern,

We are requesting approval for a variance on 30 Live Oak rd. Winter Garden FL 34787 to encroach on the 50' setback to Normal High Water Elevation(NWHE) on the back side of the lot by 8'ft and allow for building up to 42'ft of the NWHE. We purchased this property in April'22 with the intent of expanding onto the house that is currently built on the property. While we had the intent to adhere to all zoning codes, we found out in October'23 that the survey we received when purchasing the property displayed inaccurate information. We built our entire house plans using the "Mean high water elevation" vs. the "Normal high water elevation", after Orange county pointed this out to us, we realized we would be in the setback by 8'ft. As we investigated our potential paths forward, we were optimistic to not have to request a variance given there is an existing variance that was approved in 1984 for this property, which states you can build within 42'ft of the property line (which our plans adhere to). However, given there was new legislature that was introduced in 1991 that states 50'ft from the Normal high water line, that variance does not apply to us. It is worth nothing that the normal high water line, is essentially the exact same line as the edge of the property line (see survey attached). We have already started a building permit for this project and our permit # is B23011727.

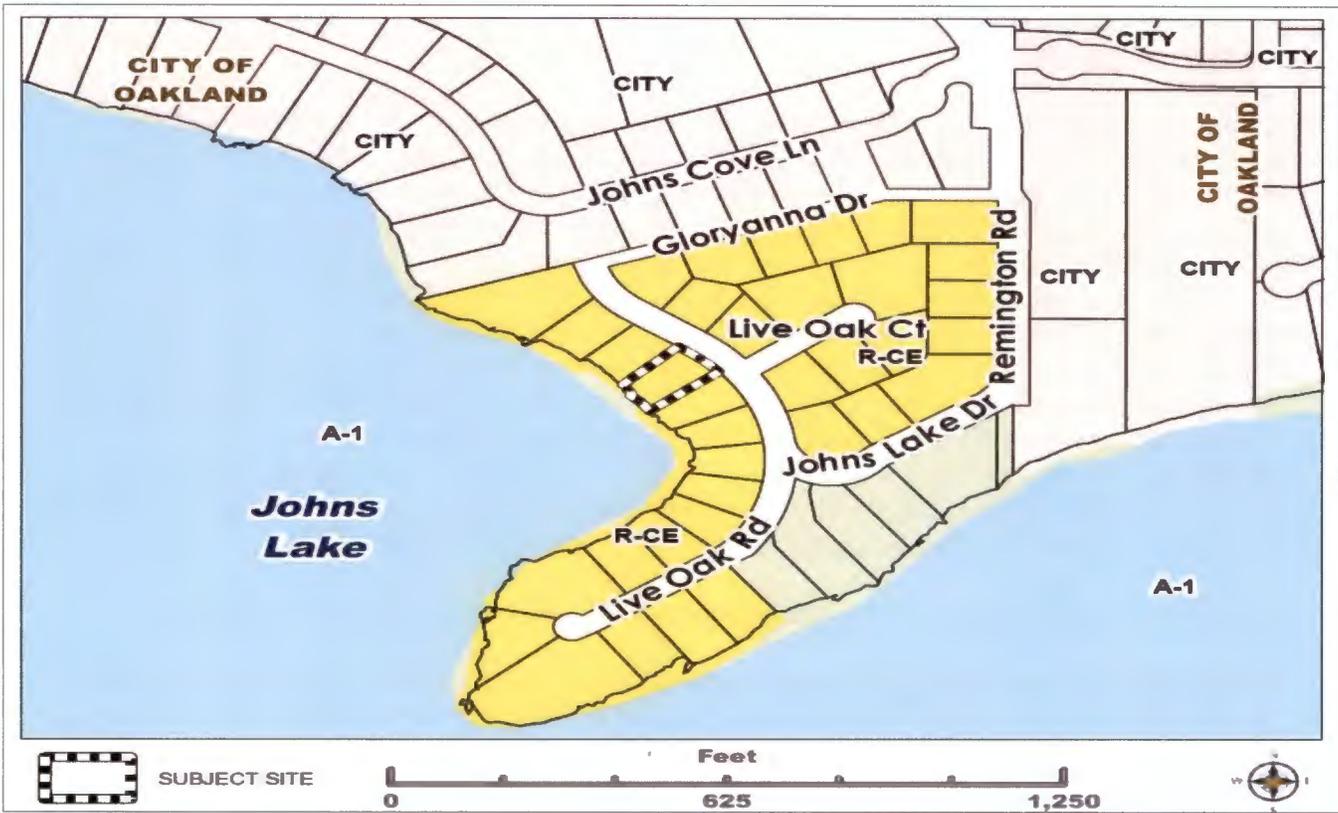
As we look at the six different criteria for requesting a variance, we feel we are adhering to all of them:

- 1) **Specific Conditions and Circumstances:** The zoning of our neighborhood is unusual as it is zoned RCE whereas the other neighborhoods on the lake are zoned with PD or CITY. The RCE zoning requires 1 acre minimum standards, in which only one lot in our neighborhood adhere to this minimum (of +20 lots). Given the larger lot size requirements, the setback requirements are also larger which make building more difficult.
- 2) **Not Self-Created:** We are trying to add onto the existing house on the property. Given the existing house is already in the setback, and doesn't have a back lanai or patio, we are seeking to add a back patio to enjoy views of the lake.
- 3) **No Special Privilege:** Given the size of other new construction and remodels that have occurred on the lake, we are asking for reasonable improvements to our property which are inline with other properties on the lake. Most other houses on this lake much larger than ours, and additionally have swimming pools that re closer to the waterline than what we are requesting. Our improvements will not deter from any other adjoining properties and will only improve the value of our neighborhood.
- 4) **Deprivation of Rights:** Other surrounding properties on the lake enjoy the pleasure of having a back patio as well as house o much larger size. Not being able to add a back patio to our existing house will significantly deter the value of our land and diminish the use and enjoyment.
- 5) **Minimum Possible Variance:** We are requesting for only 447sqft encroachment into the required setback, a relatively small fracture into the entire setback area.
- 6) **Purpose and Intent:** This encroachment is necessary as to build a back patio for viewing the lake. It is to note that the lake is on a concave radius where we live and will not impede on any neighboring views of the lake.

Evan and Emily Nagle

Owners of: 30 Live Oak Rd. Winter Garden FL, 34787

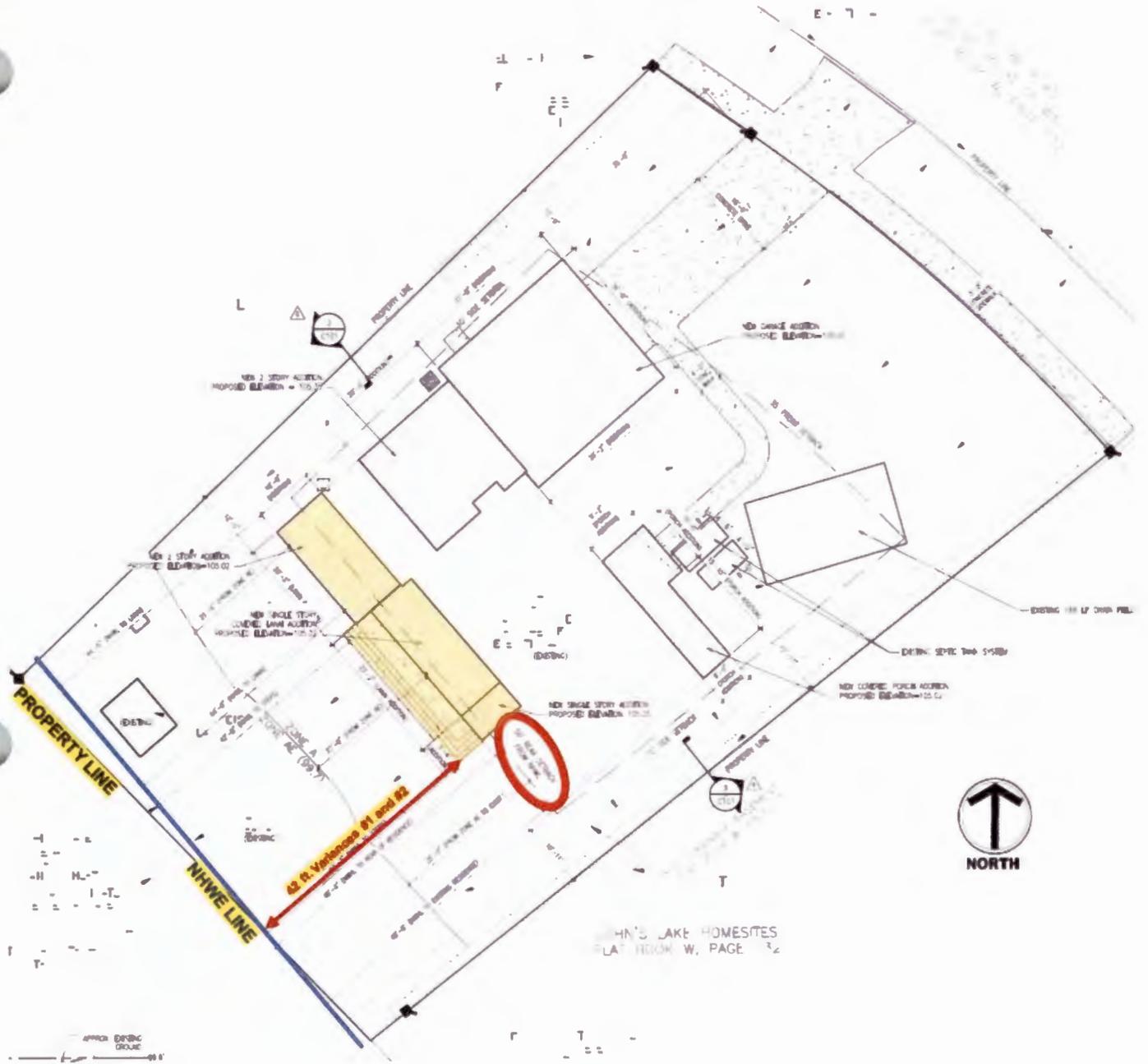
ZONING MAP



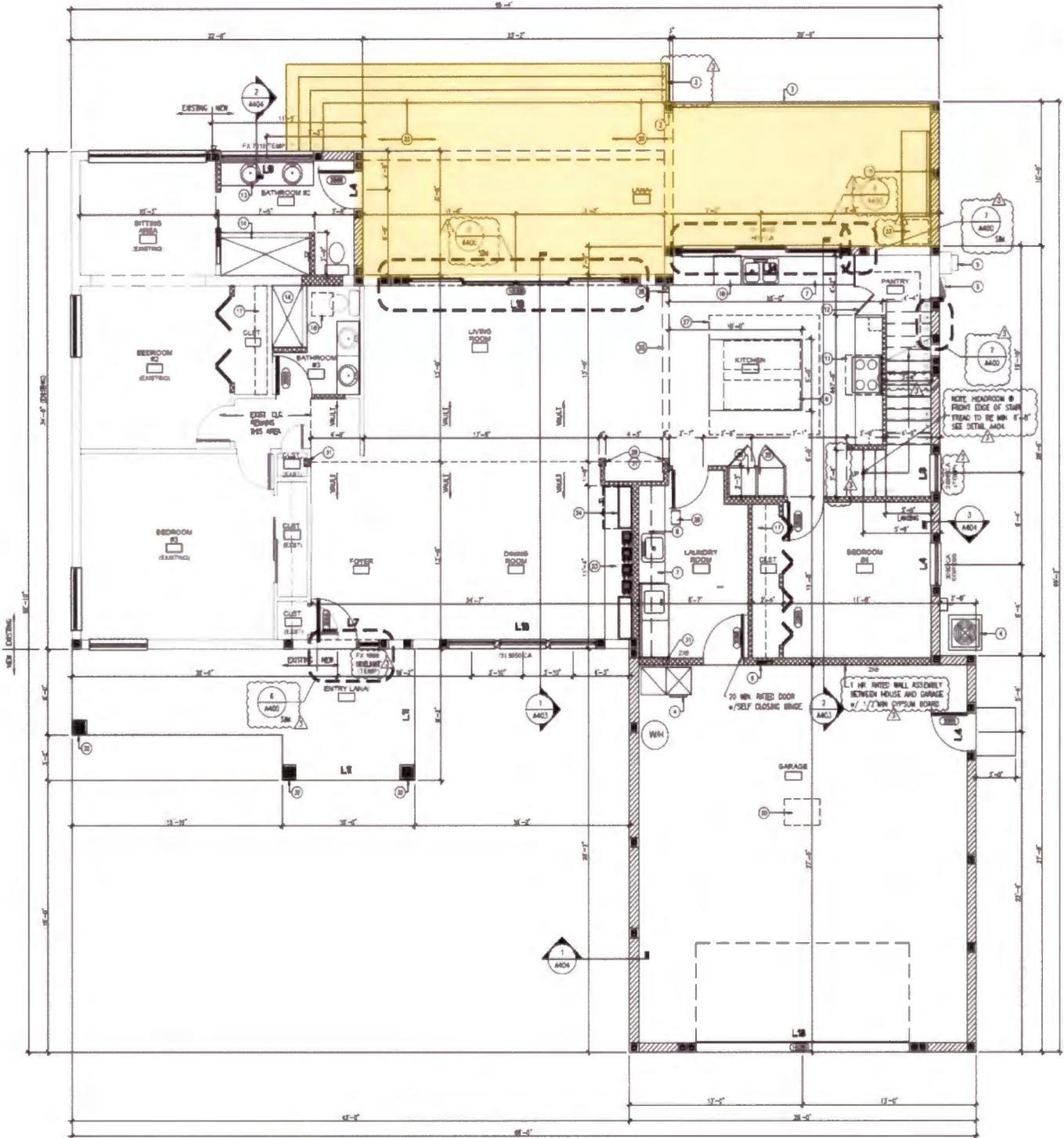
AERIAL MAP



# SITE PLAN

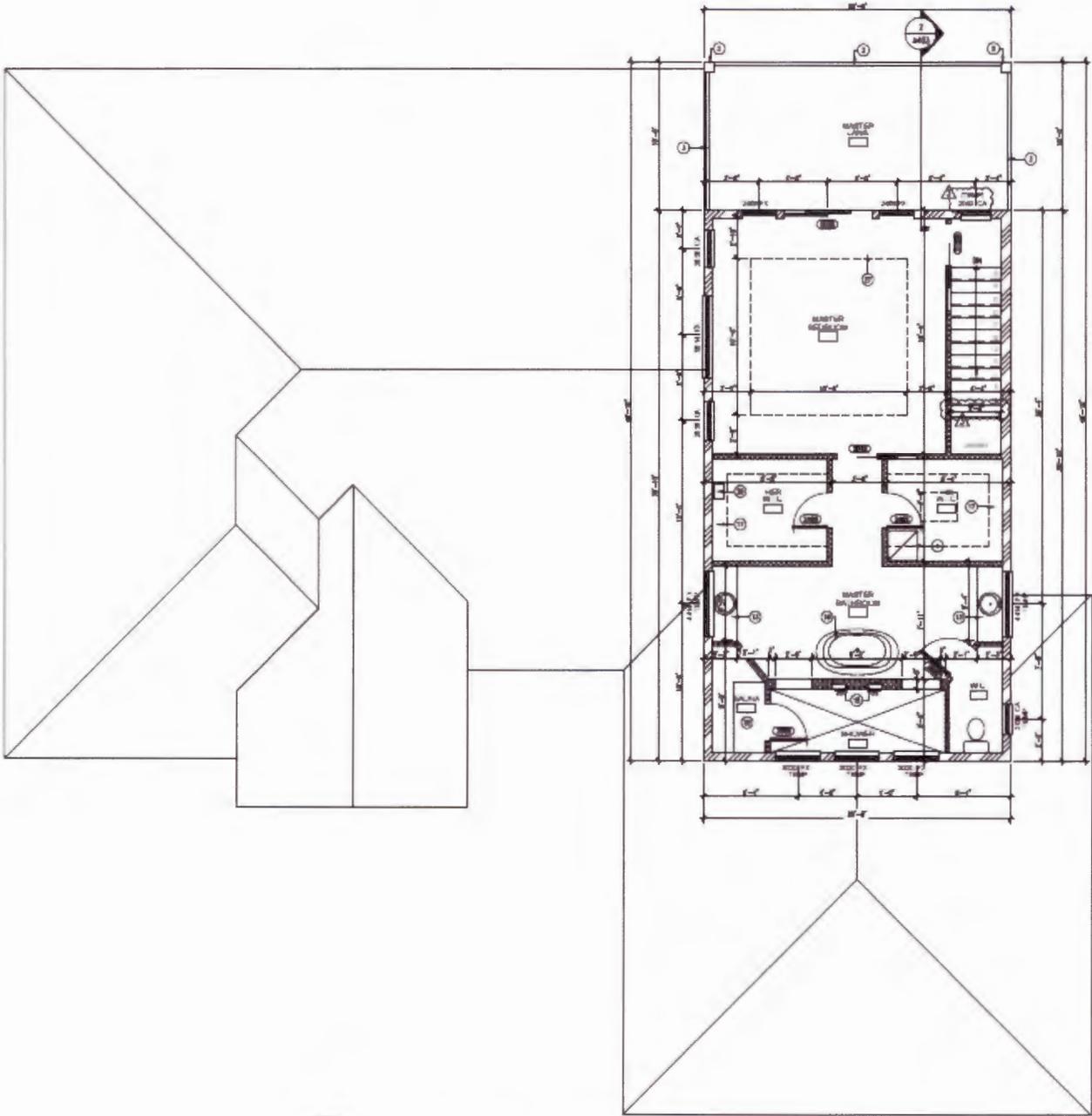


# FIRST FLOOR PLAN



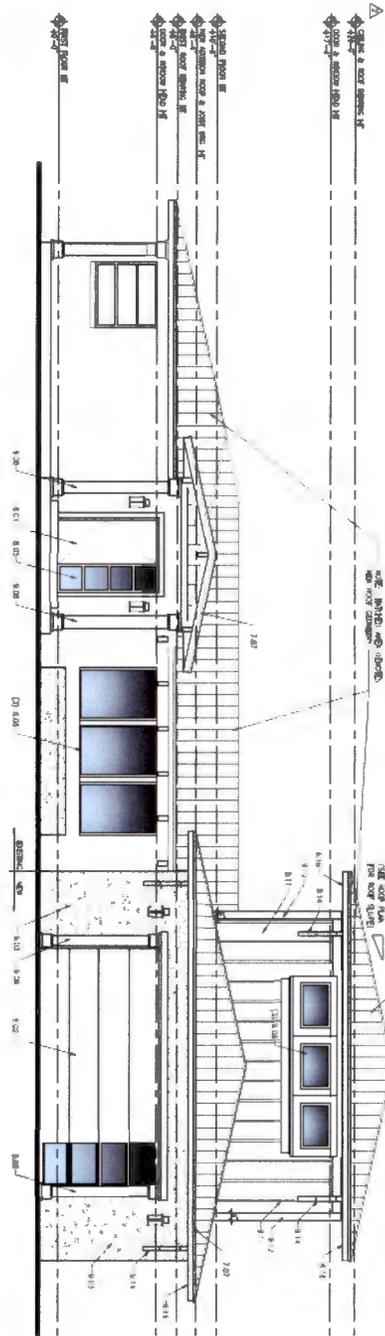
**1 FIRST FLOOR PLAN**  
A201 SCALE 1/4" = 1'-0"

SECOND FLOOR PLAN

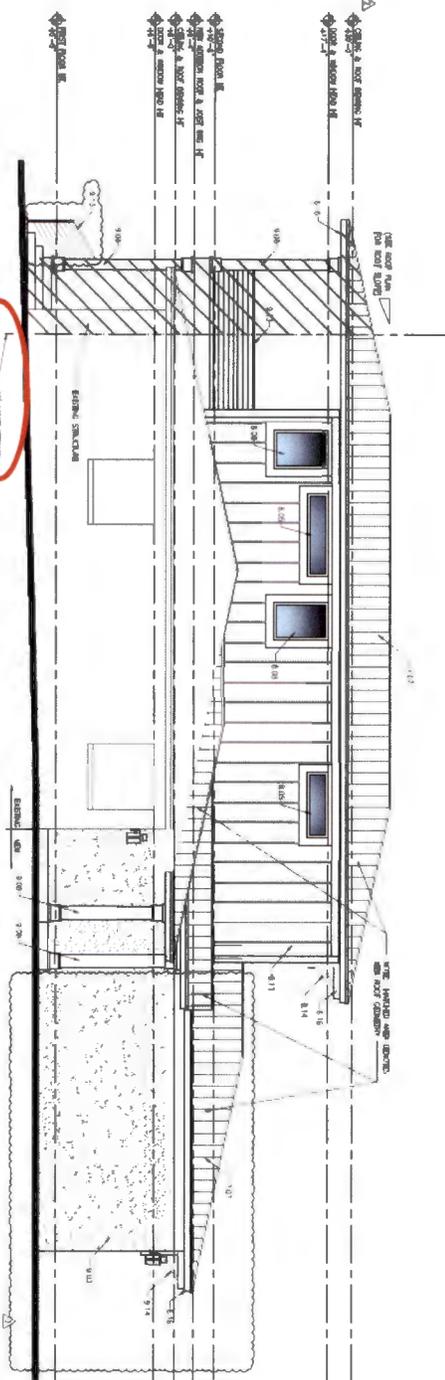


1 SECOND FLOOR PLAN  
A202 SCALE 1/4" = 1'-0"

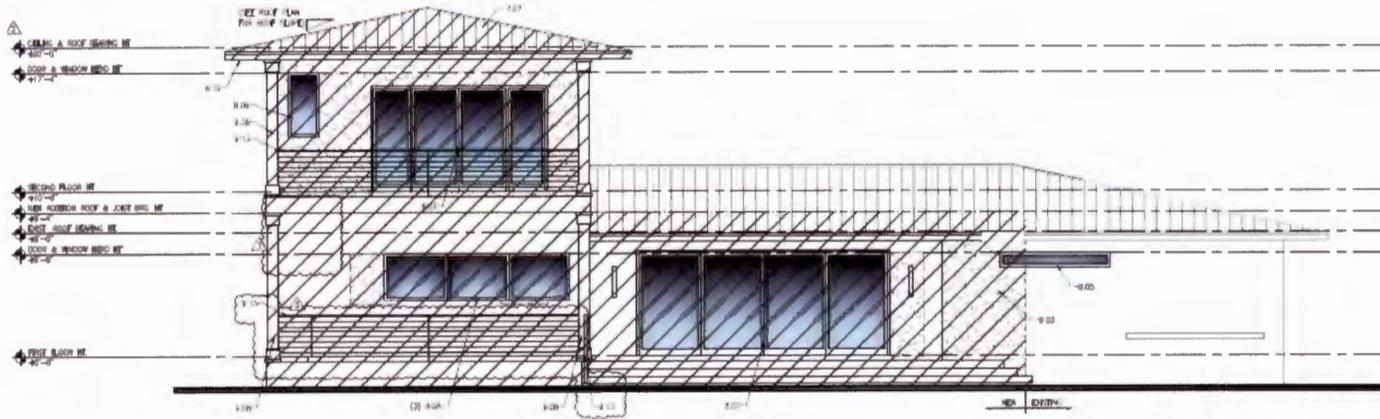
ELEVATIONS



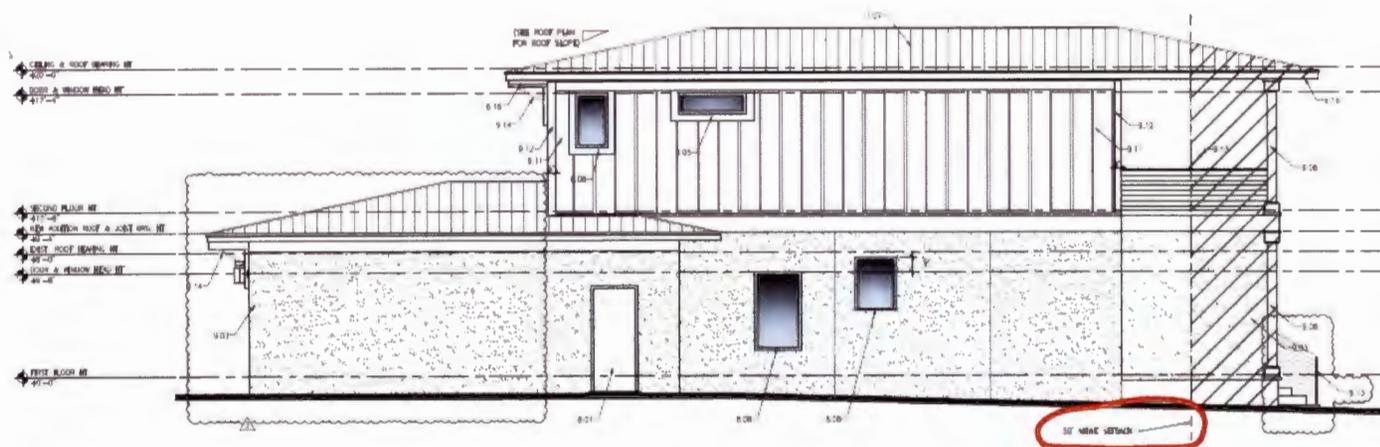
1 NORTH ELEVATION  
ASB SCALE 1/4" = 1'-0"



2 EAST ELEVATION  
ASB SCALE 1/4" = 1'-0"



1 SOUTH ELEVATION  
SCALE 1/4" = 1'-0"



2 WEST ELEVATION  
SCALE 1/4" = 1'-0"

**SITE PHOTOS**



**Front from Live Oak Rd. facing east**



**Location of proposed addition facing north**

**SITE PHOTOS**



**Rear yard facing west**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#1**

Case #: **VA-24-01-128**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** GABRIEL LAUREANO

**OWNER(s):** NORBELY VITAMAR PEREZ REYES, ADBER ANTONIO VELASQUEZ GONZALEZ

**REQUEST:** Variances in the R-2 zoning district for the construction of a single-family residence as follows:

1) To allow an east front setback of 4.3 ft. in lieu of 25 ft.

2) To allow a west rear setback of 23 ft. in lieu of 25 ft.

**PROPERTY LOCATION:** 612 Coke Avenue, Winter Garden, FL 34787, west side of Coke Ave., south of W. Story Rd., west of S. Park Ave., north of W. Colonial Dr.

**PARCEL ID:** 22-22-27-9188-02-041

**LOT SIZE:** +/- 0.11 acres (4,819 sq. ft.)

**NOTICE AREA:** 500 ft.

**NUMBER OF NOTICES:** 88

**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 Thomas Moses, Second by John Drago; unanimous; 5 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received November 7, 2023, 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 for approval. Staff noted that no comments were received in support or in opposition.

The applicant had nothing to add.

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

The BZA discussed the age and setbacks of the original house, that there are no other alternatives to allow for the construction of a new residence on the property, that there are similar setbacks for houses within the neighborhood, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 5-0 vote, with one absent and one seat vacant, subject to the three (3) conditions in the staff report.

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### STAFF RECOMMENDATIONS

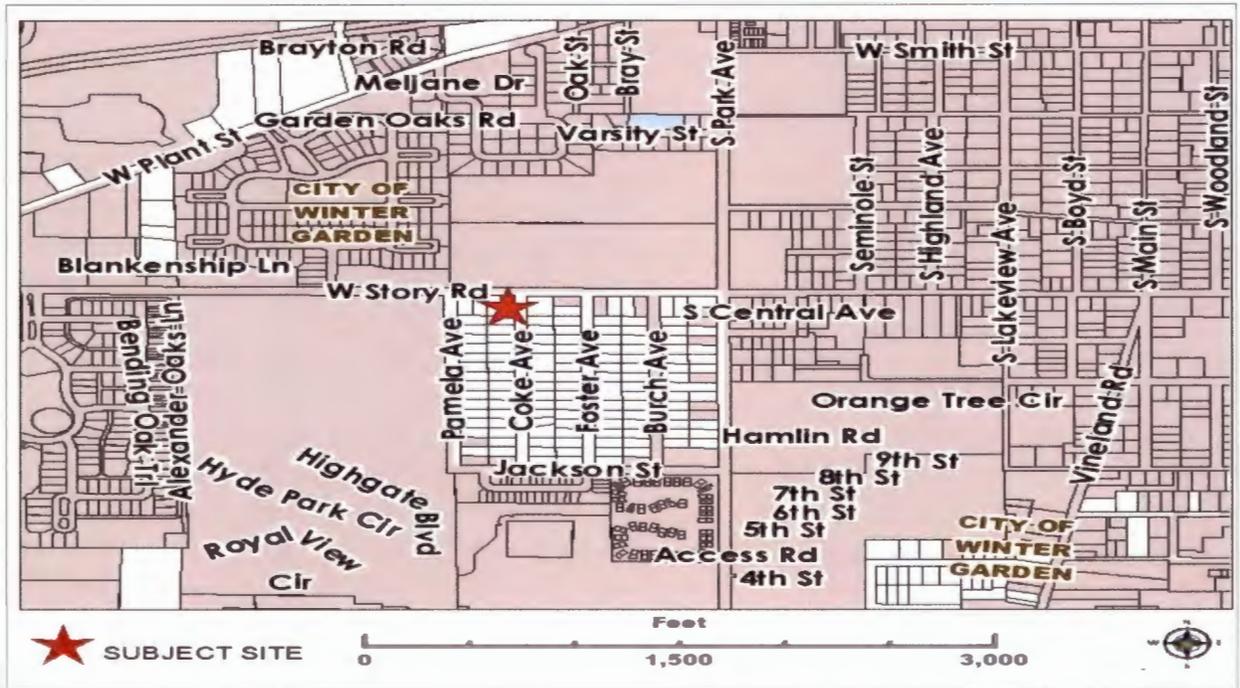
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Approval, subject to the conditions in this report.

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### LOCATION MAP

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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-2	R-2	R-1AA	R-1AA	R-1AA
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential				

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**BACKGROUND AND ANALYSIS**

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**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 Density Residential (LDR), which is consistent with the R-2 zoning district.

The area surrounding the subject site consists of single-family homes. The subject property is a 4,819 sq. ft. lot, located in the Westchester Place Plat, recorded in 1946, and is considered to be a conforming lot. It was developed with a 1 story, 638 gross sq. ft. single-family home constructed in 1951, which was demolished in 2023, (demo permit B23020414). The property was purchased by the current owners in 2023.

The proposal is to construct a 1 story, 1,349 sq. ft., single-family home in approximately the same footprint as the demolished house. The proposal is to allow the construction of a new house with a 4.3 ft. east front setback in lieu of 25 ft. requiring Variance #1. The proposed home will also have a 23 ft. rear setback in lieu of 25 ft. requiring Variance #2.

The property was originally a single lot, but was divided into two parcels prior to 1951, and 2 separate single-family residences were built in 1951, prior to the establishment of zoning codes and setbacks. This has resulted in the lot being smaller than many other lots in the neighborhood thus posing a greater difficulty to develop considering the setback requirements. While the lot meets the minimum width and square footage requirements of code, it is significantly shallower than a typical lot at only 65 ft. deep. Compliance with the front and rear setbacks would only allow for a 15 ft. deep house to be constructed. The majority of the homes in the neighborhood were built prior to the establishment of zoning in 1957, many of which have a front setback similar to the request.

Staff has reviewed the request and is recommending approval. The previous house was constructed with similar setbacks, and the proposal is to construct in approximately the same footprint. The lot is extremely constrained due to the size, and the requests are similar to the setbacks for many of the houses in the neighborhood.

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.	21.5 ft.
Min. Lot Width:	45 ft.	75 ft.
Min. Lot Size:	4,500 sq. ft.	4,819 sq. ft.

**Building Setbacks (that apply to structure in question)**

	Code Requirement	Proposed
Front:	25 ft.	4.3 ft.-House (East-Variance #1)
Rear:	25 ft.	23 ft. -House (West-Variance #2)
Side:	6 ft.	20.4 ft.-House (North) 10.4 ft.-House (South)

**STAFF FINDINGS**

**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are that the lot is constrained due to the size and depth. Compliance with the front and rear setbacks would only allow for a 15 ft. deep house to be constructed. Further, the proposal is to construct only a slightly larger house in comparison with the footprint of the original residence built in 1951, which was demolished in 2023.

**Not Self-Created**

The requests are not self-created since the proposal is to replace the original 1951 residence with a modern house with a relatively similar building footprint. Further it is a constrained lot, and there are no other logical options available to construct a house.

**No Special Privilege Conferred**

Granting the requested Variances will not confer any special privilege since the prior residence existed on this lot for 72 years, with a building footprint similar in size as proposed, and the setbacks will be similar to other existing homes in the neighborhood.

**Deprivation of Rights**

Without the requested Variances, the construction of a one story single-family residence of this size on the property would be difficult.

**Minimum Possible Variance**

The requested Variances are the minimum necessary to build an appropriately sized single-family residence on the property.

**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 the surrounding neighborhood, since the proposal is to construct a similar

footprint as the house that previously existed on this lot for 72 years, and the majority of the homes in the neighborhood were built prior to the establishment of zoning in 1957, many of which have setbacks similar to the request.

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#### CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received November 7, 2023, 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: Gabriel Laureano  
487 Birchwood Lane  
Deltona, FL 32738

# VARIANCE REQUEST

612 COKE AVE WINTER GARDEN FL, 34787

## CONTACT

GABRIEL LAUREANO

**LAUREANO  
CONSTRUCTION**

(386) 479-3558

laureanoconstruction@gmail

### To Whom It May Concern:

- We are requesting a variance of 23' from the required 25' line.
- We are requesting a variance of 8.3' from the required 25' line.
- The placement of the home will be in the same footprint as the original home dating back to the 1950's, but the only change will be the rear as the home is increased in square footage.

We are respectfully requesting a variance for the following address: 612 Coke Ave Winter Garden FL, 34787. We are proposing a variance request for the rear of the home, as the home will be 23' away from the setback line as it is required to be 25' away from the property line. In addition, we are requesting a variance request for the front of the home of 8.3', of the required 25' from the front setback line, as it is impossible to meet the 25' setback line. We are minimizing what we are asking for regarding variances. We meet the right and left side setback requirements. We are simply duplicating what was existing. It is unachievable to build a new construction home without the request of a variance for the front and rear setback lines of the property. We can not meet the variance requirements of 25' on the front and the rear as that would make the home a 15' wide home, being unlivable and not meeting the appropriate living square footage as it is required to be R-2 1000 SQ FT needed to be livable. The front of the home will be in the same position as the original home dating back to the 1950's, but the only change will be the rear as the home is increased in square footage. The proposed new construction residence will be 1,499 square feet. The proposed height will be 8'. The construction will be 8.3' and 9.2' from the front property line, 10.5' and 10.4' from the right side of the property line, 20.4' from the left side of the property line, and finally 23' from the rear end of the property line. Our proposed variance request shall meet the six standards for variance approval as outlined due to placing the proposed new construction single family residence within the same premises and footprint of the original home. This proposed variance request will not disrupt the neighborhood or surrounding buildings, structures, or other lands. This will not disrupt adjacent property lines, or city access to property. We are requesting a setback of 23' feet in the rear, where the required setback is 25' feet, making a variance of 2' feet, as well as a variance for the front setback line of 8.3' of the 25' requirement. The proposed home will be placed in its original footprint dating back to the 1950's per year of construction. This new construction home will beautify the county and neighborhood of Winter Garden, be up to the latest building codes (FL Building Code 2020 7<sup>th</sup> Edition), and insurance companies will insure this new construction home. The owner is a

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COVER LETTER

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very hardworking individual, with a wife and two young children. The owner originally bought this property with the intention of adding an addition to the existing home to comfortably fit the family of four. With this vision, we brought plans to the building department to apply for permitting for the addition, but were ultimately denied due to the construction of the current home dating back to the 1950's. The building department mentioned that insurance companies would not qualify the property as the current home would not be up to the latest FL Building Codes. With the news as such, we were advised to demo the home and construct a new home from the ground up using the same original footprint. We are simply replacing the original 1950's home with a newly constructed one following the (FL Building Code 2020 7<sup>th</sup> Edition). We have no other alternative then to get this variance for this project. This family desires to raise their two children in this home and with this variance, we can accomplish this goal. We plan to construct the following single-family residence within the same original footprint of the existing 1950's home. This will not change the counties public access and works. Also, this variance will increase the size in order to comfortably fit a family of four on this property. We will keep the same footprint of the original home with the new residence, being approximately 8.3' away from the property line in the front, 10.5' on the side, and 23.8' from the rear of the property setback line.

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 AND CONSIDERATIONS SHALL BE  
THE CONSTRUCTION OF THE NEW SINGLE FAMILY RESIDENCE TO  
BE 23.0' AWAY FROM THE REAR SET BACK AND 8.3' FROM FRONT  
IN THE SAME ORIGINAL FOOTPRINT OF THE ORIGINAL HOME.

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.

NOT SELF-CREATED; HOME WILL BE PLACED WITHIN SAME  
PREMISES/LOCATION AS ORIGINAL HOME BUT RATHER  
INCREASE IN SIZE.

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.

NO SPECIAL PRIVILEGE CONFERRED, THE HOME WILL BE PLACED  
ON SAME FOOTPRINT OF ORIGINAL HOME. HOME HAS BEEN  
IN LOCATION SINCE 1950. WE ARE REQUESTING A SETBACK OF 23.0'  
OF THE 25' REAR SETBACK.

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 REQUEST A VARIANCE FOR THE PROPOSED STRUCTURE REAR AND  
SET BACK OF 23.0'. THE FRONT WILL BE PLACED IN ORIGINAL  
HOME LOCATION. NO DISRUPTION OF ADJACENT PROPERTIES.  
WITH A VARIANCE OF 8.3'

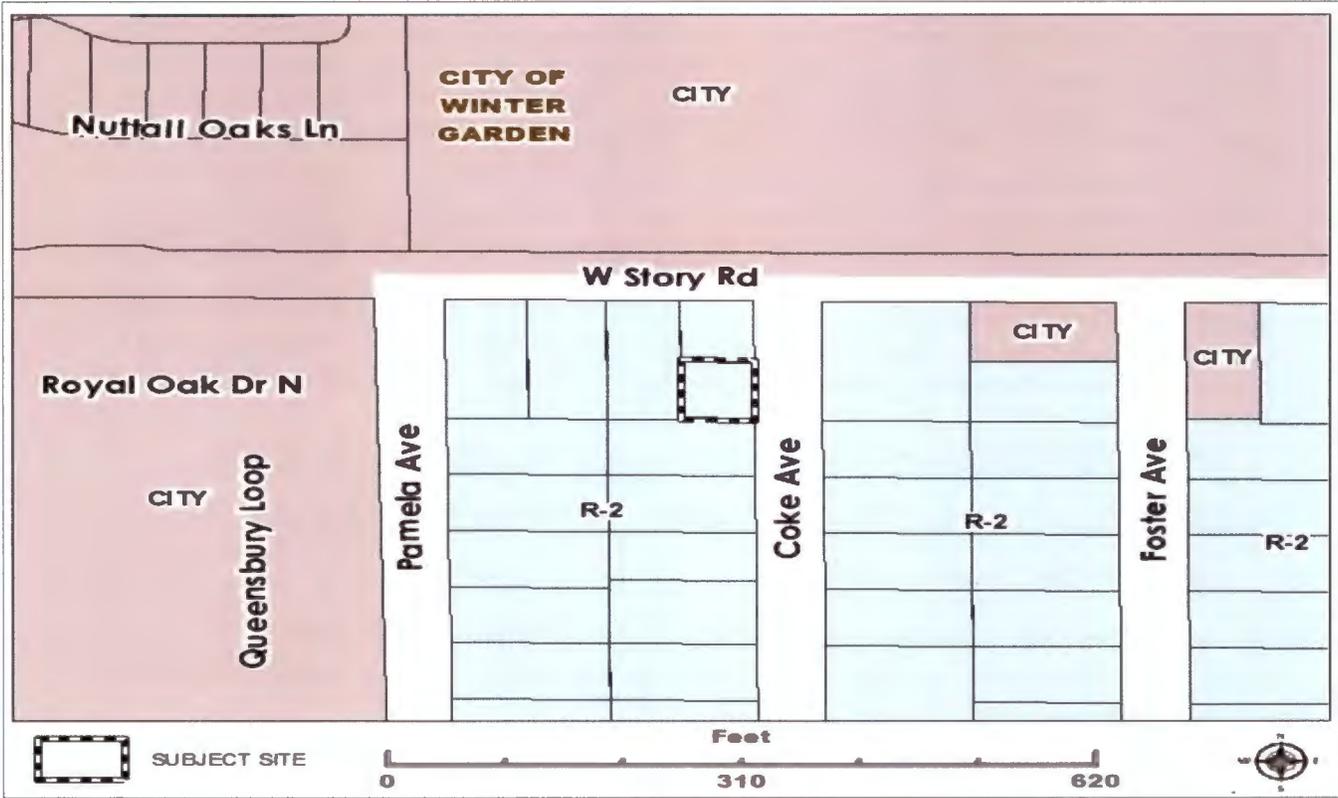
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

WE ARE REQUESTING A 1.2' VARIANCE FOR THE REAR  
SETBACK OF THE PROPERTY BEING 23.0' OF THE 25' MARK.  
NO CHANGES TO NEIGHBORHOOD PROPERTIES STRUCTURES  
IN ADDITION TO A 8.3' VARIANCE TO FRONT FOR ORIG FOOTPRINT DATING BACK TO

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.

HOME WILL FOLLOW ORIGINAL FOOTPRINT OF RESIDENCE,  
BEING 23.0' FROM REAR AND 8.3' FROM FRONT PER ORIGINAL.  
NO DISRUPTION TO ADJACENT PROPERTIES, LAND, CITY ACCESS,  
DAMAGES.

ZONING MAP

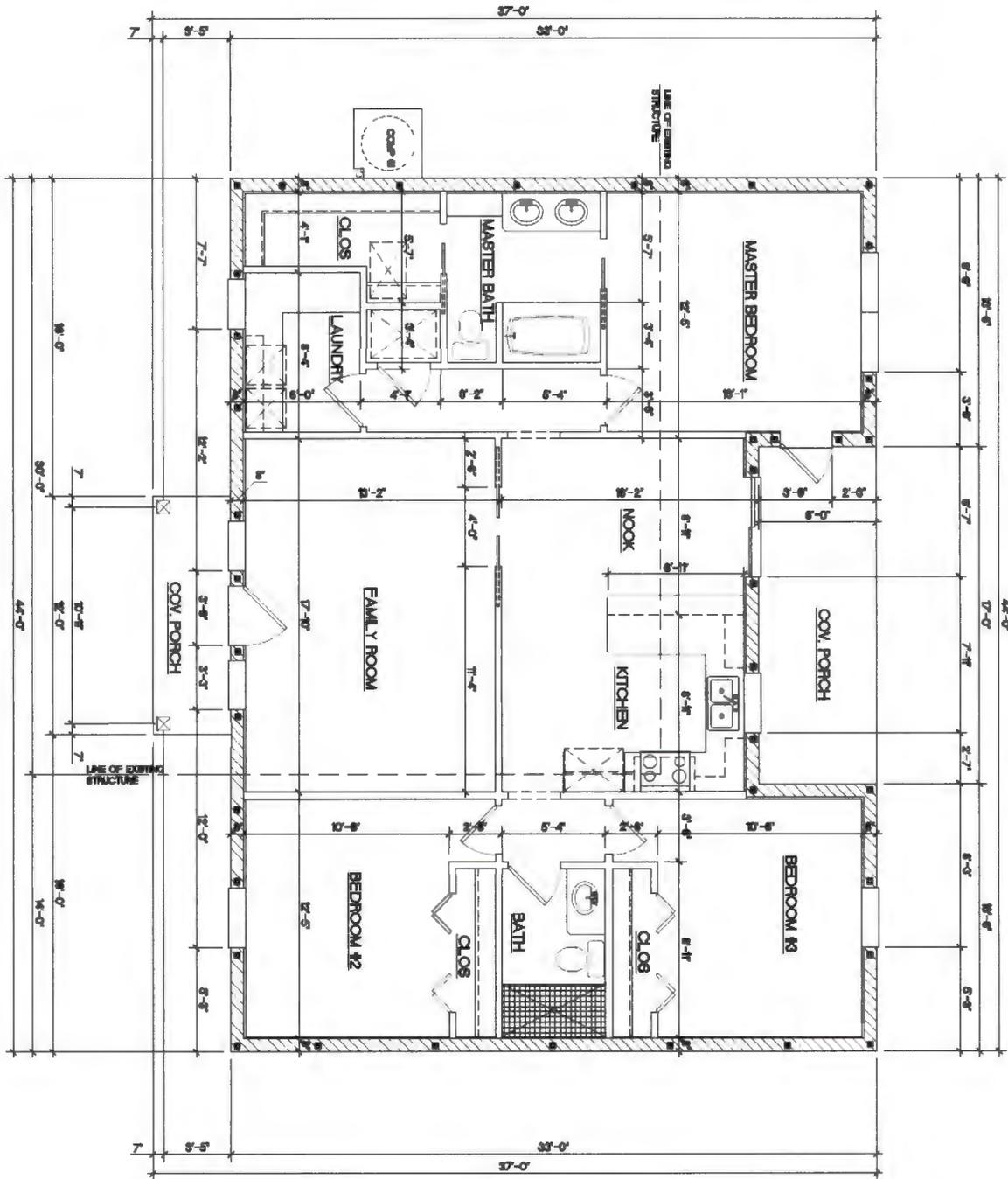


AERIAL MAP





FLOOR PLAN

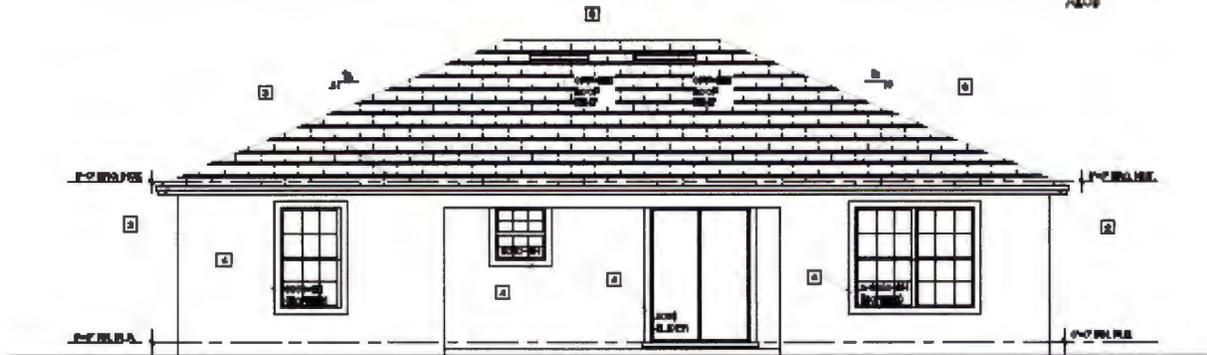


ELEVATIONS



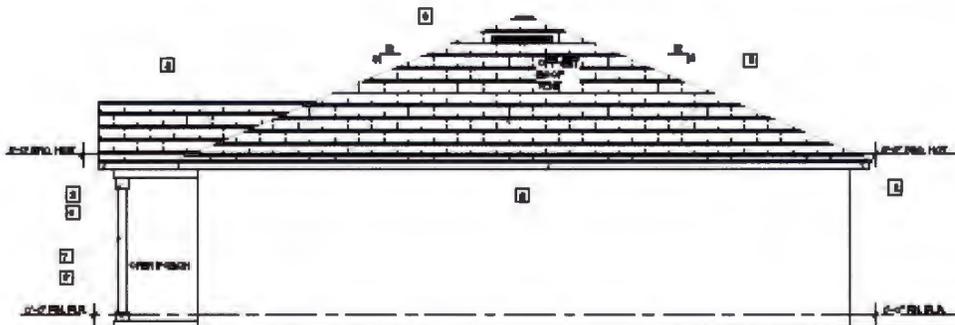
Front Elevation East

1  
A108



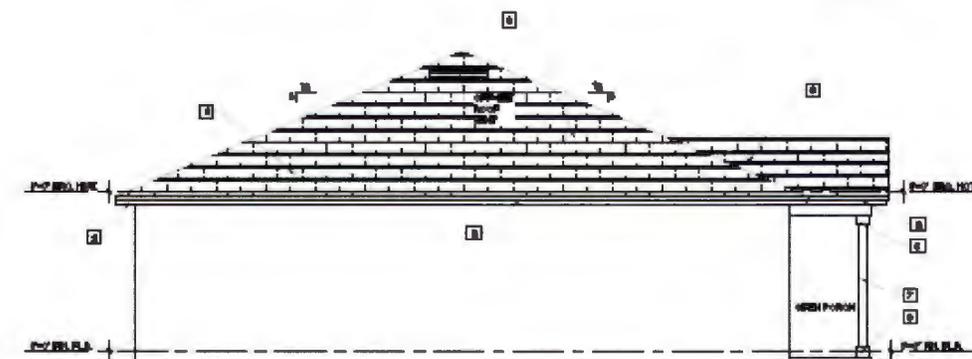
Rear Elevation West

2  
A108



Right Elevation North

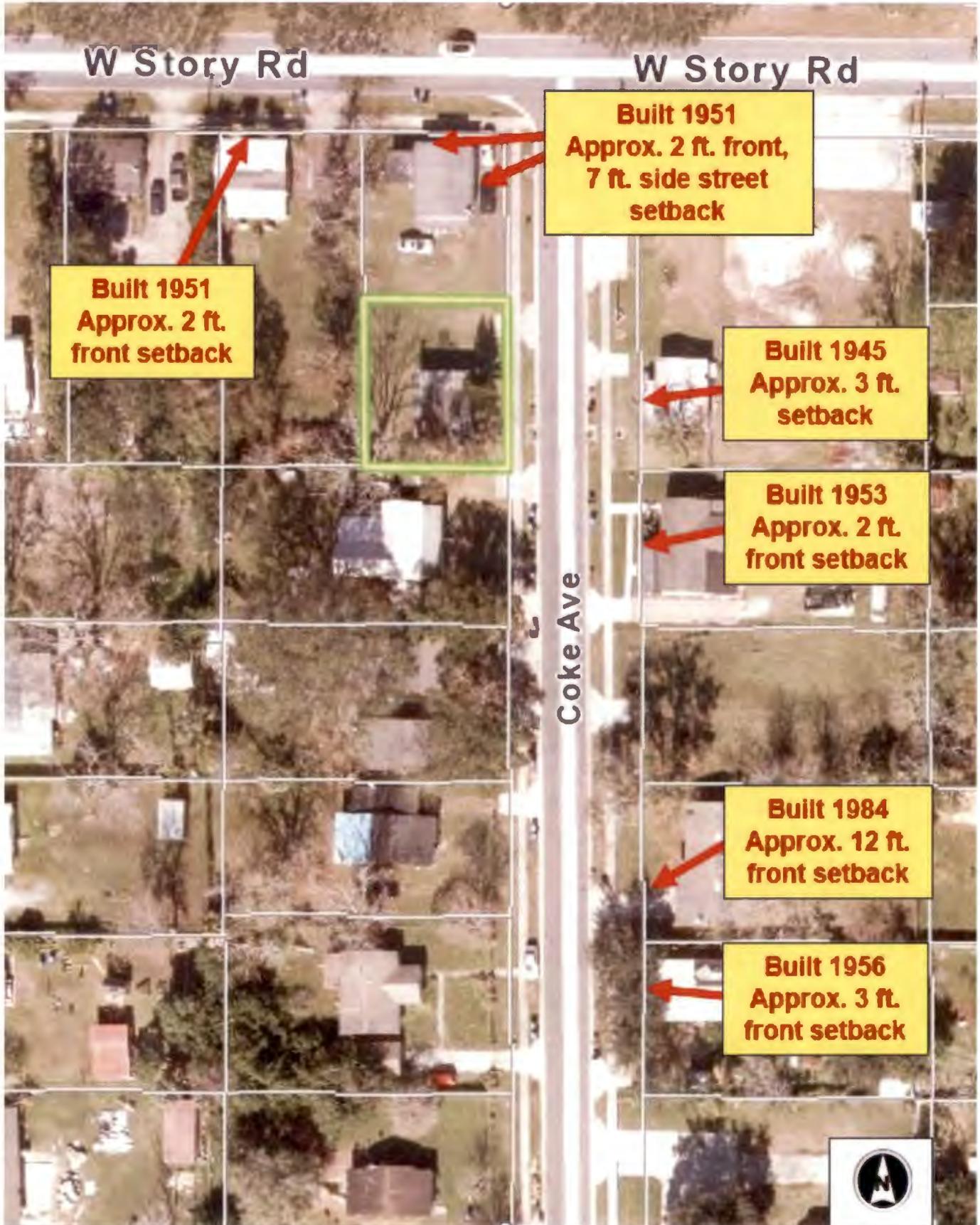
3  
A108



Left Elevation South

4  
A108

SETBACK EXHIBIT



SITE PHOTOS



Property from Coke Ave. facing west



Adjacent property to the north on Coke Ave.

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#3**

Case #: **SE-24-01-122**

Case Planner: **Nick Balevich (407) 836-0092**

**Nick.Balevich@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** SHANE CARRIGAN FOR ALL STEEL BUILDINGS

**OWNER(s):** KARLI PROPERTIES LLC

**REQUEST:** Special Exception and Variance in the C-3 zoning district as follows:

1) Special Exception to allow an automobile towing service with onsite storage.

APPROVED

2) Variance to allow a maximum onsite storage of 45 inoperable vehicles in lieu of a maximum onsite storage of 30 inoperable vehicles. DENIED

**PROPERTY LOCATION:** 5301 S. Orange Blossom Trail, Orlando, FL 32839, east side of S. Orange Blossom Trl., west side of Makoma Dr., north of W. Oak Ridge Rd., south of Americana Blvd.

**PARCEL ID:** 15-23-29-0000-00-095

**LOT SIZE:** +/- 1.71 acres

**NOTICE AREA:** 800 ft.

**NUMBER OF NOTICES:** 142

**DECISION:** Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions as amended; and, **DENIAL** of the Variance request in that there was no unnecessary hardship shown on the land; and further, it does not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3) (Motion by Juan Velez, Second by Thomas Moses; unanimous; 5 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received December 26, 2023, 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. Permits shall be obtained within 5 years 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. Prior to site work permit approval, all existing structures and concrete will be removed from the site, including, but not limited to, the existing building and broken concrete.
6. Landscaping provided for any site work permit shall be in accordance with Chapter 24 (Landscaping, Buffering and Open Space). Enhanced landscaping and buffering shall be provided to the east, including minimum 3 ft. high shrubs planted every 3 ft. on center, located between the rear wall and the Makoma Dr. right-of-way, with hostile, defensive plants/ vegetation, such as Silverthorn, to prevent future graffiti and vandalism, and shade trees planted every 25 ft. on center in two parallel rows on each side of the rear wall within a 50 ft. east rear landscape buffer, except understory trees planted every 15 ft. on center within 30 ft. of overhead power lines.
7. A permanent barrier shall be installed to prevent vehicular access to the rear 50 feet of the property used as a landscape buffer.
8. Maximum on-site storage of 30 wrecked or inoperable vehicles is permitted.
9. No vehicle may remain on-site for more than 50 days.
10. Vehicle stacking is prohibited.
11. Outdoor loudspeakers shall be prohibited.
12. Outdoor lighting shall be boxed and shielded.
13. The east wall shall be painted and shall be maintained in good repair by owner.

**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) Special Exception and the six (6) Variance criteria and the reasons for a recommendation for approval of the Special Exception, and for denial of the Variance. Staff noted that no comments were received in support of the request and one (1) comment was received in opposition.

The applicant team provided an analysis of the proposed use subject to the Special Exception and the requested Variance to increase in the number of inoperable vehicles to 45. He stated that the towing service is already located nearby the subject property and is desires to expand to the proposed site for the use of towing and storage of state, federal, and municipal vehicles, with no onsite repairs, only occasional tire and oil changes. The applicant also described the proposed site improvements, including substantial landscape improvements to the property, especially adjacent to the existing wall on the east side of the site, and reiterated that there are no traffic or environmental impacts from the proposed operation.

Two in attendance spoke in opposition to the request, citing fears that this property could evolve into a junkyard and there they have further concerns about noise lighting traffic and safety. No one in attendance spoke in favor of the request.

The BZA discussed the Special Exception and Variance, stated justification for the six (6) Special Exception criteria and stated the inconsistencies with the six (6) Variance criteria, and unanimously recommended approval of the Special Exception and denial of the Variance by a 5-0 vote, with one absent, and one seat vacant, subject to the ten (10) conditions in the staff report, the modification of Condition #6, which states, "Landscaping provided for any site work permit shall be in accordance with Chapter 24 (Landscaping, Buffering and Open Space). Enhanced landscaping and buffering shall be provided to the east, including minimum 3 ft. high shrubs planted every 3 ft. on center, located between the rear wall and the Makoma Dr. right-of-way, with hostile, defensive plants/vegetation, such as Silverthorn, to prevent future graffiti and vandalism, and shade trees planted every 25 ft. on center in two parallel rows on each side of the rear wall within a 50 ft. east rear landscape buffer, except understory trees planted every 15 ft. on center within 30 ft. of overhead power lines.", the addition of Condition #11, which states, "Outdoor loudspeakers shall be prohibited.", the addition of Condition #12, which states, "Outdoor lighting shall be boxed and shielded." and the addition of Condition #13, which states, "The east wall shall be painted and shall be maintained in good repair by owner."

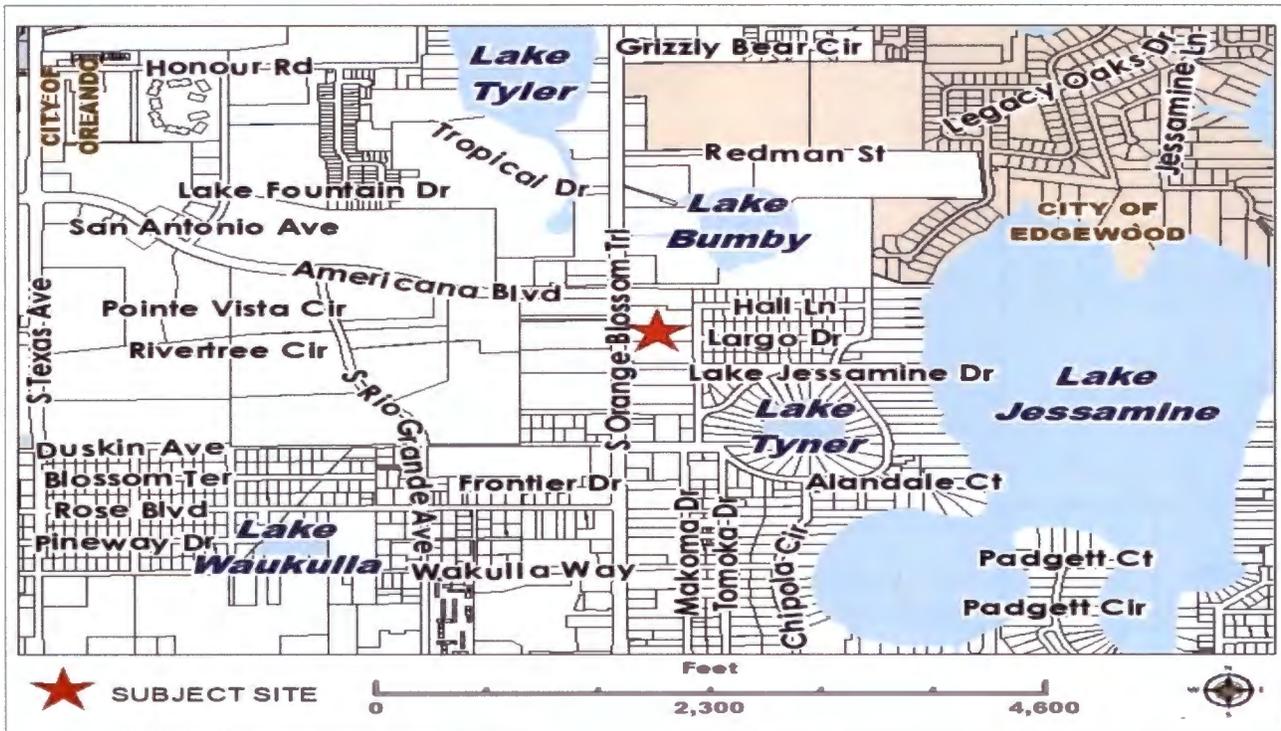
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#### **STAFF RECOMMENDATIONS**

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Approval of the Special Exception, subject to the conditions in this report, and denial of the Variance. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the Special Exception and 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-3	C-3	C-3	R-1A	C-2
Future Land Use	C	C	C	LDR	C
Current Use	Commercial	Commercial	Commercial	Single-family residence	Commercial

**BACKGROUND AND ANALYSIS**

**DESCRIPTION AND CONTEXT**

The subject property is located in the C-3, Wholesale Commercial district which allows more intense commercial activity including warehousing, wholesale distribution, major automotive repair/sales and certain outdoor uses. The Future Land Use is (C) Commercial, which is consistent with the C-3 zoning district.

The area around the subject site consists of commercial uses to the north, south and west, and single-family homes to the east. The subject property consists of 1.71 acres and is considered a conforming parcel. It is developed with a 6,319 gross sq. ft. commercial building, constructed in 1962. The applicant purchased the property in 2023. There is an existing 8 ft. high chain link fence on the north, south and west sides of the property, and an 8 ft. high block wall located 11.3 ft. from the east rear property line.

The applicant is proposing to demolish the existing building and construct a single-story, 10,000 sq. ft. building, of which 6,000 sq. ft. will be a mechanical garage and 4,000 sq. ft. will be warehouse and storage. The property is accessed from S. Orange Blossom Trl. and the property backs up to Makoma Dr. to the east, but there is no existing or proposed access to Makoma Dr. The proposal is for an automotive towing service, with the storage of automobiles. While a towing service is a permitted use in the C-3 zoning district, a Special Exception is required

since automobiles are proposed to be stored on site. Sec. 38-79 (130) of the County Code requires all the following performance standards for an Automobile Towing Service:

- a. Maximum on-site storage of thirty (30) wrecked or inoperable vehicles.
- b. No vehicle may remain on-site for more than fifty (50) days.
- c. Vehicle stacking is prohibited.
- d. A Type B landscape buffer is required if the use is located adjacent to any residential use, residential zoned district or residential future land use designation.

The proposal also includes the storage of 45 inoperable vehicles in lieu of a maximum onsite storage of 30 inoperable vehicles, requiring a Variance. The site abuts intense commercial uses to the north and south, and across South Orange Blossom Trl. to the west. However, the rear of the property backs up to Makoma Dr. and there are existing single-family homes on the east side of Makoma Dr. The applicant will be required to provide enhanced landscaping and buffering to the east, including a permanent barrier to stop access to the rear 50 feet of the property, increased landscaping buffers and additional landscaping including shrubs and trees along the rear wall, along with hostile vegetation to prevent future graffiti and vandalism.

Parking requirements for mechanical garages are: 1 space for every employee plus 1 space per bay. The building will have 9 bays, and 16 parking spaces are provided, including 1 ADA parking space.

The Orange County Environmental Protection Division has reviewed the request and has provided the following statements: No person shall produce, or allow to be produced, any sound within any private or public property, including a right-of-way, which sound, when measured pursuant to section 15-183, exceeds the sound levels in Orange County Code Chapter 15 Environmental Control, Article V Noise Pollution Control, Section 15-182 Maximum permissible sound levels. Tow truck noise from signals and engine shall not violate Orange County Code Chapter 15 Environmental Control, Article V Noise Pollution Control limitations.

Orange County Transportation Planning Division has reviewed the request and concluded that the proposed project is expected to generate 98 net daily trips and 19 net weekday PM peak hour trips to the adjacent roadways. Transportation Planning has provided comments that a traffic study may be required prior to obtaining an approved capacity encumbrance letter and building permit. The project will be subject to review and approval under capacity constraints of the County's Transportation Concurrency Management System.

On Wednesday December 27, 2022, a Community Meeting was held to allow for input. The meeting was attended by County Staff, the applicant team, and 8 residents. The attendees spoke in opposition to the requests. Comments included concerns about traffic, with the potential negative effects of large truck traffic and drop-off on S. Orange Blossom Trail, environmental concerns, including soil contamination and runoff, and the potential visual and spillover effects of the development located in close proximity to the single-family residences to the east.

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. within 100 ft. of residential districts	20 ft.
Min. Lot Width:	125 ft. adjacent to major street	159 ft.
Min. Lot Size:	12,000 sq. ft.	1.71 acres

### Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	25 ft.	87 ft. (West)
Rear:	20 ft. within 100 ft. of residential districts	222.4 ft. (East)
Side:	5 ft.	53.8 ft. (North) 6 ft. (South)
Major street setbacks: S. Orange Blossom Trail	70 ft. from center line for building 65 ft. from center line for parking	139.7 ft. from center line for building (West) 65.1 ft. from center line for parking (West)

## STAFF FINDINGS

### **SPECIAL EXCEPTION CRITERIA**

#### **Consistent with the Comprehensive Plan**

The provision of an automotive towing service as conditioned through the Special Exception process is consistent with the Comprehensive Plan since such a use provides a benefit and service to the region.

#### **Similar and compatible with the surrounding area**

The proposed use is compatible with other existing uses to the north and south. As proposed, it is substantially setback from the east rear property line, and with the provision of additional landscaping and buffers, it will not significantly impact adjacent properties.

#### **Shall not act as a detrimental intrusion into a surrounding area**

The proposed operations on the subject property will not negatively impact the surrounding area. The proposed use meets and exceeds all performance standards for this type of facility.

#### **Meet the performance standards of the district**

With the exception of the Variance request the use meets all setbacks, height limits, parking requirements, and other performance standards as required for an Automobile Towing Service. With the installation of buffers, trees and hedge materials, along the east rear property line, the adjacent residential properties will be afforded enhanced buffering.

#### **Similar in noise, vibration, dust, odor, glare, heat production**

The applicant has not proposed any activity on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to uses permitted or allowed by Special Exception in the district, and will not be impacting the adjacent properties since the property will be landscaped and buffered.

**Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code**

The proposal includes a landscape plan that shows trees around the perimeter and in front of the building. Enhanced landscaping and buffering will be required on the east side of the property and along the east rear property line in front of the 8 ft. block wall, across Makoma Dr. from a residential area.

**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

There are no special conditions and circumstances particular to the subject property, as the applicant could operate the business with the allowable number of inoperable vehicles, which would eliminate the need for the Variance.

**Not Self-Created**

The request for the Variance is self-created, since there are alternatives which will eliminate the need for the request.

**No Special Privilege Conferred**

Granting the Variance as requested would confer special privilege that is not available to other properties in the area.

**Deprivation of Rights**

There is no deprivation of the right to operate the proposed business on the property.

**Minimum Possible Variance**

The requested Variance is the minimum necessary as the applicant could operate the business with the allowable number of inoperable vehicles.

**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 adjacent properties if the inoperable vehicles are stored indoors or on the rear of the property adjacent to the proposed building on an improved surface but adequately screened and buffered from any residential area.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations received December 26, 2023, 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. Permits shall be obtained within 5 years 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. Prior to site work permit approval, all existing structures and concrete will be removed from the site, including, but not limited to, the existing building and broken concrete.
6. Landscaping provided for any site work permit shall be in accordance with Chapter 24 (Landscaping, Buffering and Open Space). Enhanced landscaping and buffering shall be provided to the east, including minimum 3 ft. high shrubs planted every 3 ft. on center, located between the rear wall and the Makoma Dr. right-of-way, along with hostile vegetation to prevent future graffiti and vandalism, and shade trees planted every 25 ft. on center in two parallel rows on each side of the rear wall within a 50 ft. east rear landscape buffer, except understory trees planted every 15 ft. on center within 30 ft. of overhead power lines.
7. A permanent barrier shall be installed to prevent vehicular access to the rear 50 feet of the property used as a landscape buffer.
8. Maximum on-site storage of 30 wrecked or inoperable vehicles is permitted.
9. No vehicle may remain on-site for more than 50 days.
10. Vehicle stacking is prohibited.

C: Shane Carrigan  
1015 US 41 S.  
Gibsonton, FL 33534



**ENGINEERING GREAT IDEAS, INC.**

1003 S Alexander St. Suite 5  
Plant City, FL 33563  
(813) 752-7078  
FBPE Certificate of Authorization #29098

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**5301 S Orange Blossom Trail, Orlando, FL 32839**

*This letter is to request a special exemption in the C-3 zoning district to allow on-site, indoor and outdoor storage of up to 45 vehicles for a towing business. The proposed project, called "Crockett Steel Building", is a 10,000 square foot building designed to house a 6,000 square foot mechanical garage as well as a 4,000 square foot company storage warehouse. Currently, there is a 5,579 square foot vacant building on the property that will be demolished. According to historical satellite maps, it seems the property was used for large vehicle storage in the recent past. The current zoning for the property is C-3, which does not allow for a Towing Service. We wish to gain a special exemption to allow a towing service to be used at this property, additionally, because the property will be storing vehicles on site, we are requesting a variance to store these vehicles. It is expected that this location may store up to 45 vehicles at once, for up to 30 days. These vehicles will be a mixture of operable and in operable conditions and will be mainly stored inside the building.*

*The existing conditions of the property show that the property has not been treated well. The existing building is currently violating its Southern setback and abutting directly to the building directly south of it. The current parking area in front of the building is cracked and uneven, making stormwater collect inside the property instead of flowing into inlets as intended. We plan to demolish the existing building and parking lot and start new.*

*Existing conditions show just 2,458 square feet of the property was used for greenspace. We have hired a professional landscape architect to design landscape buffers and other internal landscaping to help beautify the property. Our post condition calculations show over 6,300 square feet of greenspace. We are also adding multiple types of trees and shrubbery.*

*To help aid in screening the work being done at this property. Fencing has been proposed to separate the front of the building and the back of the building. This fence is proposed to be a Vinyl privacy fence and will help block the view of unsightly towing trucks, equipment, and any stored vehicles. The fence also aids in preventing theft or burglary of stored vehicles.*

*This project has nearly completed permitting, with approvals from all reviewers except utilities and zoning. The utility reviewers will likely give us approval with our next submittal, as their comments were minimal and easy to fix. A pre-application meeting was held for this special exemption/variance request in person with zoning staff on the morning of Monday, October 23<sup>rd</sup>, 2023.*

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**COVER LETTER**

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**1. The use shall be consistent with the Comprehensive Policy Plan.**

The surrounding properties include a high percentage of companies with vehicle-related business (car dealerships, tire shops, etc.) a proposed towing service not only would fit in, but could also bring more business to these surrounding companies. For example, if a car was towed for a flat tire, the owner of the car may visit the tire shop to get his tire fixed.

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**2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.**

Two car dealerships directly north of the subject property, another car dealership directly west as well as another southwest of the property, on the other side of Orange Blossom Trl, and there is a tire shop to the northwest, as well as two more tire shops to the south about 600 feet.

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**3. The use shall not act as a detrimental intrusion into a surrounding area.**

The new Towing Service will allow for a safe, secure place for vehicle owners to store their broken down cars until they are ready to be serviced. Additionally, the business owner plans on using the interior space to secure vehicles for the local and state law enforcement's impounded cars.

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**4. The use shall meet the performance standards of the district in which the use is permitted.**

We have worked hard to ensure all plans and proposed structures meet or exceed Orange County minimum specifications.

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**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.**

No increase of impervious area is proposed. More green space has been provided along the frontage of the property.

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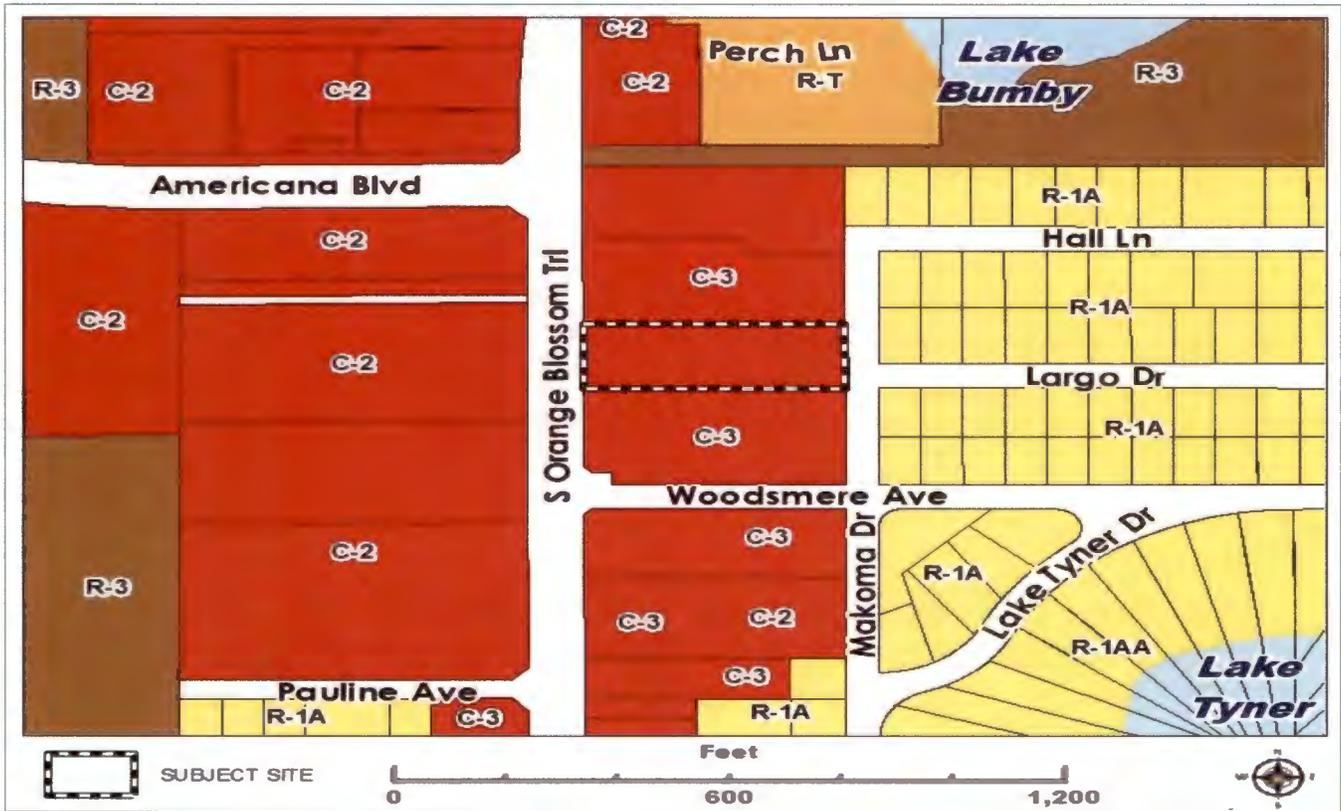
**6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.**

A professional Landscape Architect has been hired to create landscape and irrigation plans. This landscape architect has worked closely with Orange County Landscape reviewers to ensure the proposed landscape and irrigation plans are plenty sufficient.

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ZONING MAP



AERIAL MAP

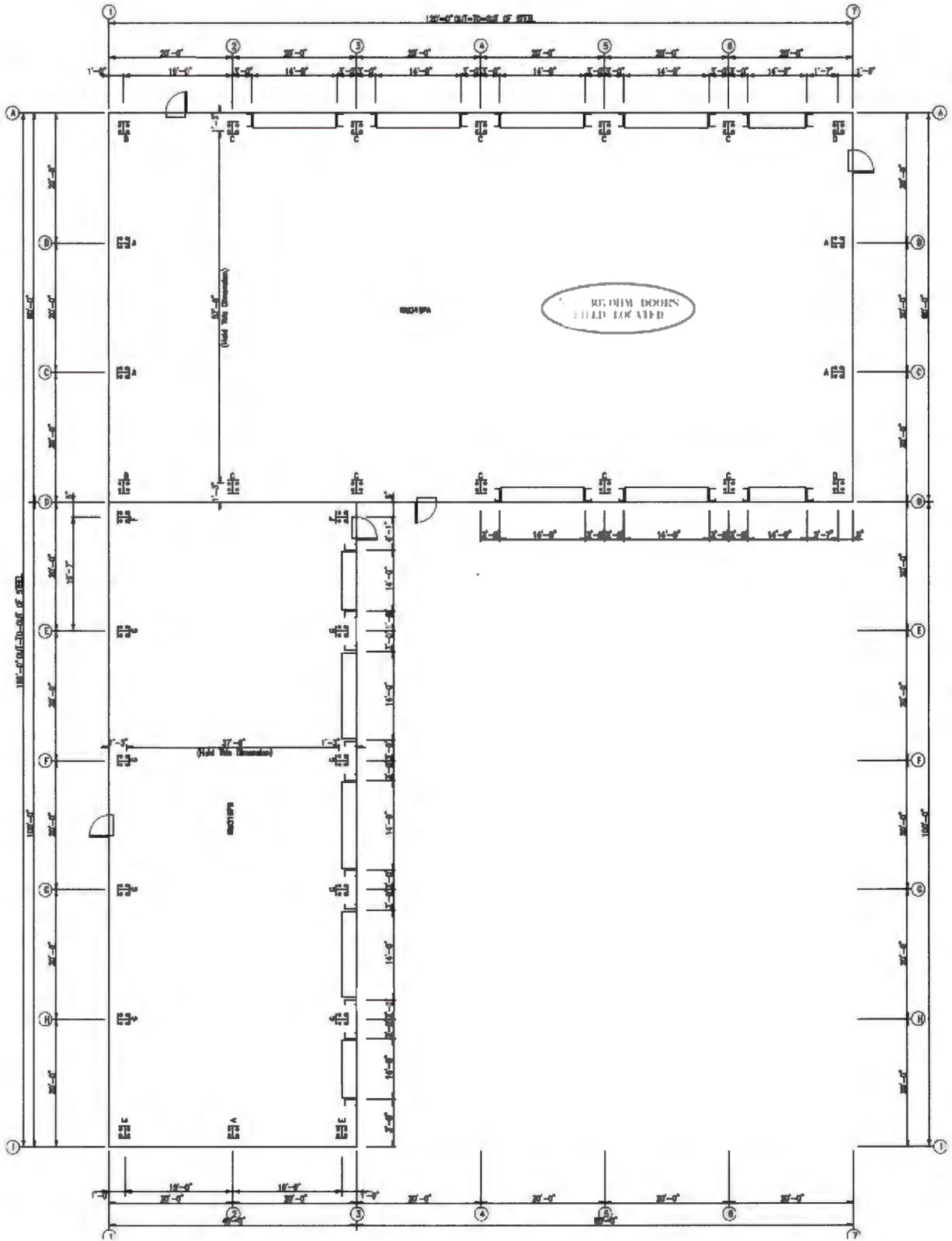




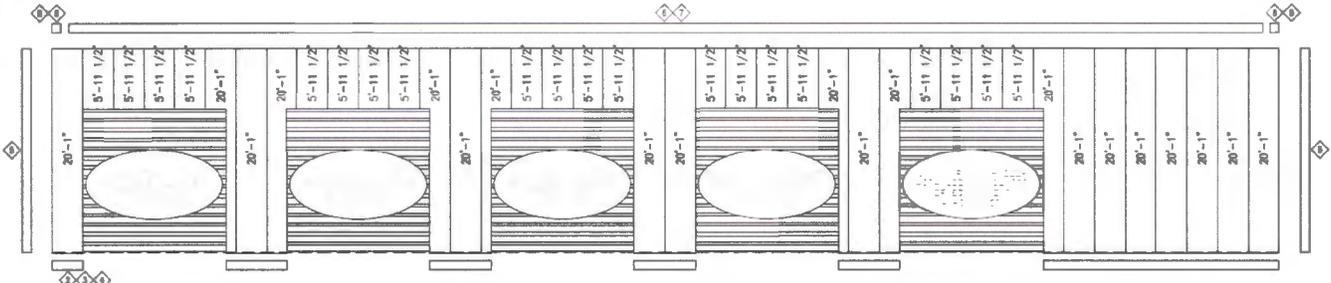




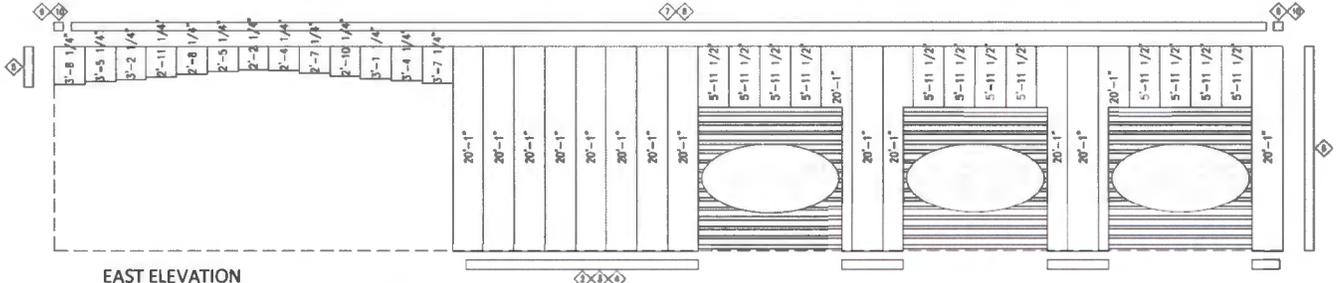
FLOOR PLAN



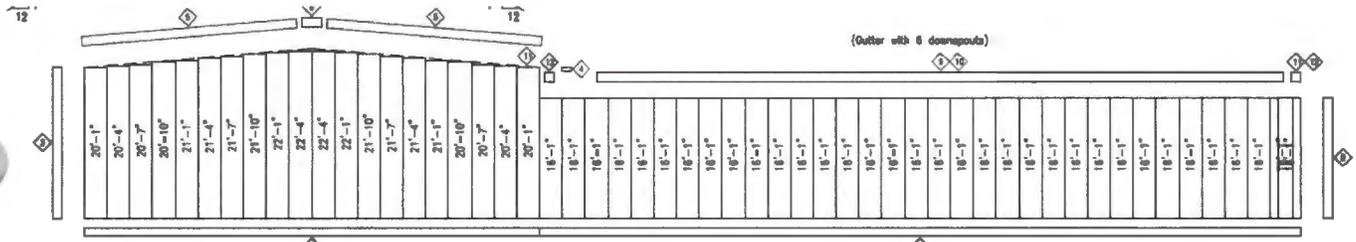
# ELEVATIONS



NORTH ELEVATION



EAST ELEVATION



WEST ELEVATION

SITE PHOTOS



Property from S. Orange Blossom Trl. facing east with existing building to be demolished



South property line facing south

SITE PHOTOS



North property line facing north



Rear of existing wall from inside property facing east

**SITE PHOTOS**



**Rear wall from outside property facing northwest from Makoma Dr.**



**Adjacent residential properties to the east**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#6**

Case #: **SE-23-06-030**

Case Planner: **Ted Kozak, AICP (407) 836-5537**

**Ted.Kozak@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** ALFRED MOORE FOR ORLANDO COMMUNITY BAPTIST CHURCH

**OWNER(s):** COMMUNITY BAPTIST CHURCH

**REQUEST:** Amendment to an existing Special Exception and Variances in the R-1 zoning district as follows:

- 1) Amendment to a Special Exception for an expansion to a religious institution, including a new sanctuary for a total of 234 seats, a new fellowship hall and offices.
- 2) Variance to allow for a total of 51 unimproved parking spaces in lieu of improved parking spaces.
- 3) Variance to allow a 7 ft. north side street setback in lieu of 15 ft. for an existing sanctuary.
- 4) Variance to allow a 7 ft. north side street setback in lieu of 15 ft. for a sanctuary expansion.

**PROPERTY LOCATION:** 651 Campanella Ave., Orlando, FL 32811, east side of Campanella Ave., north side of Carter St., south side of College Dr., west of S. Ivey Ln., east of S. Kirkman Rd.

**PARCEL ID:** 32-22-29-8992-03-010

**LOT SIZE:** +/- 1.5 acres

**NOTICE AREA:** 700 ft.

**NUMBER OF NOTICES:** 268

**DECISION:** Recommended **APPROVAL** of the Special Exception request in that the Board finds it meets the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, **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 Roberta Walton Johnson, Second by John Drago; unanimous; 5 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson; 0 opposed; 1 absent: Sonya Shakespeare; 1 vacant):

1. Development shall be in accordance with the site plan received December 15, 2023 and elevations received December 1, 2023, 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 5 years 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. The sanctuary shall be limited to 234 seats.
6. Landscaping provided for any site work permit shall be in accordance with the landscaping plan received December 15, 2023 and with Chapter 24 (Landscaping, Buffering and Open Space).
7. A permit for the fence in a conforming location and height shall be obtained prior to obtaining any permits for the church addition.
8. 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.
9. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.

**SYNOPSIS:** Staff described the proposal, including the location of the property, the site plan, landscape plan, and photos of the site. Staff provided an analysis of the six (6) Special Exception and Variance criteria and the reasons for a recommendation for approval. Staff noted that 85 comments in the form of a petition were received in support of the request and no comments were received in opposition.

The applicant agreed with the staff presentation.

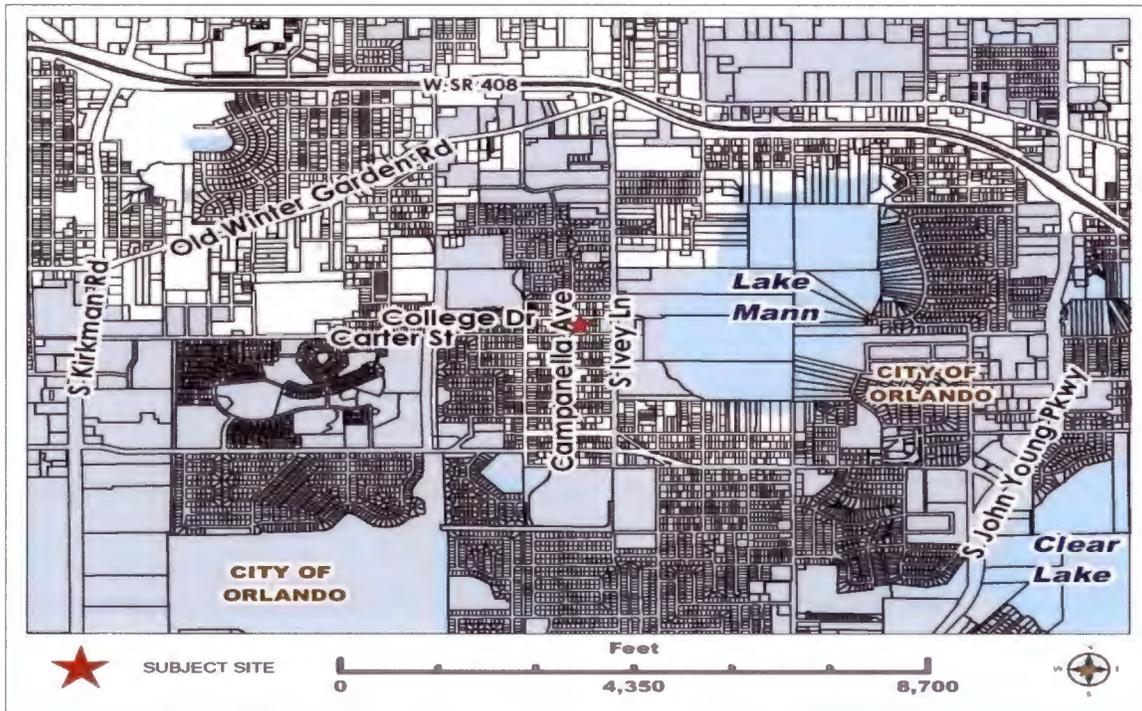
There was one in attendance to speak in favor of the request and no one was in attendance to speak in opposition to the request.

The BZA unanimously recommended approval of the Amendment of the Special Exception and Variances by a 5-0 vote, with 1 absent and 1 vacant, subject to the nine (9) conditions 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-1	Restricted R-2, R-1	R-1	R-1	R-1
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Religious Institution	Single Family Residential, Religious Institution	Single-Family Residential, Religious Institution	Single-Family Residential	Single-Family Residential

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## BACKGROUND AND ANALYSIS

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### DESCRIPTION AND CONTEXT

The subject site is located in the R-1, Residential zoning district, which allows religious institutions by Special Exception. The Future Land Use is Low-Medium Density Residential (LMDR), which is consistent with the zoning district.

The subject site is a total of 1.5 acres in size and is platted as portions of Lots 1 through 5, and 18 through 22, Block A of the Booker Washington Estates Plat, recorded in 1928. It is a conforming parcel. The area consists of single-family homes in the immediate vicinity, as well as two religious institutions, one located across College Dr. to the north and another located across Carter St. to the south. The parcel contains an existing 1,985 sq. ft. sanctuary containing approximately 140 seats, and a 3,210 sq. ft. fellowship hall, both constructed in 1974, according to the Property Appraiser's Office. There are also 26 existing paved parking spaces on the property, as well as a number of additional unfinished parking spaces and landscape improvements. There is also a 6 foot high aluminum fence, in various stages of disrepair, installed along the south property line adjacent to Carter Ave. and a portion of the west property line adjacent to Campanella Ave. The fence was installed in 2017 consistent with an issued permit, B16903833, but the permit expired in 2017 and will need to be replaced. Since then, some aspects of the fence code have changed and a new permit will need to be obtained which reflects the relocation of the fence out of the 25 foot front west setback or the reduction of the height of the fence to 4 feet within the front setback.

The subject site has frontage on 3 streets, Campanella Ave., College Dr. and Carter St. For residential zoning districts, when a parcel abut more than one street, the frontage is determined as the narrow width of a lot abutting a street right-of-way. The 250 foot narrow width is both along the north and south property lines, adjacent to College Dr. and Carter St., respectively, compared to the 275 foot width along the west Campanella Ave. frontage. However, since the property's primary vehicular and pedestrian access and the building address is from Campanella Ave. to the west, and prior permitting and Board of Zoning Adjustment (BZA) requests have determined the front to be Campanella Ave., the Zoning Manager has determined that for this property the frontage is determined to be Campanella Ave. and College Dr. and Carter St. are side streets.

Previous approvals include:

1. February, 1971: Special Exception (#13) approval to allow a 100 seat religious institution.
2. May, 1981: Special Exception (#22) approval to allow for a 30 child daycare and Variance approval to allow for 30 paved parking spaces in lieu of 52 paved parking spaces.
3. September, 1995: Special Exception approval to allow for the construction of a new 8,100 sanctuary with 700 seats and Variance approval to allow for the provision of 57 parking spaces in lieu of 175 parking spaces. The expansion was not constructed.
4. April, 2015: Special Exception approval (SE-15-04-021) to install five modular buildings for church classrooms and the existing daycare. Condition #3 required removal of the modular buildings within 5 years. Based on aerials, the modular buildings were removed between 2019 and 2020.
5. July, 2016: Special Exception approval (SE-16-05-079) to allow a total of 4,270 sq. ft. for a sanctuary addition with 290 seats and fellowship hall addition to an existing religious institution and Variance approval to allow for a 5 ft. north side street setback in lieu of 15 ft. and to allow for 65 grass parking spaces in lieu of paved. The building expansion was not constructed but site improvements were partially completed, including the installation of new parking areas, drainage improvements and landscaping in conjunction with a permit issued in 2020, B199011637, but the permit has since expired due to inactivity.

Proposed is a 3,914 sq. ft. expansion to the existing 5,195 sq. ft. religious institution, which includes the expansion of the sanctuary and the fellowship hall as well as the construction of new covered entries to both, all in subsequent steps over three phases. Although the Cover Letter indicates a different combination of increased building area, these numbers include some interior areas for interior alterations and are likely overestimated.

After construction, the total building area on the overall campus will be approximately 9,109 sq. ft. The building will meet setback requirements for the R-1 zoning district except for the existing sanctuary located 7 ft. from the College Dr. north side street, in lieu of 15 ft., requiring Variance #3 and the sanctuary expansion which is proposed to be located 7 ft. from the same side street in lieu of 15 ft., requiring Variance #4. Although these two Variances are substantially similar to the north setback Variances as approved for SE-16-07-079 in 2016, the building footprint is slightly different and the Variance requests were identified as 5 ft. setbacks, not 7 ft. Vehicular and pedestrian access to the property will continue to be provided from Campanella Ave. to the west, and a new vehicular connection is proposed to College Dr. to the north. The proposed landscaping plan for the project will provide landscaping, to supplement the trees and shrubs already planted, with new trees and shrubs along the north, south and west perimeters, adjacent to College Dr., Carter St., and Campanella Ave., respectively, and the provision of a Type "C" 15 ft. landscape buffer along the east property line adjacent to the single-family residences. All proposed perimeter landscaping buffers along property lines and landscape strips adjacent to public rights-of-way will meet or exceed the minimum landscape requirements.

**Parking requirements for the development:**

Type	Parking Requirement	Number of seats	Number of employees	Required # of Spaces	Provided # of improved spaces	Provided # unimproved spaces	Total
Religious Institution	1 space for each 3 seats for patron use, plus 1 space per employee	234	1	79	28	51	79

Based upon the above seating and employees, the total number of required parking spaces is 79. The proposal includes 51 unimproved (grassed) parking spaces in lieu of improved parking spaces, requiring Variance #2, and 28 improved parking spaces, for a total of 79 spaces, which meets the requirement. Although prior approvals included various requests for unimproved parking spaces, the number and configuration of the parking areas are not the same, therefore staff determined that a new Variance is needed.

The County Transportation Planning Division provided comments that the expansion of the existing religious institution will generate 5 p.m. peak trips and that for the purposes of transportation analysis, a project is considered de minimis if its impacts are less than a total p.m. peak of five (5) peak hour trips on the roadways within the area of influence per Sec. 30-501 and therefore the request is considered de minimis.

The hours of operation for the campus operations are not proposed to change: the typical hours for the church offices are Monday through Friday, 9:00 a.m. to 5:00 p.m., Sundays from 9:00 a.m. to 5:00 p.m., with the regular services scheduled between 9:00 a.m. and 1:00 p.m. and between 6:00 p.m. to 10:00 p.m., Sundays. Evening bible study and/ or services are scheduled from 7:00 p.m. to 10:00 p.m., Monday through Friday.

Comprehensive Planning staff reviewed the request and determined that the proposal is consistent with the policies contained within the Comprehensive Plan.

Staff recommends approval of all the requests since the proposal is similar, if not reduced, in size compared with previously approved sanctuary and fellowship hall expansions, is over 92 feet from the closest residential property line to the east, and the expansion in the manner proposed will allow appropriate site improvements to the site for a use which has been continuously used for religious uses since 1974.

As of the date of this report, 85 comments have been received in favor of this request, and no comments have been received in opposition.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	35 ft. 45 ft. top of steeple
Min. Lot Width:	50 ft.	250 ft. (North & South)
Min. Lot Size:	5,000 sq. ft. (0.11 acres)	1.5 acres

**Building Setbacks after Buildout**

	Code Requirement	Proposed
Front (Campanella Ave.):	25 ft.	54.6 ft. (West)
Rear:	25 ft.	92.9 ft. (East)
Side Streets: College Dr. Carter St.	15 ft.	7 ft. Existing sanctuary (North – Variance #3) 7 ft. Proposed sanctuary (North – Variance #4) 142.4 ft. (South)

**STAFF FINDINGS**

**SPECIAL EXCEPTION CRITERIA**

**Consistent with the Comprehensive Plan**

The Comprehensive Plan provides that certain uses, such as religious institutions, as conditioned are consistent through the Special Exception process.

**Similar and Compatible with the Surrounding Area**

The size and scale of the proposal within an existing church campus is appropriate relative to the size of the overall site and the proposed and existing setbacks. Although there is a proposed reduction of the north side street setback adjacent to College Dr., requiring a Variance, it is proposed to extend to match the existing sanctuary building plane. Further, it is equivalent to the prior approved setback Variances adjacent to College

Dr. and the remainder of the site improvements will meet setback requirements. Additionally, the required landscape buffers will shield the adjacent residential properties from the proposed use.

### **Shall Not Act as a Detrimental Intrusion into a Surrounding Area**

The development as proposed will not act as a detrimental intrusion into the surrounding area. The proposal is similar, if not reduced, in size compared with previously approved sanctuary and fellowship hall expansions, is over 92 feet from the closest residential property line to the east, and the property has been used for religious uses since 1974.

### **Meet the performance standards of the district**

If the Variances are granted, the request would meet the performance standards of the district.

### **Similar in Noise, Vibration, Dust, Odor, Glare, Heat Producing**

The proposal is to expand the building area of the existing religious institution, and the characteristics and impacts of the proposed development will not substantially change.

### **Landscape Buffer Yards Shall be in Accordance with Section 24-5 of the Orange County Code**

Landscaping and buffers are proposed along all street rights-of-way and along the east property line, which is consistent with the Orange County Landscape Code. As indicated in the landscape plan for buildout, landscaping will be provided in accordance with Chapter 24 (Landscaping, Buffering and Open Space) of the Orange County Code.

## **VARIANCE CRITERIA**

### **Special Conditions and Circumstances**

Pertaining to Variance #2, the proposed infrequency of use of the parking area is a special circumstance. Further, there have been prior Variance requests for unimproved parking spaces on the property. Pertaining to Variance #3, the special condition and circumstance particular to the subject property is the age of the sanctuary, built in 1974, which has been in the same location since construction. Pertaining to Variance #4, a redesign or shift of the addition to meet the setback would impact the functionality or usability of the addition, especially since prior expansion variations have been approved with the same or lesser setbacks.

### **Not Self-Created**

Pertaining to Variance #2, the need for the Variances are not self-created, due to the infrequent use of the area for parking and the desire to maintain the open space of the property. Pertaining to Variance #3, the request is not self-created since the owner is not responsible for the existing location of the sanctuary for over almost 50 years. Pertaining to Variance #4, there are limited options to redesign the sanctuary addition in a manner to eliminate the request, since opportunities to modify site design is restricted and bounded on three sides by public right of ways.

### **No Special Privilege Conferred**

Pertaining to Variance #2, allowing for parking to remain grassed is not conferring a special privilege because of the infrequent use. Pertaining to Variances #3 and #4, due to the orientation of the campus and the year built,

granting the requested Variances will not confer any special privilege conferred to others under the same circumstances.

### **Deprivation of Rights**

Pertaining to Variance #2, improved surfaces for the parking area would be provided that will be infrequently used. Pertaining to Variance #3, approval of the request will allow the recognition of the existing location of the sanctuary since 1974, and would allow for reconstruction in the same location in the event it would need to be replaced. Pertaining to Variance #4, the site is restricted and bounded on three sides by public right of ways and as such there would be deprivation of rights since there have been multiple approved similar, albeit unbuilt, variations of campus expansions.

### **Minimum Possible Variance**

Due to the existing north setbacks, the location of the existing site improvements, and the location of the existing sanctuary, the requested Variances are the minimum possible to allow expansion of the existing religious campus, as well as in a similar manner consistent with prior approvals.

### **Purpose and Intent**

Approval of the requested Variances will be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on preserving the existing character of the area and the subject property to ensure compatibility with the adjacent neighborhoods. Approval will also allow for unimproved parking spaces to minimize impervious areas, will allow for the recognition of the existing sanctuary north side street setback, and will allow for expansion of the sanctuary to continue along the same building plane in a similar manner as previously approved.

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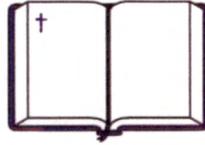
## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan received December 15, 2023 and elevations received December 1, 2023, 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 5 years 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. The sanctuary shall be limited to 234 seats.
  6. Landscaping provided for any site work permit shall be in accordance with the landscaping plan received December 15, 2023 and with Chapter 24 (Landscaping, Buffering and Open Space).
  7. A permit for the fence in a conforming location and height shall be obtained prior to obtaining any permits for the church addition.
  8. 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.
  9. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.
- C: Pastor Alfred Moore  
4313 Kandra Ct.  
Belle Isle, FL 32812

COVER LETTER

Community Missionary  
Baptist Church



651 Campanella Avenue  
Orlando, Florida 32811  
(407) 293-3100  
Reverend Alfred J. Moore, Pastor

June 1, 2023

Orange County Zoning Division  
201 South Rosalind Avenue  
Orlando, Florida 32801  
Mr. Ted Kozak

To: Orange County Zoning Board

Orlando Community Baptist Church is asking Zoning's approval to continue to implement our Master Plan's additions to our church originally approved in July 2016. The original approval had a 5 year limitation on 3 modular buildings that we had on site. The modular buildings were demolished in 2019. We are adding the sanctuary expansion that wasn't on the original request.

We are asking for a continuation to finish the following part of the Master Plan:

#1. Expand Existing Annex with a 2500 sq. ft. addition to make more room for Food Pantry Distribution and after school activities. Building Permit #B2190278 1

We are asking original approval to do the following:

#2. Finish Expanding the Existing Paved Parking Lot on the front of the building. This includes landscaping and water retention. We currently have 16 paved parking spaces and that will increase to 26 spaces with 2 paved handicap spaces. The rest of the parking spaces needed will be grass on the side and back of the building. Site Permit #B19-902090

#3. We are asking for a variance to install 55 grass parking spaces on the side and rear of the building.

#4. Expand the existing Sanctuary to 5,000 sq. ft. from 2,100 sq. ft. in 2 phases. The addition will allow seating to be increased by 95 people. It will allow the men's and women's restrooms to be installed at the front of the sanctuary and a baptistry to be installed behind the choir loft in the 2nd phase.

#5. Our current sanctuary has a 7 foot street variance instead of the normal 15 foot set back from the College Drive side. We would like to continue this variance for our proposed addition to our Sanctuary.

Our church is a concrete block structure consisting of a 2,100 sq. ft. Sanctuary and a 3,000 sq. ft. annex/fellowship hall. Classrooms, kitchen and restrooms make up 1600 sq. ft. of the annex and the fellowship hall is 1400 sq. ft. The fellowship hall which we use to collect and distribute food to the community is not large enough to handle the volume of food stuffs currently given out.

Sincerely,

Rev. Alfred J. Moore, Pastor  
Orlando Community Baptist Church

COVER LETTER

1. The use shall be consistent with the Comprehensive Policy Plan.

We believe the addition is consistent with Orange County Comprehensive Plan.

2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.

The character and use of the addition to the annex of the church will not change. The addition will enable the church to increase the capacity to serve the community.

3. The use shall not act as a detrimental intrusion into a surrounding area.

The addition is a continuation of the use already existing in the facility and will not be a detrimental intrusion into a surrounding area.

4. The use shall meet the performance standards of the district in which the use is permitted.

The addition will enhance the annex and the neighbor hood.

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.

The addition will not change the uses currently permitted in the zoning district.

6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.

The original landscape plan was approved by Orange County Building Department and has been implemented.

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**COVER LETTER**

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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.

We are a church located in a residential zone. All additions to the site must have a zoning approval. No other special conditions or circumstances exist which are peculiar to the land or buildings.

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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 have not created a hardship or special circumstances by adding to the Annex or Sanctuary.

**the additional 55 grass parking spaces instead of pavement allows more ground water percolation instead of storm water runoff.**

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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 will be no special conditions conferred to the church when approved for additions.

**These conditions are not specifically denied by this chapter to other lands, building or structures in the same zoning district.**

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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.

These additions will not deprive any neighbors of rights or privileges enjoyed by the properties in the same zoning district.

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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.

Zoning approval of the variance will make possible the enhanced use of the land and buildings.

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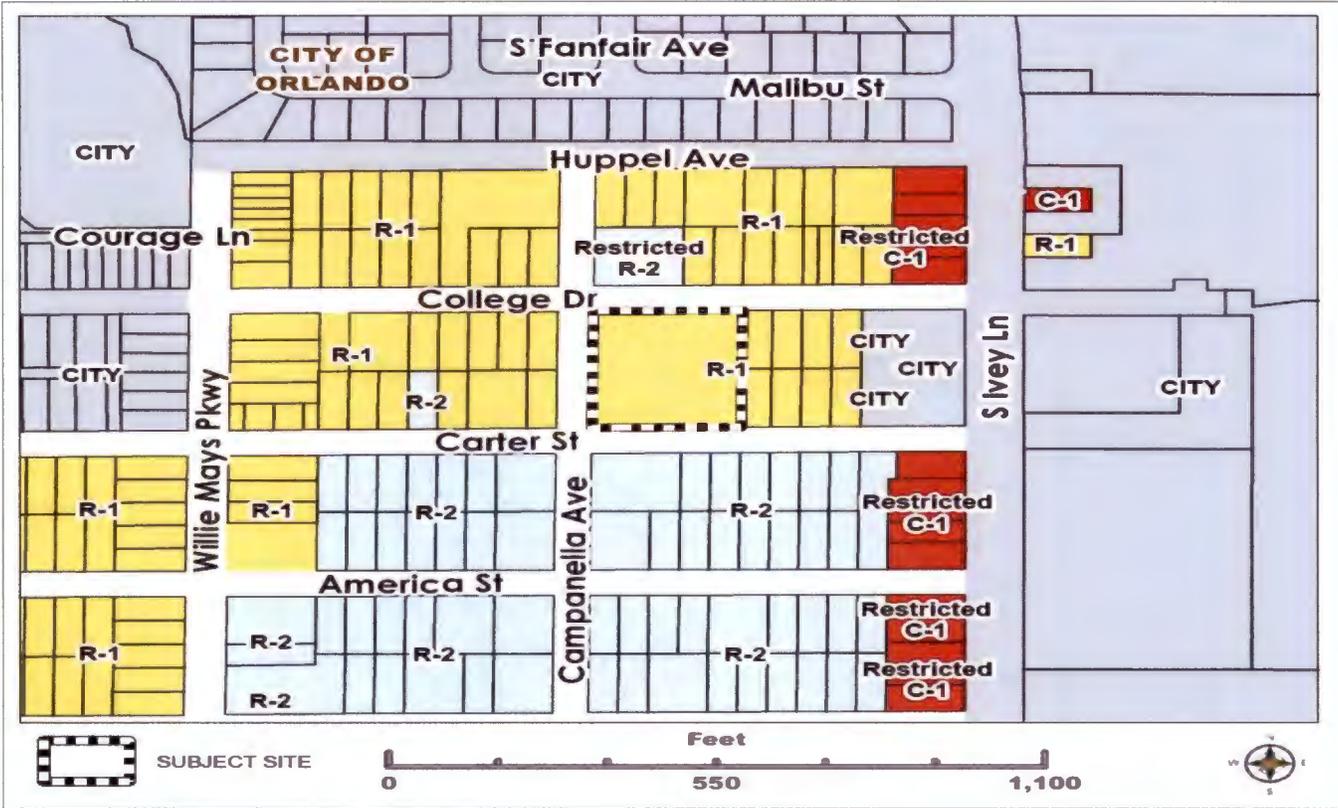
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The proposed variance will enhance the neighborhood and will not be hinderance to the neighborhood or detrimental to the public welfare.

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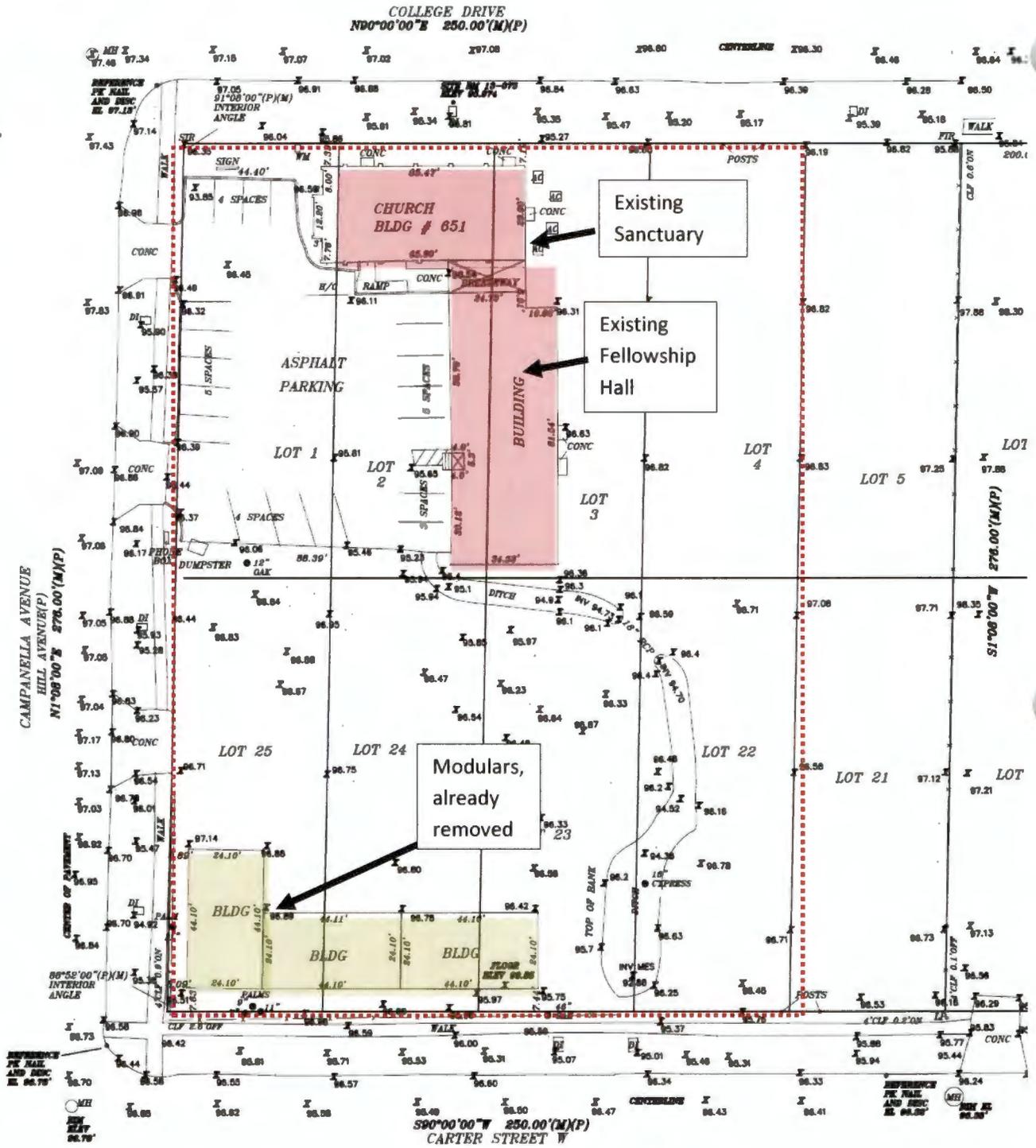
ZONING MAP



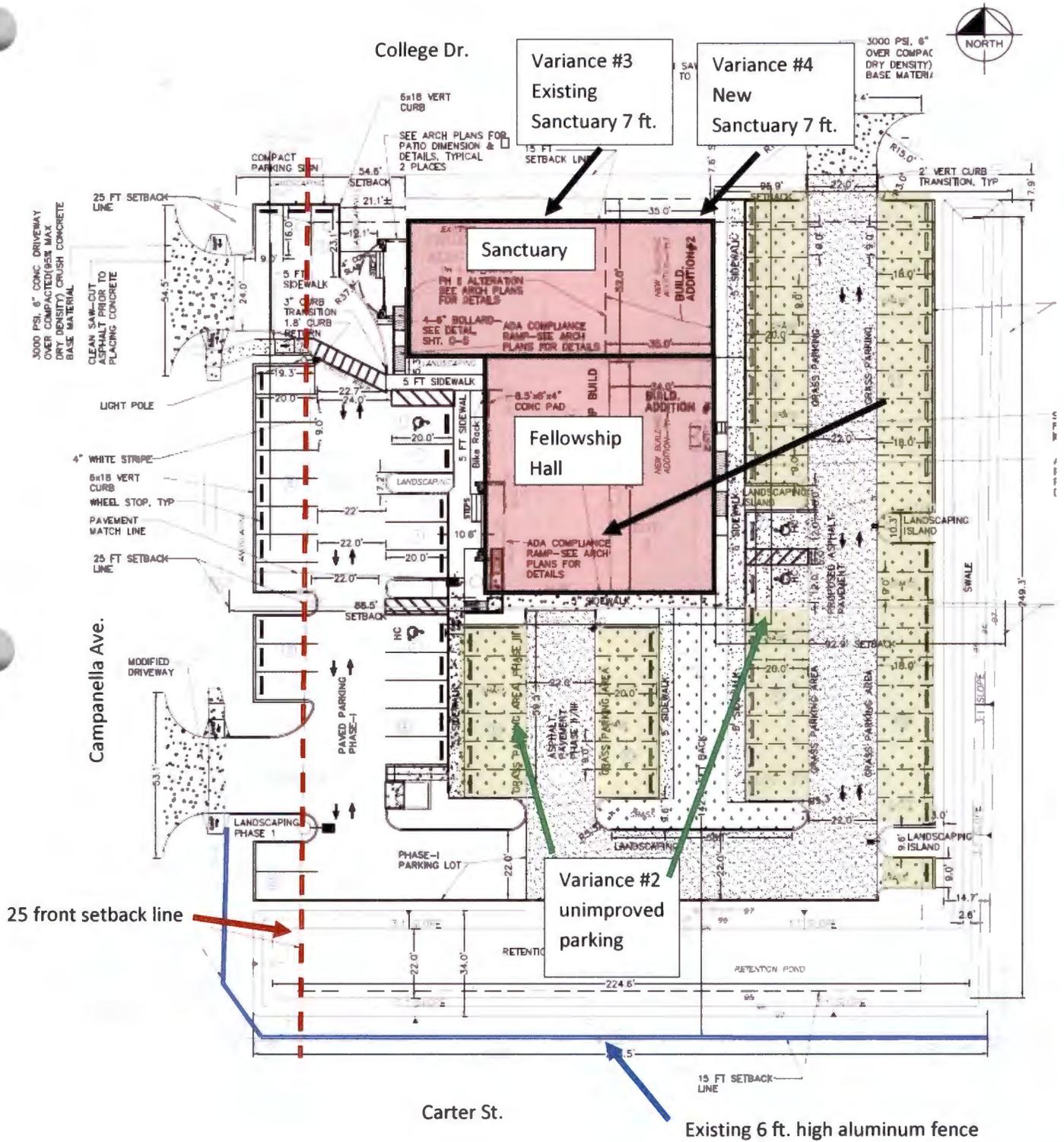
AERIAL MAP



SURVEY

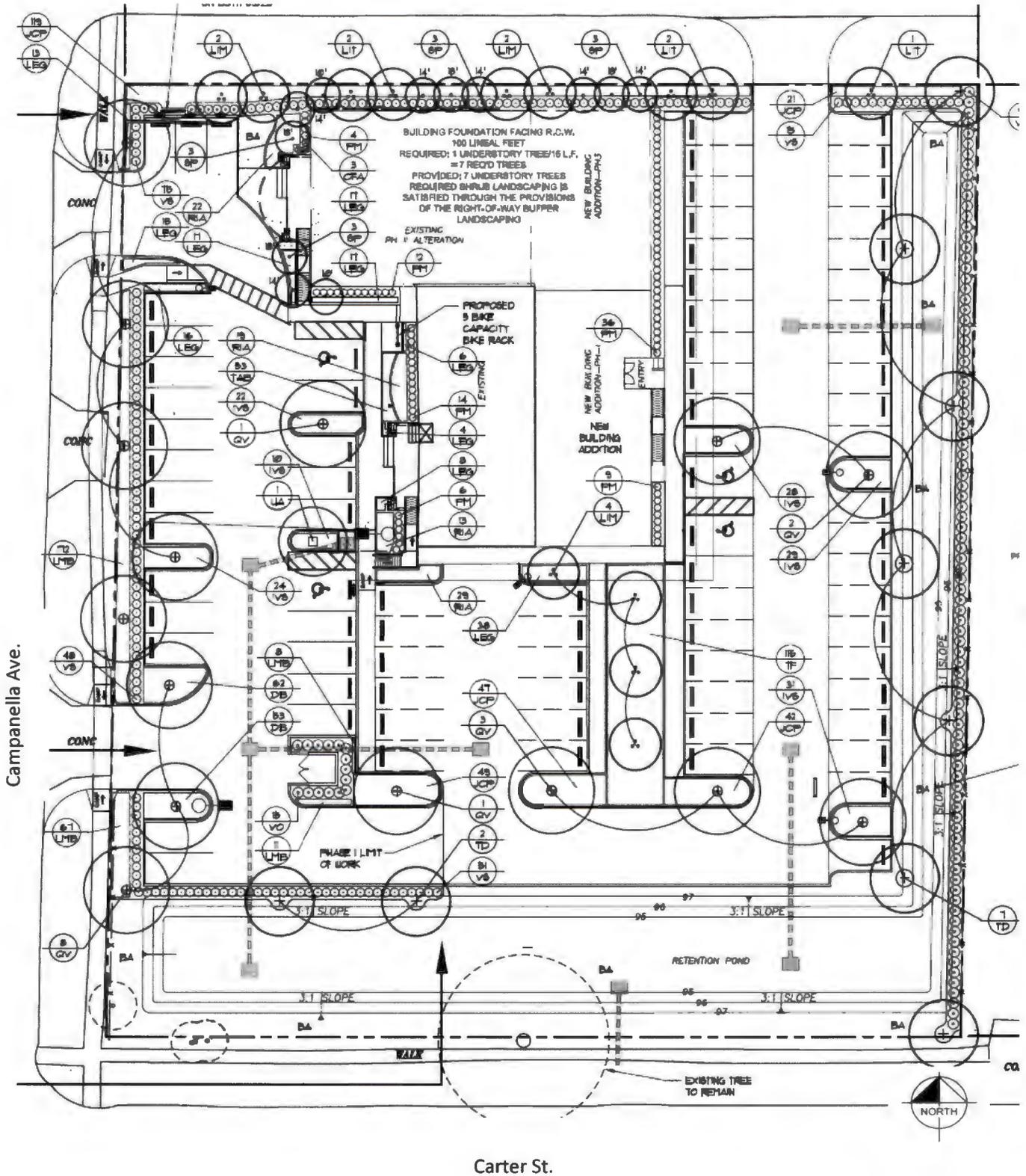


# BUILDOUT SITE PLAN



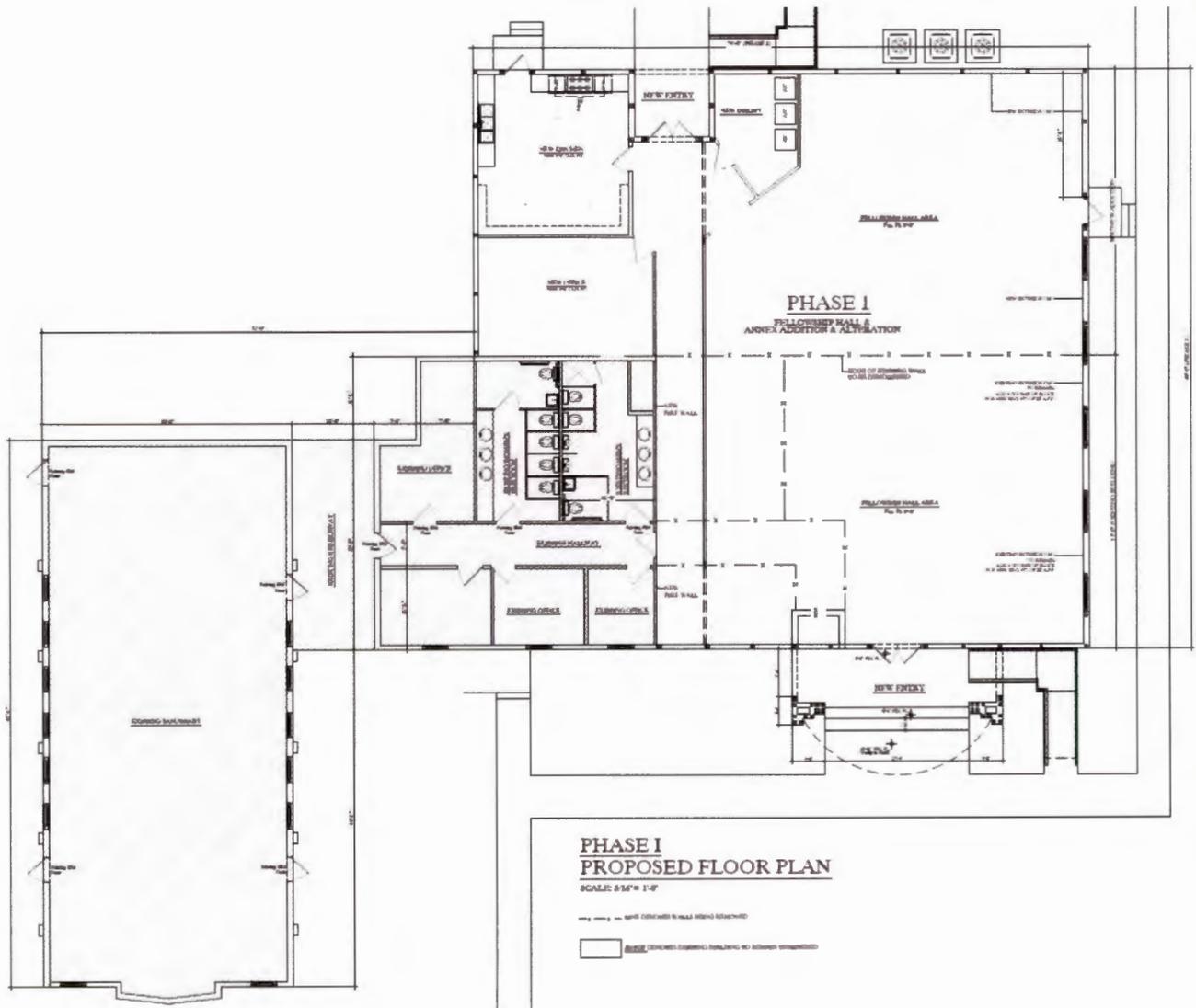
# LANDSCAPE PLAN

College Dr.



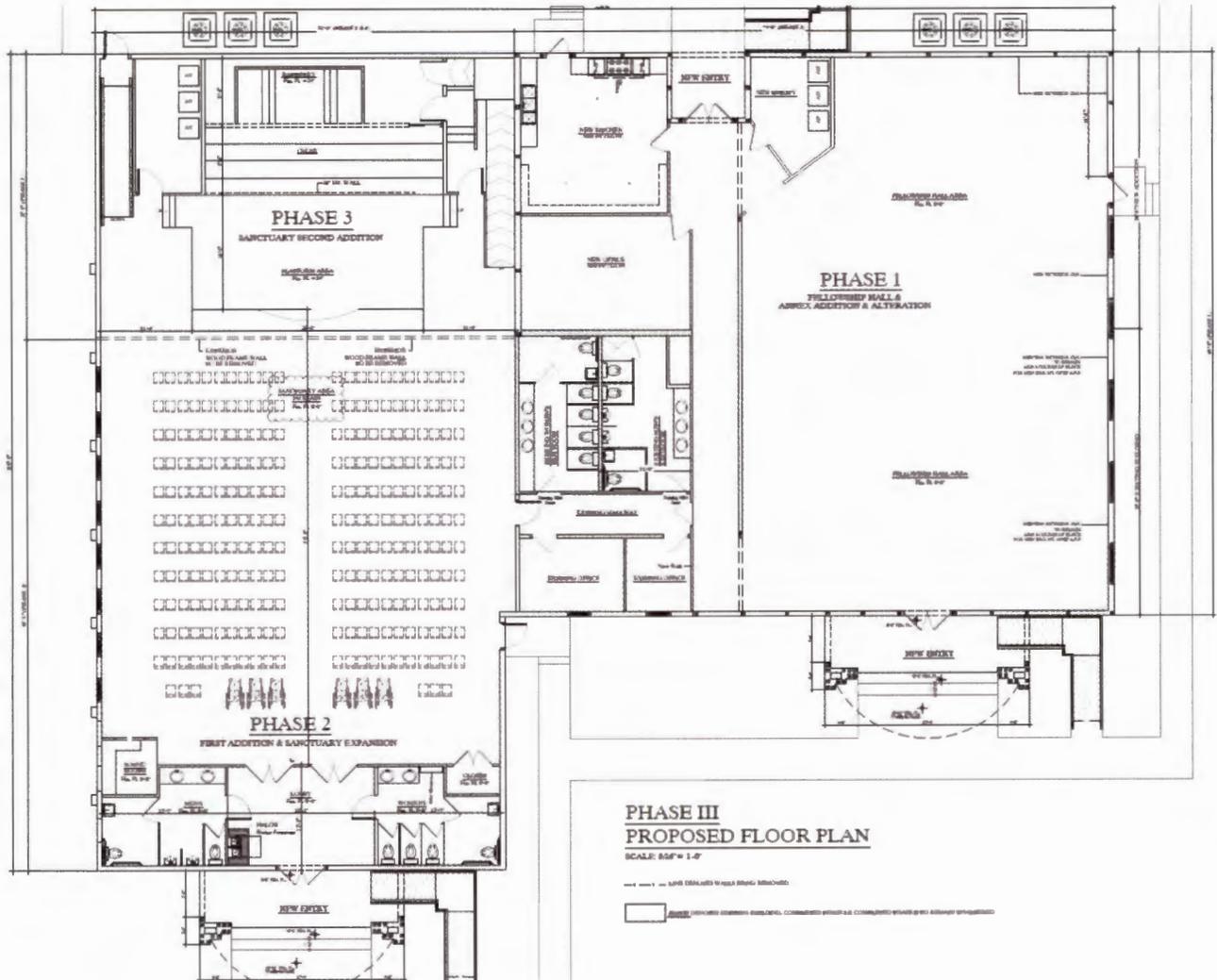


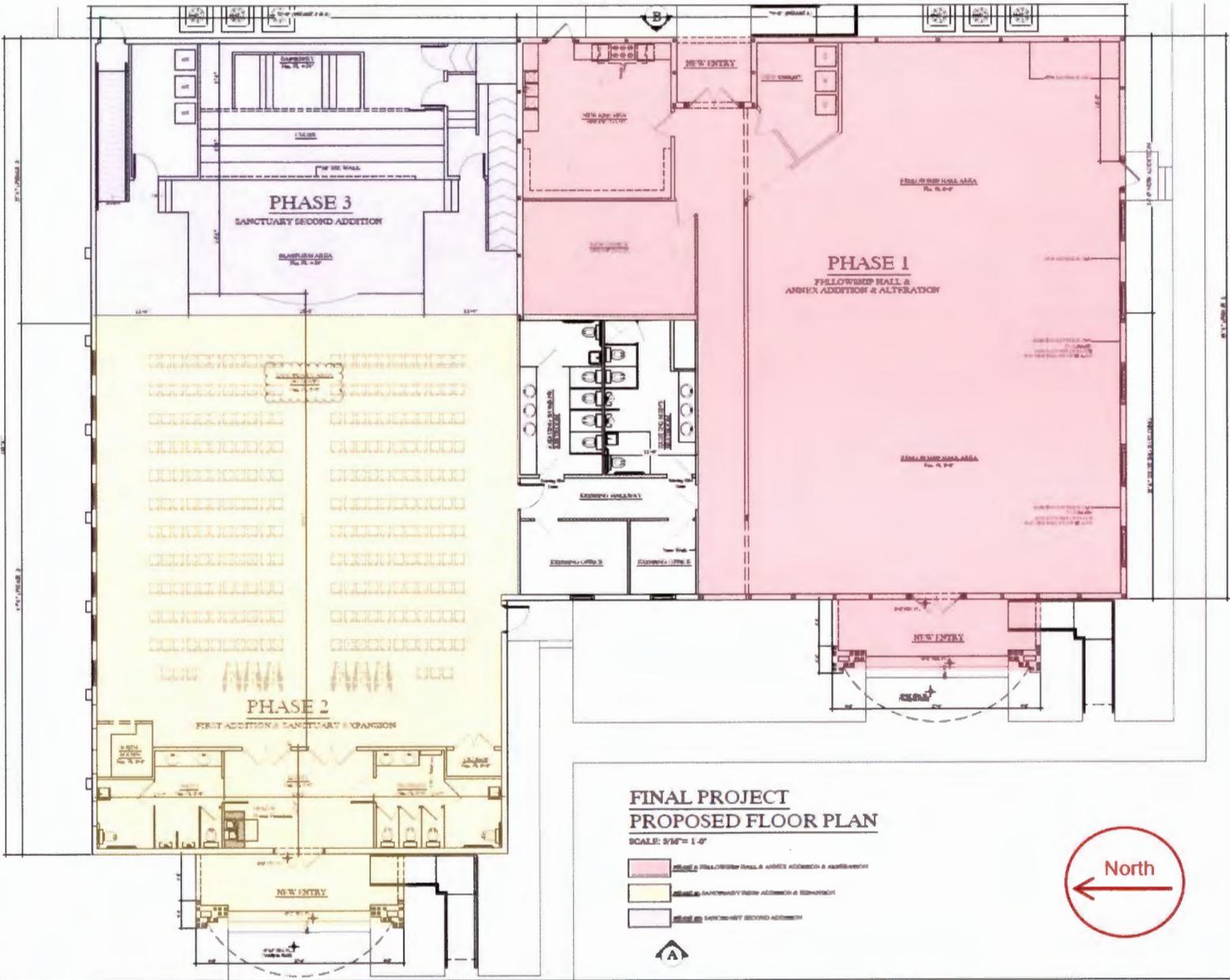
# PHASE 1 FLOOR PLAN





**PHASE 3 FLOOR PLAN**



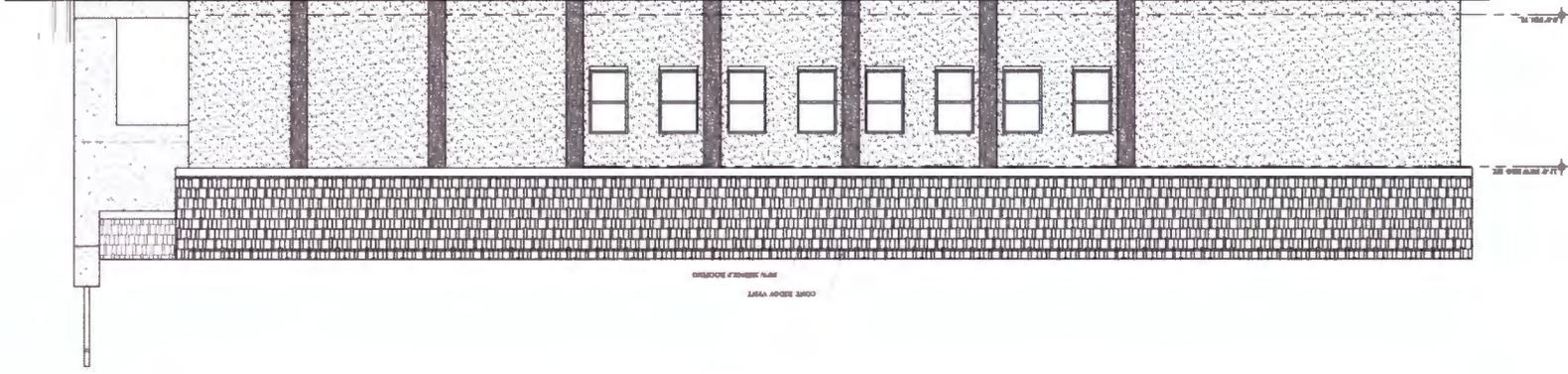




NORTH AND SOUTH ELEVATIONS

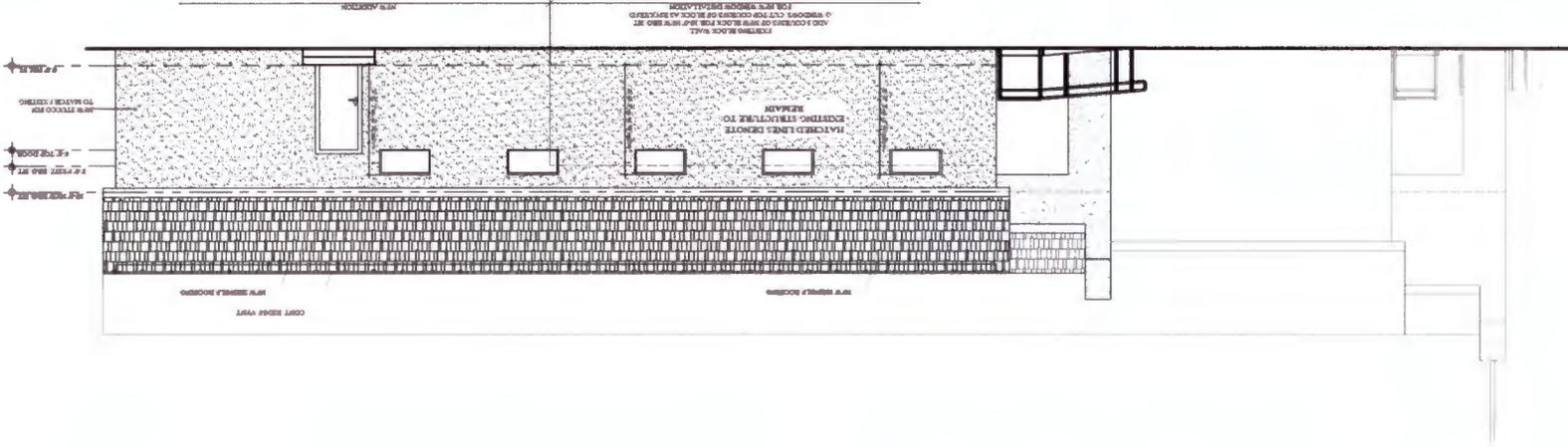
PROPOSED ELEVATION (North)

SCALE: 3/8" = 1'-0"



PROPOSED ELEVATION (South)

SCALE: 3/8" = 1'-0"



**SITE PHOTOS**



**Facing east from Campanella Ave. towards existing sanctuary, fellowship hall and parking area**



**Facing northeast from the corner of Campanella Ave. and Carter St. towards church & partial improvements**

**SITE PHOTOS**



**Facing north adjacent to Campanella Ave., with existing fence to be removed or modified on right**



**Facing southwest towards Campanella Ave. and partial parking & landscape improvements**

SITE PHOTOS



Facing southeast from the corner of College Dr. and Campanella Ave. towards existing sanctuary



Facing southwest from College Dr. towards rear of existing campus, proposed addition & parking area



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