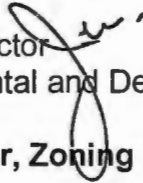





Interoffice Memorandum

DATE January 4, 2019

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

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

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

January 29, 2019 – Board Called Public Hearing
Applicant/Appellant: Mike Fitzpatrick
BZA Case #VA-18-10-135, November 1, 2018; District #1

Board of Zoning Adjustment (BZA) Case #VA-18-10-135, located at 8361 Torcello Isle Drive, in District #1, is a board called public hearing to be heard on January 29, 2019. The applicant is requesting a variance to allow a generator 1.5 ft. from the side property line in lieu of 10 ft.

The subject property is located on the easterly side of Torcello Isle Dr., approximately 625 ft. southwesterly of Reams Rd.

At the November 1, 2018 BZA hearing, staff recommended denial of the variance. The applicant stated they would like to have the generator in case of emergencies and cannot place it in the backyard as they will be installing a pool in the rear yard. The BZA had concerns regarding the proposed location, the fumes that may be created by the generator, and as this is in a Planned Development the applicant may seek a waiver through the Development Review Committee for the entire subdivision. A motion was made to deny the request, which failed due to a tie vote. A subsequent motion was made to approve the request, which also resulted in a tie vote; therefore, the result is a de facto denial.

The application for this request is subject to the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

ACTION REQUESTED: Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or deny the applicant's request. District 1

JVW/CLK/pew
Attachments

**COMMUNITY ENVIRONMENTAL DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
January 29, 2019**

The following is a public hearing on an appeal before the Board of County Commissioners on January 29, 2019 at 2:00 p.m.

- APPELLANT/APPLICANT:** MIKE FITZPATRICK
- REQUEST:** Variance in the P-D zoning district to allow placing a generator 1.5 ft. from the side (northerly) property line along side of a new home in lieu of 10 ft.
Board-called 12/4/18
- LOCATION:** 8361 Torcello Isle Drive, Easterly side of Torcello Isle Dr., approximately 625 ft. southwesterly of Reams Rd.
- TRACT SIZE:** 51 ft. x 165 ft. (AVG)
- ZONING:** P-D
- DISTRICT:** #1
- PROPERTIES NOTIFIED:** 22

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

Staff noted that the subject property was part of a Planned Development, noting the required setbacks and the fact that the homes could be up to 3 stories tall. It was also noted that the homes in this community had a width which virtually filled the building envelope. Staff also provided a history of how the Zoning Code dealt with permanent generators, noting that in 2016 the setback for generators alongside the residence was reduced from 30 ft. to 10 ft. Staff then explained the noise level which the newer generators such as that proposed had dropped significantly from the older models, and even more so than portable generators. Staff concluded that sufficient area exists behind the pool cage to locate the generator in accordance with code.

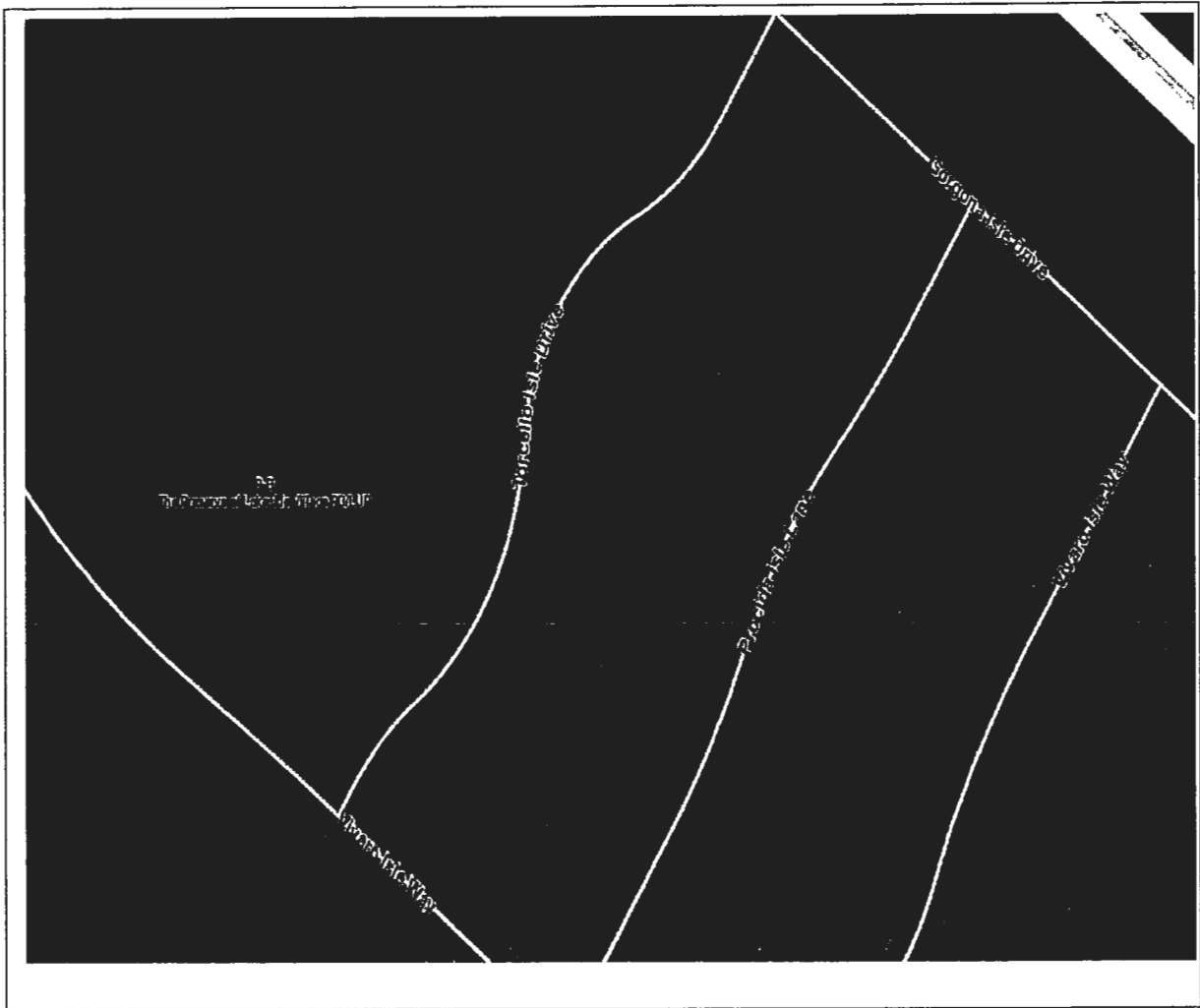
The applicant provided the BZA with 2 letters of support. One was from the owner of the home to the south of the subject property, the other was from the owner of the home 2 lots to the north. They also provided an approval letter from the HOA. The representative of the company selling the generator explained that if the generator were located to the rear of the pool cage there would be a loss of voltage unless special much more expensive steps were taken. Finally, they explained that numerous jurisdictions in the Central Florida area have reduced the setback to five ft. separation between generators and neighboring residences, or removed all regulations, instead treating them like other mechanical equipment such as a/c compressors and pool pumps. There being no one present to speak in favor or opposition to the application, the public hearing was closed.

The BZA discussed the issues of location, carbon dioxide, and whether this may have exposed a flaw in the code revision that may need to be reexamined. After considerable discussion, a motion and second to recommend denial failed due to a tie vote. A subsequent motion and second to recommend approval also failed. With no revised motion for either approval or denial, the BZA declared a deadlock moving the application forward with a de facto denial.

BZA HEARING DECISION:

A motion was made by Carolyn Karraker, seconded by Gregory A. Jackson to **DENY** the variance request. The motion **FAILED** with a tie vote (3 in favor, 3 opposed, and 1 absent).

Another motion was made by Carolyn Karraker, seconded by Wesley Hodge and to **APPROVE** the variance request. The motion **FAILED**. The Board was unable to make a recommendation due to lack of the required majority vote (3 in favor, 3 opposed, and 1 absent).



Applicant: MIKE FITZPATRICK

BZA Number: VA-18-10-135

BZA Date: 11/01/2018

District: 1

Sec/Twn/Rge: 34-23-27-SE-D

Tract Size: 51 ft. x 165 ft. (AVG)

Address: 8361 Torcello Isle Drive, Windermere FL 34786

Location: Easterly side of Torcello Isle Dr., approximately 625 ft. southwesterly of Reams Rd.



1701 Perch Lane
Sanford, FL 32771

Office: 407-417-5553
Support@Genstarservice.com

August 16, 2018

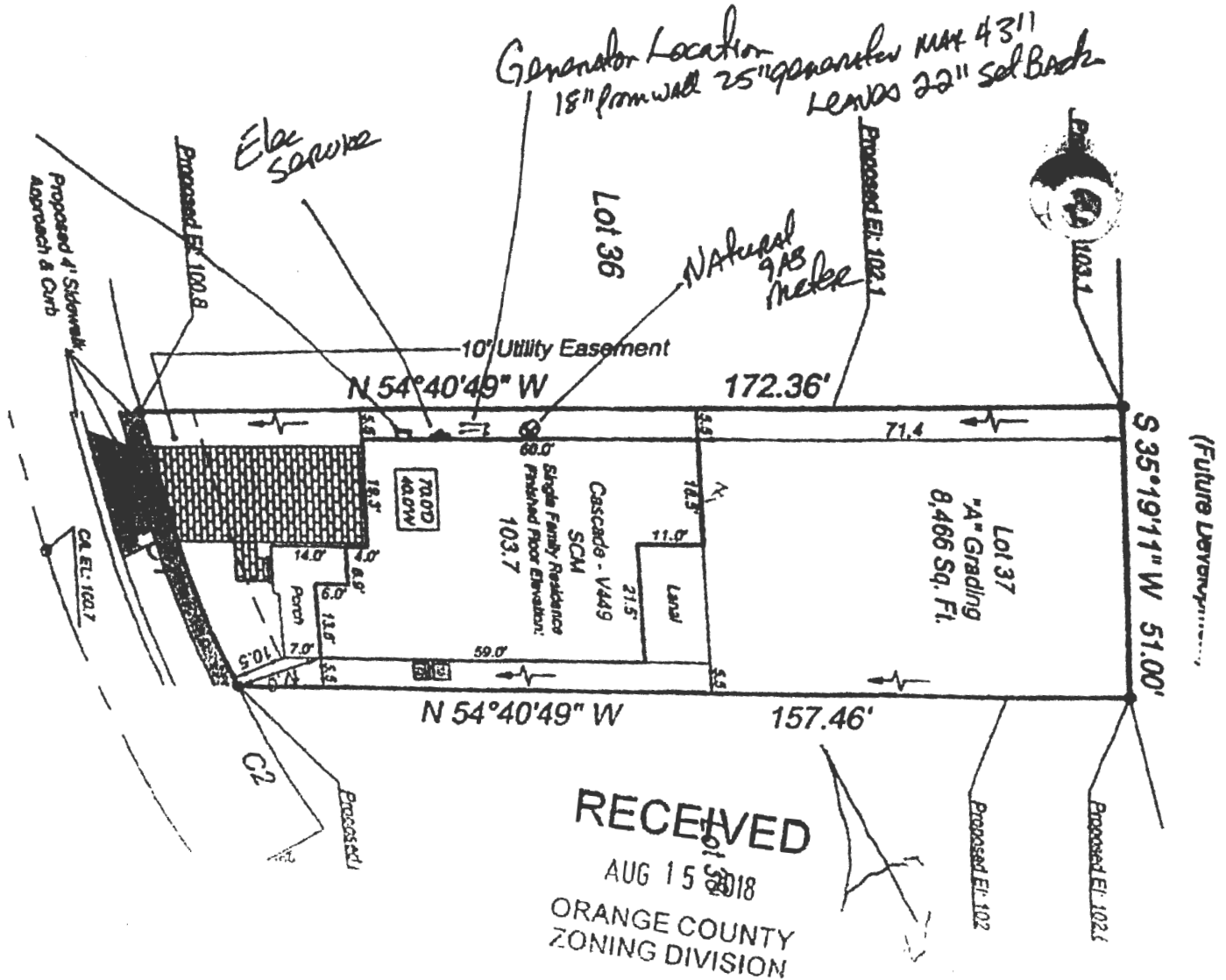
To Whom It May Concern,

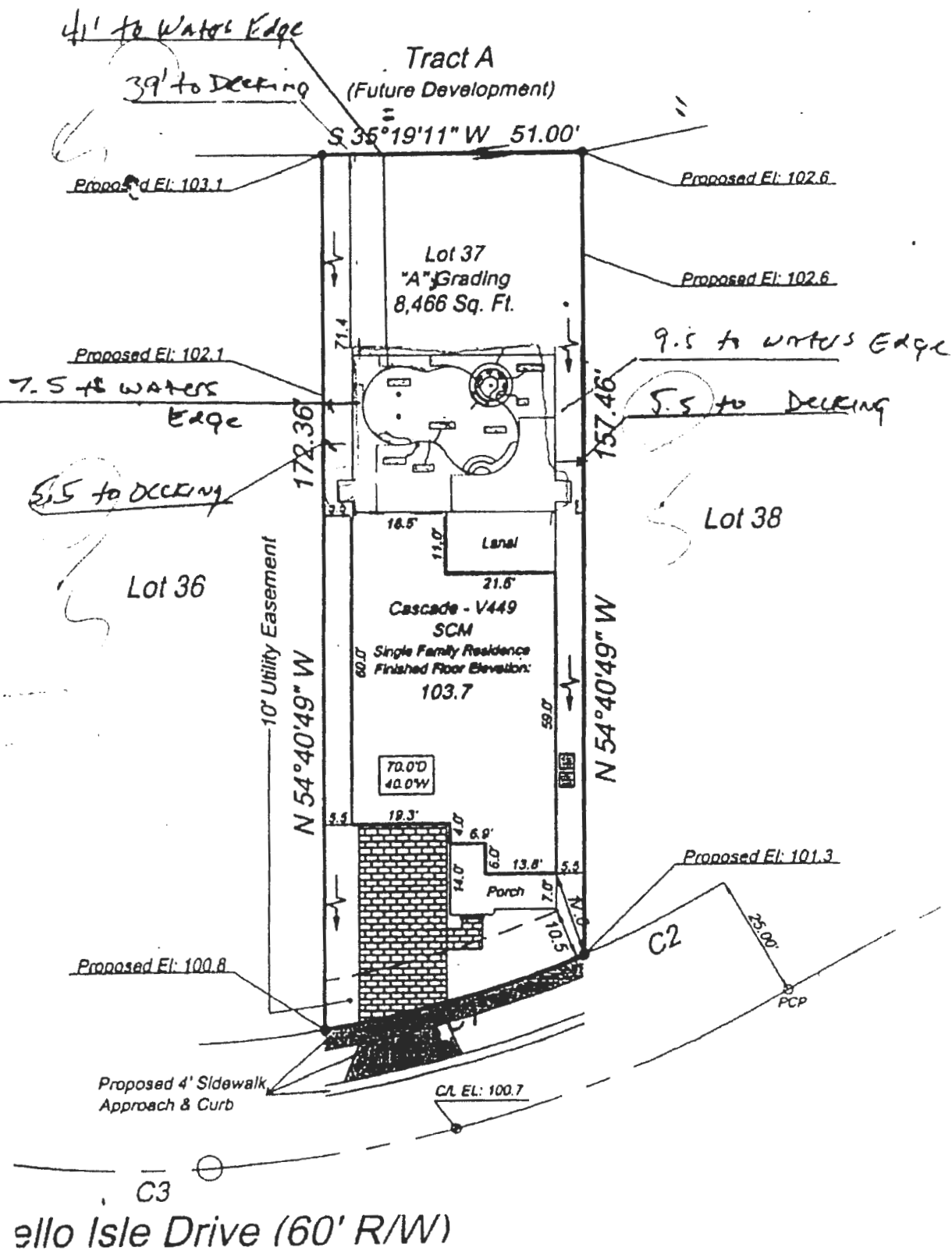
We are requesting a variance for 8361 Torcello Isle Drive, Windermere, FL 34786, because there is only 5.5' available space between property line and structure at side of house. There is an approved pool and screen structure at the rear of the house, not leaving any space to meet a 5' set back at rear. Since the same space allows air conditioners and pool pumps to be placed in this area, the generator has a similar or smaller footprint and the noise decibel level is similar per the attached spec sheet, which is 52 decibels and operates once a week for 5 minutes for a test run. The decibel level under load is 67 decibels which is, only during rare power outages. This should not present an excessive noise level.

We appreciate your consideration and hope this variance will be approved.

Thank you,

Mike Fitzpatrick
Genstar Generator Sales
Cell: 305-747-8041
Office: 407-417-5553
Mike@GenstarService.com







16/20/22 kW



GENERAC

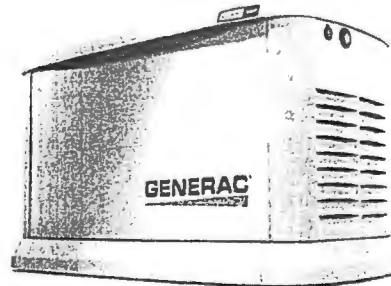
GUARDIAN® SERIES Residential Standby Generators Air-Cooled Gas Engine

INCLUDES:

- True Power™ Electrical Technology
- Two Line LCD Multilingual Digital Evolution™ Controller (English/Spanish/ French/Portuguese)
- Two Transfer Switch Options Available
100 Amp, 16 Circuit Switch or
200 Amp Service Rated Smart Switch
See Page 4 for Details
- Electronic Governor
- Standard Wi-Fi™ Remote Monitoring
- System Status & Maintenance Interval LED Indicators
- Sound Attenuated Enclosure
- Flexible Fuel Line Connector
- Direct-To-Dirt Composite Mounting Pad
- Natural Gas or LP Gas Operation
- 5 Year Limited Warranty
- Listed and Labeled by the Southwest Research Institute allowing installation as close as 18" (457 mm) to a structure.*
*Must be located away from doors, windows, and fresh air intakes and in accordance with local codes.
<http://assets.generac.com/assets/2015/07/01/2015070101/RSI.pdf>
C:\structure\website\979 Doc 2015070101 RSI.pdf

Standby Power Rating

Model G00A3000000000 (Automatic Backup) 16kW
Model G00A3000000000 (Automatic Backup) 20kW
Model G00A3000000000 (Automatic Backup) 22kW
Model G00A3000000000 (Automatic Backup) 22kW



QUIET-TEST.



Note: CUL certification only applies to ungrounded units and units packaged with limited circuit switches. Units packaged with the Smart Switch are UL certified in the USA only.

FEATURES

RELIABILITY The G-Force engines are at the heart of Generac's success in providing the most reliable generators possible. Generac's G-Force engine lineup offers added peace of mind and reliability for when you need it the most. The G-Force series engines are purpose built and designed to handle the rigors of extended run times in high temperatures and extreme operating conditions.

POWER QUALITY Superior harmonics and sine wave form produce less than 5% Total Harmonic Distortion for utility quality power. This allows confident operation of sensitive electronic equipment and micro chip based appliances such as variable speed HVAC systems.

**PROTOTYPE TESTED
SYSTEM TORSIONAL TESTED**

**NEMA MG1-22 EVALUATION
MOTOR STARTING ABILITY**

REMOTE MONITORING Connect with every Guardian Series Home standby generator. Allows you to monitor the status of your generator from anywhere in the world using a smartphone, tablet or PC. Easily access information such as the current operating status and maintenance alerts. Connect your account to your authorized service dealer for fast, friendly and proactive service. With Mobile Link, you are taken care of before the next power outage.

POWER MAXIMIZING REGULATION SYSTEM This state-of-the-art power maximizing regulation system is standard on all Generac models. It provides optimized FAST RESPONSE to changing load conditions and MAXIMUM MOTOR STARTING CAPABILITY by electronically torque-matching the surge loads to the engine. Digital voltage regulation at ±1%.

GENIE SUPPORT From Generac's extensive dealer network provides parts and service know-how for the entire unit, from the engine to the smallest electronic component.

LONG LIFE AND RELIABILITY Long life and reliability are synonymous with GENERAC POWER SYSTEMS. One reason for this confidence is that the GENERAC product line includes its own transfer systems and controls for total system compatibility.

THE GENERAC PROMISE



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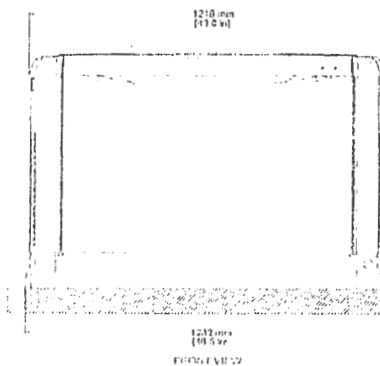
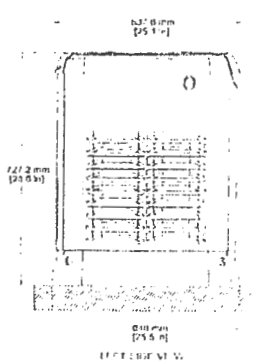
available accessories

16/20/22 kW

Model #	Product	Description
G007C05-0	Wi-Fi LP Fuel Level Monitor	The Wi-Fi enabled LP fuel level monitor provides constant monitoring of the connected LP fuel tank. Monitoring the LP tank's fuel level is an important step in making sure your generator is ready to run during an unexpected power failure. Status alerts are available through a free application to notify when your LP tank is in need of a refill.
G005819-0	26R Wet Cell Battery	Every standby generator requires a battery to start the system. Generac offers the recommended 26R wet cell battery for use with all air-cooled standby product (excluding PowerPact®).
G007101-0	Battery Pad Warmer	The pad warmer rests under the battery. Recommended for use if the temperature regularly falls below 0°F (Not necessary for use with AGM-style batteries).
G007102-0	Oil Warmer	Oil warmer slips directly over the oil filter. Recommended for use if the temperature regularly falls below 0°F.
G007103-1	Breather Warmer	The breather warmer is for use in extreme cold weather applications. For use with Evolution controllers only in climates where heavy icing occurs.
G0C5821-0	Auxiliary Transfer Switch Contact Kit	The auxiliary transfer switch contact kit allows the transfer switch to lock out a single large electrical load you may not need. Not compatible with 50 amp pre-wired switches.
G007C27-0 - Bisque	Fascia Base Wrap Kit (Standard on 22 kW)	The fascia base wrap snaps together around the bottom of the new air-cooled generators. This offers a sleek, contoured appearance as well as offering protection from rodents and insects by covering the holes located in the base.
G0C5703-0 - Bisque	Paint Kit	If the generator enclosure is scratched or damaged, it is important to touch-up the paint to protect from future corrosion. The paint kit includes the necessary paint to properly maintain or touch-up a generator enclosure.
G0C6485-0	Scheduled Maintenance Kit	Generac's scheduled maintenance kits provide all the hardware necessary to perform complete routine maintenance on a Generac automatic standby generator.
G006873-0	Smart Management Module (50 Amps)	Smart Management Modules are used in conjunction with the Automatic Transfer Switch to increase its power management capabilities. It provides additional power management flexibility not found in any other power management system.

dimensions & UPCs

Generac dimensions are approximate. Refer to generator manual for exact dimensions. **DO NOT USE THESE DIMENSIONS FOR INSTALLATION PURPOSES.**



Model	UPC
G0C7035-1	006041074101
G07036-1	006041074102
G07037-1	006041074103
G07038-1	006041074104
G0M339-1	006041074105
G07042-2	006041074106
G07043-2	006041074107



STAFF REPORT
CASE #: VA-18-10-135
Orange County Zoning Division
Planner: David Nearing, AICP
Board of Zoning Adjustment
November 1, 2018
Commission District: 1

GENERAL INFORMATION:

APPLICANT: MIKE FITZPATRICK

REQUEST: Variance in the P-D zoning district to allow placing a generator 1.5 ft. from the side (northerly) property line along side of a new home in lieu of 10 ft.

LOCATION: Easterly side of Torcello Isle Dr., approximately 625 ft. southwesterly of Reams Rd.

PROPERTY ADDRESS: 8361 Torcello Isle Dr., Windermere, FL 34786

PARCEL ID: 34-23-27-9175-00-370

PUBLIC NOTIFICATION: 22

TRACT SIZE: 51 ft. x 165 ft. (AVG)/.19 ac.

DISTRICT #: 1

ZONING: P-D

EXISTING USE(S): New home (under construction)

PROPOSED USE(S): Permanent generator alongside of a new home

SURROUNDING USES: N - New home (under construction)
S - New home (under construction)
E - Vacant
W -Open Space

STAFF FINDINGS AND ANALYSIS:

1. The subject property is part of The Preserve at Lakeside Village P-D, which was approved in 2014, through Land Use Plan LUP-14-04-096. This community is a development with minimum lot width of 45 feet, side setbacks of five (5) feet, front setbacks of fifteen (15) feet and a rear setback of twenty-five (25) feet. Individual homes may be up to three (3) stories.

2. Because no specific setbacks for equipment such as a/c units or generators, that equipment must comply with the requirements for siting contained in Chapter 38, the Zoning Code.
3. Until 2016, the setbacks for generators was 30 ft. from a side property line if adjacent to the residence. In a 2016 amendment to the Zoning Code, the setback was reduced to 10 ft. if adjacent to the residence. If the generator is located behind the residence, it may be located within five (5) ft. of the rear and side property lines.
4. New permanent generators are now much quieter than past units. The generator being proposed performs a self-test every week for 12 minutes. During this period, the generator operates at a noise level of 52 Decibels (Db). Normal conversation is 50 Db. When the units is operating at full power during a power outage, it operates at a level of approximately 65 Db, which is between the sound of conversation in a restaurant and a vacuum cleaner. This is approximately the sound of an a/c compressor.
5. The applicant is proposing to locate the generator on the northerly side of the house. The existing a/c unit and pool equipment is located on the southerly side of the house. The neighboring residents to the north have their a/c compressor on their south side of their home.
6. The applicant is constructing a pool (B1808885). However, to the rear of the pool is open yard. The generator could be located to the rear of the pool, and comply with the setbacks.

Variance Criteria

Special Conditions and Circumstances

The subject property is not shaped differently than the other lots in the subdivision in which the subject property is located. There are no special conditions or circumstances particular to the subject property.

Not Self-Created

The applicant could locate the generator to the rear of the pool cage.

No Special Privilege Conferred

Granting the variance would confer a special privilege, as others have installed permanent generators in compliance with this provision of the code, which were significantly reduced in 2016.

Deprivation of Rights

There is adequate room in the rear yard to install the generator in compliance with this provision of the code.

STAFF RECOMMENDATION:

Staff recommends denial of the request. However, should the BZA find that the application merits the granting of the variance, it is recommended that the following conditions be attached:

1. Development in accordance with the site plan dated August 15,2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.

cc: Mike Fitzpatrick For Genstar Generator Sales
715 Biscayne Dr.
Orange City, FL 32763