

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

December 16, 2025

The following is a public hearing on an appeal before the Board of County Commissioners on December 16, 2025, at 2:00 p.m.

APPLICANT: BERESFORD GITTENS

APPELLANT: LUZ ELBA GITTENS

CASE #: VA-25-09-039

REQUEST: Variances in the R-L-D zoning district for a detached accessory structure (shed) as follows:
1) To allow a 1 ft. north side setback in lieu of 5 ft.
2) To allow a 1 ft. rear setback in lieu of 5 ft.
NOTE: This is a result of Code Enforcement.

LOCATION: 5285 Shale Ridge Trl., Orlando, FL 32818, east side of Shale Ridge Trl., south of Clarcona Ocoee Rd., east of N. Apopka Vineland Rd., west of N. Hiawassee Rd., north of Silver Star Rd.

LOT SIZE: +/- 6,599 sq. ft.

ZONING: R-L-D

DISTRICT: #2

PROPERTIES NOTIFIED: 166

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

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 Variance. Staff noted that no comments were received in favor or in opposition to the request.

The property owner was present and discussed the installation of the shed and pavers. The property owner provided four letters stating approval from neighboring property owners.

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

The BZA and applicant discussed at length the chosen placement of the shed, the water runoff, the lack of obtaining permits, and impacts to adjacent property owners. A representative from Development Engineering spoke to the additional conditions related to stormwater runoff and the installation of gutters. Code Enforcement was also present and discussed the cited violations and noted that the case has not yet been heard by the Special Magistrate.

The BZA voiced concerns with adverse impacts to adjacent property owners, and recommended denial of the Variance requests by a 5-1 vote with 1 absent.

BZA HEARING DECISION:

A motion was made by John Drago, seconded by Juan Velez, and carried to recommend 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) (5 in favor: John Drago, Juan Velez, Glenn Rubinstein, Sonya Shakespeare, Johnny Stanley; 1 opposed: Roberta Walton Johnson; 1 absent: Thomas Moses).



ORANGE COUNTY ZONING DIVISION
201 South Rosalind Avenue, 1st Floor, Orlando, Florida
32801 Phone: (407) 836-3111 Email: BZA@ocfl.net
www.orangecountyfl.net

Board of Zoning Adjustment (BZA) Appeal Application

Appellant Information

Name: LuzElba Gittens

Address: 5285 Shale Ridge Trail Orlando FL 32818

Email: junieryelba@hotmail.com Phone #: (210) 852-6688

BZA Case # and Applicant: VA-25-09-039

Date of BZA Hearing: 10/02/2025

Reason for the Appeal (provide a brief summary or attach additional pages of necessary):

We feel by adding gutters to the shed and open porch area to drain towards our property and complete sod greenery on the side of the house would alleviate water draining concerns. In addition to the letters from neighbors previously submitted and attempting to obtain one from the neighbor directly behind our property, would suffice in us being able to keep the shed and open porch for our family to continue to enjoy being in the outdoors in addition not loose monies already invested.

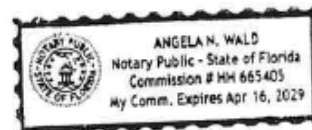
Signature of Appellant: [Signature] Date: 10/14/2025

STATE OF Florida
COUNTY OF Seminole

The foregoing instrument was acknowledged before me this 14 day of October, 2025, by Luz Elba Gittens who is personally known to me or who has produced Florida Driver License as identification and who did/did not take an oath.

[Signature]
Notary Public Signature

Notary Stamp:



NOTICE: Per Orange County Code [Section 30-45](#), this form must be submitted within 15 days after the Board of Zoning Adjustment meeting that the application decision was made.

Fee: \$691.00 (payable to the Orange County Board of County Commissioners)

Note: Orange County will notify you of the hearing date of the appeal. If you have any questions, please contact the Zoning Division at (407) 836-3111.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **OCT 02, 2025**

Commission District: **#2**

Case #: **VA-25-09-039**

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

GENERAL INFORMATION

APPLICANT(s): BERESFORD GITTENS

OWNER(s): BERESFORD GITTENS JR, LUZ ELBA CRUZ-ROSADO GITTENS

REQUEST: Variances in the R-L-D zoning district for a detached accessory structure (shed) as follows:

1) To allow a 1 ft. north side setback in lieu of 5 ft.

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NOTE: This is a result of Code Enforcement.

PROPERTY LOCATION: 5285 Shale Ridge Trl., Orlando, FL 32818, east side of Shale Ridge Trl., south of Clarcona Ocoee Rd., east of N. Apopka Vineland Rd., west of N. Hiawassee Rd., north of Silver Star Rd.

PARCEL ID: 02-22-28-7558-01-630

LOT SIZE: +/- 6,599 sq. ft.

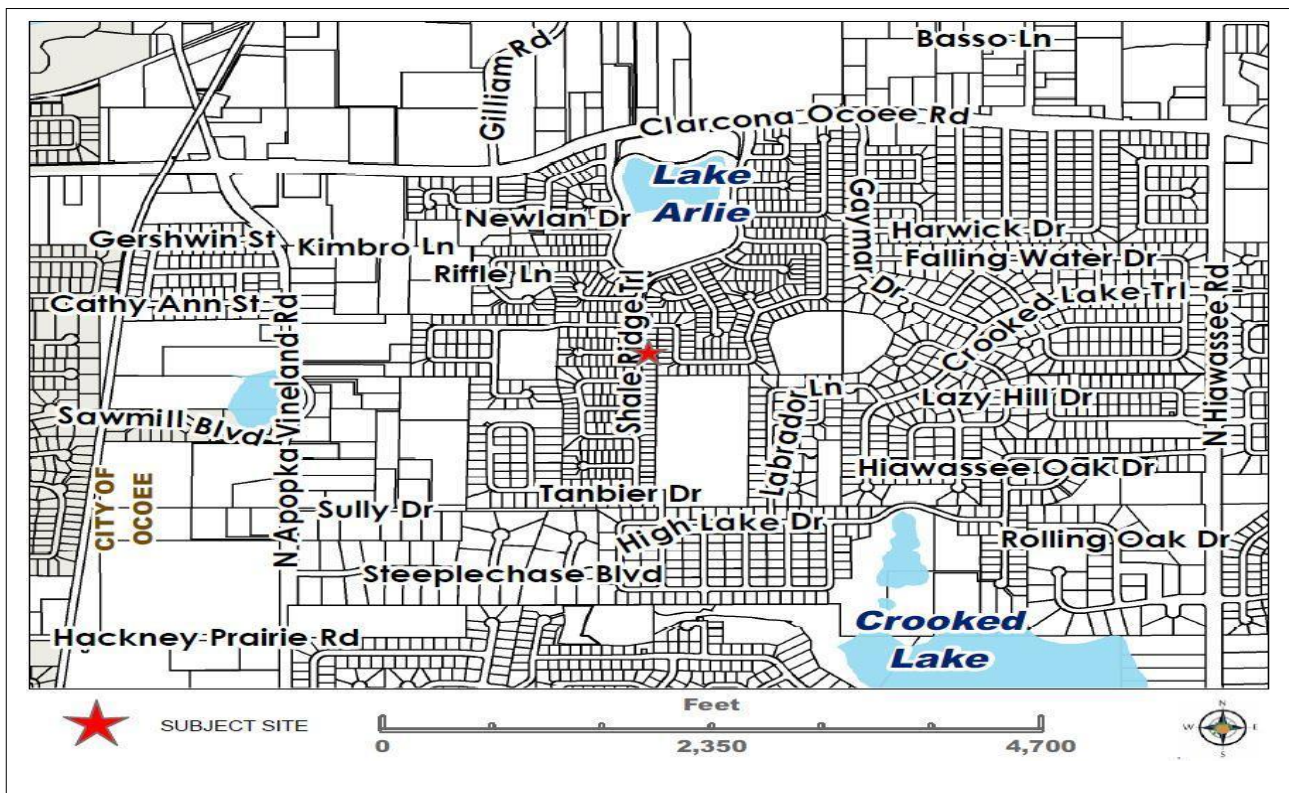
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 166

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of all 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-L-D	R-L-D	R-L-D	R-L-D	R-L-D
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

The subject property is 6,599 sq. ft. in size, was platted in 2003 as lot 163 of the Robinson Hills Unit 3 plat and is a conforming lot of record. The area around the property consists of single-family homes. The property was purchased by the current owner in 2020, and is developed with a 1-story, 2,390 gross sq. ft. single-family home (B03016020), constructed in 2004, as well as a detached accessory structure, paver patio in the rear yard (Z25008404 under review), a concrete walkway to the right side of the home, and a 6 ft. tall white vinyl privacy fence (F18012924).

Code Enforcement cited the property owner on April 24, 2025, (CE: 654050) for an accessory structure built without a permit. The case is scheduled to be heard before the Special Magistrate on October 6, 2025, and is not subject to any daily fines as of the date of this report. To satisfy the code violation, the unpermitted improvements must be removed, or permits must be obtained. No permit has been submitted for the structure as of the date of this report.

The proposal is to keep the existing 324 sq. ft. 27 ft. by 12 ft., 10.17 ft. tall accessory structure which is comprised of a 16 ft. by 12 ft. shed and an 11 ft. by 12 ft. open porch area. Section 38-1426(1)c.2.(ii) of Orange County Code states, a detached accessory structure with a height of fifteen (15) feet or less shall be set back a minimum of five (5) feet from any side or rear lot line. The structure is 10.17 ft. in height and is located 1 ft. from the north side property line, requiring Variance request #1, and 1 ft. from the rear property line, requiring Variance request #2.

During the site visit, a concrete walkway and paver patio was observed on site by staff and installed without permits. The owner shall obtain a zoning permit for the paver area and a building permit for the concrete walkway prior to the issuance of the accessory structure permit, as reflected in Condition of Approval (COA) #5 and #6.

Building Setbacks (Accessory Structure)

	Code Requirement	Proposed
Front:	Not located in the Front yard	N/A
Side:	5 ft.	1 ft. (North – Variance #1) 32 ft. (South)
Rear:	5 ft.	1 ft. (East – Variance #2)

The request was routed to all relevant reviewing Divisions. There were no objections noted. Development Engineering Reviewer noted the applicant shall install gutter and downspout systems on the existing structure to capture all roof runoff. Collected runoff shall be directed to the public right-of-way in a manner that does not adversely impact adjacent properties, as reflected in COA #7.

As of the date of this report, no comments have been received in favor or in opposition to this request. Section 30-43 (3) of the Orange County Code stipulates a recommendation of approval can only be made if all six (6) Variance criteria are met. Staff have determined that the Variance requests do not meet all the criteria. Based on staff's analysis, had permits been obtained prior to construction the applicant could have redesigned the structure to comply with all development standards. Additionally, the subject property has a significantly higher ground elevation to the closest affected neighbor. Allowing 1 ft. setbacks would be intrusive to the neighboring properties to the side and rear. Therefore, staff is recommending denial of all the Variances.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

All Variances NOT MET – There are no special conditions or circumstances peculiar to this property, as the structure was erected without a permit and could have been installed in a code compliant manner.

Not Self-Created

All Variances NOT MET – The need for the Variances is self-created, as the structure was erected without a permit and could have been installed in a code compliant manner.

No Special Privilege Conferred

All Variances NOT MET – Approval of the requested Variance will confer on the applicant special privilege as any accessory structure in the R-L-D district must maintain 5 ft. from all side property lines per Chapter 38, which could have been met.

Deprivation of Rights

All Variances NOT MET – Denial of the Variance would not deprive the owner of the ability to have accessory structures on the property. The subject lot contains adequate space for an accessory structure to be built in compliance with all setback requirements.

Minimum Possible Variance

All Variances MET – The requested Variances are the minimum possible to allow the existing development to remain in its current configuration. No new construction is proposed with the requested Variances.

Purpose and Intent

All Variances NOT MET – Approval of the requested Variance would not 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. Granting these Variances would be intrusive to the neighboring properties and inconsistent and incompatible with the surrounding area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan date stamped September 17, 2025, 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 for the accessory structure (shed and open porch) shall be obtained within 180 days of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of the permit for the accessory structure, a permit for the pavers shall be obtained, or the pavers shall be removed from the property.
6. Prior to the issuance of the permit for the accessory structure, a permit for the concrete walkway shall be obtained, or the concrete shall be removed from the property.
7. The shed shall be modified to utilize a gutter and downspout systems on the existing structure to capture all roof runoff. Collected stormwater runoff shall be directed to the public right-of-way in a manner that does not adversely impact adjacent properties

C: Beresford Gittens Jr.
5285 Shale Ridge Trl.
Orlando, FL 32818

Juan Vasquez
5285 Shale Ridge Trl.
Orlando, FL 32818

VARIANCE Application
5285 Shale Ridge Trl, Orlando Fl 32818

OWNERS: GITTENS LUZ ELBA CRUZ-ROSADO GITTENS BERESFORD JR

Request is for: Shed and Open Porch/ Setbacks

Reason for request: The existing setbacks do not comply with requirement by the Orange County.

Type of construction proposed: Wood, shingles and plexiglass.

SF proposed: Shed: 16'x12' (gross area 192 SF). Open Porch: 11'x12' (gross area 132 SF).

Construction from property line: Shed: rear setback 1' in lieu of 5'.
Open Porch: rear setback 1' in lieu of 5'; left side setback is 1' in lieu of 5'.

Proposed height: Shed: 10'-2". Open Porch: 8'-10".

Numerical values: Shed 10.17' height. Open Porch 8.83' height.

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 shed and open porch built most likely achieve the separation of 10 feet, in combination with the neighbor's left side closer structure.

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.

It was never intentional to provoke a zoning violation when both structures were built. The purpose of the Shed is to have storage space and the open porch is to have a recreation place for the family

3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

Approval of the zoning variance requested will not confer any special privilege that is denied by this chapter, on me, to the other building or structures in the same zoning district.

4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would

deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Side setback combination to achieve separation can be a relief that could help us to keep both structure, that worth approximately \$20,000.-

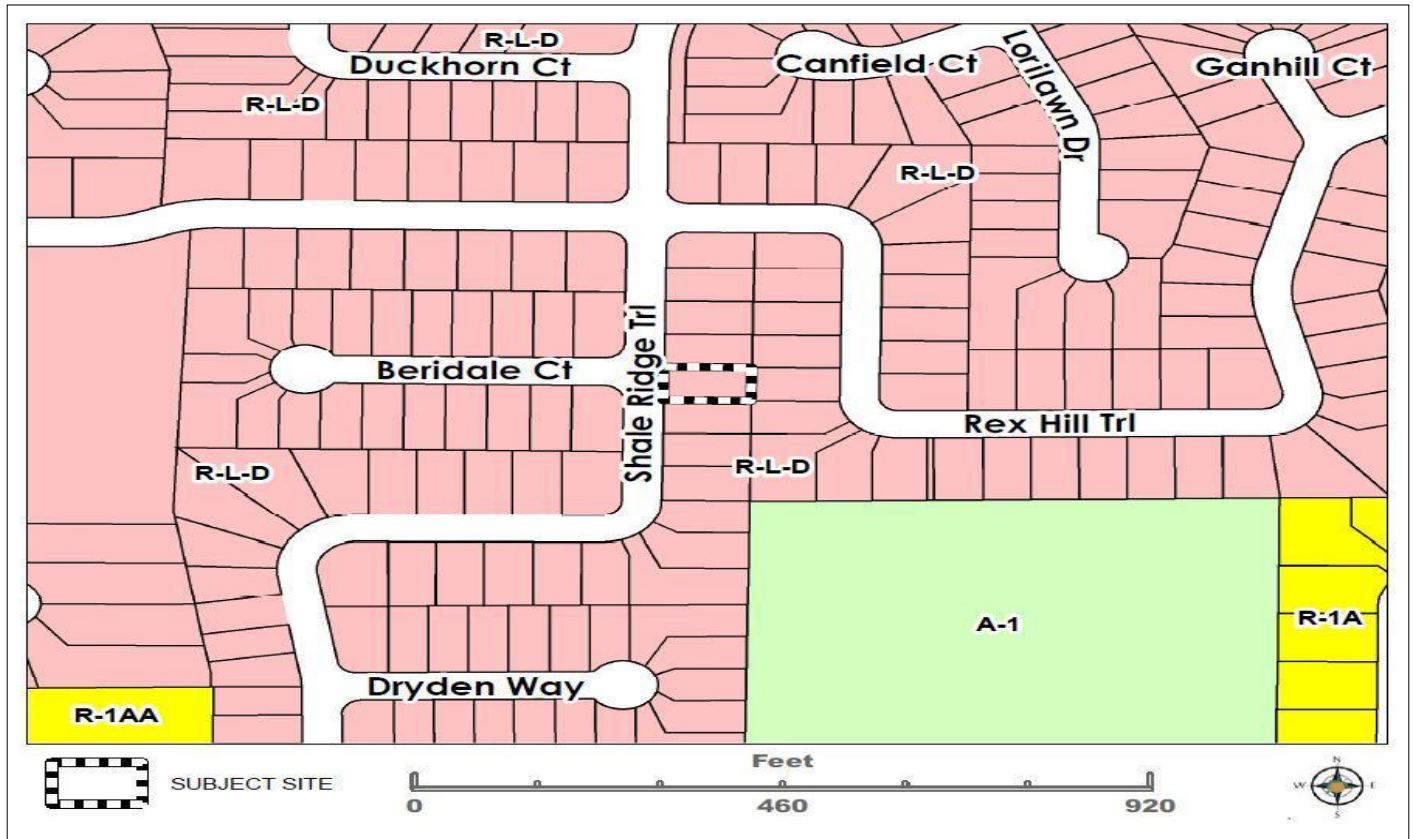
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The variance requested is the least possible change needed to make the property usable without causing undue harm or disruption

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

Approval of the zoning variance will not be injurious to the neighborhood or otherwise detrimental to public welfare.

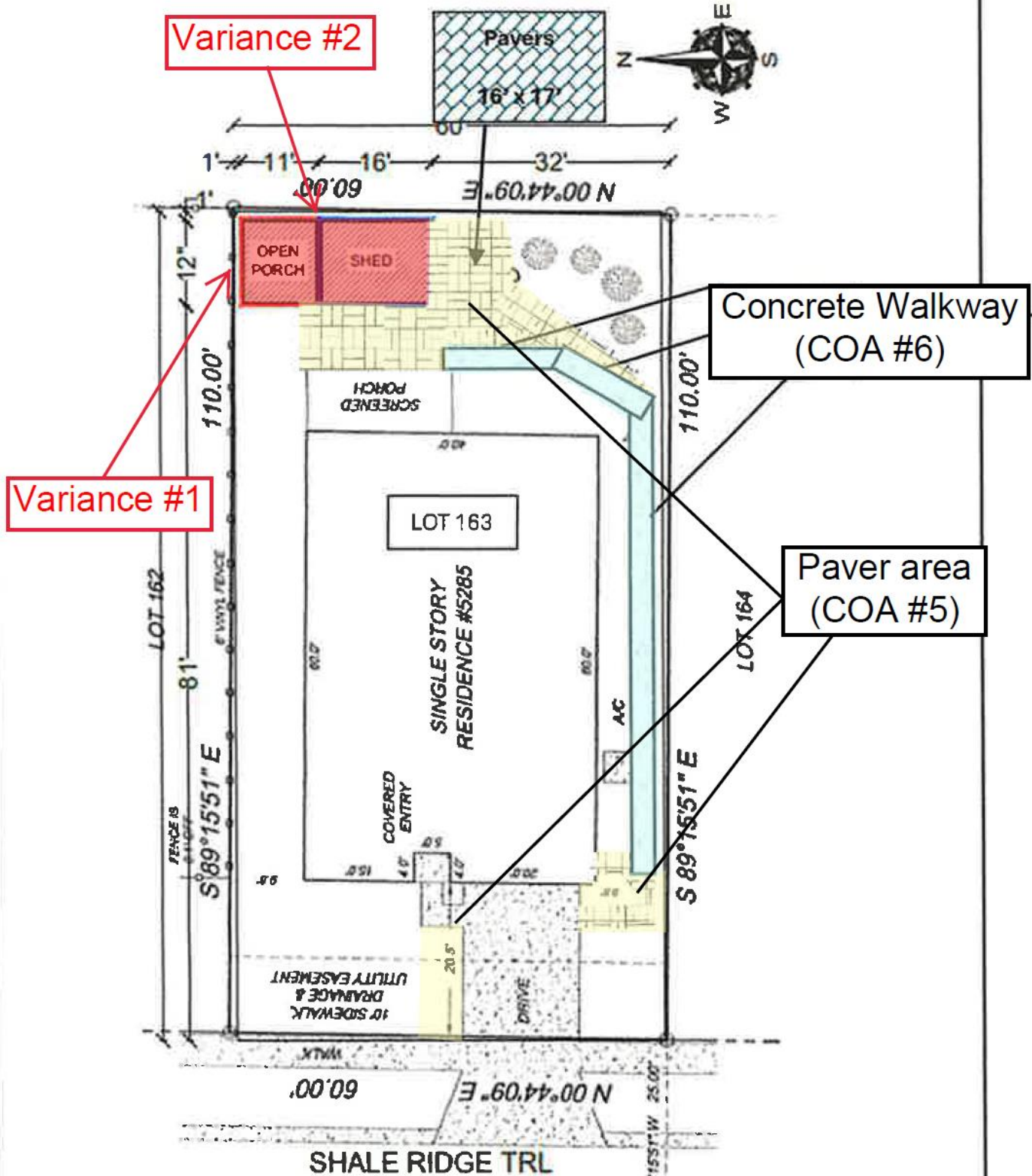
ZONING MAP



AERIAL MAP



SITE PLAN



SITE PHOTOS



August 4, 2025 1:44 PM

Facing east towards front of subject property



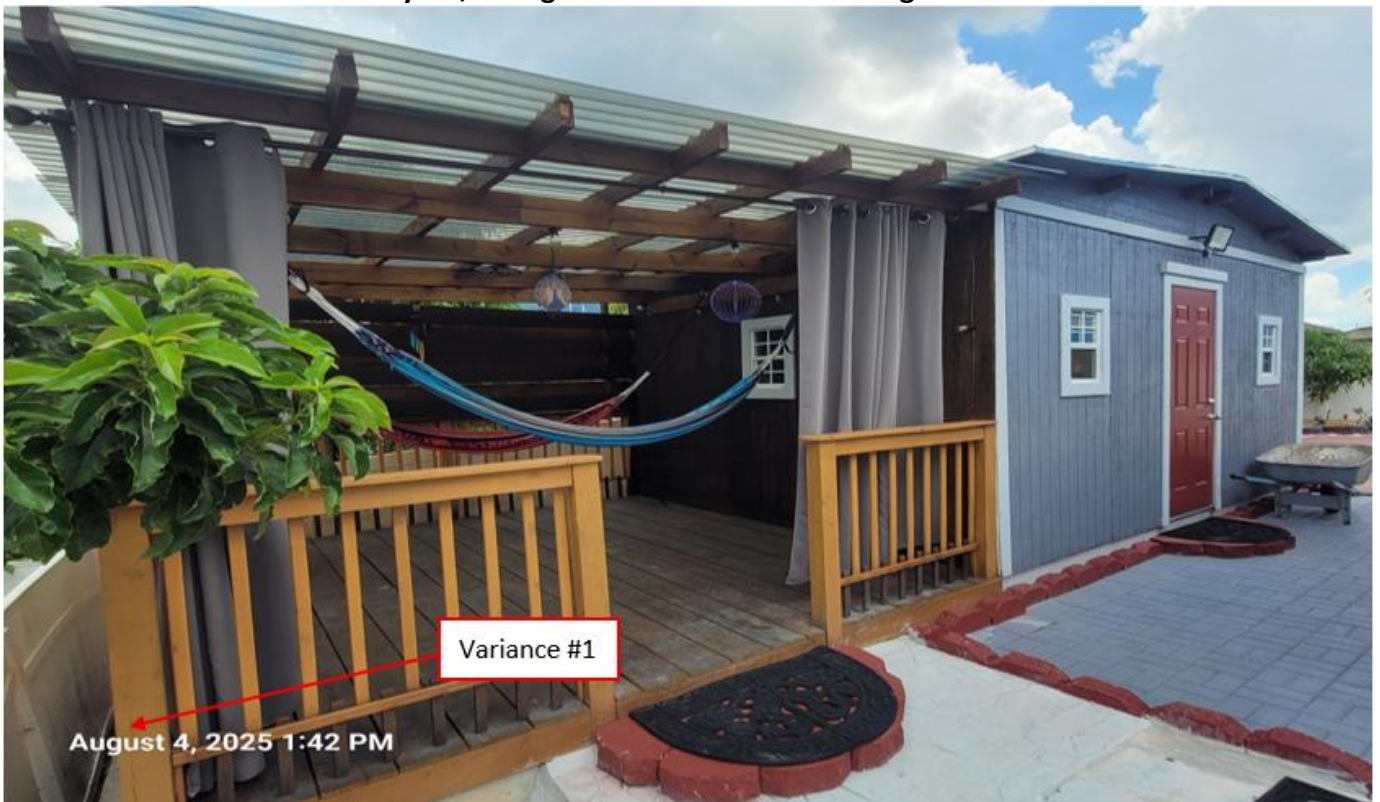
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Side yard, facing east towards concrete walkway along the south side of the home

SITE PHOTOS



Rear yard, facing north towards the existing structure



Rear yard, facing southeast towards the existing structure

SITE PHOTOS



August 4, 2025 1:42 PM

Site yard, facing west towards the road and neighboring property to the north