



Interoffice Memorandum

3

DATE June 6, 2019

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

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

CONTACT PERSON: **Sean Bailey, Chief Planner, Zoning Division  
407-836-5806**

SUBJECT: July 2, 2019 – Appeal Public Hearing  
Applicant: Dr. Francelis Gonzalez/Frank Chase  
Appellant: Fernando Mariano  
BZA Case #VA-19-03-010, March 7, 2019; District 1

Board of Zoning Adjustment (BZA) Case # VA-19-03-010, located at 8701 Scenic Oak Court, in District 1, is an appeal public hearing to be heard on July 2, 2019. The applicant is requesting a variance to construct a two-story addition in the R-L-D zoning district with a rear setback of 31 ft. in lieu of 50 ft. The appellant, Fernando Mariano, is the neighbor directly to the west of the subject property who objects to the request, stating it would set a precedent and does not meet the variance criteria.

The subject property is located on the east end of Scenic Oak Court, north of Boca Point Dr. and west of S. Apopka Vineland Rd.

At the March 7, 2019 BZA hearing, staff recommended denial of the variance. The BZA stated that the proposed location of the addition would not be intrusive to the neighbors and that the 50 ft. rear setback is too restrictive. The BZA approved the variance with a 6-1 vote. At the May 21, 2019 BCC hearing, the case was continued as the applicant could not attend.

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.

If you have any questions regarding this matter, please contact Sean Bailey at 6-5806.

**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.**

**PLANNING, ENVIRONMENTAL DEVELOPMENT SERVICES DEPARTMENT  
ZONING DIVISION PUBLIC HEARING REPORT  
July 2, 2019**

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

**APPELLANT/APPLICANT:** DR. FRANCELIS GONZALEZ

**REQUEST:** Variance in the R-L-D zoning district to allow a rear (north) setback of 31 ft. in lieu of 50 ft.

**LOCATION:** 8701 Scenic Oak Ct., Orlando, FL 32836, East end of Scenic Oak Ct., north of Boca Point Dr. and west of S. Apopka Vineland Rd.

**TRACT SIZE:** 124 ft. x 222 ft. (avg.)/.57 acres

**ZONING:** R-L-D

**DISTRICT:** #1

**PROPERTIES NOTIFIED:** 58

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

Staff gave a presentation on the case covering the location of the property, the site plan, and photos of the site.

The applicant stated that the HOA was withholding determination pending BZA approval. The applicant also noted that the other options such as adding space over the garage, or relocating the pool will be much more costly and is not what the owner wants, as they prefer first floor space closer to the existing pool. The applicant showed photos of the wall separating the neighborhoods, and stated that the neighbors pool enclosures were closer to the rear property line. The applicant stated that the second floor is just for storage, and they can remove the rear windows.

The owner stated that they need to live within a certain radius to nearby hospitals, so they cannot build a new house to their specifications. The applicant also stated that they need this space to store items for charity events. They further noted that there is significant vegetation along the back wall to buffer the adjacent subdivision.

A neighbor spoke in opposition, noting the size of the existing house and the addition. He also commented on the windows on all sides and felt that this would set a precedent.

The BZA asked the applicant if the proposal was the least intrusive way to do the expansion. The BZA confirmed that the square footage was not an issue, just the setback. The BZA also noted that the

property abuts the neighborhood recreation area/tennis courts on one side, and noted that the R-L zoning encourages creative and innovative design, and felt that the request meets that intent. The Board observed that the applicant was being required to adhere to a limitation because they abut R-CE zoning.

Staff received 0 commentaries in favor of the application, and 2 in opposition to the application.

The BZA approved the variance.

**BZA HEARING DECISION:**

A motion was made by Carolyn Karraker, seconded by Wes A. Hodge and unanimously carried to APPROVE the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (6 in favor and 1 opposed):

1. Development in accordance with the site plan dated January 15, 2019, 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 County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 07, 2019**

Case Planner: **Nick Balevich**

Case #: **VA-19-03-010**

Commission District: **#1**

## GENERAL INFORMATION

APPLICANT(s): DR. FRANCELIS GONZALEZ

OWNER(s): DR. FRANCELIS GONZALEZ

REQUEST: Variance in the R-L-D zoning district to allow a rear (north) setback of 31 ft. in lieu of 50 ft.

PROPERTY LOCATION: 8701 Scenic Oak Ct., Orlando, FL 32836, East end of Scenic Oak Ct., north of Boca Pointe Dr. and west of S. Apopka Vineland Rd.

PARCEL ID: 09-24-28-8935-00-040

LOT SIZE: 124 ft. x 222 ft. (AVG)/.57 acres

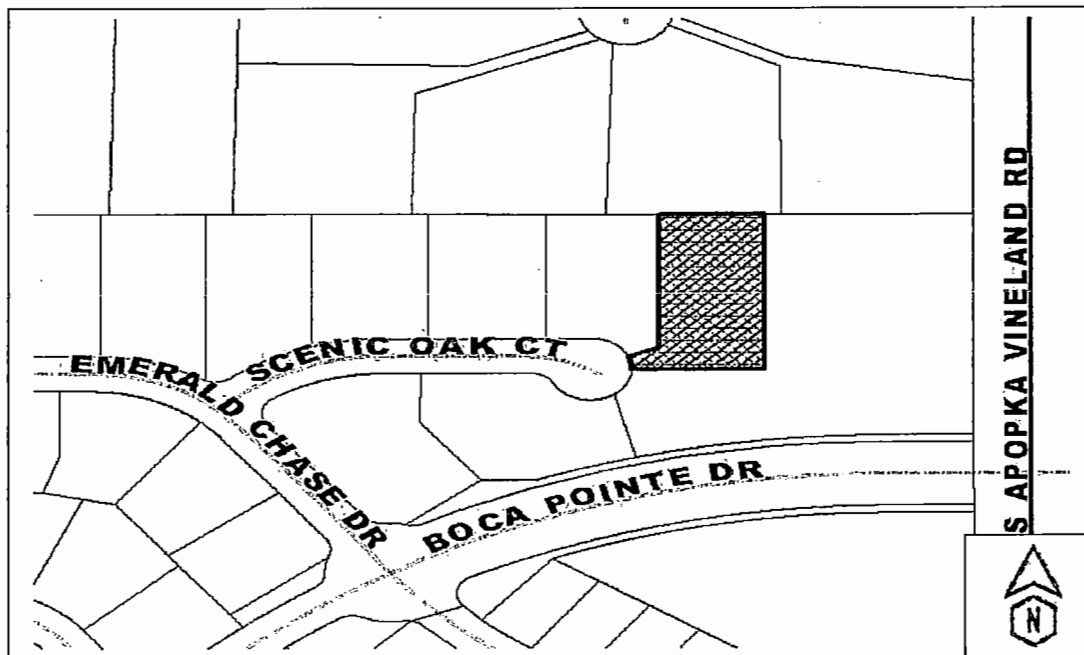
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 58

## STAFF RECOMMENDATIONS

Denial, however if the BZA recommends approval then staff recommends the conditions of approval found in this report.

## LOCATION MAP



**SITE & SURROUNDING DATA**

	<b>Property</b>	<b>North</b>	<b>South</b>	<b>East</b>	<b>West</b>
<b>Current Zoning</b>	R-L-D	R-CE	R-L-D	R-L-D	R-L-D
<b>Future Land Use</b>	LDR	R	LDR	LDR	LDR
<b>Current Use</b>	Single Family Residence	Single Family Residence	Single Family Residence	Recreation tract	Single Family Residence

**BACKGROUND AND ANALYSIS**

**Description and Context**

The property is located in the R-L-D zoning district. This district is intended to encourage creative and innovative design techniques to provide a variety of both detached and attached residential development with the low density residential Future Land Use designation, and to provide for compatibility with adjacent development.

The lot was platted in 1996, as lot 4 in the Turtle Creek Subdivision and is considered to be a conforming lot of record. There is a 7,978 sq. ft. (gross area) 5,401 sq. ft. (living area) single family home and swimming pool on the lot, which was constructed in 2004. The applicant purchased the property in 2004.

The applicant is proposing to construct a 2,112 sq. ft. two story addition to the rear of the house, which will be 31 ft. from the rear property line. The existing home sits at the 50 ft. setback line.

The request constitutes a 38% deviation from code. Per code, the required rear setback for the R-L-D District is 15 ft., however in an effort to match the R-CE zoning to the north, a 50 ft. setback was required by the Development Review Committee for lots 4-21 which abut the R-CE.

There are other options for the applicant to build an addition to the property without the need for a variance.

**District Development Standards**

	<b>Code Requirement</b>	<b>Proposed</b>
<b>Max Height:</b>	35 ft.	27 ft.
<b>Min. Lot Width:</b>	110 ft.	110 ft.
<b>Min. Lot Size:</b>	0.51 ac.	0.57 ac.

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

	Code Requirement	Proposed
Front:	30 ft.	31 ft.
Rear:	50 ft.	31 ft.
Side:	10 ft.	10 ft.

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

The applicant has not demonstrated any special conditions or circumstances that are unique to this property that do not apply to all other properties with the same zoning and in the same subdivision. The lot meets the minimum lot area, and there are other areas where an addition could be placed without a variance.

**Special Privilege Conferred**

Approval of the request will grant the applicant special privilege that is denied to other lands, building, or structures in the same zoning district. No other variances have been approved on the lots which abut the R-CE to the north.

**Deprivation of Rights**

The applicant would not be deprived of rights commonly enjoyed by other properties in the same zoning district adjacent to the R-CE residential neighborhood to the north.

**Minimum Possible Variance**

The request is not the minimum variance at a 38% deviation from code.

**Purpose and Intent**

Approval of this request will not be in harmony with the purpose and intent of the zoning regulations and will set a precedent in the neighborhood for those lots adjacent to the R-CE.

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## CONDITIONS OF APPROVAL

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1. Development in accordance with the site plan dated January 16, 2019, 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 County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

c: FRANK CHASE FOR FW CHASE ENTERPRISES, LLC.  
PO Box 100  
Windermere, FL 34786

COVER LETTER

Dr. Francelis Gonzalez  
8701 Scenic Oak CT  
Orlando, FL 32836  
(407) 346-2999

January 15, 2019

Orange County Zoning Division  
201 South Rosalind Ave, 1<sup>st</sup> Floor  
Orlando, FL 32801

**RE: Application for Variance – 8701 Scenic Oak CT (Parcel ID 09-24-28-8935-00-040)**

To Whom It May Concern,

This letter summarizes our request for a variance to the rear setback requirement for an addition to our home to lie within the 50 ft requirement. The proposed addition would be 30 feet from the rear property line. The plan, as proposed is for a two-story addition. The first floor would be used as a recreation room and the second floor would primarily be additional storage/closet space. As designed, the peak of the roof of the addition would be lower than the highest point of the current existing roof line and the side yard setback would not be encroached.

We have worked with our Architect and Contractor looking at other ways to avoid the need for a variance. The front yard is the only area where there is space for the addition and we have come to the conclusion that the current design of the existing house does not allow us to add this type of space to the front home. Locating the addition in proximity to the pool is also an important factor to us. As shown in the attached picture, our rear property line has a 6-foot solid block/brick wall separating our property from our neighbor to the rear and there is dense tree growth on the other side of the wall that blocks all visibility of either home from the other.

Several of our neighbors that enjoy a similar buffer of trees with their rear neighbors have installed expansive (in both height and width) screen enclosures well within the 50' rear setback. We feel that our addition would be no more or less impactful than those structures.

Application is being made to the Architectural Review Board of the Turtle Creek Master Homeowners Association and a determination will be arrived at prior to the Orange County Public Hearing date of March 7, 2019.

Thank you for your time and assistance with our request.

Sincerely,



Dr. Francelis Gonzalez  
8701 Scenic Oak CT  
Orlando FL 32836





January 15, 2019

To: Orange County Zoning Division  
201 South Rosalind Avenue, 1<sup>st</sup> Floor  
Orlando, FL 32801  
From: Frank Chase

**RE: Variance Criteria Compliance for 8701 Scenic Oak Ct, Orlando, FL 32836  
Home Addition**

The *Special Conditions and Circumstances* that exist on site are the fact that the home is placed too far to the rear of the lot to allow enough room for an addition, and the design of the home with its attached garage does not provide a way to accomplish the addition in the front yard.

The hardship was *not self-created*. The Homeowner having no knowledge of construction or land development was not aware that the location of the home on the property would limit her ability to add an addition to the rear of the home or would require a variance for this addition.

There would be *no special privilege conferred* as other rear yard setback variances have been allowed in Orange County in the in the R-L-D zoning district.

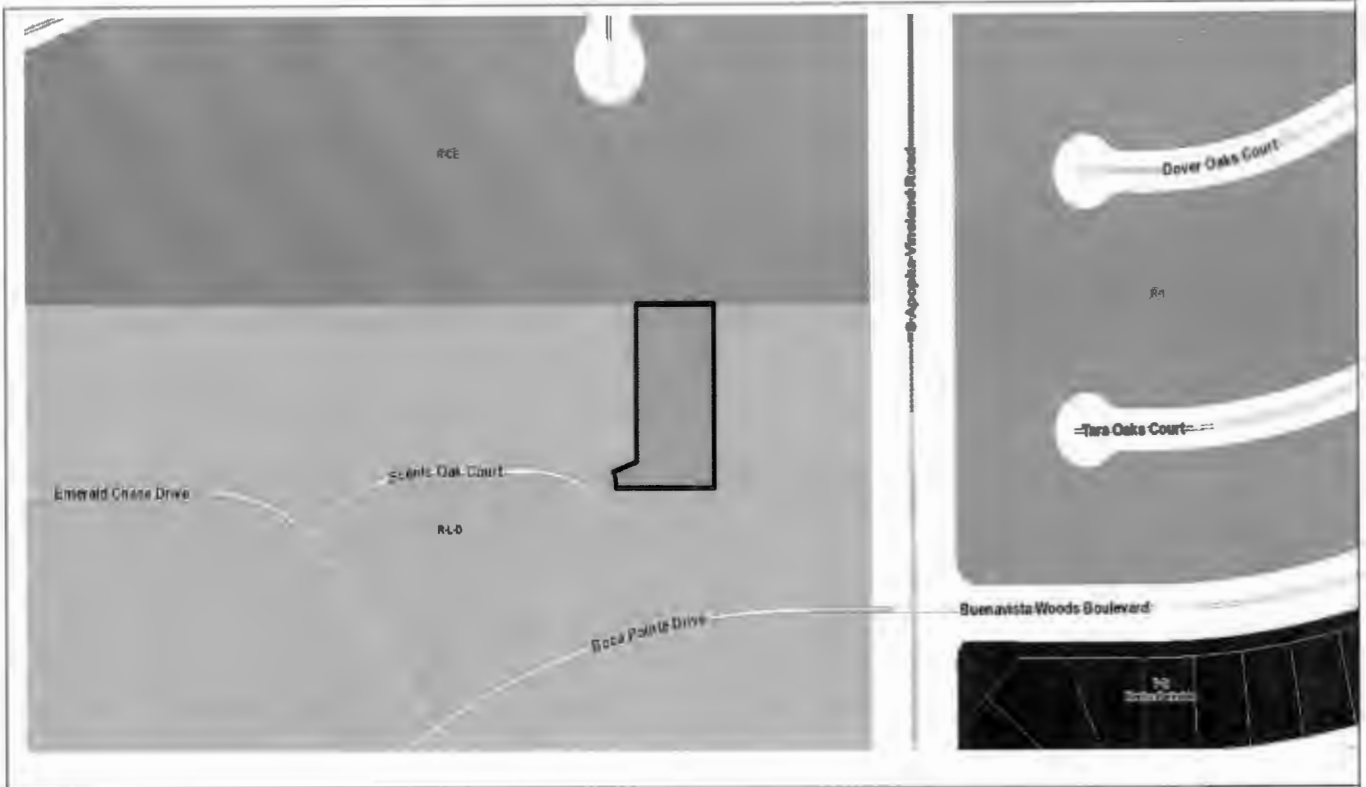
Regarding *Deprivation of Rights*, if this variance isn't allowed Dr. Gonzalez will not be able to fully enjoy the use of her large lot as she intended with a recreation room in close proximity to the existing pool, in a neighborhood she loves and feels secure in.

We are requesting the *Minimum Possible Variance* as Dr Gonzalez has worked with a designer and discussed her plans for the use and furnishings of the room. It was lengthened in the east-west direction and narrowed in the north-south direction in an effort to maintain a 30+ foot setback from the rear property line. The second floor will be for much needed storage and closet space.

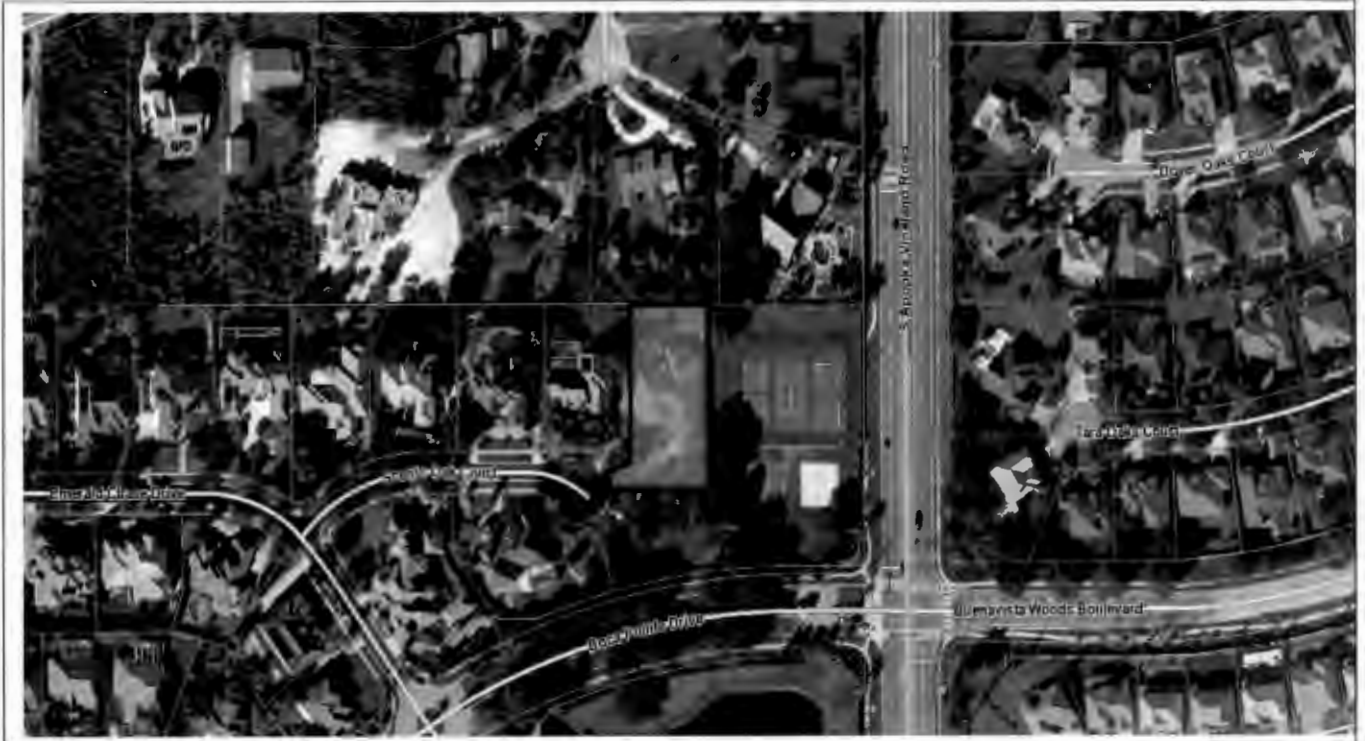
The addition is being located away from the immediate neighbor and where it is screened from the view of the rear neighbor. The rear yard location allows proximity to the Pool and the Lanai so as to use and enjoy these areas simultaneously. If it were constructed in the front of the home it would be located next to the immediate neighbor and create an odd and ungainly flow to the entire home and reduce its usability. This is a great example of the *Purpose and Intent* of such a zoning variance

P. O. Box 100 ~ Windermere, FL 34786 ~ (407) 509-6614 ~ CBC 047749

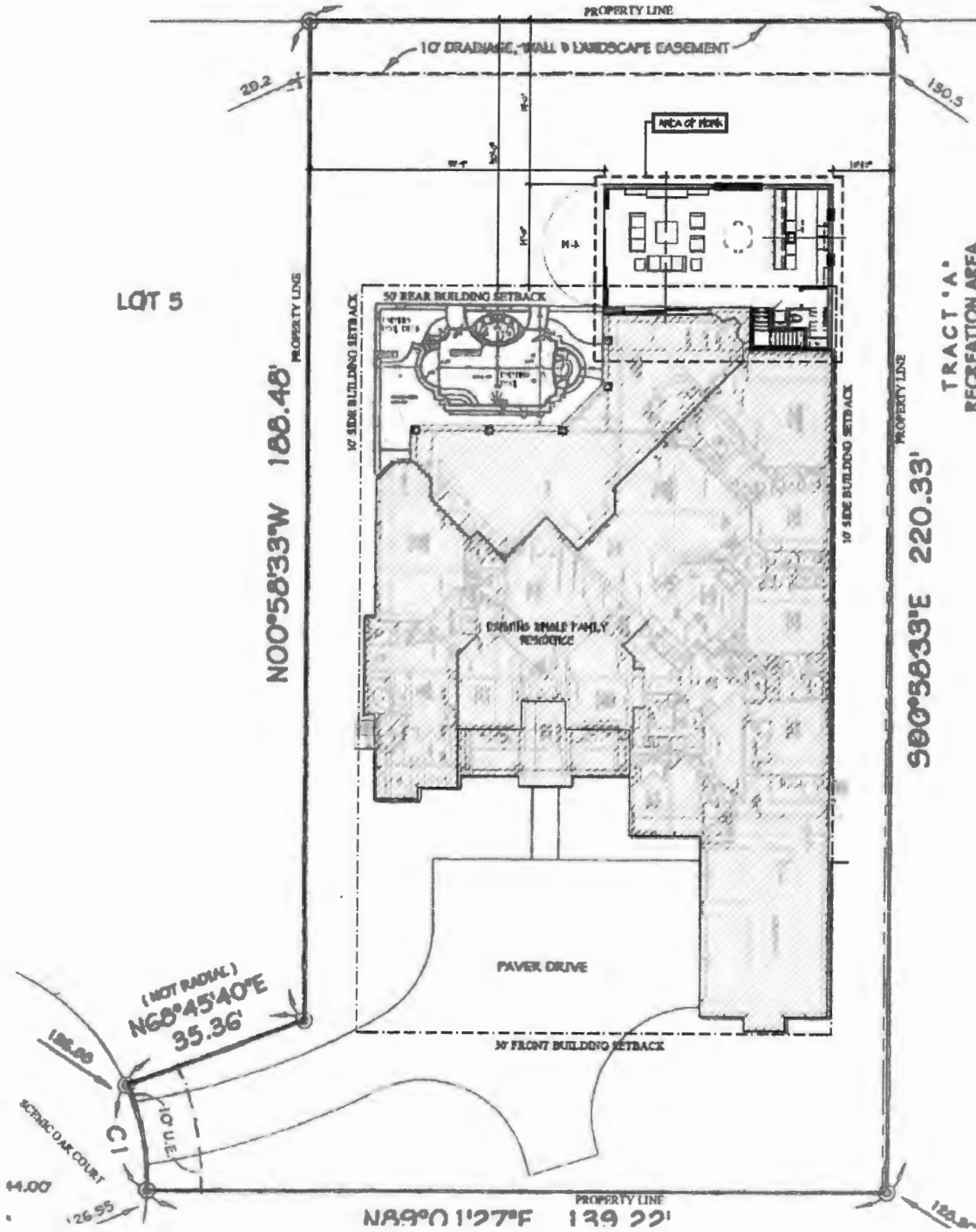
# ZONING MAP



# AERIAL MAP



# SITE PLAN / SURVEY



**TOTAL DESCRIPTION**  
 LOT 4, WAREHOUSES AND BIODIGESTERS AT  
 TALLEY CREEK, ACCORDING TO THE PLAT  
 THEREOF AS RECORDED IN PLAT BOOK 34  
 PAGES 49 THROUGH 53, BY THE PUBLIC  
 RECORDS OF ORANGE COUNTY, FLORIDA.

**DESCRIPTION OF WORK**  
 THE WORK DESCRIBED IN THESE  
 DOCUMENTS INCLUDES THE FOLLOWING:

1. TWO STORY ADDITION AT REAR  
 REAR OF DRIVE TO INCLUDE  
 RECREATION ROOM, CLOSET AND  
 STORAGE.

**FLOOR AREA**

EXISTING UNDER ROOF A/C	= 6,401 SF
NEW ADDITION A/C	= 2,112 SF
GRAND TOTAL A/C	= 8,513 SF
NON A/C	= 2,871 SF
GRAND TOTAL UNDER ROOF	= 10,680 SF

**LOT AREA**  
 TOTAL LOT AREA:  
 PLAT 34 = 0.87 ACRES

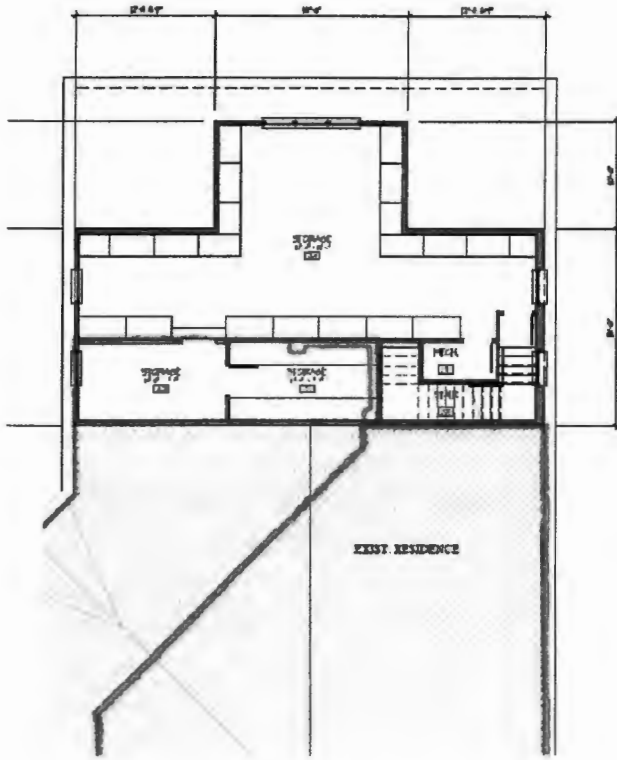
**PERMITS VS. REQUIREMENTS**

TOTAL LOT AREA	0.87 ACRES
PERMITS	11,881 SF OR 47.28
REQUIREMENTS	13,101 SF OR 52.36

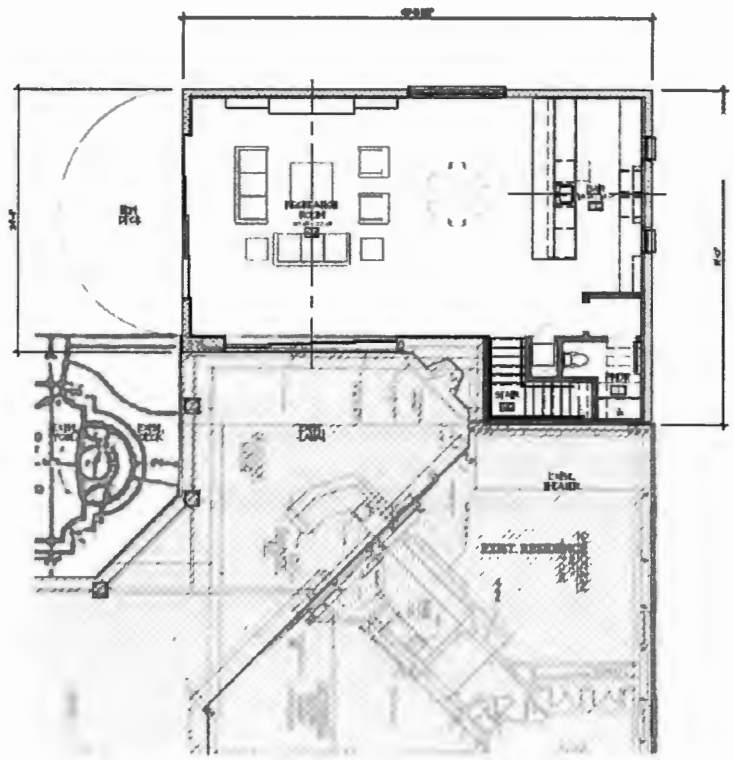
**SETBACKS**

FRONT	30'
REAR	50'
SIDE	10'

SITE PLAN  
 10-1-20



10 PARTIAL UPPER FLOOR PLAN  
1/4" = 1'-0"



- LEGEND**
- ▬▬▬▬▬ NEW FLOOR FINISH
  - ▬▬▬▬▬ EXIST. FLOOR FINISH
  - ▬▬▬▬▬ EXIST. WALL
  - ▬▬▬▬▬ EXIST. DOOR
  - ▬▬▬▬▬ EXIST. WINDOW

11 PARTIAL MAIN FLOOR PLAN  
1/4" = 1'-0"



Floor Plan

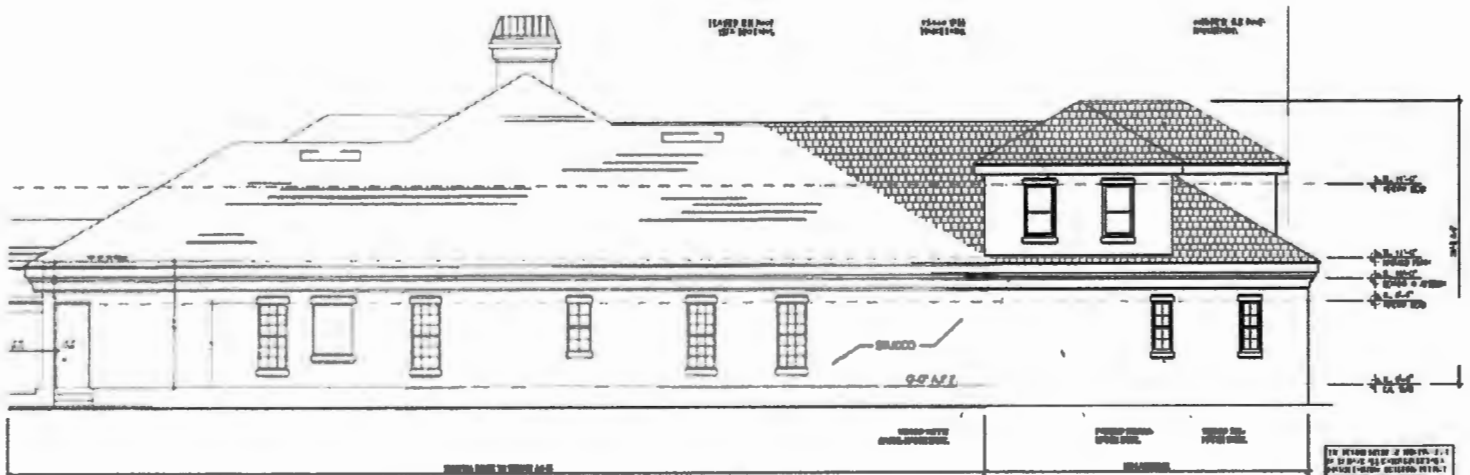


02 PARTIAL LEFT SIDE ELEVATION  
1/4" = 1'-0"

Elevations



10 PARTIAL LEFT SIDE ELEVATION  
1/4" = 1'-0"



11 PARTIAL RIGHT SIDE ELEVATION  
1/4" = 1'-0"

10. THESE ELEVATIONS ARE NOT TO SCALE  
 11. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE  
 12. ALL FINISHES ARE TO BE AS SHOWN UNLESS NOTED OTHERWISE  
 13. ALL MATERIALS ARE TO BE AS SHOWN UNLESS NOTED OTHERWISE  
 14. ALL WORK IS TO BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC AND ALL APPLICABLE CODES

Elevations

SITE PHOTOS



Front from Scenic Oak Dr.



Rear yard





Rear yard



Rear yard