



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

February 4, 2021

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)

ORANGE COUNTY GOVERNMENT

<u>Board Member</u>	<u>District</u>
Thomas Moses	1
John Drago	2
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Charles J. Hawkins, II	6
Roberta Walton	At Large

BZA Staff

Ted Kozak, AICP	Chief Planner
Nick Balevich	Planner II
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**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
FEBRUARY 4, 2021**

<u>PUBLIC HEARING</u>	<u>APPLICANT</u>	<u>DISTRICT</u>	<u>BZA RECOMMENDATIONS</u>	<u>PAGE #</u>
VA-21-02-139	Vine Street, LLC (Rebecca Wilson)	3	Approved w/Conditions	1
VA-20-12-114	Sugey Librado	4	Approved w/Conditions	21
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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 (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
A-1	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-2	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-R	108,900 (2½ acres)	1,000	270	35	50	25	35	<i>a</i>
R-CE	43,560 (1 acre)	1,500	130	35	50	10	35	<i>a</i>
R-CE-2	2 acres	1,200	250	45	50	30	35	<i>a</i>
R-CE-5	5 acres	1,200	185	50	50	45	35	<i>a</i>
R-1AAAA	21,780 (1/2 acre)	1,500	110	30	35	10	35	<i>a</i>
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	35	<i>a</i>
R-1AA	10,000	1,200	85	25 <i>h</i>	30 <i>h</i>	7.5	35	<i>a</i>
R-1A	7,500	1,200	75	20 <i>h</i>	25 <i>h</i>	7.5	35	<i>a</i>
R-1	5,000	1,000	50	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
R-2	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Two dwelling units (DUs), 8,000/9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	30	5 <i>h</i>	35	<i>a</i>
	Three DUs, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-3	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5	35	<i>a</i>
	Two DUs, 8,000/ 9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Three dwelling units, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10	35	<i>a</i>
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	35	<i>a</i>
R-T-1								
SFR	4,500 <i>c</i>	1,000	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
Mobile home	4,500 <i>c</i>	Min. mobile home size 8 ft. x 35 ft.	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
R-T-2	6,000	SFR 500	60	25	25	6	35	<i>a</i>
(prior to 1/29/73)		Min. mobile home size 8 ft. x 35 ft.						
R-T-2 (after 1/29/73)	21,780 ½ acre	SFR 600	100	35	50	10	35	<i>a</i>
		Min. mobile home size 8 ft. x 35 ft.						

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
NR	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80/90 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50/4 stories <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NAC	Non-residential and mixed use development, 6,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	50 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 11,250	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50 feet/4 stories, 65 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NC	Non-residential and mixed use development, 8,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	65 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	65 feet, 80 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 for each add. story	35	<i>a</i>
C-1	6,000	500	80 on major streets (see Art. XV); 60 for all other streets <i>e</i> ; 100 ft. for corner lots on major streets (see Art. XV)	25	20	0; or 15 ft. when abutting residential district; side street, 15 ft.	50; or 35 within 100 ft. of all residential districts	<i>a</i>

District	Min. lot area (sq. ft.) ^m	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) ^a	Min. rear yard (ft.) ^a	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
C-2	8,000	500	100 on major streets (see Art. XV); 80 for all other streets ^f	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	50; or 35 within 100 feet of all residential districts	<i>a</i>
C-3	12,000	500	125 on major streets (see Art. XV); 100 for all other streets ^g	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	75; or 35 within 100 feet of all residential districts	<i>a</i>

District	Min. front yard (feet)	Min. rear yard (feet)	Min. side yard (feet)	Max. building height (feet)
I-1A	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-1 / I-5	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-2 / I-3	25	10	15	50, or 35 within 100 ft. of any residential use or district
I-4	35	10	25	50, or 35 within 100 ft. of any residential use or district

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

<i>a</i>	Setbacks shall be a minimum of 50 feet 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 the lakeshore protection ordinance and the conservation ordinance, 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 covered patio, 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.
<i>b</i>	Side setback is 30 feet where adjacent to single-family district.
<i>c</i>	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. ft. 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.
<i>d</i>	For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet and the duplex lot size is 8,000 square feet. For detached units the minimum duplex lot width is 90 feet and the duplex lot size is 9,000 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. For duplex lots that: <ul style="list-style-type: none"> (i) are either platted or lots of record existing prior to 3/3/97, and (ii) are 75 feet in width or greater, but are less than 90 feet, and (iii) have a lot size of 7,500 square feet or greater, but less than 9,000 square feet are deemed to be vested and shall be considered as conforming lots for width and/or size.
<i>e</i>	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
<i>f</i>	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
<i>g</i>	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
<i>h</i>	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.
<i>j</i>	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.
<i>k</i>	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%.
<i>m</i>	Based on gross square feet.

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: **FEB 04, 2021**

Case Planner: **Ted Kozak, AICP**

Case #: **VA-21-02-139**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): VINE STREET, LLC (REBECCA WILSON)

OWNER(s): VINE STREET, LLC

REQUEST: Variances in the R-2 zoning district to allow for conversion of an existing 877 sq. ft. structure to residential as follows:

- 1) To allow 2,400 sq. ft. of lot area in lieu of 4,500 sq. ft.
- 2) To allow for a minimum living area of 877 sq. ft. in lieu of 1,000 sq. ft.
- 3) To allow a residence to be located 4 ft. from the south rear property line in lieu of 25 ft.
- 4) To allow a residence to be located 3 ft. from the west side property line in lieu of 6 ft.
- 5) To allow a residence to be located 12.8 ft. from the north front property line in lieu of 25 ft.

PROPERTY LOCATION: 2218 Vine St., Orlando, FL 32806, south side of Vine St., west of S. Bumby Ave., north of Curry Ford Rd.

PARCEL ID: 31-22-30-1684-05-313

LOT SIZE: 40 ft. x 60 ft./ 0.06 acres (2,400 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 138

DECISION: Recommended **APPROVAL** of the Variance requests 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 (unanimous; 7-0):

1. Development shall be in accordance with the site plan and elevations dated December 30, 2020, 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 to convert the structure to residential shall be obtained within 2 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.

SYNOPSIS: Staff briefly described the property, including the year the parcel was platted, the year the existing structure was constructed, the history of how the property was conveyed and utilized prior to 2014, and the circumstances which resulted in the current parcel configuration. Staff further presented the plans and elevations for the proposed conversion to a residence. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval of the variances. Staff noted that two (2) comment letters were received in support and one (1) comment letter was received in opposition.

The applicant briefly discussed the need for the variances and agreed with the staff recommendation. There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the variance, subject to the four (4) 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-2	R-2	R-2	R-2	R-2
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Accessory Structure	Single-family residence	Single-family residence	Townhouse	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-2, Residential district, which allows single-family residences, duplexes and multi-family development.

The parcel is a 0.06 acre portion of Block E, Lots 31 and 32 of the Conway Park Plat, recorded in 1926. The site contains an existing 877 sq. ft. accessory structure, which according to the Property Appraiser's office was constructed in 1956. The applicant purchased the property in 2014. The neighborhood consists of a mix of single-family residences, many of which were constructed during the same time period as the subject structure and several new townhouses directly to the east.

The subject site, comprised of the east 60 ft. of Lots 31 and 32, was removed from the original parent parcel via warranty deed in 1965, and was consolidated with Lots 1 through 8 to the east. Based on aerials and google street view, it appears that the existing 877 sq. ft. structure was attached to a larger structure located on Lots 1-4, and used as a Masonic Lodge.

The current owner purchased the property in 2014. At that time, the property consisted of Lots 1 through 8, and the east 60 ft. of Lots 31 and 32, Block E, of the Conway Park Plat, totaling 0.67 +/- acres. In 2014, the current owner submitted a request for a plat reversion. The plat reversion created three separate parcels, one of which was the subject parcel (a remnant 40 ft. X 60 ft. portion of the parent parcel), and two other parcels, each of which consisted of 4 lots, on which townhomes were subsequently developed. As a result of the 2014 plat reversion, the 40 ft. X 60 ft. remnant portion of the property created a 2,400 sq. ft. substandard parcel, requiring Variance #1.

In 2015, the applicant obtained a demolition permit to demolish the portion of the Masonic Lodge building on lots 1-4, leaving the 877 sq. ft. structure on the subject site. The applicant is now proposing to renovate and convert the existing 877 sq. ft. accessory structure to a single-family residence, requiring Variance #2, for a reduction of minimum living area in lieu of a minimum of 1,000 sq. ft. The existing structure is located 4 ft. from the rear property line, requiring Variance #3, is located 3 ft. from the side west property line, requiring Variance #4, and is located 12.8 ft. from the front north property line, requiring Variance #5. The 11.3 ft. east side setback meets the required 6 ft. side setback requirement for the R-2 zoning district. The proposed renovation of the existing structure to be converted to a single-family residence is designed to be compatible with the surrounding residences in the area.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	15 ft.
Min. Lot Width:	45 ft.	60 ft.
Min. Lot Size:	4,500 sq. ft.	0.06 ac./ 2,400 sq. ft. (Variance #1)

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

	Code Requirement	Proposed
Front:	25 ft.	12.8 ft. (Variance #5)
Rear:	25 ft.	4 ft. (South - Variance #3)
Side:	6 ft.	3 ft. (West - Variance #4)/ 11.3 ft. (East)

STAFF FINDINGS**VARIANCE CRITERIA****Special Conditions and Circumstances**

Since the existing structure was constructed in 1956, prior to the adoption of the County Code, and the lot was sold and removed from the front half of Lots 31 and 32 in 1965, there are special conditions and circumstances pertaining to the requests. The special conditions and circumstances exist since the current configuration of this portion of the lot has been in existence since 1965, albeit as a part of the property to the east, and then approved as a separate parcel via plat reversion in 2014. Potentially the subject lot could be consolidated to the townhouse parcel to the east to meet the minimum lot area requirements but its use would be limited to an accessory structure, which may not be desired by the owner of that townhouse. Utilization as a single-family residence would likely be the most appropriate use of the structure in order to be consistent with the fabric of the neighborhood. Further, it is not possible to reconfigure the existing building in a manner that would meet Orange County code requirements due to the narrow depth of the lot.

Not Self-Created

The current owner is not responsible for the configuration of the lot as it was initially split from the original parcel in 1965, and subsequently approved by the County in 2014, as a plat reversion from the overall parcel at the time. Nevertheless, the current lot configuration was de facto created via that 2014 approval. Moreover, the owner is not responsible for the orientation of the building, including all building setbacks, since it was purchased in 2014, long after the structure was constructed in 1956. Although the current owner could consolidate the parcel with the adjacent townhouse property to the east or sell to the owner of the single-family lot to the west, the current building to be repurposed functions separately. Furthermore, the existing building has been located in its current location for over 60 years.

No Special Privilege Conferred

Granting the variances will not grant any special privilege since the lot area and the building living area is compatible with nearby properties. For example, the adjacent lot to the west is 3,080 sq. ft. in size (40 ft. by 77 ft.) and the adjacent townhome lots range in size from 21 ft. x 137 ft. (2,931 sq. ft.) to 36 ft. x 137 ft. (4,932 sq. ft.). Furthermore, the structure was existing when the owner purchased the property.

Deprivation of Rights

Deprivation of rights is a consideration since without the variances, due to the limited lot size, the property as a stand-alone lot would be undevelopable and the existing structure unusable, unless consolidated with one of the adjacent properties located to the east or west.

Minimum Possible Variance

These are the minimum possible variances needed to allow the existing lot and existing structure to remain and be repurposed as a single-family residence.

Purpose and Intent

Approval of the variances will be in harmony with the purpose and intent of the Zoning Regulations and such variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The requests to recognize the existing lot area and the existing setbacks would be consistent with the size and character of other properties within the neighborhood and would not be contrary to the purpose and intent of the Code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated December 30, 2020, 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 to convert the structure to residential shall be obtained within 2 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.

C: Rebecca Wilson
215 N. Eola Dr.
Orlando, FL 32801

COVER LETTER



M. REBECCA WILSON

rebecca.wilson@lowndes-law.com
215 NORTH EOLA DRIVE, ORLANDO, FLORIDA 32801-2028
T: 407-418-6250 | F: 407-843-4444
MAIN NUMBER: 407-843-4600



December 9, 2020

Jennifer Moreau
Orange County Zoning Division
201 S. Rosalind Avenue
Orlando, Florida 32802-2687

Re: Application for Variance; Tax Parcel ID # 31-22-30-168405-313 (the "Property")

Dear Ms. Moreau:

This law firm represents Vine Street, LLC, the owner of the above-referenced Property, with respect to the application for variances from certain Code requirements pertaining to the Property. The Property has a Comprehensive Plan Future Land Use designation of Low-Medium Density Residential. Consistent with this designation, the Property is zoned R-2 (Residential District). The Property is 2,400 SF and includes a 877 SF single family home, originally constructed in 1956 (the "Building"). Vine Street, LLC intends to renovate the existing Building, as shown more fully in the Building renovation documents submitted with its Application. The Property is bounded by townhomes to the east and single-family residential to the north, south, and west.

The pending BZA application seeks variances from the following Code requirements:

Lot Requirements:

- Minimum Lot Area
 - Code: 4,500 SF
 - Existing: 2,400 SF
- Minimum Lot Width
 - Code: 45 ft.
 - Existing: 40 ft.

Building Requirements:

- Minimum Living Area
 - Code: 1,000 SF

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COVER LETTER

Jennifer Moreau
December 9, 2020
Page 2

- Existing: 877 SF
- Setbacks
 - Code:
 - Front: 20 ft.
 - Side: 5 ft.
 - Rear: 20 ft.
 - Existing:
 - Front: 12.8 ft.
 - Side (east): 11.3 ft.
 - Side (west): 3 ft.
 - Rear: 4 ft.

Orange County Code, Section 30-43(3), details the specific criteria that must be met for all variance requests. In this case, all of the criteria have been met, as is discussed in more detail below.

(1) Special Condition and Circumstances.

Special conditions and circumstances exist which are peculiar to the Property and the Building which are not applicable to other lands, structures or buildings in the same zoning district. The Property is part of Lots 31 and 32 the Conway Park Subdivision, which was platted in 1926 (the "Plat"). According to the Plat, each individual lot within the Conway Park Subdivision was meant to be at least 135 ft. long and 20 ft. wide. At some point prior to Vine Street LLC's purchase of the Property in 2014, Lots 31 and 32 were subdivided to create 2208 Vine Street (77 ft. long), which is abuts the Property (60 ft. long) to the West. As a result of this subdivision, the Property—which constitutes the remainder of Lots 31 and 32—was created. Because the Property is not a complete lot which is a part of a platted subdivision, it is not a "lot of record" under Code. See below image from the Property Appraiser's Map, which shows how Lots 31 and 32 were subdivided to create 2208 Vine Street and the Property:



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COVER LETTER

Jennifer Moreau
December 9, 2020
Page 3

In 1956, the then-owner of the Property constructed the single-family residential Building currently on the Property, which Vine Street, LLC intends to renovate. In 2014, Interstruct LLC, an affiliated entity of Vine Street LLC, purchased Lots 1, 2, 3, and 4 of the Conway Park Subdivision. As a result of the subdivision which occurred prior to Vine Street LLC's ownership of the Property, contrary to the Plat, the Property was part of Lots 1 and 2 at the time of Interstruct LLC's purchase. Accordingly, as a result of the subdivision of Lots 31 and 32 and the construction of the Building, both of which occurred prior to Vine Street, LLC's purchase of the Property, special conditions and circumstances exist which are peculiar to the Property which are not applicable to other lands, structures or buildings in the same zoning district.

(2) Not Self-Created.

The special conditions and circumstances do not result from the actions of Vine Street, LLC. As discussed above, the subdivision of Lots 31 and 32 and the construction of Building predated Vine Street, LLC's purchase of the Property by several decades. Accordingly, the special conditions and circumstances that created the nonconforming lot and Building were not the result of the actions of Vine Street, LLC.

(3) No Special Privilege Conferred.

Approval of the zoning variances requested will not confer on Vine Street, LLC any special privilege that is denied to other lands, buildings, or structures in the same zoning district. Vine Street, LLC intends to renovate the existing Building without expanding it and to utilize the Building for the use intended in the zoning district – single-family residential. Moreover, the lot adjacent to the Property to the West (2208 Vine Street) is also nonconforming and is currently being used for single-family residential. Accordingly, allowing Vine Street, LLC to renovate the existing Building for single-family use would not confer any special privilege.

(4) Deprivation of Rights.

Literal interpretation of the Code would deprive Vine Street, LLC of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on Vine Street, LLC. Given the Property's dimensions and the surrounding uses, literal interpretation of the Code would dictate that the Property could not be used for any purpose. Accordingly, Vine Street, LLC's right to use the Property at all would be deprived by a literal interpretation of the Code.

(5) Minimum Possible Variance.

The zoning variances requested are the minimum variances that will make possible the reasonable use of the land, building, or structure. Vine Street, LLC intends to renovate the existing Building without expanding it. If the requested variances are not granted, Vine Street, LLC will not be able to use the Property at all. Accordingly, the requested lot size and building variances are the minimum that will make possible the reasonable use of the land and Building.

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COVER LETTER

Jennifer Moreau
December 9, 2020
Page 4

(6) Purpose and Intent.

Approval of the zoning variances will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The purpose of the R-2 zoning district will be advanced by allowing Vine Street, LLC to use the Property as a detached single-family residential Building. In addition, as shown in the renovation plans submitted with this Application, Vine Street, LLC intends to fully renovate and modernize the Building. Accordingly, approval of the variances will benefit the neighborhood by allowing the renovation of an unused and deteriorating building.

Moreover, approval of the variances will advance the goals stated in Orange County's Housing for All Action Plan. Specifically, Vine Street, LLC's plan to renovate the existing Building would provide the sort of "Missing Middle" housing encouraged by the Action Plan, which provides:

The tools and strategies prescribed by the Housing for All Task Force include modifying a number of regulatory tools, such as removing barriers to accessory dwelling units (ADUs), reducing minimum living area requirements, reducing parking requirements, and allowing flexible lot configurations. A strategy for implementing these tools is to encourage housing for the "Missing Middle," or those diverse housing types that are predominantly absent in Central Florida.

[T]he current Orange County Land Development Code poses numerous barriers to creating Missing Middle housing, including, but not limited to, minimum living area, lot sizes, setback and height requirements, stormwater and parking requirements, and household occupancy limits. (Emphasis added).

Accordingly, granting variances for the Property's lot and Building size advances the Housing For All Action Plan's stated goal of providing "Missing Middle" housing.

Very truly yours,

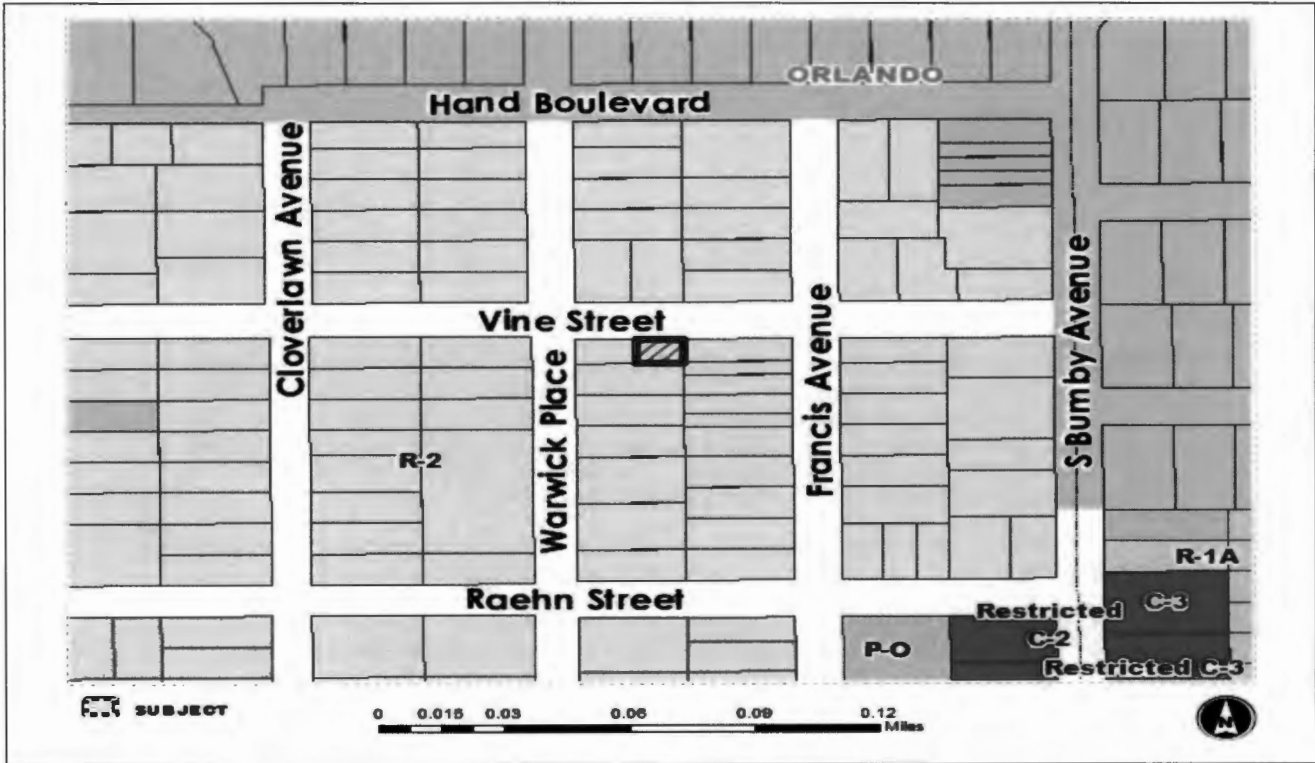


M. Rebecca Wilson

MRW/MTL

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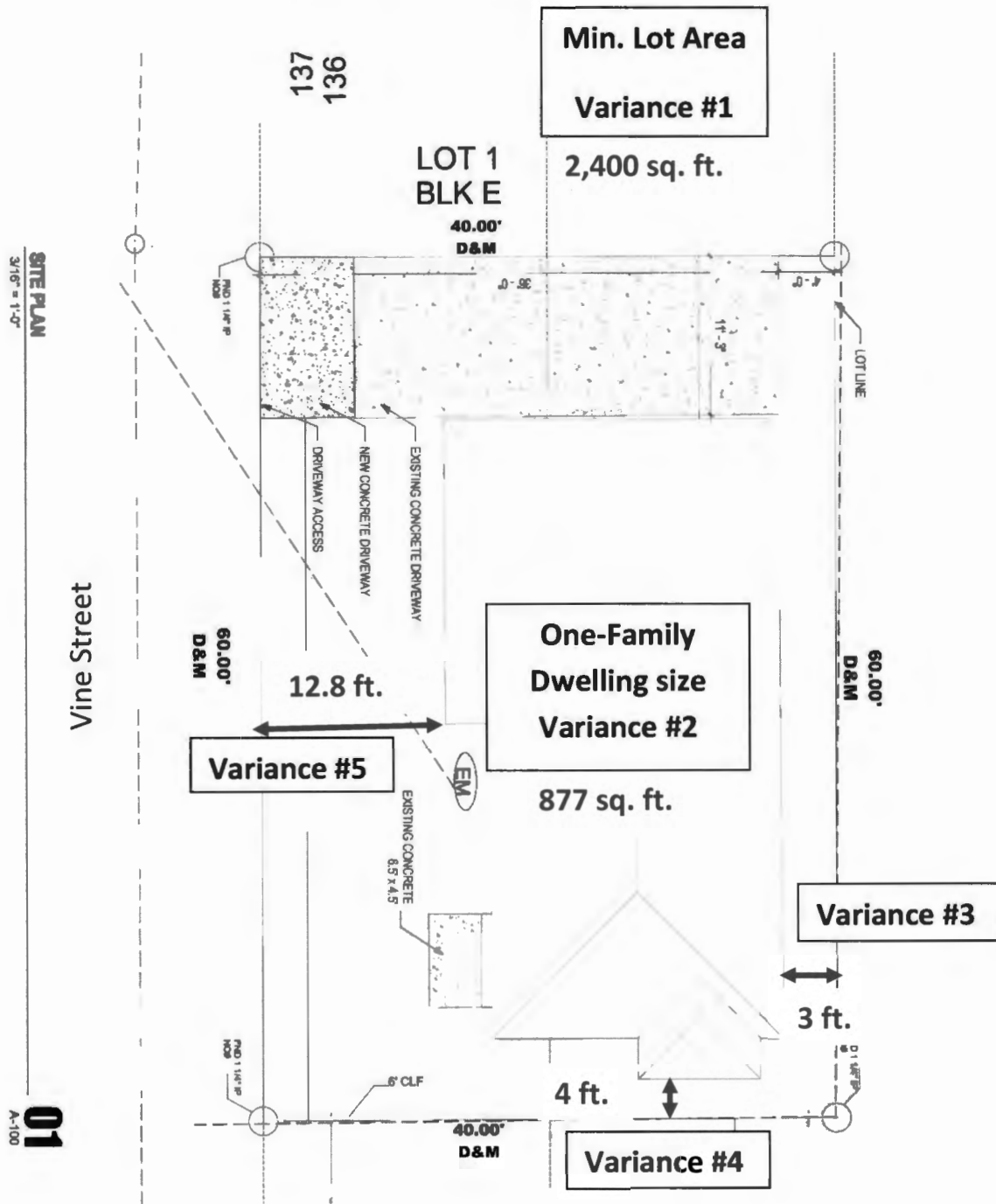
ZONING MAP



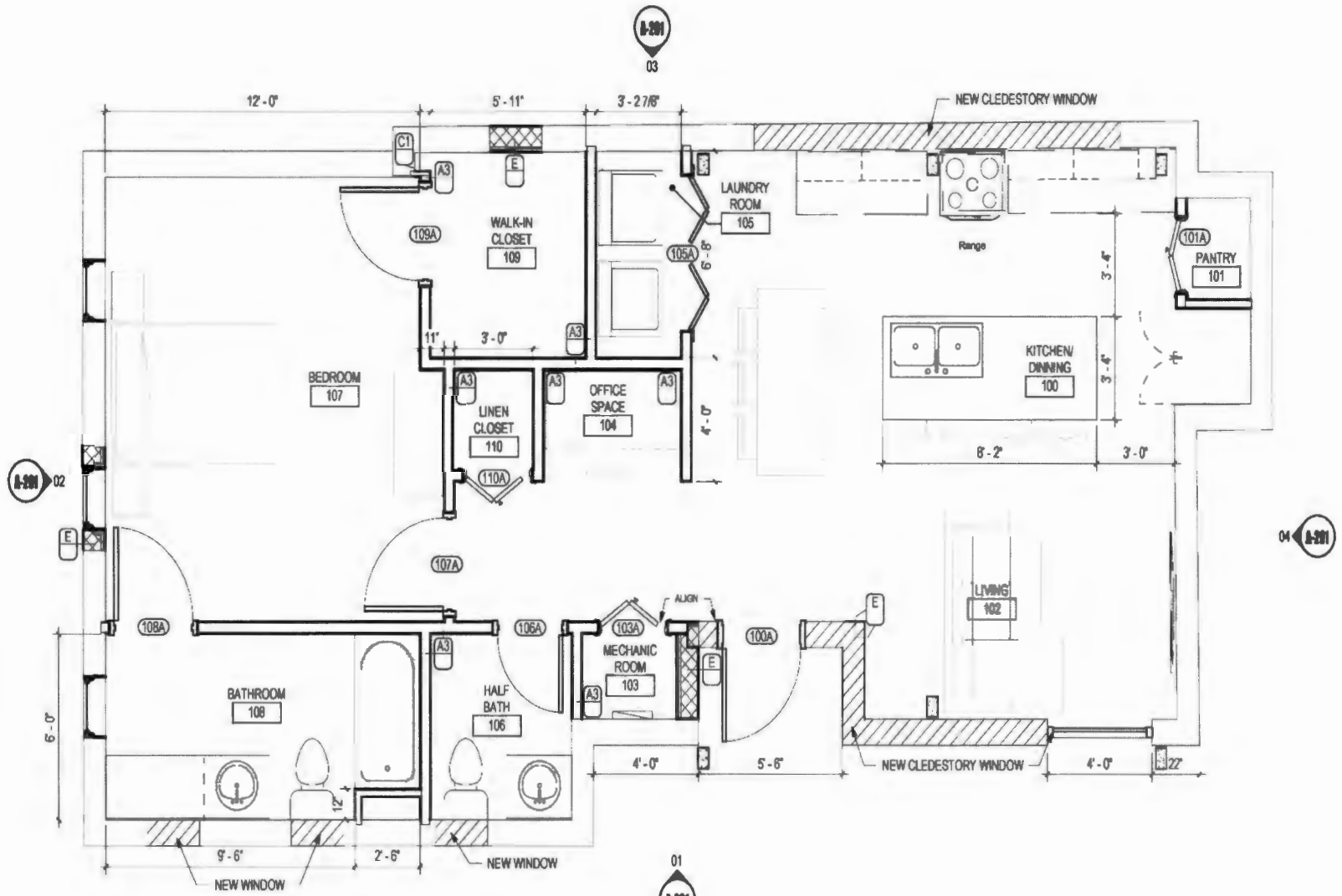
AERIAL MAP



SITE PLAN

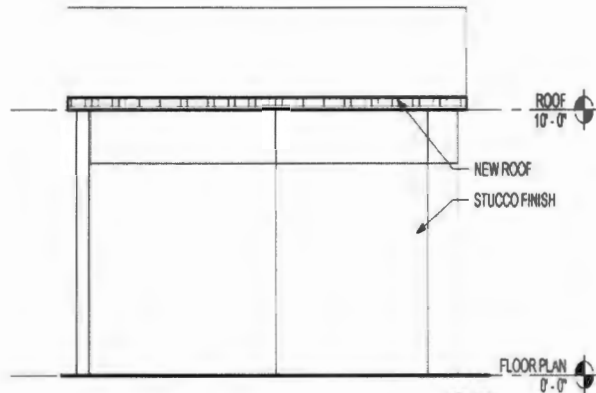


FLOOR PLAN



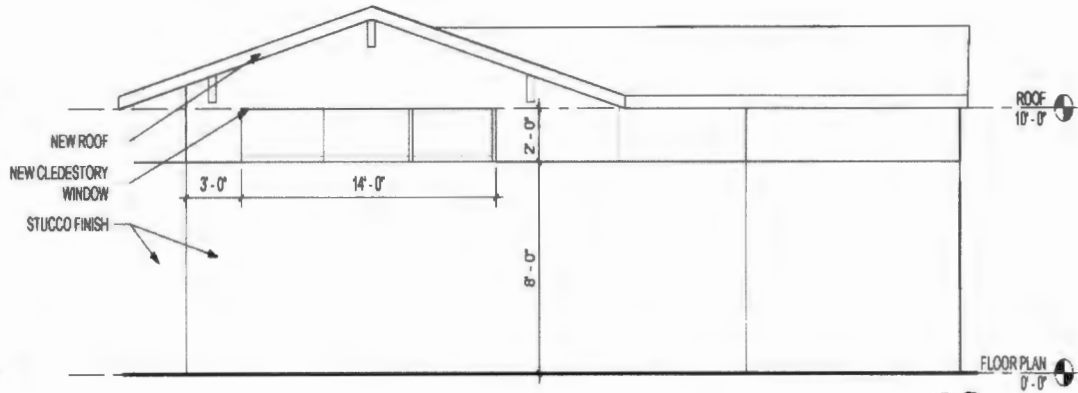
FLOOR PLAN
3/8" = 1'-0"

01
A-101



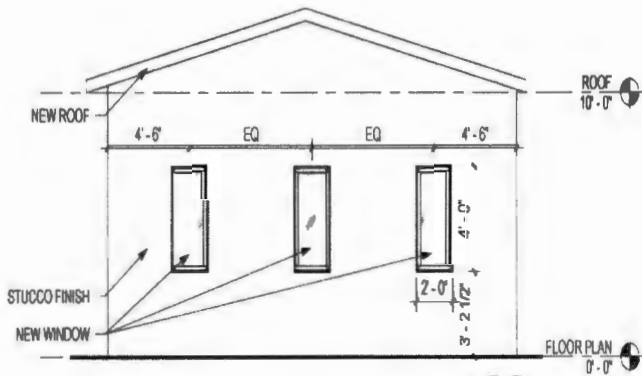
WEST ELEVATION
1/4" = 1'-0"

04
A-201



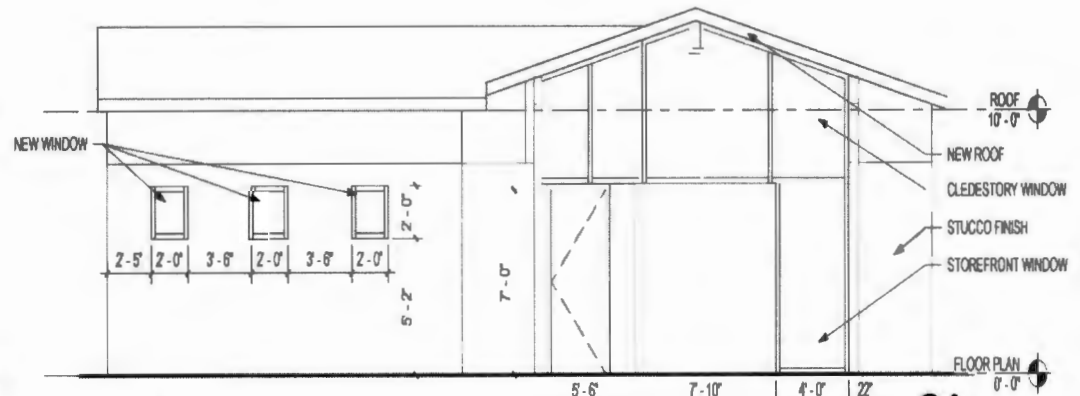
SOUTH ELEVATION
1/4" = 1'-0"

03
A-201



EAST ELEVATION
1/4" = 1'-0"

02
A-201



VINE ST. ELEVATION
1/4" = 1'-0"

01
A-201

VINE ST. RENDERING



EXISTING STRUCTURE AS ATTACHED TO MASONIC LODGE IN 2008 (FROM GOOGLE STREET VIEW)



SITE PHOTOS



Facing west towards existing structure – Vine St. is to the right



Facing south towards existing structure from Vine St.

SITE PHOTOS



South side of existing structure requiring Variance #4, facing east



North side of existing structure requiring Variance #6, facing west

SITE PHOTOS



West side of existing structure requiring Variance #5, facing south

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 04, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-12-114**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): SUGEY LIBRADO

OWNER(s): SUGEY LIBRADO, EVERT LIBRADO

REQUEST: Variance in the A-2 zoning district to allow a 400 sq. ft. existing addition located 41 ft. from the south rear property line in lieu of 50 ft.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 10644 Kirby Smith Road, Orlando, Florida, 32832, south side of Kirby Smith Rd., east of Narcoossee Rd.

PARCEL ID: 17-24-31-0000-00-025

LOT SIZE: 105 ft. x 207 ft./0.49 acres (21,775 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 26

DECISION: Recommended **APPROVAL** of 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 (unanimous; 7-0):

1. Development shall be in accordance with the site plan and elevations dated December 18, 2020, 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 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 given for such an extension.

5. The exterior of the addition shall match the exterior of the existing residence.

SYNOPSIS: Staff discussed the proposal, covering the location of the property, the survey, site plan, floor plans, elevations, and photos of the site. Staff provided an analysis of the six (6) variance criteria and the reasons for a recommendation of denial since the owner has other options available to meet the code requirements. Staff explained the history of the property, including the Code Enforcement history. Staff noted that no comments were received in support and no comments were received in opposition.

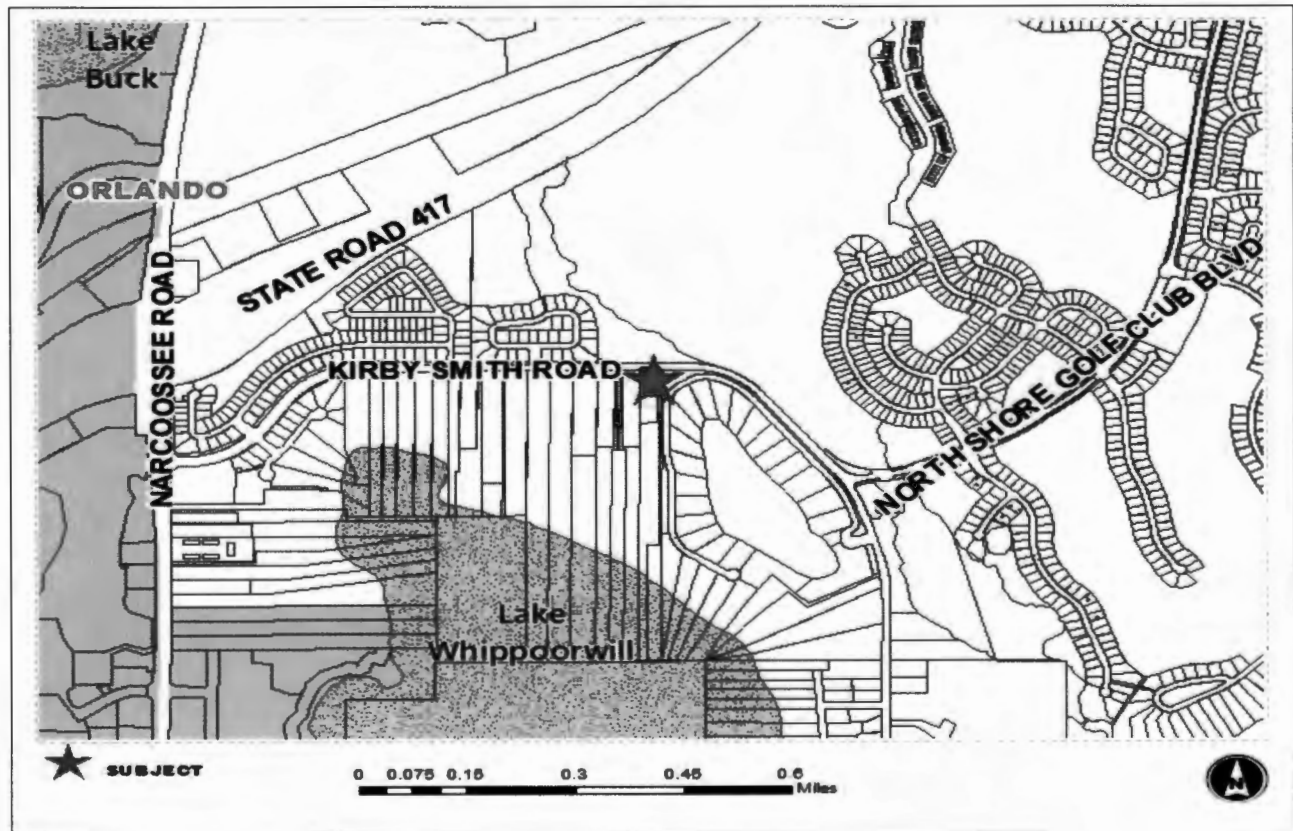
The owner described the addition and the need for it to remain as-built. The BZA asked if the addition could be redesigned in order to meet code requirements, but the owner stated it would require partial demolition of the existing improvements. There was no one present to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the variance, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-2	P-D Lake Hart Planned Development	A-2	A-2	A-2
Future Land Use	RS 1/2 Lake Hart/Lake Whippoorwill Rural Settlement	RS 1/2 Lake Hart/Lake Whippoorwill Rural Settlement	RS 1/2 Lake Hart/Lake Whippoorwill Rural Settlement	RS 1/2 Lake Hart/Lake Whippoorwill Rural Settlement	RS 1/2 Lake Hart/Lake Whippoorwill Rural Settlement
Current Use	Single-family residence	Stormwater management pond & Lake Hart community	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-2 Farmland Rural zoning district, which allows agricultural uses, mobile homes and single-family homes with accessory structures on larger lots.

The subject property consists of 0.49 acres (21,775 sq. ft.) of land created through a lot split approved in 2000 (LS 2000-102), and is located in the Lake Hart/Lake Whippoorwill Rural Settlement. Rural settlements are established through the Comprehensive Plan and are typically applied to communities previously established with higher densities located in the rural service area. Rural settlements have specific land use policies which control the location size and amount of nonresidential uses such as commercial uses. In general, rural settlements rarely regulate traditional single-family residential uses, with the exception of density.

The property is improved with a two-story single-family residence containing 1,066 sq. ft. of living area. The site also contains pavers for a driveway and parking surface, and an RV stored on the property. There are also two accessory structures on the property. The first is a 64 sq. ft. shed (accessory structure #2), which the applicant proposes to attach to the home to use as a laundry room. The second is a 192 sq. ft. free standing shed (accessory structure #1).

In 2020, the applicant constructed a 441 sq. ft. bedroom addition at the rear of the home without a permit, which encroaches 8.15 ft. into the 50 ft. rear setback requiring a variance.

Code Enforcement cited the applicant in August 2020, for the installation of multiple structures including the addition, sheds, pavers and RV without permits. The applicant has obtained permits for the pavers (Z20005243) and RV (Z20005244). The permit for the addition, freestanding shed (accessory structure #1), and the shed which is proposed to be attached to the home (accessory structure #2), is pending based on the outcome of the application for variance (B20017744). Accessory structure #1 meets setbacks. Once accessory structure #2 is connected to the home, it will be part of the primary structure, located 46 ft. from the rear property line. The

home addition that is the subject of this requested variance is located 41 ft. from the rear property line, closer than the location of accessory structure #2. Therefore, accessory structure #2 is a lesser impact at this time, and will not be a factor once it is part of the primary structure.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	11 ft. (Addition)/13 ft. (Shed)
Min. Lot Width:	100 ft.	105 ft.
Min. Lot Size:	0.5 acres (21,780 sq. ft.)	0.49 acres (21,735 sq. ft.)

Building Setbacks (that apply to structures in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	35 ft.	120.9 ft. (North)
Rear:	50 ft.	41 ft. (South)
Side:	10 ft.	20 ft. (West)/ 45.8 ft. (East)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances regarding the property. The applicant could have redesigned the addition to meet the required setbacks without impacting the functionality or usability of the property.

Not Self-Created

This is a self-created hardship since the applicant constructed the addition without permits.

No Special Privilege Conferred

Granting the variance would confer a special privilege not afforded others in the same zoning district since there are other options available to meet the code requirements.

Deprivation of Rights

Deprivation of rights is not a consideration since the applicant will continue to be able to utilize the property as a single-family residence without the addition as proposed.

Minimum Possible Variance

Because the addition was constructed without permits, compliance would be the minimum possible variance. The variance request is not the minimum since there are alternatives to lessen or remove the request.

Purpose and Intent

The purpose and intent of the setbacks is to ensure uniform development standards. The addition does not comply with those standards, and will not be in harmony with the purpose and intent of the Zoning Regulations since it does not maintain the character of the existing area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated December 18, 2020, 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 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 given for such an extension.
5. The exterior of the addition shall match the exterior of the existing residence.

C: Sughey Librado
10644 Kirby Smith Rd.
Orlando, FL 32832

COVER LETTER

**Cover Letter
In Support of Request for Variance
10644 Kirby Smith Rd. Orlando, FL 32832**

**This Letter of Intent is in support of my request for a variance to the backyard
Setback requirements for an existing non- conforming lot.**

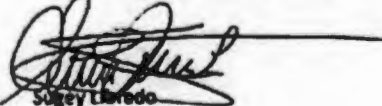
**The intention is to build a Shed to be use as an extra bedroom with bathroom. Since, we only have 2
small bedrooms inside the house, and as a husband and wife, we had to share one of the bedrooms with
my young boy (Brandon of 12). Which was not a good idea because we had no privacy for more then 8
moths. For this reason, we decided to build a shed right in the beginning of April of the present year.**

**The proposed build shed is 20 feet wide by 21feet long. The Code calls for a 50ft away from the setback.
However, this shed was built 41 feet away from the setbacks. This is in an effort to provide a greater
living space for my family.**

**What is perhaps most relevant here, and what I would ask the board to consider,
is (1) the fact that the property lot is 21,840 sq ft. And we are using only 1955 sq ft which is 0.08% of the
entire lot. And the requested new shed, even with the variance, would actually, be increased the
setbacks from what currently exists;**

- (2) the fact that the we will have private room for me and my husband;**
- (3) the proposed style and structure of the shed in
step with the existing neighborhood; and**
- (4) the proposed project would be an
improvement to the neighborhood and resulting an overall increase in property value
and tax backreacted improvement.**

Thank you for your consideration.

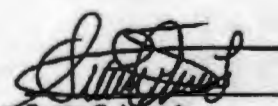

Sergey Laredo
407-968-7158

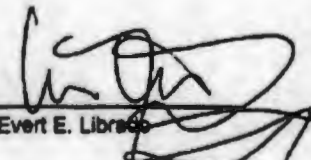
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Amendment to the Cover Letter

We, Sugey and Evert Librado 10644 Kirby Smith Rd Orlando, FL 32832 Owners. Our property lot size is ¼ Acre (21,840 sq ft), in which the total land that we are using at this time is only 1955 sq ft. This is 0.06% of the whole lot. For these reasons, we believe that we meet the following criteria:

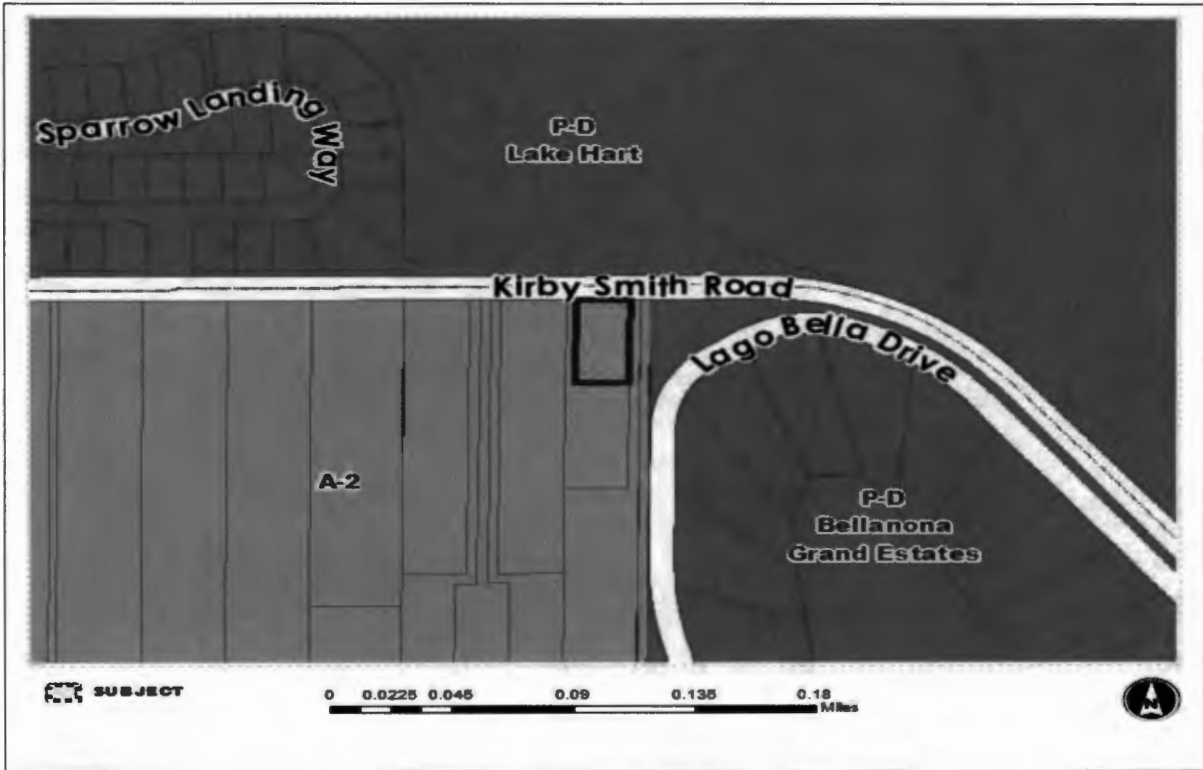
1. **Special Conditions and circumstances exist in our property** Since previous owner built the house too small and far back from the entrance. These circumstances exist and are peculiar to the land and house structure. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.
2. **The special conditions and circumstances are Not Self-Created by us, (owners, Sugey Librado and Evert Librado)**
3. **No Special Privilege Conferred** the Approval of the zoning variance requested will not confer any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.
4. **Deprivation of Rights - Literal interpretation of the provisions contained in this Chapter would deprive the us (owners) 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!**
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 - and last but not least, the 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.**


Sugey G. Librado


Evert E. Librado

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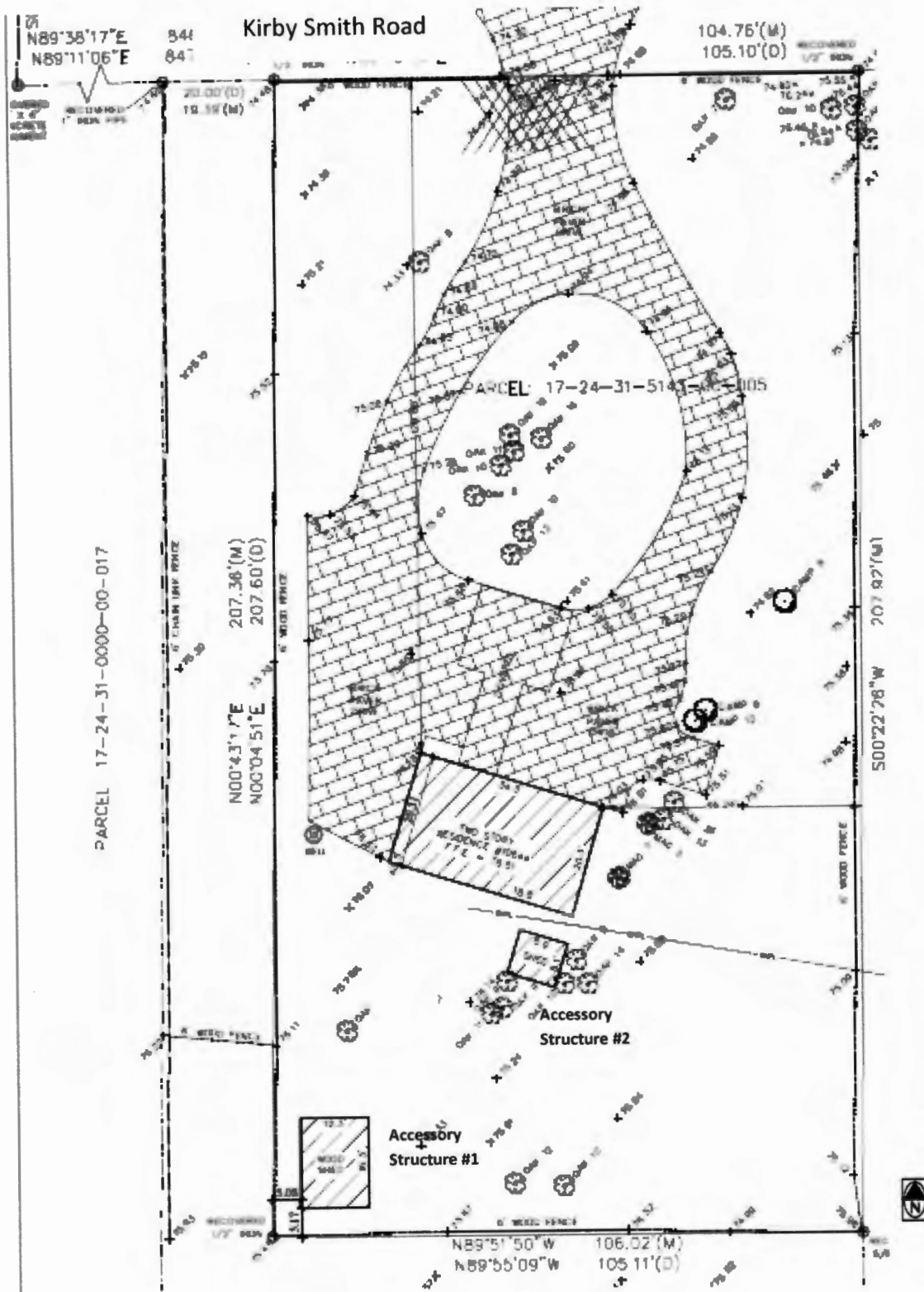
ZONING MAP



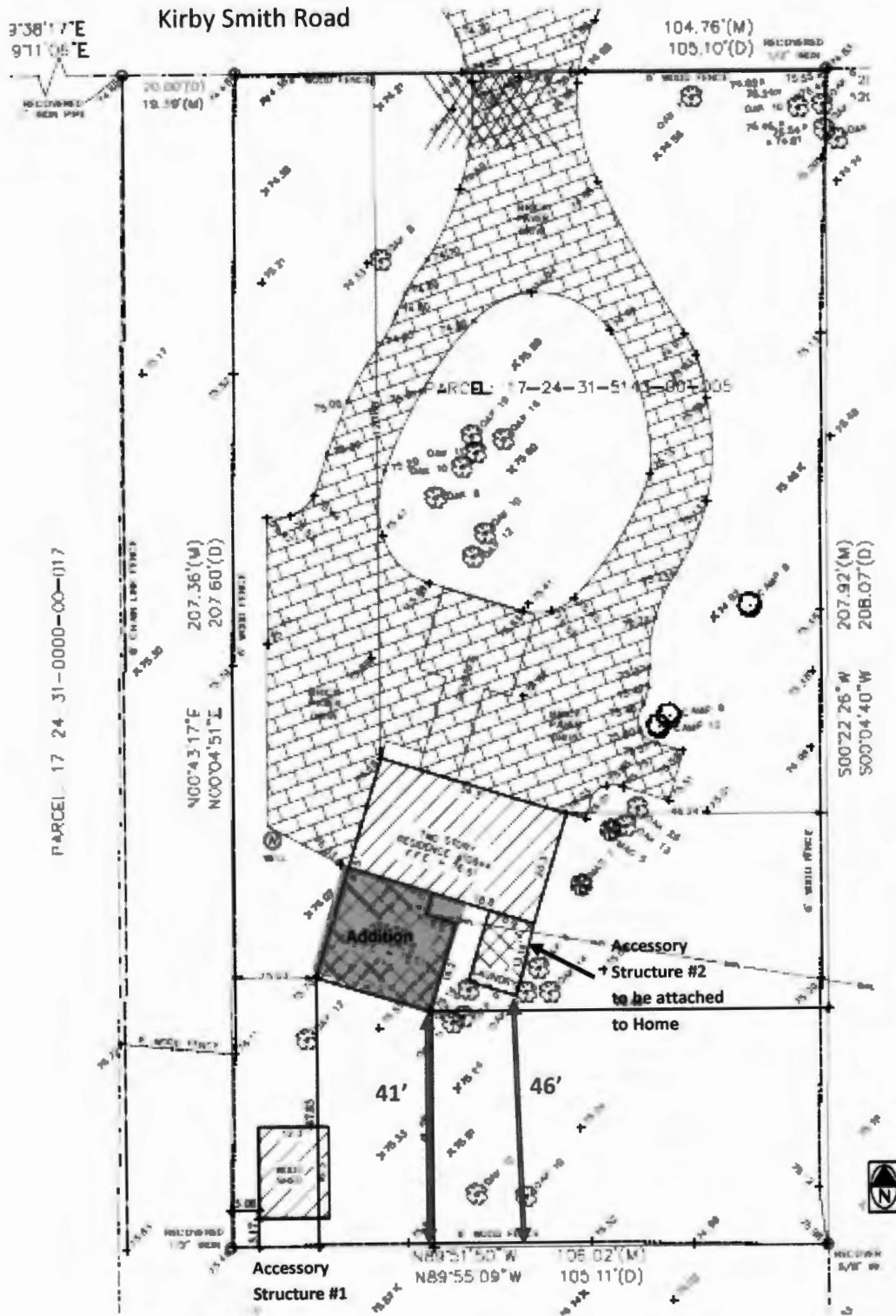
AERIAL MAP



SURVEY



SITE PLAN



SITE PHOTOS



Subject property looking south



Addition looking west

SITE PHOTOS



Small shed proposed to be attached to home looking west



Side of addition looking northeast

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 04, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-02-133**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): **BONNIE KINNEY**

OWNER(s): **BONNIE KINNEY**

REQUEST: **Variations in the R-2 zoning district as follows:**

- 1) To allow an existing 1,536 sq. ft. residence to remain with a lot width of 44 ft. at the front building line in lieu of 45 ft.
- 2) To allow a 306 sq. ft. addition to a residence with a rear setback of 7 ft. in lieu of 25 ft.

PROPERTY LOCATION: **2675 Newbolt Drive, Orlando, Florida, 32817, southwest side of Newbolt Dr., southwest of N. Econlockhatchee Trl., east of SR 417**

PARCEL ID: **18-22-31-0209-04-070**

LOT SIZE: **0.19 acres (8,363 sq. ft.)**

NOTICE AREA: **500 ft.**

NUMBER OF NOTICES: **122**

DECISION: Recommended **APPROVAL** of the Variance requests 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 (unanimous; 7-0):

1. Development shall be in accordance with the site plan dated November 25, 2020, 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 1 year 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 given for such an extension.

5. The exterior of the addition shall match the materials and colors of the existing. Painted block shall not be permitted.

SYNOPSIS: Staff described the proposal, including the location of the property, the lot size, site plan, elevations, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval for variance #1 for the existing residence and the reasons for a recommendation for denial for variance #2 since the owner has the opportunity to redesign the proposed new addition that could reduce or eliminate the need for the variance.

Staff noted that the applicant had provided 15 letters of support, including the two most impacted homeowners to the south. No correspondence in opposition had been received.

The applicant stated that the design was prepared by a licensed professional, who determined that the proposed design best blended the existing house with the proposed addition, and provided what was determined to be needed by the applicant. There was no one present to speak in favor or in opposition to the request.

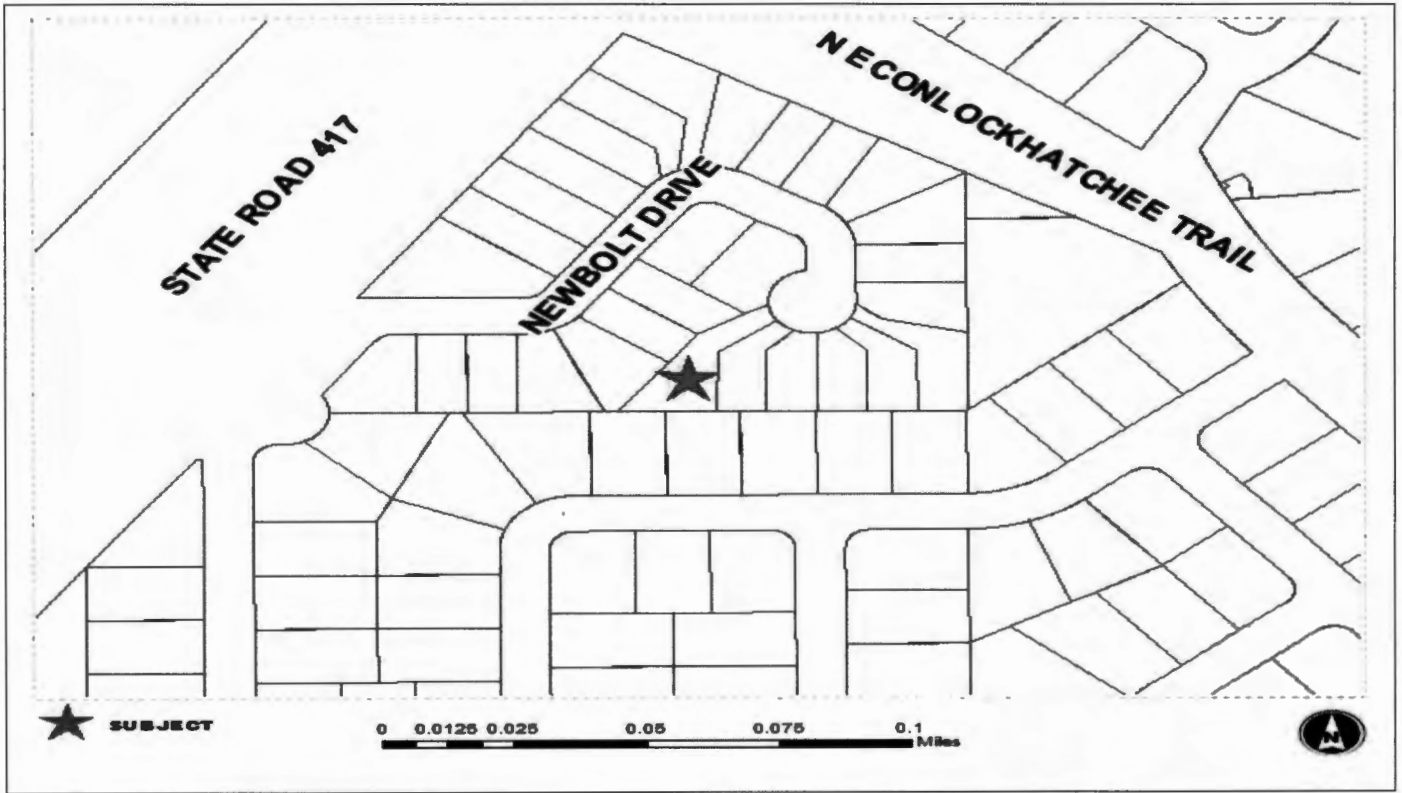
The BZA concluded that the special conditions and circumstances particular to this property is a direct result of extreme uniqueness of the lot shape; that the applicant is not responsible for the current configuration of the house in that the house was in its current location when purchased; that without the approval of variances the applicant would be deprived of their right to construct the required home addition; that the unique lot size was established by the plat and therefore approving the variances would be the minimum required; and that the purpose and intent is satisfied with the approval of the variances since the proposal is consistent with the neighborhood.

The BZA unanimously recommended approval of the variances, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval of Variance #1, and denial of Variance #2. However, if the BZA finds that the applicant has satisfied the criteria 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-2	R-2	R-1A	R-2	R-2
Future Land Use	LMDR	LMDR	LDR	LMDR	LMDR
Current Use	Single-family residence	Single-family residence	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the R-2, Residential District, which allows single-family homes, multifamily development, and associated accessory structures.

The subject property consists of an irregularly shaped 0.19 acre (8,363 sq. ft.) lot created through the Arbor Ridge West - Unit 8 plat, recorded in mid-1992. The lot is developed with a 1,536 sq. ft. residence with an attached two-car garage constructed in 1993 (B93010185). There is also a 64 sq. ft. shed installed through permit #B02007916. The applicant purchased the property in April 2020.

Lot width is measured at the horizontal distance between the side lot lines at right angles by the depth. For irregularly shaped lots where the front portion of the lot is narrow, such as a flag lot or pie shaped lot, the width

is applied where the lot is wide enough to meet the minimum requirement. In that case the front yard setback of the house is applied where the lot width is met, and the lot width line then becomes the defacto front yard setback line. When the home was constructed in 1993, it was built so that the front setback line/lot width measurement was 44 ft. in lieu of the required 45 ft., resulting in the need for variance #1.

The applicant proposes to construct an 18 ft. x 17 ft., 306 sq. ft., living room addition on the rear of the home with a rear setback of seven (7) ft. in lieu of 25 ft. The applicant asserts that the existing floorplan of the home is not conducive to constructing the addition in any other location.

Given the irregular size of the lot, there is a significant amount of side yard to the west of the house where an addition could be placed. Other alternatives would be to design a more rectangular shaped addition in the rear, resulting in the need for less of an encroachment.

The applicant submitted seven (7) letters of support from adjacent and abutting property owners. Two (2) letters are from the most impacted property owners located to the south of the subject property who share the rear property line. Two (2) letters are from neighbors who abut the west side property line, and another is from the neighbor immediately to the east.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	14 ft.
Min. Lot Width:	45 ft.	44 ft. at Building line (Variance #1)
Min. Lot Size:	4,500 sq. ft.	8, 363 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft.	101 ft.
Rear:	25 ft.	7 ft. Addition (South)
Side:	6 ft.	16 ft. (East)/55 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1

The existing front setback is a consideration of special circumstances particular to this property. Removal of a portion of the front of the home that has been in the same location since 1993, would be necessary to meet the lot width requirements.

Variance #2

There are no special conditions or circumstances since the request could be modified to shift the proposed addition to the west, or reduced in size in a manner to lessen the amount of variance requested, or eliminate the need for a variance. There are no special conditions or circumstances.

Not Self-Created

Variance #1

The home was constructed 1993, and the current owner is not responsible for the placement of the home.

Variance #2

Since there are alternatives to placing the addition on the property, this is a self-imposed hardship.

No Special Privilege Conferred

Variance #1

Granting a variance to allow the home to remain as constructed for almost 28 years will not confer any special privilege.

Variance #2

Allowing the construction of the addition in the rear setback would be conferring a special privilege denied by others in the R-2 zoning district since there are other options to relocate or modify the proposed addition.

Deprivation of Rights

Variance #1

Not granting the variance for the location of the house will deprive the owner of the home that has been existing since 1993.

Variance #2

The owner is not being deprived of the right to construct an addition since she has the ability to meet the setback requirements.

Minimum Possible Variance

Variance #1

Since the home has been in its current location for almost 28 years, granting the variance for the existing lot width at the front is the minimum necessary.

Variance #2

Since there are other alternatives to building the addition, this is not the minimum variance.

Purpose and Intent

Variance #1

Since the existing structure has existed since 1993, granting of the variance meets the purpose and intent of the code which is to ensure that a home does not impose on an adjacent property.

Variance #2

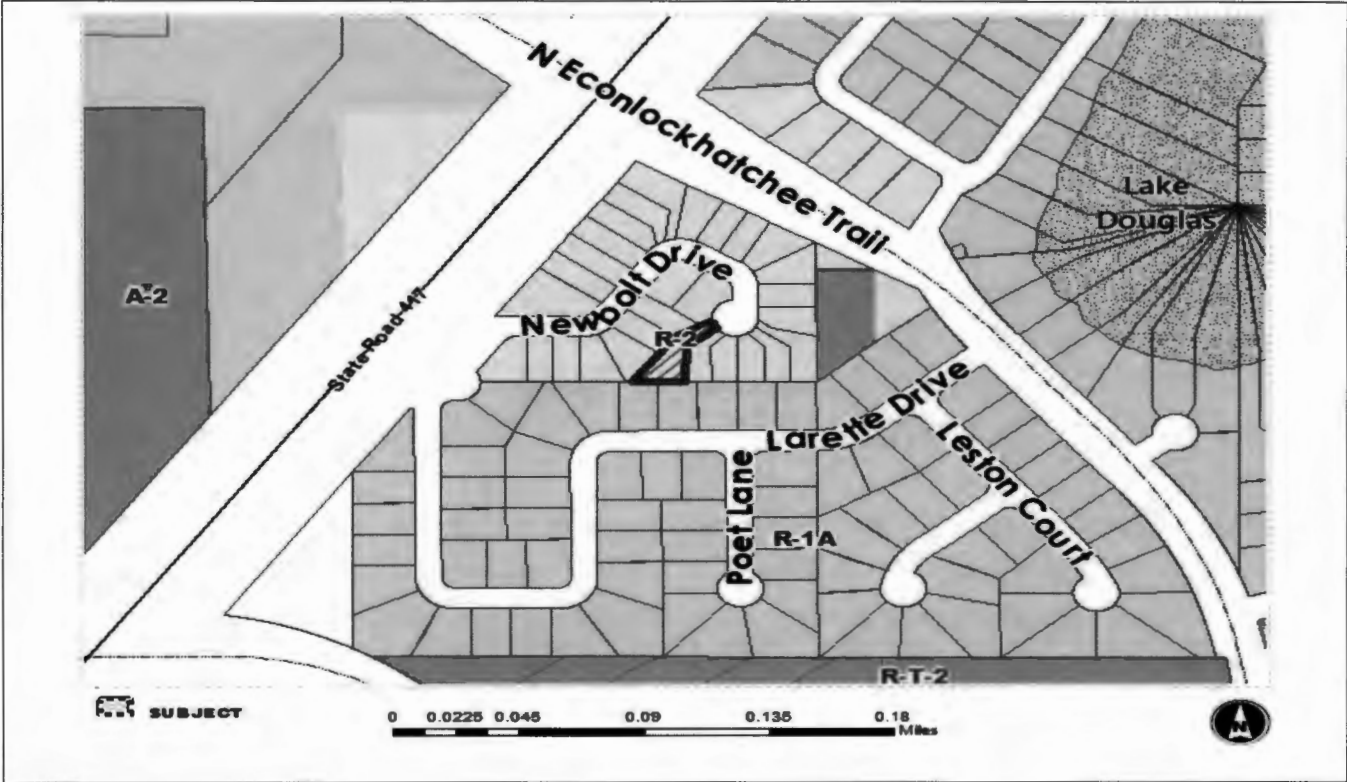
Approval of the variance allowing the addition to be built within seven (7) ft. of the rear property line will not be in character with neighboring properties to the south, which is contrary to the purpose and intent of the code.

CONDITIONS OF APPROVAL

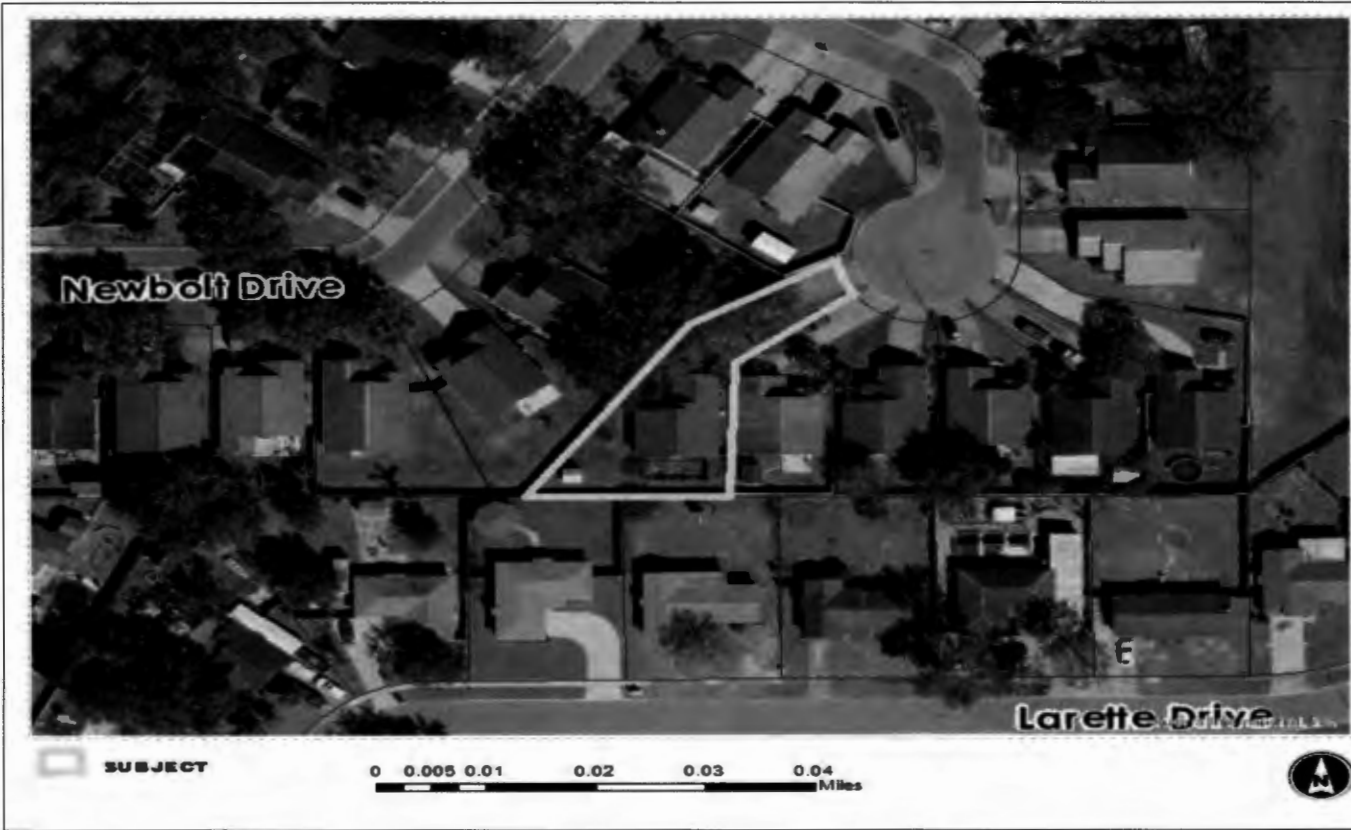
1. Development shall be in accordance with the site plan dated November 25, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. 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 1 year 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 given for such an extension.
5. The exterior of the addition shall match the materials and colors of the existing. Painted block shall not be permitted.

C: Bonnie Kinney
2675 Newbolt Drive
Orlando FL 32817

ZONING MAP



AERIAL MAP



COVER LETTER

To Whom it may concern;

This cover letter is being submitted for a family room addition for my parents. The reason for the letter is because their existing house in Orange County requires a variance for any structure built within 25 feet of the rear property line. The request is for a 17 x 18 family room with a concrete patio on both sides. The structure will go to 7'3" of the back property line, maintain the same width of the existing structure, and will be lower than the existing roof height. There will be windows and doors on both sides of the room addition but no windows or doors will be on the side facing the rear property owner. The project will be completed by a licensed general contractor with wood framing and concrete board siding. The project will blend well with the existing house and will be non-intrusive to others.

When this property came up for sale in Feb/Mar 2020, my parents were looking for a house in my neighborhood due to my father's memory issues. They had an 1800 square foot, 2 bedroom home in an over 55 neighborhood but were located over 45 minutes away. Things are getting more and more difficult for my mother to take care of my father without some help. I have lived in this neighborhood for 28 years and have added on to my house (Multi-room addition and pool) but never ran into any permit issues with set-backs and didn't think there was any issue with adding to their new house. Since this was the only house for sale in my neighborhood and on my street, I advised them to purchase the house and we could fix it up and add on a small family room to accommodate them. The room addition I designed will match their old house so that my Dad is comfortable and familiar with the layout. Since it took 8 months to sell their other home, I remodeled the entire inside to create a brand new look and make the move special for them. During this process, I was trying to get permits for the addition when I found out that a variance would be required. I knew of other homes in the area that didn't have 25 foot set-backs on the rear and this was new to me. (Examples – 2605 and 2601 Delcrest Drive Orlando, FL 32817)

Variance Criteria:

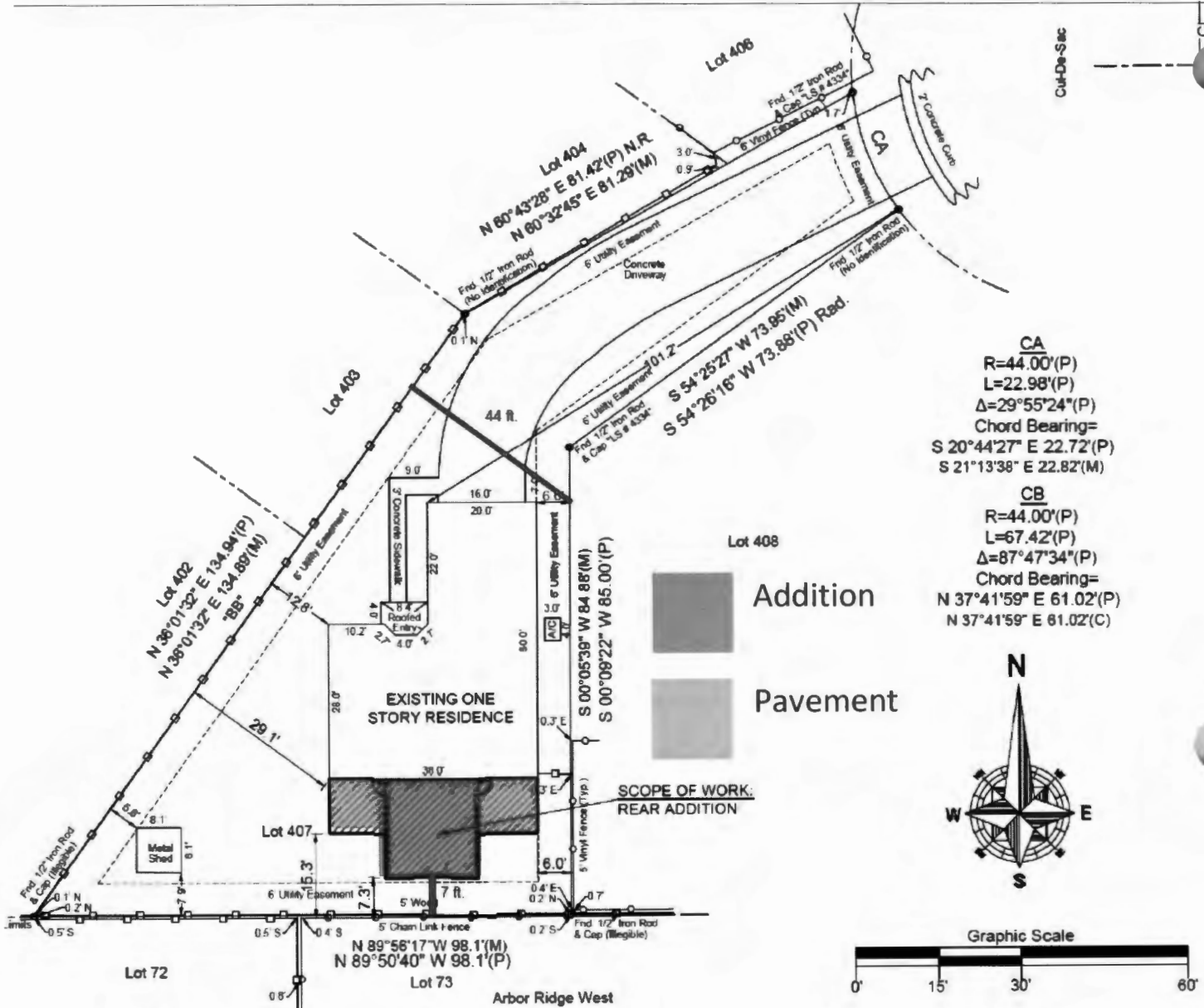
- 1) **Special Conditions and Circumstances** - A home was needed near mine that could be fixed up for the purpose of my parents moving close by in order to better take care of my father. The existing house would be increased from 1100 square feet to 1400 square feet.
- 2) **Not Self-Created** – This was the only home in my neighborhood available and I thought at the time that a 300 square foot room addition could be built to accommodate them since they downsized from 1800 square feet to just under 1100 square feet.
- 3) **No Special Privilege Conferred** – I am not asking for special privileges, I am humbly asking for approval for me to make a small addition so my mother and father can live comfortably near me so that I can assist in his care.
- 4) **Deprivation of Rights** – As stated earlier, other homes in the area have built within 25 feet from the rear property line and all neighbors agree that this is reasonable and have no objections.
- 5) **Minimal Possible Variance** – the room was designed exactly as the older house with space in mind.
- 6) **Purpose and Intent** – Since this house is one of the smallest in the neighborhood, it should help increase the value of surrounding houses. I have also included signed agreements from all the home owners that have properties adjacent to the proposed work at 2675 Newbolt Drive.

Kevin Kinney

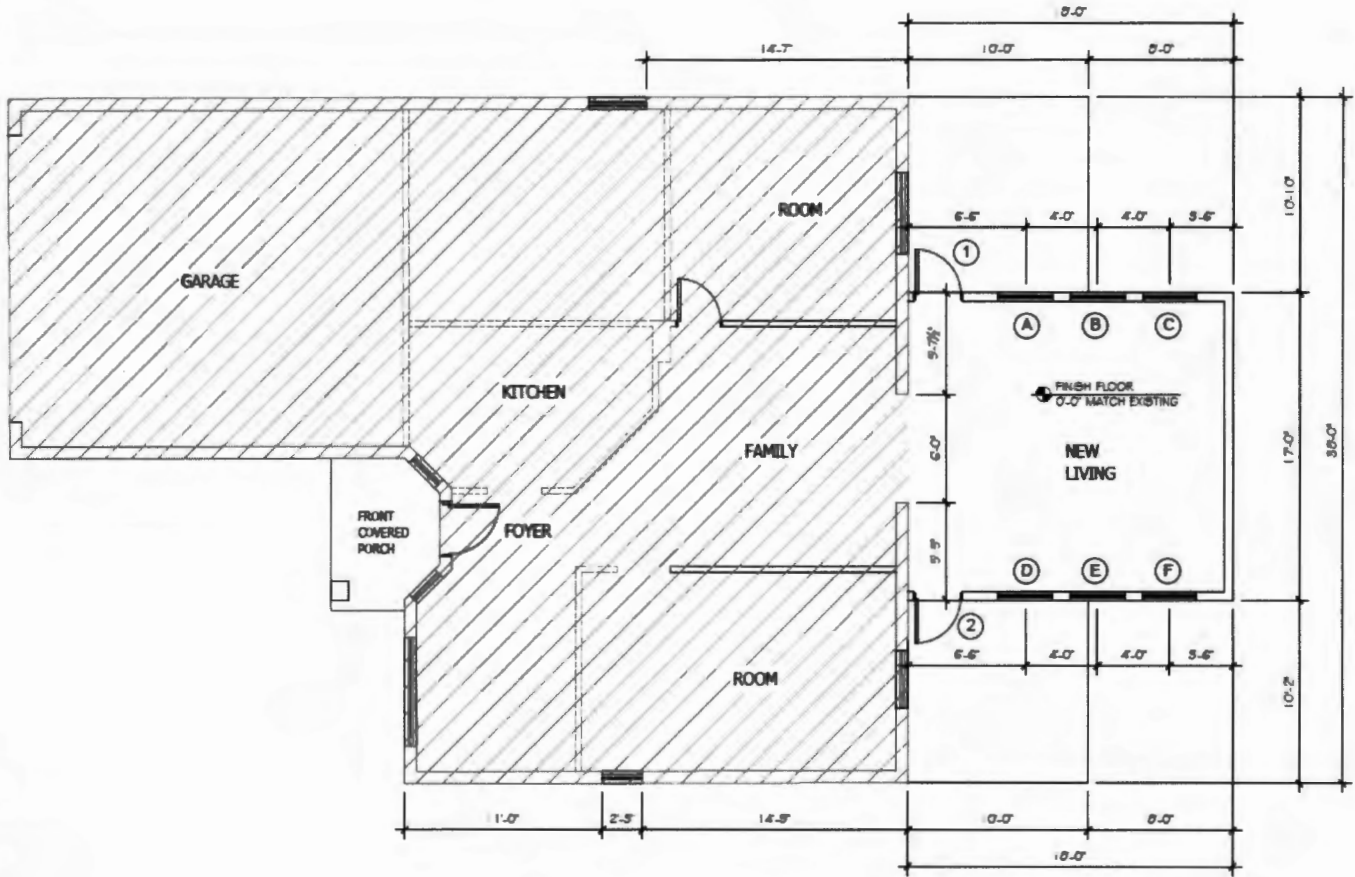
2675 Newbolt Drive

Orlando, FL 32817

SITE PLAN



FLOOR PLAN



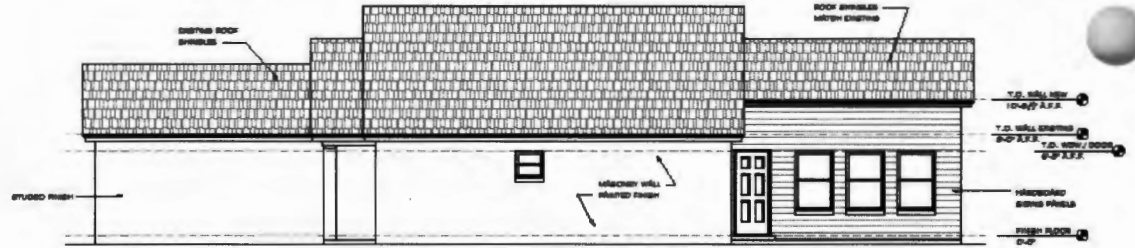
AREA CALCULATIONS

A / C AREA	1360 SQ. FT.
FRONT PORCH :	46 SQ. FT.
GARAGE :	440 SQ. FT.
TOTAL AREA:	1046 SQ. FT.

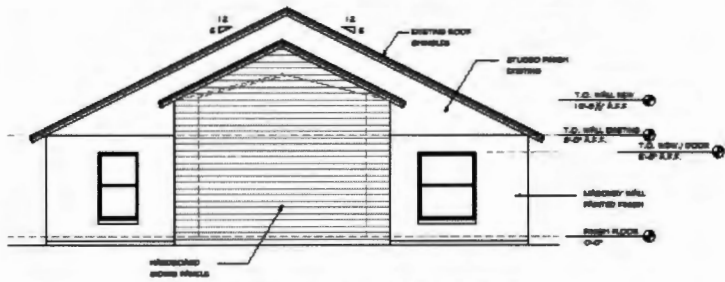
NEW FLOOR PLAN

1/8"=1'-0"

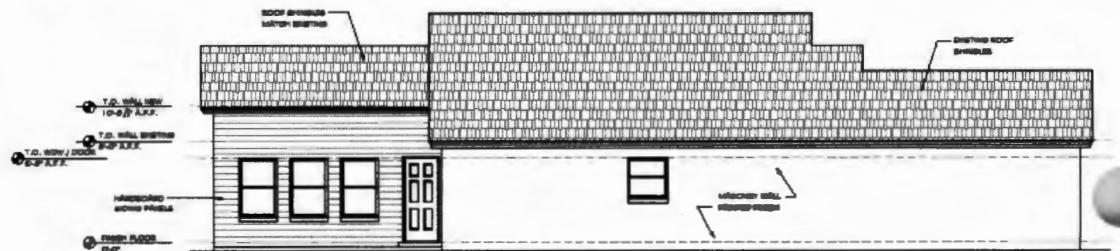
ELEVATIONS



NEW RIGHT ELEVATION
1/8"=1'-0"



NEW REAR ELEVATION
1/8"=1'-0"



NEW LEFT ELEVATION
1/8"=1'-0"

SITE PHOTOS



Subject property looking southwest from Newbolt Dr.



Possible alternate addition location on west side of residence looking east

SITE PHOTOS



Proposed location of addition looking northeast



Rear yard looking west

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 04, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-02-135**

Commission District: **#2**

GENERAL INFORMATION

APPLICANT(s): **BOLIVAR PLUAS (RONALD SIKES)**

OWNER(s): **BOLIVAR PLUAS, CARMEN PLUAS**

REQUEST: **Variance in the R-1 zoning district to allow an existing ADU to be located 3.9 ft. from a proposed new east rear property line resulting from a proposed subdivision in lieu of 5 ft.**

PROPERTY LOCATION: **427 1st Street, Ocoee, Florida, 34761, east side of 1st St. and west side of Whittier Ave., north of E. Silver Star Rd. and south of Nay Ave.**

PARCEL ID: **17-22-28-3624-04-060**

LOT SIZE: **125 ft. x 270 ft./ 0.77 acres (33,750 ft.)**

NOTICE AREA: **500 ft.**

NUMBER OF NOTICES: **121**

DECISION: Recommended **APPROVAL** of 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 as amended (5 in favor and 2 opposed):

1. Development shall be in accordance with the site plan dated December 4, 2020, 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 applicant shall complete the proposed subdivision within two (2) years of final action by Orange County on this application, or the approval shall be null and void. The Zoning Manager may extend the time limit if proper justification is given for such an extension.

SYNOPSIS: Staff described the proposal, including the location of the property, the history of the site, including the original platted lot configuration, the current parcel size, the proposed subdivision plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for the recommendation for denial since the owner has the opportunity to shift the proposed lot line in order to eliminate the need for the variance. Staff noted that no correspondence in favor and no correspondence in opposition had been received.

The owner noted that the intent was to maintain the original platted block pattern to avoid creating a new irregularly shaped lot. There was no one present to speak in support or in opposition.

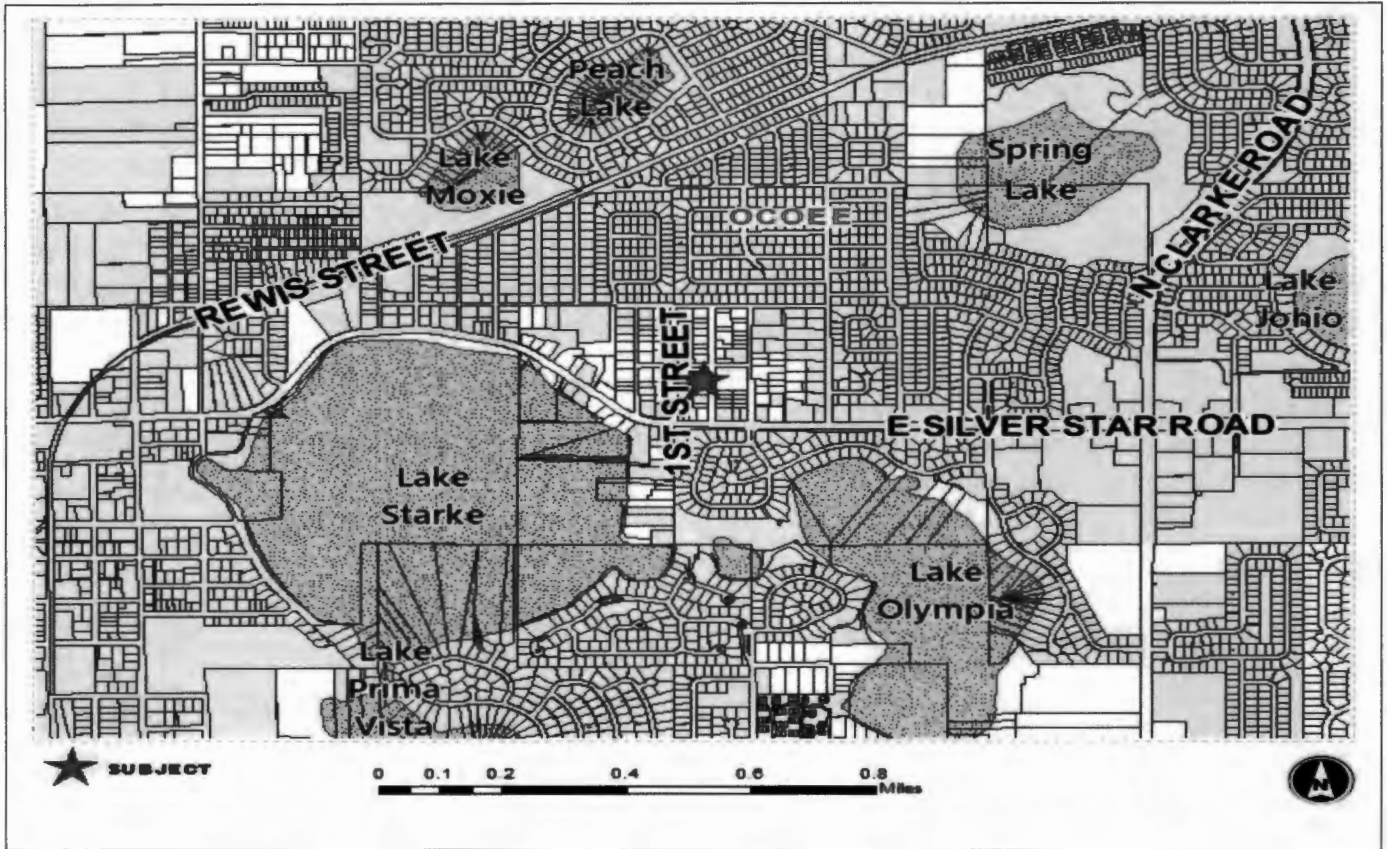
The BZA concluded that the special conditions and circumstances particular to this lot is a direct result of the existence of the current structures being located within the border of the lot prior to any adopted zoning regulations; that the applicant is not responsible for the current location of each structure's location on the lot because the structures were built prior to any established zoning district; that the approval of this variance will not confer any special privilege to the applicant as compared to others in the same area and zoning district in order to maintain the current larger structure as a single family residence and the smaller structure as an accessory dwelling unit which is permitted in the R-1 zoning district; that without approval of this variance the applicant would be deprived of their right to enjoy the use of the existing accessory dwelling unit; that approval of this variance would be the minimum variance required to allow the applicant to own and maintain the accessory dwelling unit in its current location; and that the purpose and intent is satisfied with the variance approval to cure lot configurations for residents to lawfully possess an accessory dwelling unit.

The BZA recommended approval of the variances, subject to the four (4) conditions in the staff report, including condition #4, as amended, by a 5-2 vote.

STAFF RECOMMENDATIONS

Denial. However, if the BZA finds that the applicant has satisfied the criteria for the granting of a 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 residence	Single-family residence	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1, Single-Family Dwelling district, which allows single-family homes and associated accessory structures on lots a minimum of 5,000 sq. ft. or greater.

The subject property is 0.77 acres (33,750 ft.) consisting of Lots 6, 7, 12 and 13, and part of Lots 8 and 11 of Block D, Hillcrest Heights subdivision plat, which was recorded in 1926.

The property is developed with two (2) dwelling units, which according to the Property Appraiser’s office were both constructed in 1948. The larger of the two, the principal residence, contains 1,774 sq. ft. of floor area. The

smaller contains approximately 525 sq. ft. of living area, and according to County Code is considered an Accessory Dwelling Unit (ADU).

The applicant plans to split the property into four (4) lots by reverting the two (2) south lots back to their original configuration of 50 ft. x 135 ft., and reconfiguring the northern portion into two (2) lots, each 75 ft. wide x 135 ft. deep.

After the proposed creation of the four (4) lots, the location of the ADU will be approximately 7.5 ft. from the new side lot line to the south, however, it will be only 3.9 ft. from the rear lot line to the east. The required rear setback for a detached ADU with a height of 15 ft. or less is five (5) ft., requiring a variance.

The need for a variance could be avoided by adjusting the rear lot line for the northeastern lot to the east by two (2) ft., however in that case a variance for installation of a septic system may be required by the Environmental Health Department.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	13 ft. (ADU)
Min. Lot Width:	50 ft.	50 ft., 75 ft. Proposed future lots
Min. Lot Size:	5,000 sq. ft.	6,750 sq. ft. (Proposed south lots) 10,125 sq. ft. (Proposed future north lots)

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

	Code Requirement	Proposed
Front:	25 ft. Residence/NA Detached ADU	29 ft. Residence
Rear:	25 ft. Residence/5 ft. ADU	35 ft. Residence/3.9 ft. ADU
Side:	6 ft. Residence & ADU	21 ft. (South) 20 ft. (North) Residence 7.5 ft. (South) 45.3 ft. (north) ADU

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances particular to this property pertaining to the need for a variance. Since it is possible to comply with the current code setback requirements by adjusting the common rear lot line between the two proposed future northern lots.

Not Self-Created

Given that there is a remedy available which will allow compliance, this is considered self-created.

No Special Privilege Conferred

Granting the variance will confer special privilege that is denied to others in the same area and zoning district in that the applicant has the ability to relocate the proposed property line to meet setback requirements.

Deprivation of Rights

The right to continue to enjoy the use of the property and both existing structures is not being denied since there is an opportunity for setback requirements to be met.

Minimum Possible Variance

Since there is a remedy to comply without the need for a variance, this is not the minimum possible variance.

Purpose and Intent

Approval of the variance will not be in harmony with the purpose and intent of the zoning regulations. The proposed locational requirement for the ADU has not been met; and therefore, will not maintain the character of the existing neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated December 4, 2020, 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 applicant shall complete the proposed lot split within one (1) year of final action by Orange County on this application, or the approval shall be null and void. The Zoning Manager may extend the time limit if proper justification is given for such an extension.

C: Bolivar Plus
427 1ST St.
Ocoee, FL 34761

C: Ronald Sikes
310 S. Dillard St., Ste. 120
Winter Garden, FL 34787

COVER LETTER



SIKES LAW GROUP

PLLC

310 South Dillard Street, Suite 120
Winter Garden, Florida 34787

Telephone: 407-877-7965
Facsimile: 407-877-6970

Ronald W. Sikes
rsikes@sikeslawgroup.com

Alan J. Best
abest@sikeslawgroup.com

Robert L. Hassett, III
rhassett@sikeslawgroup.com

December 2, 2020

Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor
Orlando, FL 32801

Re: Application for Variance
Owners: Carmen Pluas and Bolivar Pluas
Property: 427 1st Street, Ocoee, FL 34761

Dear Sir or Madame:

Our firm represents Mr. and Mrs. Carmen Pluas (the "Applicants") in connection with the enclosed Application for Variance relating to the subject property. Enclosed you will please find the following completed documents:

1. Application Cover Sheet signed by the Applicants;
2. Application for Variance, sections A, B, C and D;
3. Agent Authorization Form;
4. Orange County Specific Project Expenditure Report;
5. Part III Expenditures Certification; and
6. Relationship Disclosure Form, Parts I, II and III.

This request is for a variance to the setbacks of Lots 11 and 12, Block D, to permit an existing accessory dwelling within 3.9 feet of the rear boundary of said lots and within 7.5 feet of the south side boundary of said lots. The subject property was purchased by the Applicants in March, 2001, at a time when the improvements present today were pre-

Orange County Zoning Division
December 2, 2020
Re: Application for Variance, 427 1st Street, Ocoee, FL 34761
Page 2

existing. As reflected in the Warranty Deed recorded at Official Records Book 6236, page 4486, public records of Orange County, Florida, the Applicants purchased Lots 6, 7, 12, 13 and the south 25 feet of Lots 8 and 11, Block D, Hillcrest Heights, Plat Book M, page 98. A copy of the warranty deed is also attached for your reference.

As reflected in the attached scale site plan drawing prepared by Home Solutions M&C Corp., there are four platted parcels which were purchased in 2001 by the Applicants. The only structures that have been constructed on the property lie totally within the boundaries of the south 25 feet of Lot 11 and of Lot 12 (the "Subject Lots"). Lots 6, 7, the south 25 feet of Lot 8 and Lot 13 (the "Unimproved Lots") are vacant and are conforming to the R-1 zoning classification. It is the desire of the Applicants to sell the Unimproved Lots for the construction of conforming residences.

We address each of the criteria for a variance as follows:

- 1. Special Conditions and Circumstances.** The special conditions and circumstances which exist with regard to the Subject Lots arise from the existence of the structures located within their boundary prior to the existence of an applicable zoning ordinance. The Orange County Property Appraiser has determined that the structures were both constructed in 1948. In addition, when the Subject Lots and the Unimproved Lots were purchased together by the Applicants, there was no call for inquiry regarding the setbacks given the adequacy of all of the lots when combined. Our research has not revealed any other properties within Orange County, Florida, which present the same or comparable conditions.
- 2. Not Self-Created.** The conditions which exist with regard to the Subject Lots were not self-created in that the structures were built in 1948, long before the Applicants purchased the properties. In checking with the Orange County Records Department for building permits, we have determined that there are no records reflecting the existence of any permits issued in connection with the Subject Lots. The search performed by the Records Department covered from the earliest records maintained (1977) through the date of the search (February, 2020). No changes have been made to the improvements since the Subject Lots were acquired by the Applicants.
- 3. No Special Privilege Conferred.** The granting of the variance application will not confer to the Applicants any special privilege that is denied to other lands, buildings or structures in the same zoning district. In granting the variance, the Applicants will be allowed to maintain the improvements on the Subject Lots for their use as a primary single family residence with an

Orange County Zoning Division
December 2, 2020
Re: Application for Variance, 427 1st Street, Ocoee, FL 34761
Page 3

accessory residential dwelling, both of which are expressly permitted in the R-1 zoning district.

4. **Deprivation of Rights.** The literal interpretation of the setbacks now contained in the Zoning Code would deprive the Applicants of rights commonly enjoyed by other owners of properties in the R-1 zoning classification in that the use now existing was permitted when the structures were built, long before the Zoning Code applicable to these lots was adopted. The improvements have been maintained without expansion for over seventy (70) years and have been "grandfathered-in" as nonconforming uses. By granting the variance as requested, the Applicants will simply be able to enjoy the continued use of the Subject Lots consistent with R-1 zoning, as enjoyed by others, without concern as to whether the use on the Subject Lots will adversely affect the *conforming* use of the adjoining Unimproved Lots owned by them.
5. **Minimum Possible Variance.** The variance requested is the minimum variance necessary to permit the Applicants to continue to enjoy their use of the Subject Lots in a manner consistent with their use since they were originally constructed in 1948.
6. **Purpose and Intent.** Approval of the requested variance will be in harmony with the purpose and intent of the Zoning Regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. When combined with the minimum rear and side yard setbacks and maximum lot coverage restrictions on the adjoining Unimproved Lots, any new construction will provide sufficient opportunity for the circulation of air and movement of ground water needed to protect the public health. The variance applicable to the Subject Lots will promote the construction of new residences on the adjoining Unimproved Lots, which will enhance property values and generate additional tax revenues.

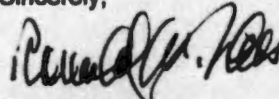
The Subject Lots are not located on a lakefront, waterfront or canal. The elevations of each side of the improvements located on the Subject Lots are depicted in the attached photographs, which are to scale and have been annotated with actual dimensions. In addition, the dimensions and layouts of the interiors of the two structures are provided in the sketches included with this package.

Please place this on the BZA hearing schedule at the earliest possible date. We will promptly pickup the notice poster and provide for its placement on the Subject Lots once we are notified that it is ready.

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December 2, 2020
Re: Application for Variance, 427 1st Street, Ocoee, FL 34761
Page 4

Thank you for your assistance with regard to this application. We look forward to working with you to complete the process affording Mr. and Mrs. Plus the opportunity to continue to use their property as intended.

Sincerely,

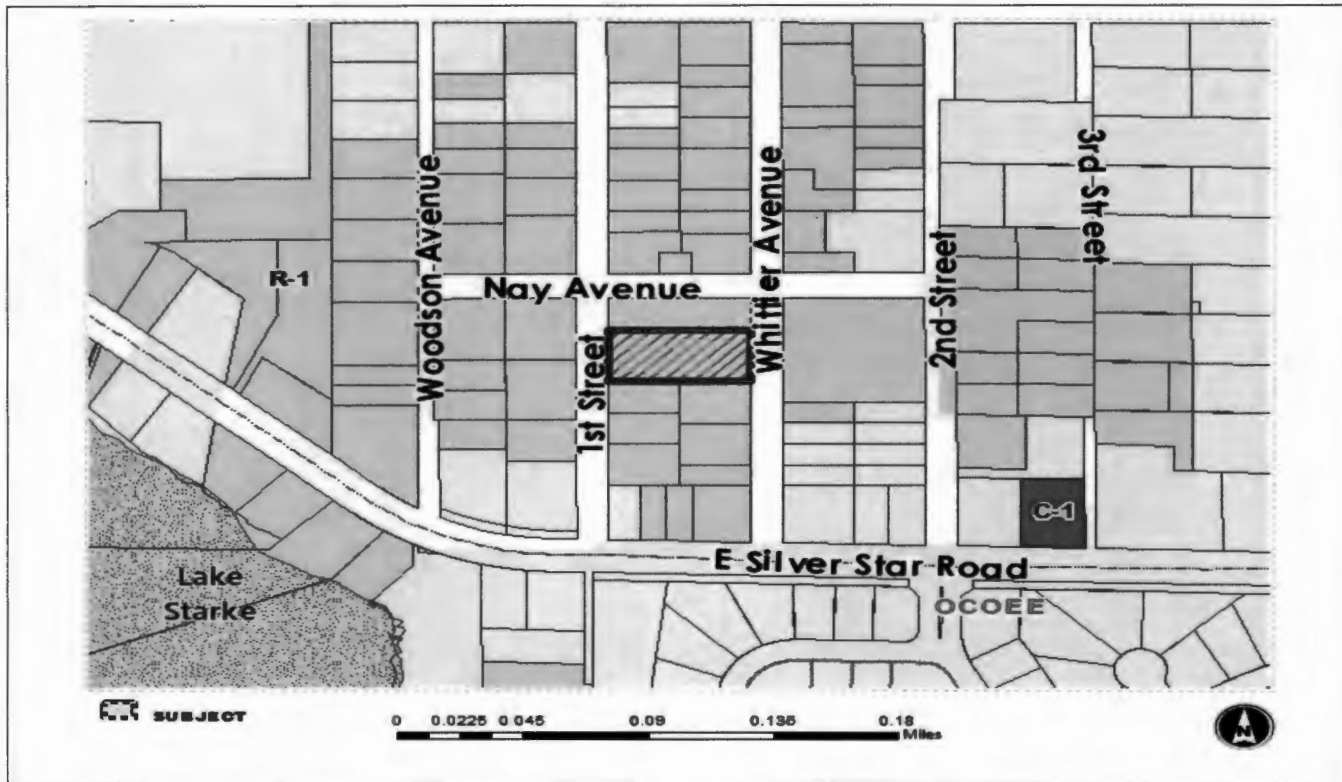


Ronald W. Sikes
Authorized Agent for
Carmen and Bolivar Plus

RWS:lls

cc: Mr. and Mrs. Plus

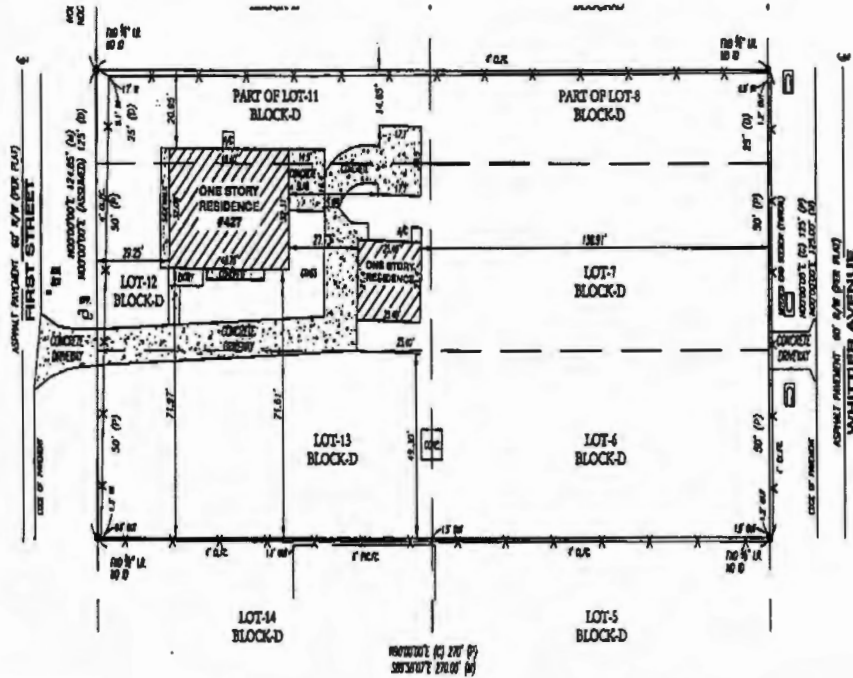
ZONING MAP



AERIAL MAP

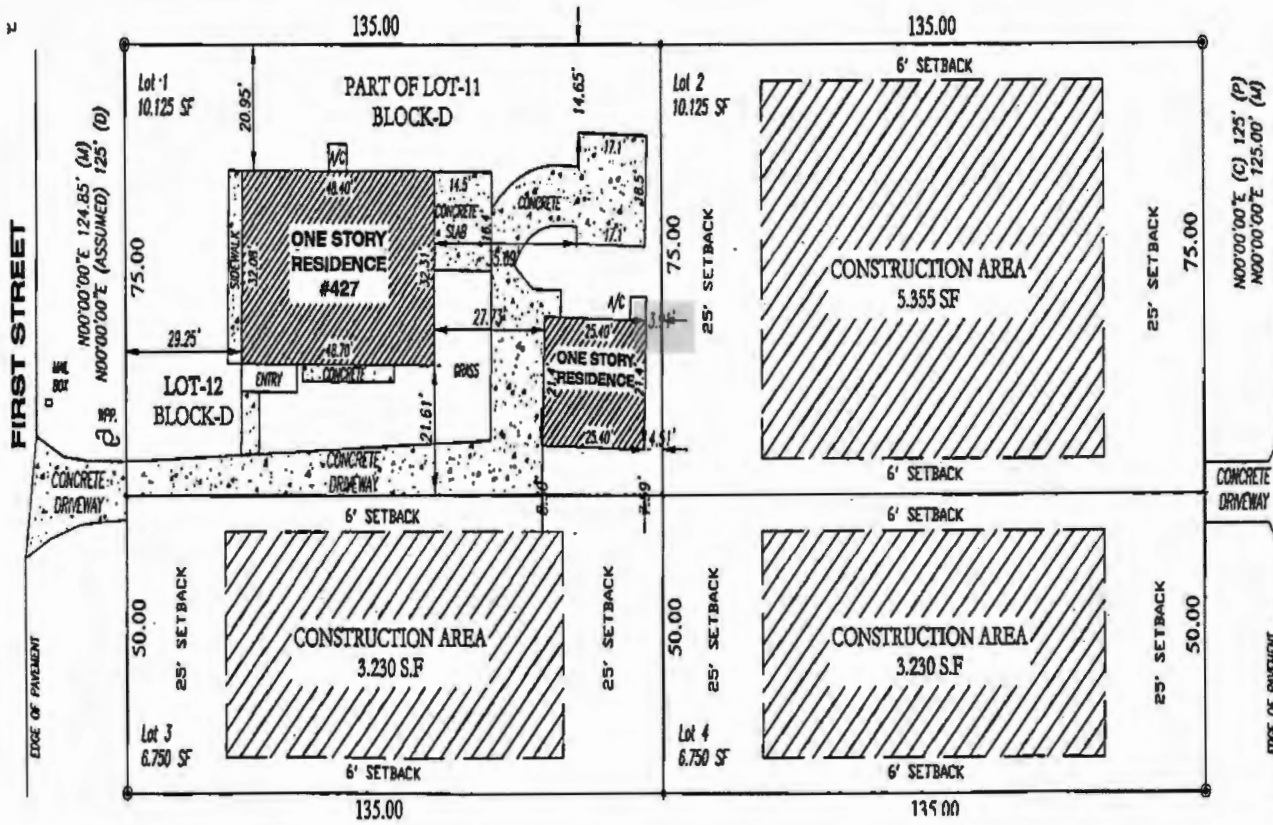


SURVEY/SITE PLAN



EXISTING SITE PLAN

SCALE : N.T.S



ASPHALT PAVEMENT 60' R/W (PER PLAN)
WHITTIER AVENUE

SITE PHOTOS



Subject property looking east from 1st St.



Southern portion of subject property looking east from 1st St.

SITE PHOTOS



ADU to rear of home looking east



Rear of ADU looking west

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 04, 2021**

Case Planner: **David C. Nearing, AICP**

Case #: **VA-21-02-137**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): **ROGER ANDERSON**

OWNER(s): **ANDERSON FAMILY TRUST**

REQUEST: **Variance in the R-2 zoning district to allow an existing 8 ft. high masonry wall in the front yard in lieu of 4 ft.**

This is the result of Code Enforcement action.

PROPERTY LOCATION: **9304 E Colonial Dr., Orlando, Florida, 32825, east side of Dearmont Ave., south of E. Colonial Dr.**

PARCEL ID: **19-22-31-0000-00-002**

LOT SIZE: **1.3 acres**

NOTICE AREA: **500 ft.**

NUMBER OF NOTICES: **109**

DECISION: Recommended **APPROVAL** of 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 (unanimous; 7-0):

1. Development shall be in accordance with the survey and elevations dated January 22, 2021, 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 1 year 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 issuance of a permit, the applicant shall provide an executed Acknowledgement of Easement Form to the Public Works Department.

SYNOPSIS: Staff explained the history of the property, the location, and the location of the existing 8 ft. high wall used for screening. Staff also provided the survey and discussed the existing easements, the wall detail, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted the owner received a permit for the wall in 2001, but no final inspection was scheduled and the permit subsequently expired. Staff also described the recent Code Enforcement action for the storage of materials, equipment, and other items in conjunction with the business on the residentially designated part of the property as well as the incomplete result of the prior wall permit. Staff noted that one letter of support was received from the adjacent HOA and no correspondence in opposition was received.

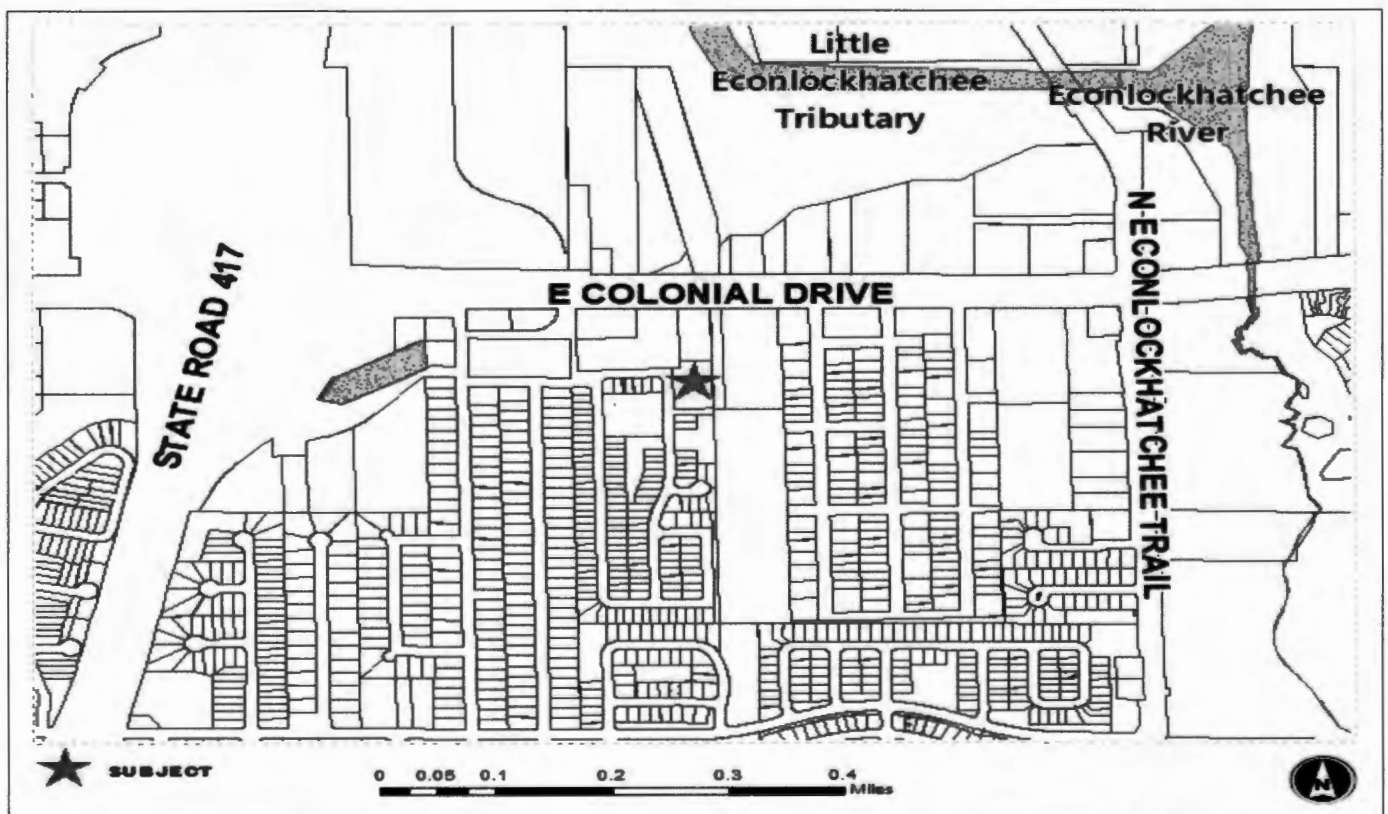
The owner had nothing to add to with the staff presentation and indicated the desire resolve this matter immediately. There was no one present to speak in favor or in opposition to the application.

The BZA concluded that given the number of years the wall has been standing, the fact that the County had permitted the wall, and the support of the adjacent HOA. The BZA unanimously recommended approval of the variance, subject to the five (5) 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-2, C-3	C-3, A-2	R-2	R-2	R-2
Future Land Use	LMDR, C	C	LMDR	LMDR	LMDR
Current Use	Septic Installation Company	Automotive Repair, Stormwater management pond	Single-family residence	Stormwater management pond, County access tract	Stormwater management pond, Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property has two (2) zoning designations, R-2, Residential District which allows single-family homes, multifamily development, and associated accessory structures, and C-3, Wholesale Commercial district, which allows more intensive commercial activity including automotive repair/sales, and certain outdoor uses.

The subject property is a conforming lot of record containing a total of 1.3 acres, of which the north 1.2 acre portion is in the C-3 zoning district and the south 4,200 sq. ft. portion is in the R-2 zoning district. The owner combined the two lots through the Orange County Property Appraiser’s Office on January 8, 2021. The parcel abuts Dearmont Ave. but provides ingress/egress from Brenna Pl., an Orange County parcel functioning as access to a retention pond located just southeast of the property. While the property is addressed off of E. Colonial Dr., it has access off of Brenna Pl. with actual frontage on Dearmont Ave. Therefore, the front of the property is considered the west frontage as defined by the County Code since the front property line is the width of the lot abutting the street with heaviest traffic usage, which is Dearmont Ave.

In 1996, the Colonial Lakes 1st Addition plat was recorded which created former lot 1. The plat dedicated a 10 ft. drainage and utility easement along the front west side of former lot 1, and a five (5) ft. drainage and utility easement along the north, south and east perimeter.

In 1998, Orange County obtained a drainage easement across the north 20 ft. of the residential portion of the property, former Lot 1. At the time, the applicant was required to sign an agreement with the County which precludes construction of any structures on the lot and parcel, other than a wall.

In February 2001, Orange County issued a permit (B01002095), for the installation of the subject 8 ft. high masonry wall which extends along the entire west side of the parcel adjacent to Dearmont Ave. However, after installation, the applicant failed to request a final inspection and the permit has now since expired.

Code Enforcement cited the owner in August 2019 (Incident CE-552895), for the 8 ft. high wall because it was installed without a final inspection, as well as for the removal of all equipment, septic tanks and other related materials from the residentially zoned portion of the property. In 2020, all outdoor storage was removed from the residential portion of the property and the owner submitted a new permit for the wall in order to abate the infraction. However, since the wall exceeds four (4) ft. in height within the front 25 ft. setback of the R-2 zoned portion of the parcel, a variance is now required for that portion. The remainder of the wall along Dearmont

Ave. is permitted since the County Code allows a maximum height of eight (8) feet for a wall within the front yard setback in commercial and industrial districts.

An adjacent Homeowner's Association in the neighborhood, the Colonial Lakes HOA, has submitted a letter supporting the applicant's request.

Since there is a 20 ft. drainage easement not associated with any plat located on the north side of the residentially zoned portion of the property, and the 10 and five (5) ft. drainage and utility easements created by the plat, Orange County Public Works is required to approve the portion of the wall which is installed in these easements. Public Works Department staff provided comments, stating that there is no objection to the request and requested a condition that requires an executed Acknowledgement of Easement Form before obtaining final approval of the permit. This form requires the owner to acknowledge that any future replacement of the wall required due to excavation in the County easements, will be at the owner's expense.

District Development Standards

	Code Requirement	Proposed
Max Height:	4 ft. in front setback	8 ft. in front setback (Variance for the R-2 designated portion)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special condition and circumstances regarding this request is that the existing west facing 8 ft. high wall adjacent to Dearmont Ave. has been in place for over 20 years. Further, the south portion of the site functions as a transition between the residential uses to the south and west and the more intense commercial uses to the north. Without the full 8 ft. height, as currently exists, the adjacent residential neighborhood would be negatively impacted. In addition, the somewhat confusing situation with the property being addressed and obtaining access off of E. Colonial Dr., yet its legal front on Dearmont Ave., a residential street is considered a special circumstance, as use of a residential street for access to such an intense use is typically prohibited.

Not Self-Created

The owner is not responsible for the existing orientation and layout of the subject commercial property nor the close proximity of the adjacent residences within the adjacent neighborhood, which necessitates the need for the additional wall height along Dearmont Ave. for screening and the prevention of visual intrusion.

No Special Privilege Conferred

There will be no conveyance of a special privilege since such similar C-3 designated operations directly abutting single-family residences would also be expected to provide an opaque screen for security, visibility, and sound. Further, the property does not provide access to Dearmont Ave. and the west property line essentially functions as the rear of the site.

Deprivation of Rights

Without the requested variance, the height for a previously approved wall will be required to be lowered to four (4) ft. within the west 25 ft. of the residentially designated portion of the site, which would deprive the owner

the ability to limit access and security. Further, the reduction of wall height would negatively impact the adjacent residences to the south and west of the property.

Minimum Possible Variance

Due to the location of the existing wall, height, and the lot orientation, the requested variance is the minimum possible.

Purpose and Intent

Approval of this request will be in harmony with the purpose and intent of the Zoning regulations and will not be detrimental to the surrounding neighborhood. The purpose and intent of providing such a wall is to separate and conceal incompatible uses. Although no commercial activity occurs on the south 40 ft. portion of the property, the wall currently screens the adjacent residential uses from the commercial operation.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the survey and elevations dated January 22, 2021, 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 1 year 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 issuance of a permit, the applicant shall provide an executed Acknowledgement of Easement Form to the Public Works Department.

C: Roger Anderson
9321 Dearmont Ave.
Orlando, FL 32825

C: Kathryn Paulk
9681 Lake Douglas Pl.
Orlando, FL 32817

COVER LETTER

11/20/20

To: David Nearing

My name is Kathryn Paulk and I'm writing you on behalf of my parents. Roger and Patricia Anderson own 9304 E colonial Dr. Orlando FL 32817 and later bought an adjoining residential lot addresses as 9321 Dearmont Ave Orlando FL 32825. We are requesting a variance for an existing wall located on 9321 Dearmont Ave. The wall was constructed and permitted in 2001 and we unknowingly failed to have the final inspection completed. We were made aware of this by a code violation. Code enforcement wants us to open the permit and close the permit properly. We have been trying to pull a permit. It's been difficult task due to COVID and many issues with my contractor.

The Dearmont lot has an extensive history with us. Roger and Pat who own a commercial lot which borders with Dearmont acquired this lot to prevent a home from being built on it. We felt safer having a buffer between the residences at Colonial Lakes and the commercial property. Afterwards, in November of 1998 Orange County Officials came to our office wanting an easement for drainage. Orange County bought the easement which made this lot unbuildable. I have attached paperwork proving the easement situation.

The small lot was starting to be a nuisance for the neighborhood and also for our commercial lot. Kids were climbing our fence and playing on our equipment, cars were driving through the lot to access the side road by our place of business and vandalism was an issue as well. This led to us contacting the homeowners association over what we could do to resolve the issues. We started obtaining signatures to construct a wall. We were able to get a notice of amendment of declaration of covenants and restrictions. This along with many complaints from residences within the neighborhood allowed us to get the permit approved and the wall built.

We hope to achieve 3 outcomes if possible. The first and most important is a variance which allows us to keep the wall as it stands. Secondly, we hope to achieve a variance to construct a chain link fence along the rear boundaries of the Dearmont lot. Lastly, we hope to find out our options if any to rezone this lot as condemned lot or some other zoning to lower our property taxes and maybe allow us to park trailers over part of the boundary. We in no way want to infringe on the rights of the HOA and its residences or negate local laws pertaining to zoning. However, we would like to have some use of this lot if possible.

Thank you for your time

Kathryn Paulk

407-353-1991

12/9/20

Orange County Zoning Variance Request Cover letter

We are requesting to have a variance approved for an existing concrete wall on the residential lot with the address of 9321 Dearmont Ave Orlando FL 32825. The wall was constructed in 2001. We were unaware that the wall permit was not closed out properly. Zoning division has put us in violation and is requiring that we open a new permit and have the wall approved or remove the wall. We have been in a long arduous process with our contractor to pull a permit but we have submitted for permit for the existing wall which is B20906476.

- Special conditions and circumstances
 - Originally, Roger D Anderson purchased the lot in 1996 to create a buffer between a commercial lot he owns and the residential neighborhood recently built behind us. Roger and his family had a thought at some point to build a home for a rental property. However, after 1998 that will never be possible. Orange County bought an easement for drainage and condemned the lot as unbuildable.

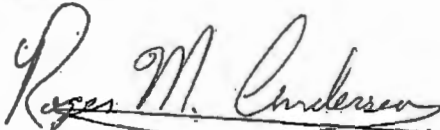
The lot became a problem to the association and to us due a number of reasons. The primary reason was the vehicles and pedestrian traffic from Dearmont Ave. to access the side road which goes to Highway 50. Secondary reasons included sound and visible barrier for the homeowners association, and security for our commercial lot.

We approached Colonial Lakes Homeowners Association to see if we could come up with a solution. The conversation was started that we would be willing to build a wall. The association could allow it if we could attain the signatures approving the proposed construction. We were able to get enough signatures to remove the homeowner Association restrictions related to walls and fences for 9321 dearmont. We proceeded with permitting and building the wall in 2001.

- Not Self-Created
 - We made great efforts to build the wall in accordance with regulations and to the benefit and approval of the Homeowners Association's community. The wall was permitted and engineered. Unfortunately, we were not aware that the permit was closed as incomplete.
- No Special Privilege Conferred
 - This lot is unbuildable according to the sale agreement made between Roger D. Anderson and Orange County Florida. We only wish to secure the lot from traffic and trespassers.
- Deprivation of Rights

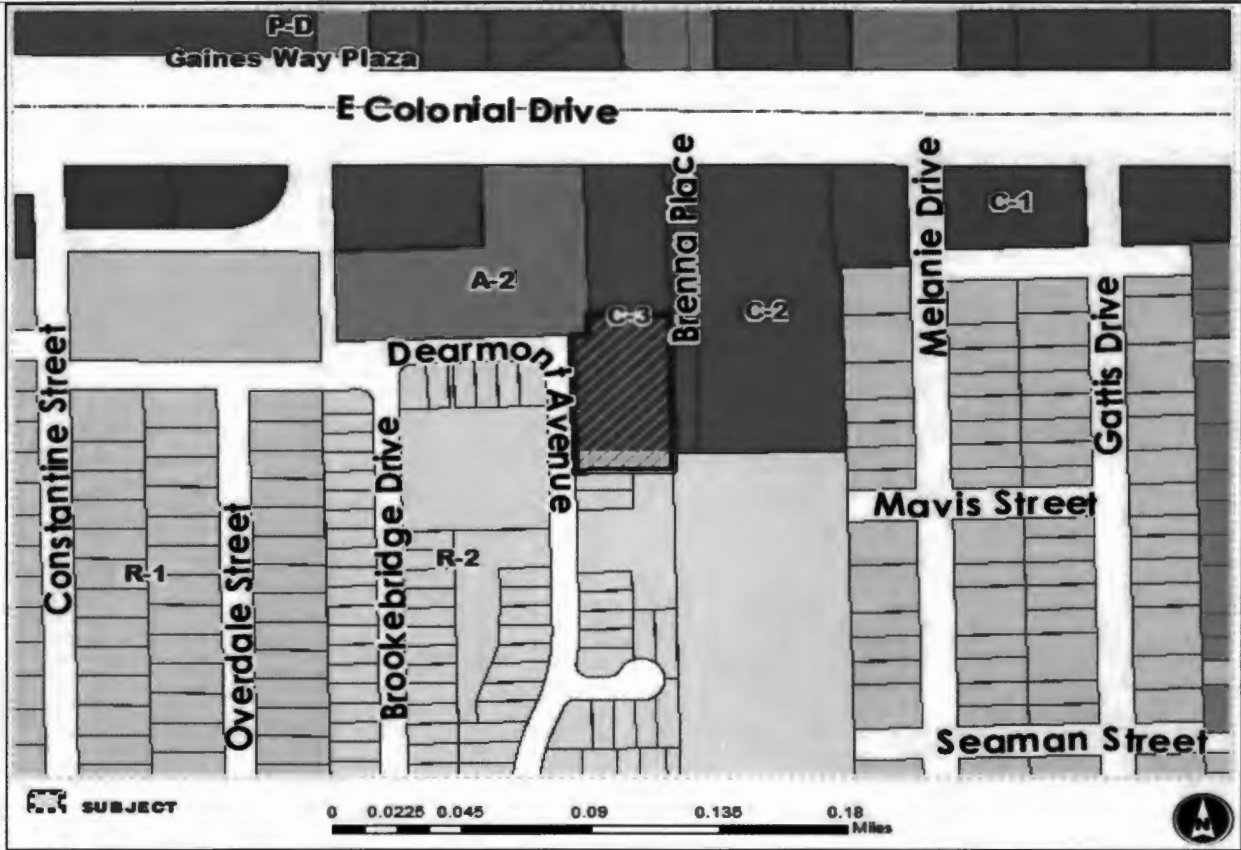
- Denial of this Variance would cause hardship for Mr. Roger Anderson and also for the Colonial Lakes Homeowners Association. Denial of the variance would result in demolition of the wall. Financially, at this time we would only be able to afford installing a chain link fence on the Commercial Lot. This would increase the noise level for the community and also the community would have a view of our operations at 9304 E Colonial Dr. Orlando FL 32817. Furthermore this would allow traffic to illegally cross across the lot once again.
- Minimum Possible Variance
 - We would like to request approval of a variance to keep the wall as it stands. We would also like to request a variance to complete the rest of the perimeter of the lot with a 8 ft. chain link fence to allow easier upkeep of the lot. Also to keep any individuals from accessing the lot. We want to protect ourselves from any potential liability from injury claims. The permit number for this is B20906477.
- Purpose and intent:
 - The Variances if approved will be helpful in protecting the aesthetic appeal and privacy of colonial Lakes Associations Community. It will also benefit us in the ability to secure this lot and also our commercial lot from trespassers, theft and vandalism.

Sincerely,



Roger M Anderson

ZONING MAP



AERIAL MAP



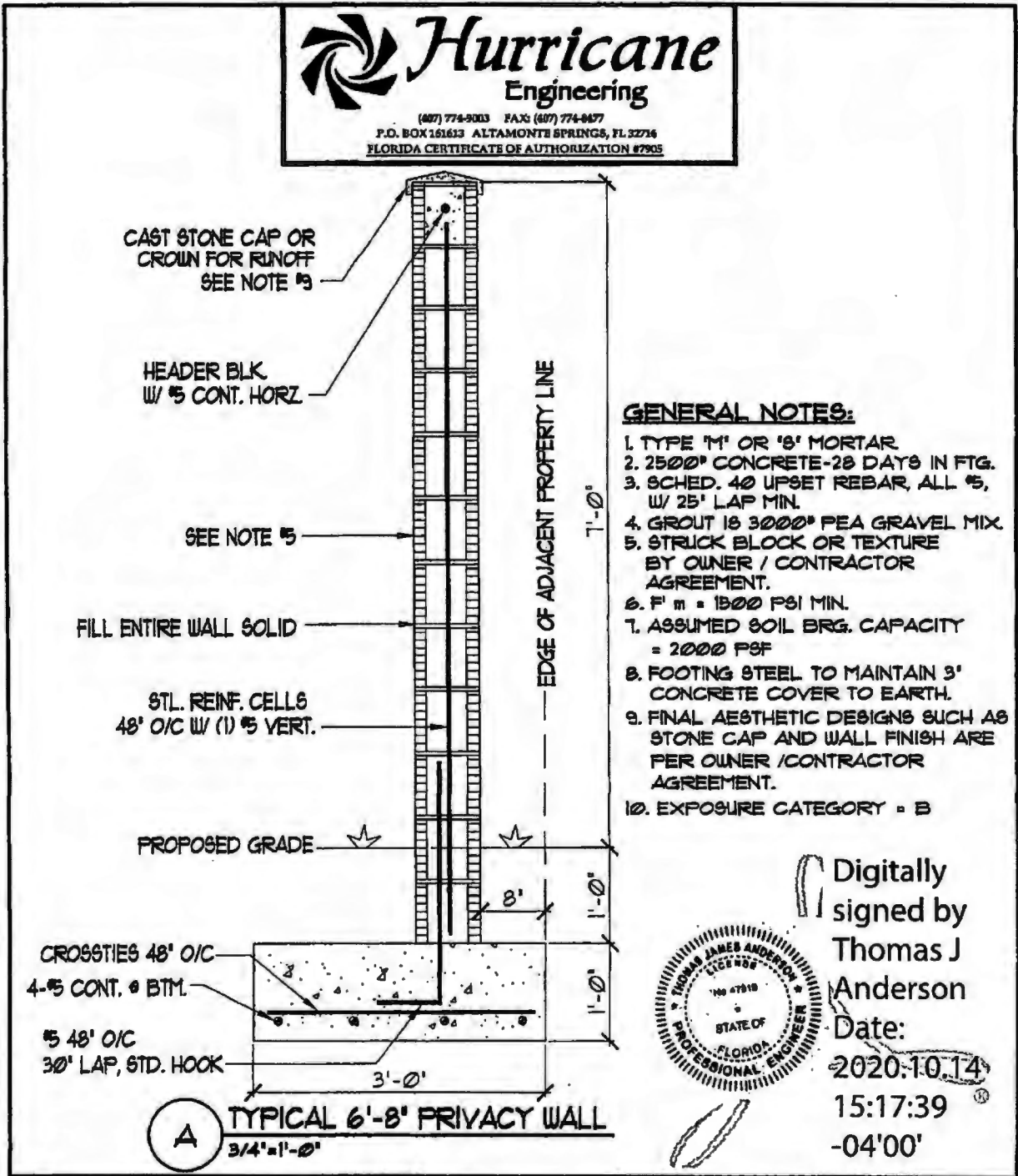
OVERALL SITE AERIAL



WALL DETAIL



(887) 774-9003 FAX (887) 774-8457
 P.O. BOX 151633 ALTAMONTE SPRINGS, FL 32716
 FLORIDA CERTIFICATE OF AUTHORIZATION #7905



- GENERAL NOTES:**
1. TYPE 'M' OR 'S' MORTAR
 2. 2500# CONCRETE-28 DAYS IN FTG.
 3. SCHED. 40 UPSET REBAR, ALL #5, W/ 25' LAP MIN.
 4. GROUT IS 3000# PEA GRAVEL MIX.
 5. STRUCK BLOCK OR TEXTURE BY OWNER / CONTRACTOR AGREEMENT.
 6. F m = 1500 PSF MIN.
 7. ASSUMED SOIL BRG. CAPACITY = 2000 PSF
 8. FOOTING STEEL TO MAINTAIN 3" CONCRETE COVER TO EARTH.
 9. FINAL AESTHETIC DESIGNS SUCH AS STONE CAP AND WALL FINISH ARE PER OWNER / CONTRACTOR AGREEMENT.
 10. EXPOSURE CATEGORY = B

Digitally signed by Thomas J Anderson
 Date: 2020.10.14 15:17:39 -04'00'



THIS STRUCTURE HAS BEEN DESIGNED TO MEET OR EXCEED THE 140 MPH V ₃₀ 3 SECOND GUST AND 128 MPH V ₃₀ WIND LOAD REQUIREMENTS OF THE FLORIDA BUILDING CODE 2011 EDITION AND ASCE 7	DRAWN BY: MIKE D	TITLE BLOCK:	SHEET NO.
	SCALE: 3/4"	ROGER ANDERSON 9321 DEARMONT AVE. ORLANDO, FL PRIVACY WALL	1 OF 2 6FT6IN RET WALL

SITE PHOTOS



Subject property looking east from Dearmont Ave.



Adjacent commercial looking northeast from Dearmont Ave.

SITE PHOTOS



Existing wall looking north along Dearmont Ave.



Wall extending east along the side property line looking east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 04, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-02-142**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): CARRIGAN REALTY, INC. (CUTTER SMYTH)

OWNER(s): CIRCLE C. RANCH II, LLC

REQUEST: Variance in the A-2 zoning district to permit a mobile home with 784 sq. ft. of living area in lieu of 850 sq. ft.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 401 N. Fort Christmas Road, Christmas, Florida, 32709, east side of N. Fort Christmas Rd., north of E. Colonial Dr. and south of Christmas Cemetery Rd.

PARCEL ID: 28-22-33-0000-00-006

LOT SIZE: 3.65 acres

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 19

DECISION: Recommended **APPROVAL** of 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 as amended (unanimous; 7-0):

1. Development shall be in accordance with the site plan dated December 9, 2020, 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 shed and mobile home shall be obtained within 1 year 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 given for such an extension.

5. This approval is for the existing mobile home only. Any replacement unit shall comply with the minimum living area in effect for a residence for this zoning district at that time.

SYNOPSIS: Staff explained the history of the property, the location, the site plan, details of the existing mobile home and accessory structure, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial since the subject mobile home could be replaced with one meeting the minimum living area requirements. Staff noted that two (2) correspondences in support and one (1) correspondence in opposition were received.

The owner described his request and stated that when his lease to raise cattle on another property was abruptly cancelled, he was required to immediately vacate the property, and was required to quickly relocate the cattle and equipment, and the mobile home. He assumed a permit was not needed for placement of structures on the property as long as it was in conjunction with the cattle operations, consistent with the other recently vacated agriculturally exempt land. There was no one present to speak in favor and there were four (4) present to speak in opposition to the request.

The BZA noted that the owner had no control over the mobile home size and the request was the minimum required. The BZA unanimously recommended approval of the variance, subject to the four (4) conditions in the staff report and a new Condition #5, which states "This approval is for the existing mobile home only. Any replacement unit shall comply with the minimum living area in effect for a residence for this zoning district at that time."

STAFF RECOMMENDATIONS

Denial. However, if the BZA finds that the applicant has satisfied the criteria for the granting of a 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	A-2	A-2	A-2	A-2	A-2
Future Land Use	R	R	R	R	R
Current Use	Mobile home and shed	Vacant	Single-family residence	Agriculture	Agriculture

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-2 Farmland Rural zoning district, which allows agricultural uses, mobile homes and single-family homes with accessory structures on larger lots.

The subject property consists of 3.65 acres of land created in 2017 through a lot split (LS-17-10-063). While the resulting parcels created by the lot split do not contain the 10 acres required for the Rural Future Land Use (FLU), because the result of the split was to consolidate several smaller parcels into two (2) larger parcels, the Planning Division allowed the split to take place. The site currently contains a 784 sq. ft. mobile home, and a 120 sq. ft. shed. The shed is located behind the mobile home, and is only partially visible from the road. Neither structure contains permits.

Code Enforcement cited the owner in August 2020, for installation of a mobile home without a permit (incident #CE 575740). In the A-2 zoning district, a mobile home is permitted by right with a minimum of two (2) acres of land area; however, a minimum 850 sq. ft. living space is required.

The mobile home had previously been used as a night watchman's quarters on a nearby parcel of land with an agricultural exemption and was relocated. Since property with an agricultural exemption is exempt from local zoning regulations when used with the agricultural operation the owner incorrectly assumed that the exemption is portable and installed the mobile home on the subject site without a permit.

The owner has applied for an Agricultural Exemption, since the intention is to utilize the subject site for cattle breeding and to once again use the mobile home in association with the operation. In order to abate the Code Enforcement citation prior to receiving an Agricultural Exemption, the owner is required to meet all code requirements for all structures.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	12 ft.
Min. Lot Width:	100 ft.	208 ft.
Min. Lot Size:	0.5 acres	3.65 acres

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

	Code Requirement	Proposed
Front:	35 ft.	Mobile home 156 ft./Shed 168 ft. (West)
Rear:	50 ft.	Mobile home 443 ft./Shed 431 ft. (East)
Side:	10 ft.	Mobile home 32 ft./Shed 30 ft. (North) Mobile home 120 ft. /Shed 130 ft. (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances pertaining to the need for the variance since the owner has other options to acquire a mobile home that meets minimum code requirements.

Not Self-Created

The request is self-created in that there are other options available to negate the need for the variance and the variance would not have been needed if a permit for a mobile home meeting minimum living area requirements was obtained prior to installation.

No Special Privilege Conferred

The variance would confer special privilege since there are other options in order to meet code requirements.

Deprivation of Rights

Deprivation of rights is not a consideration since the owner is able to install a compliant mobile home to utilize the property as a residence.

Minimum Possible Variance

The requested variance pertaining to minimum living area is the minimum possible since it is an existing mobile home that was relocated to the property to be reused for agricultural purposes.

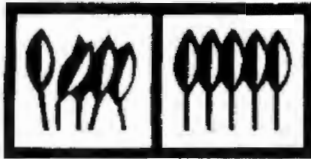
Purpose and Intent

The purpose and intent of the minimum floor area requirement is to ensure uniformity in development standards to ensure the substandard dwelling units are not constructed. However, allowing the reduction of living area for this mobile home would not be detrimental to the surrounding properties in the area since it will not be inconsistent with other nearby structures used for agricultural purposes.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated December 9, 2020, 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 shed and mobile home shall be obtained within 1 year 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 given for such an extension.

C: Cutter Smyth
18716 E. Colonial Dr.
Orlando, FL 32820



Carrigan Realty, Inc.
Realtors



R. F. Carrigan, Jr., *President*
REALTOR *Emeritus*

December 9, 2020

Board of Zoning Adjustment
Orange County Zoning Division
201 S. Rosalind Ave, 1st Floor
Orlando, FL 32801

Re: Justification Letter – Variance Application – 401 N. Fort Christmas Rd.

Dear Board of Zoning Adjustment,

Our request is for a variance to the minimum living area for A-2 zoned land. Orange County Code shows the minimum living area as 850 square feet. The owner's (Robert Carrigan) existing mobile home is 784 square feet (14 ft x 56 ft), just 66 square feet short of the minimum living area. First, let me begin with a bit of background information to bring everyone involved up to speed.

Previously, the owner's cattle-raising ranch operation was situated on the Lopez family's 408 acres located at 16499 East Colonial Drive and 2421 South Tanner Road. Mr. Carrigan operated under a cattle grazing lease with an approved agricultural exemption on the leased property. Unfortunately, the owners sold the property to a developer with intentions to develop the property into an agricultural friendly neighborhood called The Grow. Some months after the closing of the sale, Mr. Carrigan's cattle grazing lease was terminated by the developer and Mr. Carrigan had to vacate the leased property by July 12, 2020.

After receiving the grazing lease termination notice, Mr. Carrigan was forced to timely remove all of his ranch equipment, including the 784 square foot mobile home, from the leased property within 60 days. He had to remove all of his ranch belongings quickly and bring them somewhere. It made logical sense for him to move his ranch equipment and mobile home to the agriculturally zoned vacant land (3.65 acres) he owns in Christmas located at 401 North Fort Christmas Road, the subject property of this variance request. Before moving the equipment over to the subject property, Mr. Carrigan had the property fenced and cross fenced for future cattle use. The proposed use of the Fort Christmas Rd property is for a small cattle breeding operation with the mobile home being used as a small ranch domicile. The mobile home will be used for temporary occupancy on weekends and when Mr. Carrigan can get out there. An agricultural tax exemption will be applied for on the property and the site will not be used as the homestead of the owner. Mr. Carrigan's homestead address is 2636 Albion Ave Orlando, FL 32833.

Serving East Orange County for over 50 years!

18716 E. Colonial Drive • Orlando, Florida 32820 • 407-568-2145 • Fax 407-568-1247

EMAIL: CARRIGANRE@AOL.COM

COVER LETTER (PAGE 2)

Mr. Carrigan is a 90-year old man, soon to be 91 next month, who has been raising cattle since his family bought the 380-acre Circle C Ranch at the NW corner of SR50 and Chuluota Rd back in 1945. Since then, Mr. Carrigan's cattle-raising ventures have only been cut short by four years of college and five years of active service in the United States Air Force. About 14 months ago, Mr. Carrigan had his right hip replaced at the Mayo Clinic, and recently during the past year he has had four operations on his right eye due to a 20-year old tumor on his seventh facial nerve. Due to these health situations, Mr. Carrigan has slowed down considerably and would like to enjoy his cows at the Fort Christmas Rd property.

Please see the reasons below in which we feel this variance request meets all six criteria for approval.

Special Condition and Circumstance: The 784 square foot mobile home was already owned and previously used on the aforementioned grazing lease property as a ranch caretaker's trailer. We are requesting to use the same mobile home for the same purpose as previously described.

Not Self-Created: The grazing lease termination initiated by the developer on the previously leased property forced Mr. Carrigan to quickly bring the mobile home and all of his ranch equipment to a new property. He had nowhere to move his ranch belongings except for the Fort Christmas Road property. It was never his intention to violate any site and building requirements.

No Special Privilege Conferred: Approval of this variance request would not confer any special privilege to Mr. Carrigan because the 784 square foot mobile home has all the same living facilities as compared to a 850 square foot mobile home. Same functionality but with just 66 less square feet.

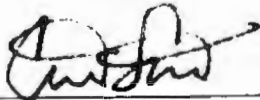
Deprivation of Rights: Literal interpretation of the A-2 standard for minimum living area (850 square feet) would deprive Mr. Carrigan of the use of the existing 784 square foot mobile home which is already set up for comfortable habitation of 2 people. The 784 square foot mobile home provides the same essential facilities as an 850 square foot mobile home. 1 bedroom, a full bathroom, a ½ bathroom, a full kitchen, etc. He is too old to get another mobile home and set it up in a similar fashion.

Minimum Possible Variance: A variance in the amount of 66 square feet is the minimum variance to make possible the reasonable use of the current existing 784 square foot mobile home.

Purpose and Intent: The proposed agricultural use of the property for cattle breeding and raising is in harmony and consistent with the surrounding land uses. This variance request will not be injurious to the neighborhood or otherwise detrimental to the public welfare in any way.

I hope this letter provides some insight and justification for our request. Thank you for your attention to this matter.

Sincerely,



Cutter Smyth, Vice President
Carrigan Realty, Inc. (Applicant)

ZONING MAP

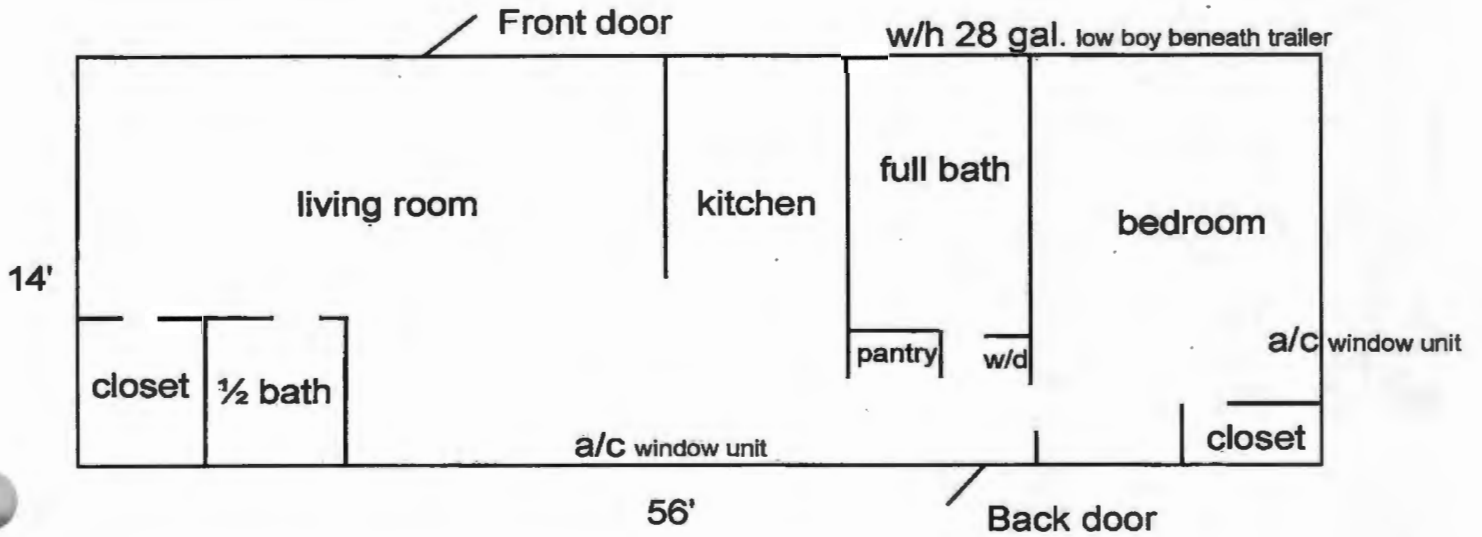


AERIAL MAP



FLOOR PLAN

401 N. Fort Christmas Rd. Mobile home floor plan 784 sq ft.



SITE PHOTOS



View from N. Fort Christmas Rd. looking east



South side of mobile home looking north

SITE PHOTOS



Subject property looking east



Mobile home and shed looking east

SITE PHOTOS



North side of subject property looking east



Central portion of subject property looking east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 04, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-02-136**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): WINDERWEEDLE, HAINES, WARD AND WOODMAN, PA. (NICOLE CAROLAN)

OWNER(s): TRAVIS BARR

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

- 1) To allow an existing 5,949 sq. ft. house to remain at 23.7 ft. from the NHWE in lieu of 50 ft.
- 2) To allow an existing 1,408 sq. ft. garage to remain with a south side setback of 3.1 ft. in lieu of 7.5 ft.
- 3) To allow an existing 120 sq. ft. accessory structure (covered wood deck) to remain with a north side setback of 3.5 ft. in lieu of 5 ft.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 5595 Hansel Avenue, Orlando, Florida, 32809, east of Hansel Ave., north of Hoffner Ave., on the west side of Lake Conway.

PARCEL ID: 24-23-29-3400-00-016

LOT SIZE: 0.71 acres (31,010 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 409

DECISION: Recommended **APPROVAL** of the Variance requests 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 as amended (unanimous; 7-0):

1. Development shall be in accordance with the site plan and elevations dated December 18, 2020, 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 for all unpermitted work within 1 year 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 a building permit, the property owner shall record in the official records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that: the 2 story attached rear deck is located no closer than 34.2 feet, and the house is located no closer than 23.7 feet from the Normal High Water Elevation (NHWE) of Lake Conway.
6. Approval of variance #3 is for the existing structure only. Any modification or replacement shall comply with minimum setbacks for the zoning district.

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 of variances #1 and #2, and for denial of variance #3. Staff noted that four (4) comments were received in support, including the closest neighbor to the north, and two (2) comments were received in opposition.

The applicant stated that he agrees with the staff recommendation for variances #1 and #2. However, regarding variance #3, he noted that the conditions were existing when the owner bought the property in 2016. He also noted that the neighbor is in agreement, and they are requesting the same approach as with the other variances.

The BZA inquired as to how difficult it would be to move the covered wood deck. The BZA also noted that the most affected neighbor to the north is in support of the request. The BZA discussed the addition of a sixth condition pertaining to any future replacement of the accessory structure to meet code requirements.

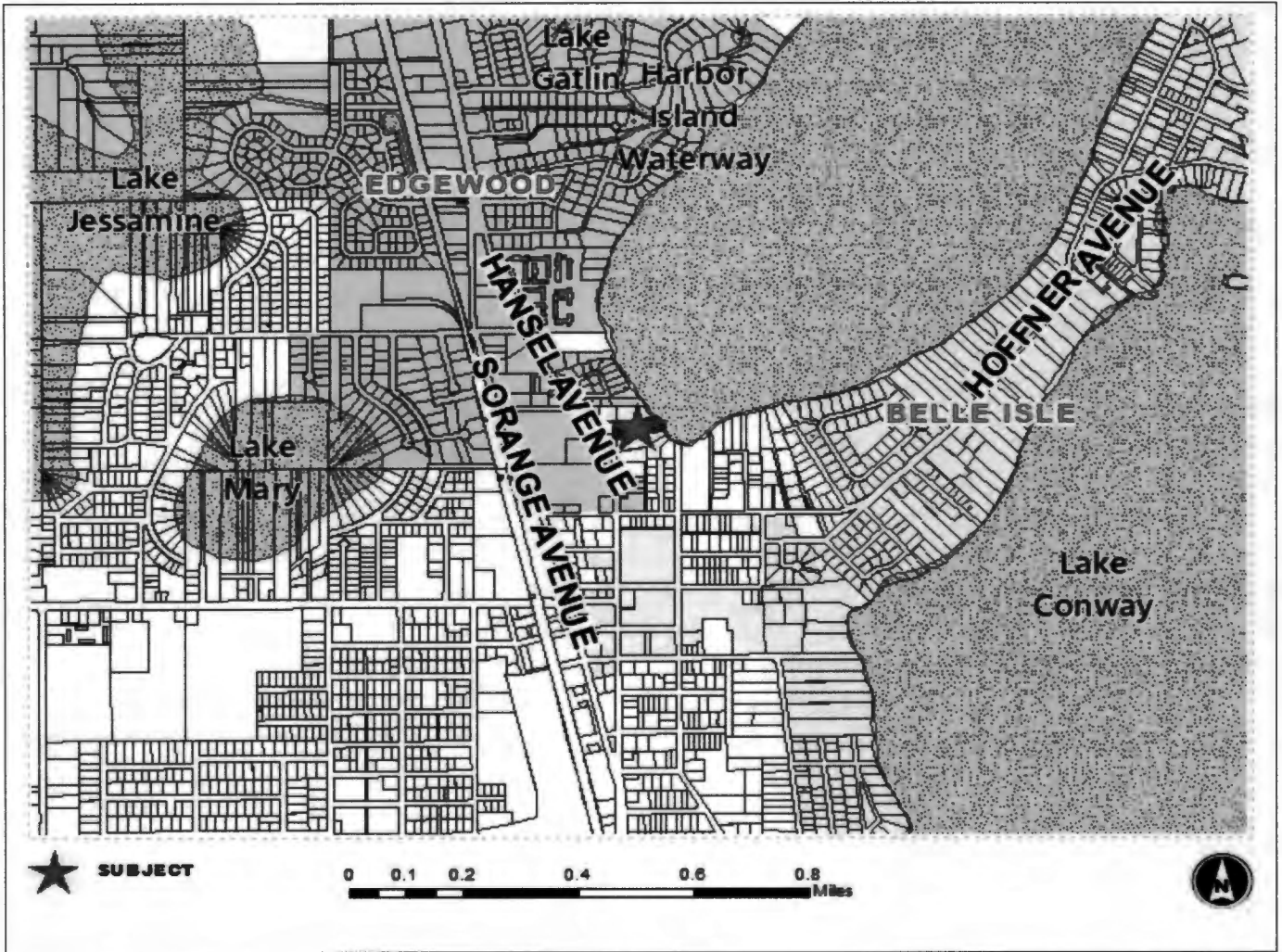
There was no one in attendance to speak in opposition to the request.

The BZA unanimously recommended approval of the variances, subject to the five (5) conditions in the staff report, and a new Condition #6, which states "Approval of variance #3 is for the existing structure only. Any modification or replacement shall comply with minimum setbacks for the zoning district."

STAFF RECOMMENDATIONS

Approval of Variances #1 and 2, and denial of Variance #3. However, should the BZA find that the applicant has satisfied the criteria necessary to grant all the variances, staff recommends that the approval be subject to conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-3, R-1A	Lake Conway	C-1
Future Land Use	LDR	LDR	LDR	Lake Conway	C
Current Use	Single-family residence	Single-family residence	Single-family residence	Lake Conway	Vacant

BACKGROUND AND ANALYSIS

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 on lots a minimum of 7,500 sq. ft. or greater.

The area consists of single-family homes to the north and south, single-family homes and vacant commercial properties to the west, and Lake Conway to the east. The subject property is a 0.71 acre lot, located in a plat from 1891, and the lot was recognized by Orange County (in the zoning records) prior to 1955, and is considered to be a conforming lot of record. It is developed with a 5,949 sq. ft. single family home and a 1,408 sq. ft garage that were constructed in 1935. There also is a 120 sq. ft. accessory structure, a covered wood deck, which appears to have been built between 2009 and 2010 based on aerials. Staff was unable to locate permits for this structure. Staff was also unable to locate a permit for the 2-story deck addition located at the rear of the house. The applicant purchased the property in November, 2016.

Code Enforcement cited the applicant in October of 2020 for adding and altering a deck on the rear of the house without permits (Incident 579996).

The current owner refurbished portions of a 2-story deck at the rear of the house and now has applied for a permit (B20022735) for the deck addition, which cannot be approved due to encroachment into the 50 setback from the Normal High Water Elevation (NHWE). The 2-story attached deck is located 34.2 ft. from the NHWE, and is required to meet the same setback (50 ft.) as it is considered part of the primary residence. A portion of the existing house is closer (than the 2-story deck) to the NHWE with a 23.7 ft. setback, thus due to the 2 story deck being further back, a variance for the 23.7 ft. NHWE setback is being requested. (Variance # 1). The existing garage is located in front of the principal structure. Orange County Code allows this location since the house is located on the rear half of the lot, however the garage is required to comply with all principal structure setbacks. The garage is located 3.1 ft. from the side (south) property line, where a 7.5 ft. setback is required. (Variance # 2). The existing unpermitted accessory structure (covered wood deck) is located 3.1 ft. from the side (north) property line, in lieu of 5 ft. (Variance # 3).

The applicant has submitted a letter of no objection from the adjacent neighbor to the north.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	11.2 ft. garage, 9.8 ft. accessory structure, 16 ft. home addition
Min. Lot Width:	75 ft.	75 ft.
Min. Lot Size:	7,500 sq. ft.	0.71 acres (31,010 sq. ft.)

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

	Code Requirement	Proposed
Front:	25 ft.	141.3 ft. garage (West), 280 ft. house (West)
Rear:	30 ft.	47 ft. (East)
Side:	7.5 (for house and garage), 5 ft. accessory structure	10 ft. house (South), 3.1 ft. garage (South-Variance #2), 20.7 ft. house (North), 46 ft. garage (North), 3.5 ft. accessory structure (North -Variance #3)
NHWE:	50 ft.	23.7 ft. house (East-Variance #1)

VARIANCE CRITERIA

Variations 1 and 2 (Approval)

Special Conditions and Circumstances

The special conditions and circumstances for the variations are as a result of the timeframe the house and garage were constructed in 1935, prior to the establishment of zoning regulations by Orange County in 1957, including part of the existing house which is closer to the NHWE (with a 23.7 ft. setback) than the 2-story deck, which is 34.2 ft. from the NHWE.

Not Self-Created

The owner is not responsible for the orientation of the residence and garage, since the property was purchased in 2016, long after the house was built in 1935.

No Special Privilege Conferred

Granting the variations will not confer any special privilege. The house and garage were constructed in 1935 in this configuration and location.

Deprivation of Rights

Without the requested variations, the owner will be required to demolish portions of the house and garage were established in 1935. Denial of these variations and required removal of the house and garage that have been in its current location for over 86 years.

Minimum Possible Variance

The requests are the minimum possible variations to allow the continued use of structures which have been located in the current footprint for over 8 decades.

Purpose and Intent

Approval of this request will be in harmony with the purpose and intent of the Zoning Regulations which is to continue to allow the development of lawfully constructed residences.

VARIANCE CRITERIA

Variance 3 (Denial)

Special Conditions and Circumstances

There are no special conditions and circumstances pertaining to the need for variance #3, as the accessory structure could have been installed in a manner that would not have required a variance.

Not Self-Created

The request for variance #3 is self-created and is the result of the accessory structure being installed without permits.

No Special Privilege Conferred

Granting the variance as requested will confer special privilege that is denied to other properties in the same area and zoning district, as the applicant may rectify the issue by moving, removing, or modifying the accessory structure that was installed without permits.

Deprivation of Rights

The applicant is not being deprived of the right to have an accessory structure on the property since the owner has the ability to meet the setback requirements.

Minimum Possible Variance

The request is not the minimum, since at the time of installation the structure could have been located at least 5 ft. from the north property line, meeting code requirements.

Purpose and Intent

Approval of variance #3 will not be in harmony with the purpose and intent of the zoning regulations, since allowing an unpermitted non-conforming structure to remain will be detrimental to adjacent properties.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated December 18, 2020, 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 for all unpermitted work within 1 year 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 a building permit, the property owner shall record in the official records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that: the 2 story attached rear deck is located no closer than 34.2 feet, and the house is located no closer than 23.7 feet from the Normal High Water Elevation (NHWE) of Lake Conway.

C: Nicole Latham Carolan
329 N. Park Ave., Floor 2
Winter Park, FL 32790



Nicole Latham Carolan
329 North Park Avenue, 2nd Floor
Winter Park, FL 32789
Phone: (407) 423-4248 | Direct: (407) 248-8660
Email: ncarolan@w/ww.com | www.w/ww.com

December 9, 2020

Orange County Zoning Division
201 S. Rosalind Avenue, 1st Floor
Orlando, FL 32801

Re: Variance Application for 2nd Story Improvements and Other Existing Improvements at 5595 Hansel Ave., Orlando, FL 32809 (the "Property")

Dear Orange County Zoning Division Staff:

This variance request pertains to existing improvements to a two-story, single family residence located and other improvements located at the Property.

Background:

Travis Barr ("Owner") purchased the Property in November 2016 with an existing lakefront, single-family residence with detached garage (the "Non-Conforming Residence") that, to the Owner's knowledge and belief, was constructed prior to the adoption of the Orange County Code of Ordinances in 1957 (per OCPA records, 1935). In the rear of the Property, the Non-Conforming Residence encroaches into the 50-foot setback from the NHWL to varying degrees, but at a maximum the Non-Conforming Residence is 23.7 feet from the NHWL (please see survey attached). Further, the detached garage aspect of the Non-Conforming Residence (the "Detached Garage") encroaches into the 7.5-foot side setback to varying degrees, but at a maximum the Detached Garage is 3.1 feet from the southern side property line (please see survey attached). It is believed that the Non-Conforming Residence is a nonconforming structure contemplated by Article III of Chapter 38 of the Orange County Code due to its construction prior to the adoption of the Orange County Code of Ordinances.

Per OCPA records, at some time between 2009 and 2010, the prior owner of the Non-Conforming Residence constructed a free-standing enclosed wood deck (the "Wood Deck") along the northern property line of the Property. The Wood Deck encroaches into the 7.5-foot side setback along the northern side property line per the enclosed survey to varying degrees, but at a maximum of 3.5 feet from the northern property line.

At the time of purchasing the Property, the Owner was unaware of the non-conforming nature of the Non-Conforming Residence or the other improvements at the Property, including the Wood Deck.

After purchasing the Property, the Owner made various improvements to the Property, a few of which required permits from Orange County and are the subject of Orange County Code Enforcement Division Incident No. 579996 (dated November 3, 2020, copy enclosed) (the "CE Citation"). All matters in the CE Citation have since been resolved, except improvements to the rear of the second floor of the Non-Conforming Residence which are the subject of this application.

The second floor of the Non-Conforming Residence contained a second-floor rear balcony under roof. The Owner expanded the second-floor rear balcony with wood decking, railing and supporting columns and footers, and also improved the roof of the existing single-story room of the Non-Conforming Residence to create a wooden sundeck and railing (the "Owner's Improvements"). The modified balcony,

Winderweedle, Haines, Ward & Woodman, P.A. / Established 1931

December 9, 2020
Page 2

as existing today, is approximately 36 feet wide by 8 feet deep (which includes the existing balcony from the Non-Conforming Residence). The sundeck was added on the roof of an existing part of the Non-Conforming Residence that was approximately 12 feet by 16 feet.

All Orange County Departments have signed off on the Owner's Improvements, except the Zoning Division, on the basis that the Owner's Improvements to the Non-Conforming Residence require a variance under the Orange County Code of Ordinances due to encroachment of the Owner's Improvements into the 50-foot setback from the NHWL as set forth herein.

Summary List of Variance Requests:

1. Encroachment of Detached Garage into southern 7.5-foot side setback, which at its maximum is 3.1 feet from the southern side property line. (Note: Owner believes this encroachment existed prior to 1957 as it was made from the same materials as the 1935 residence).
2. Encroachment of Wood Deck into northern 7.5-foot side setback, which at its maximum is 3.5 feet from the northern side property line. (Note: Owner purchased the Property with this encroachment existing).
3. Encroachment of 2nd Story Improvements into 50 foot rear setback from NHWL, which 2nd Story Improvements at their maximum are 23.7 feet from NHWL. (Note: First floor encroachment existed prior to 1957 as it was part of the original construction).

Variance Criteria:

The variance criteria under Section 30-43(3) of the Orange County Code are met as follows:

1. **Special Conditions and Circumstances.** Special conditions or circumstances exist in this instance, because the Non-Conforming Residence was already a non-conforming structure under the Orange County Code (unbeknownst to the Owner) and the only degree to which the non-conforming was increased by the Owner only related to improvements on the second floor of the Non-Conforming Residence above ground level, with the exception of supporting columns and footers. In other words, on the ground level, the non-conforming nature was not increased except for columns and footers. A majority of this request pertains to improvements existing when the Owner purchased the Property.
2. **Not Self-Created.** The non-conforming nature of the Non-Conforming Residence was not created by the Owner (let alone known to the Owner upon his purchase). Due to the existing encroachments into the 50-foot setback, the Owner was unaware that second story improvements created a circumstance that required a variance.
3. **No Special Privilege Conferred.** This Property is unique in terms of its existing non-conforming nature, and there would be no special privilege conferred on the Owner upon the granting of the variance. Please see enclosed letter of support from adjacent owner.
4. **Deprivation of Rights.** Literal interpretation of the provisions of the Chapter would require the Owner not only to remove the existing improvements but jeopardize the continuity of the non-conforming nature of the Non-Conforming Residence that was not constructed by the Owner. The deprivation of the Owner's rights by literal interpretation of the Code significantly outweighs the impact of the requested variance, which does not materially increase the ground level non-conformity. Please see enclosed letter of support from adjacent owner.
5. **Minimum Possible Variance.** The improvements are existing today, and this variance request only relates to the encroachment of the existing improvements.

December 9, 2020
Page 3

- 6. Purpose and Intent.** The granting of the variance is in harmony with the intent of the Orange County Code of Ordinance, including Article III of Chapter 38, which contemplates the continuity of existing non-conforming structures. The improvements do not materially increase the degree of the nonconformity on the ground level.

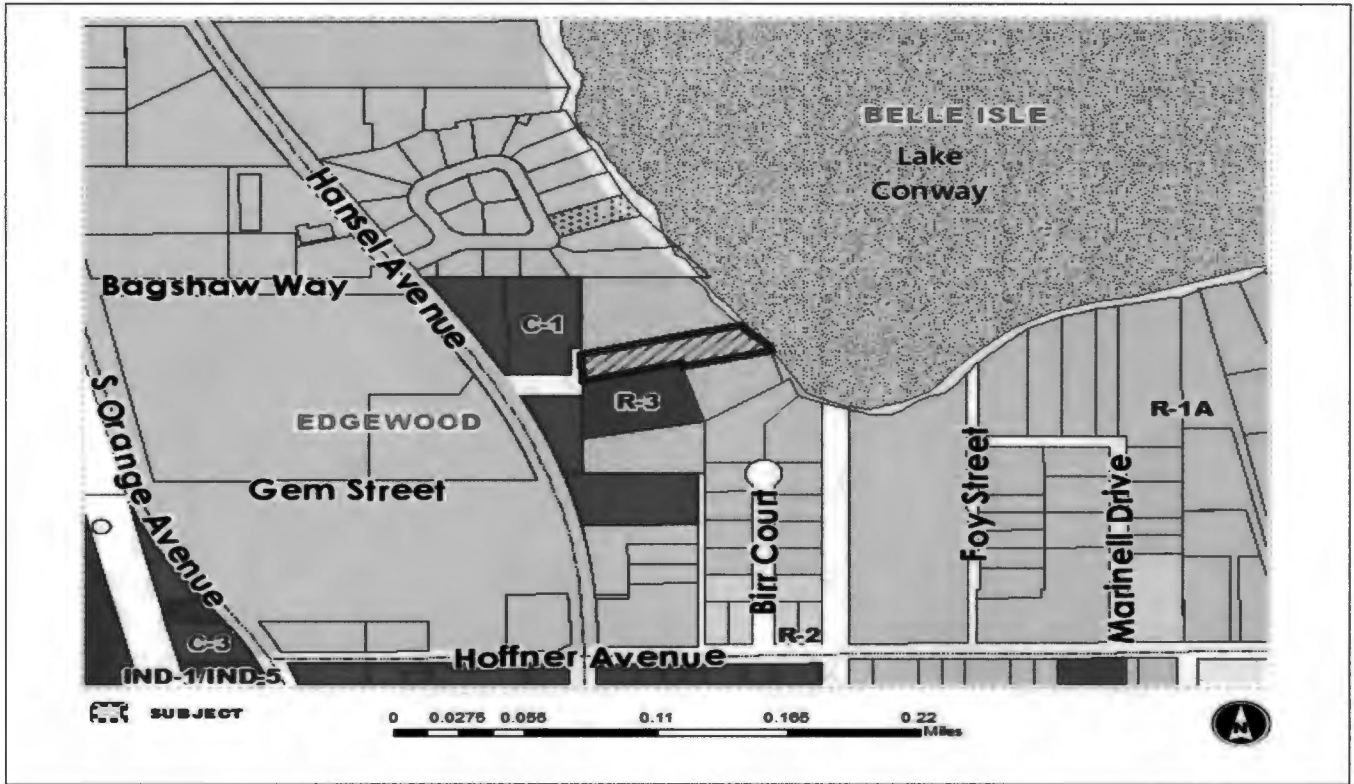
The Owner respectfully requests that the Orange County Zoning Staff and Orange County Board of Adjustment recommend granting the variance requested by this application to the Orange County Board of County Commissioners. We look forward to working with the Orange County Zoning Divisions and promptly responding to any additional requests for information or documentation related to this request.

Sincerely,



Nicole Latham Carolan

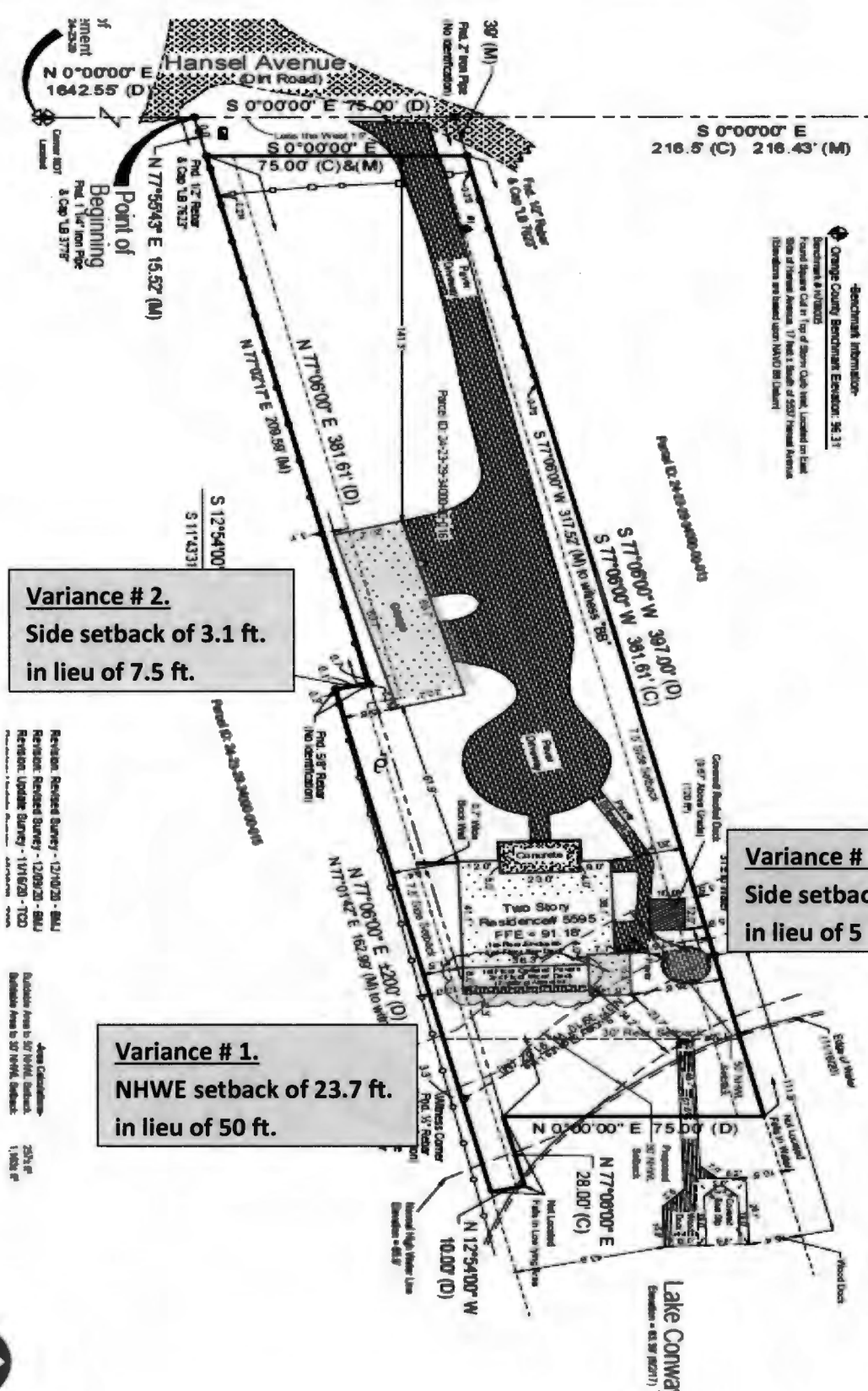
ZONING MAP



AERIAL MAP



SITE PLAN



Benchmark Information
 Orange County Benchmark Elevation: 24.31
 Benchmark 61070202
 Round Square (at top of Stone Circle Yard, Located on West Side of Hansel Avenue, 17 Feet South of 550' Frontal Setback) (Elevations are based upon NAVD 83 datum)

Variance # 2.
 Side setback of 3.1 ft.
 in lieu of 7.5 ft.

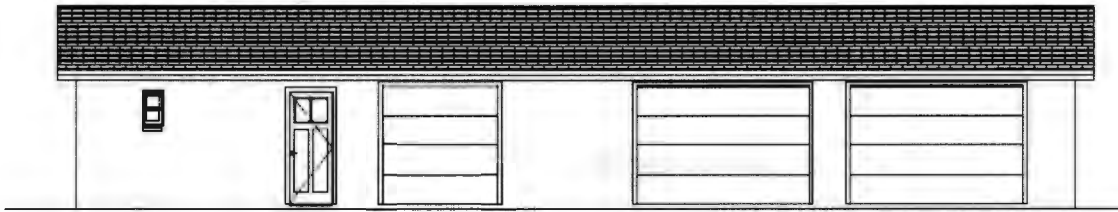
Variance # 3.
 Side setback of 3.5 ft.
 in lieu of 5 ft.

Variance # 1.
 NHWE setback of 23.7 ft.
 in lieu of 50 ft.

Revision: Revised Survey - 12/10/23 - BMJ
 Reviser: Revised Survey - 12/09/23 - BMJ
 Revision: Update Survey - 11/16/23 - TCD
 Reviser: Update Survey - 11/16/23 - TCD

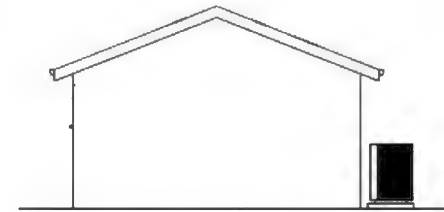
Area Calculations:
 Exclude Area to 50' NHWE Setback: 2534 sq ft
 Exclude Area to 50' NHWE Setback: 1,908 sq ft





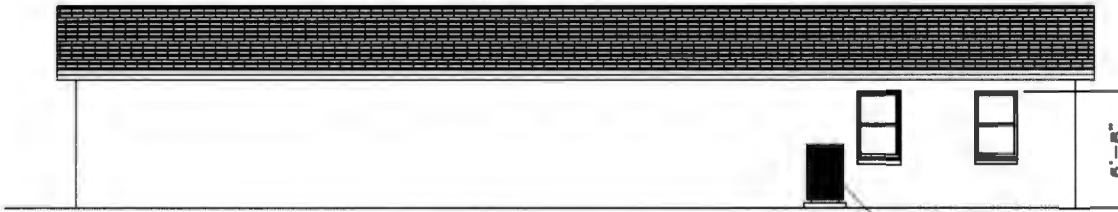
EXISTING FRONT ELEVATION (NORTH)

1/8"=1'-0"



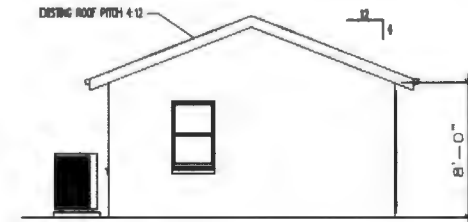
EXISTING SIDE ELEVATION (WEST)

1/8"=1'-0"



EXISTING REAR ELEVATION (SOUTH)

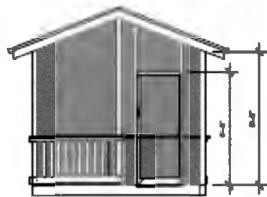
1/8"=1'-0"



EXISTING SIDE ELEVATION (EAST)

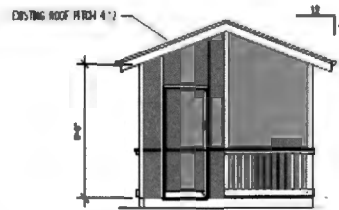
1/8"=1'-0"

GARAGE



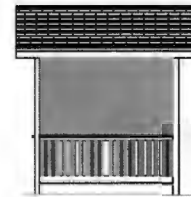
EXISTING REAR ELEVATION (NORTH)

1/8"=1'-0"



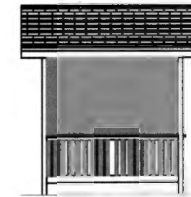
EXISTING FRONT ELEVATION (SOUTH)

1/8"=1'-0"



EXISTING SIDE ELEVATION (EAST)

1/8"=1'-0"



EXISTING SIDE ELEVATION (WEST)

1/8"=1'-0"

COVERED / ROOFED WOOD DECK

SITE PHOTOS



Front facing east



Front and garage facing east

SITE PHOTOS



View of garage facing east, with 3.1 ft. setback on south side



Garage facing south

SITE PHOTOS



Covered side deck showing 3.5 ft. north setback



Rear facing west

SITE PHOTOS



Rear facing west



Covered rear deck facing north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 04, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-03-140**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): TD LAKE BUENA VISTA HOTEL LLC (JAMES L MOORE)

OWNER(s): TD LAKE BUENA VISTA HOTEL LLC

REQUEST: Variances in the C-1 zoning district as follows:

- 1) To allow a laundry room expansion with an east front setback of 15.7 ft. in lieu of 25 ft.
- 2) To allow the existing hotel building to remain with an east front setback of 22.9 ft. in lieu of 25 ft.

PROPERTY LOCATION: 12490 S. Apopka Vineland Road, Orlando, Florida, 32836, west side of S. Apopka Vineland Rd., south of Winter Garden Vineland Rd.

PARCEL ID: 22-24-28-5112-00-021

LOT SIZE: 3.84 acres

NOTICE AREA: 1,000 ft.

NUMBER OF NOTICES: 27

DECISION: Recommended **APPROVAL** of the Variance requests 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 (unanimous; 7-0):

1. Development shall be in accordance with the site plan and elevations dated December 9, 2020, 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 3 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.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, elevations, 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 and one (1) comment was received in opposition.

The applicant stated his agreement with the staff recommendation.

The BZA confirmed that the industry standard is to have on site laundry. The BZA discussed the objection stated by the neighbor to the north, of impeded visibility, and noted that the requested structure is further back from the front than the existing wall, which will be removed and replaced for the proposed laundry room addition. The BZA felt that the case was straightforward.

There was no one in attendance to speak in favor or in opposition to the request. The BZA unanimously recommended approval of the variance, subject to the four (4) 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	C-1	C-1	City of Lake Buena Vista	C-1 and Vista Centre P-D	Grand Cypress P-D
Future Land Use	ACMU	ACMU	City of Lake Buena Vista	ACMU	C
Current Use	Hotel	Retail/Commercial	Conservation/Wetlands, Medical	Restaurants, Retail	Wetland, then Private right-of-way

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the C-1, Retail Commercial district, which allows for restaurants, retail stores, offices and various other indoor commercial businesses.

The area is comprised of tourist-oriented retail, commercial and hotel uses. The lot was created by a lot split (LS 88-213) in 1989 from the original 1939 Livengood Park at Vineland Plat, and is considered to be a conforming lot of record. It is developed with a 126,696 sq. ft. hotel, constructed in 1973. The owner purchased the property in 2015.

The applicant is proposing to add a 1,598 sq. ft. laundry building 15.7 ft. from the east front property line, in lieu of a 25 ft. setback, requiring Variance # 1. The hotel does not have an on-site laundry facility, and currently utilizes a storage room in the hotel to assemble the laundry to ship it out to be cleaned. The site is developed with a hotel building, parking, and swimming pool, and it would not be possible to construct the proposed laundry building elsewhere on the site without modifying the parking. The property currently has an 8 ft. high wall in front of the proposed laundry building location, which will be removed with the construction of the laundry addition, and will be slightly further back from the front property line adjacent to S. Apopka Vineland Rd. than the wall. The applicant is also requesting the existing hotel building remain with an east front setback of 22.9 ft. in lieu of 25 ft., requiring Variance # 2.

District Development Standards

	Code Requirement	Proposed
Max Height:	50 ft.	16.8 ft. (laundry room addition)
Min. Lot Width:	60 ft.	233 ft.
Min. Lot Size:	6,000 sq. ft.	3.84 acres

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

	Code Requirement	Proposed
Front:	25 ft.	15.74 ft. laundry room addition (East) Variance # 1; 22.95 ft. existing hotel (East) Variance # 2
Rear:	20 ft.	230.95 ft. (West)
Side:	0 ft.	110 ft. (South), 28.24 ft. (North)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances are that the property is fully developed with the hotel and appurtenances, rendering it impossible to locate the proposed laundry building elsewhere on the site. Also, the site was developed without consideration that there would be a need for an on-site laundry facility. The property was developed in 1973 with an east front setback of 22.9 ft. The applicant purchased the property in 2015.

Not Self-Created

The owner is not responsible for the manner in which the site was developed, without an on-site laundry facility. Also the owner is not responsible for the configuration of the lot and the orientation of the structure, since it was purchased in 2015, long after the hotel was built in 1973.

No Special Privilege Conferred

The existing improvements render the addition of an on-site laundry facility impossible without a variance. Furthermore, the hotel was constructed in 1973 in this configuration and location.

Deprivation of Rights

Without the requested variance #1, the applicant will not be able to place an on-site laundry facility on the property. Also the orientation and location of the hotel was established in 1973. Approval of variance #2 will allow the right to continue to use a property that has been existing for over 48 years

Minimum Possible Variance

Due to the existing site layout and location of new improvements, and the setback that has been in existence for over 4 decades, the requested variances are the minimum possible.

Purpose and Intent

Approval of these requests will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding area. The size and scale of the existing hotel and proposed improvement

is consistent with neighboring properties, and will not be out of character with the overall area since the hotel has been in the current location for over 48 years.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated December 9, 2020, 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 3 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.

C: James L. Moore
2720 Wright Ave.
Orlando, FL 32879



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AA26002557

December 22, 2020

Orange County Board of Zoning
201 South Rosalind Avenue, 1st Floor
Orlando, Florida 32801

RE: COVER LETTER TO SUPPORT THE VARIANCE REQUEST APPLICATION FOR THE ORLANDO VISTA HOTEL – EXISTING BUILDING (PRIOR TO BECOMING DELTA HOTEL)

To Whom It May Concern,

As requested after submitting the original variance request, please find this cover letter and associated response information (which follows the requested BZA documentation) acceptable for the above referenced project's variance request.

A. Detailed Cover Letter:

The Owner of Delta Hotel purchased the property located at 12490 S. Apopka-Vineland Road within an on-line bank auction back in 2015 as the property was foreclosed on from the previous owner. Once purchased, little documentation was received, pertaining to drawings and permit information. The existing site/building contains an approximate 8'-0" high "screen wall" which falls within 22.95' from the 25'-0" right-of-way. Also, of note, the existing hotel building is currently partially located within the east setback and it appears that the adjacent parcel structure, to the north, also is partially located within the east setback. This "screen wall" appeared to be constructed to shield the public view from the loading dock on the building's north side (which serves the Loading dock/Laundry Storage room within the existing building confines).

Included within this variance request are a few permit drawings and certificate of occupancy that could be found to help identify both the existing "screen wall" that falls within the Orange County Zoning setback requirements along with the floor plan location of the Laundry Storage Room (all of which were designed and built prior to owner/receivership of Delta Hotel):

- First Floor Plan - dated (8/21/13)
- Exterior Elevations – dated (8/21/13)
- Landscape Plan – dated (2/17/14)
- Temporary Certificate of Occupancy – (1/16/16)
- Certificate of Occupancy – (5/18/16)

Variance Criteria:

1. **Special Conditions and Circumstances:** The existing site/building contains an approximate 8'-0" high "screen wall" which falls within 22.95' from the 25'-0" right-of-way. The existing hotel building is currently partially located within the east setback and it appears that the adjacent parcel structure, to the north, also is partially located within the east setback.

- Refer to **Exhibit A** for reference to existing photos to highlight the current “screen wall” conditions and surrounding elements.
 - Refer to **Exhibit B** for a reference civil plan and landscape plan that was produced in 2014.
2. **Not Self-Created:** The existing site is currently fully developed with the hotel building, parking, pool, and ancillary structures. This request is not a “special” request and has existing precedence for being approved.
 3. **No Special Privilege Conferred:** The existing site/building contains an approximate 8’-0” high “screen wall” which falls within 22.95’ from the 25’-0” right-of-way. The existing hotel building is currently partially located within the east setback and it appears that the adjacent parcel structure, to the north, also is partially located within the east setback area adjacent to South Apopka-Vineland Road, thus this request is not a “special” request and has existing precedence for being approved.
 4. **Deprivation of Rights:** The existing site/building contains an approximate 8’-0” high “screen wall” which falls within 22.95’ from the 25’-0” right-of-way. The existing hotel building is currently partially located within the east setback and it appears that the adjacent parcel structure, to the north, also is partially located within the east setback area adjacent to South Apopka-Vineland Road. The existing condition seems to be a deprivation of rights that is currently enjoyed on site, if not allowed. Encroachment into the east setback area has also been previously approved both on-site and on the adjacent parcel to the north.
 5. **Minimum Possible Variance:** The existing site/building contains an approximate 8’-0” high “screen wall” which falls within 22.95’ from the 25’-0” right-of-way has already been approved and/or accepted by Orange County as these were the conditions that were present prior to new receivership of Delta Hotel.
 6. **Purpose and Intent:** The limits of the existing building and “screen wall”, in conjunction with the associated requested variance to the east setback, is in keeping with other setback distances currently in place both on the subject parcel and on the parcel to the north. Both existing screen walls and physical building walls are both currently located, in multiple locations, within the 25-foot setback adjacent to South Apopka-Vineland Road in this area. Based on the placement of the new building expansion (within the original variance request for Delta Hotel) and the fact we are increasing the current building setback in the area, it would reason that our request is in harmony with surrounding approvals, and the location of the new wall for the addition will not adversely impact the adjacent property to the north since the new wall is further from the right-of-way than the existing screen wall currently offers.

B. Detailed Site Plan/Survey:

The existing site/building contains an approximate 8’-0” high “screen wall” which falls within 22.95’ from the 25’-0” right-of-way. The existing hotel building is currently partially located within the east setback and it appears that the adjacent parcel structure, to the north, also is partially located within the east setback.

- Refer to **Exhibit B** for a reference civil plan and landscape plan that was produced in 2014.

C. Detailed Site Plan/Survey:

This project is not located on a lakefront, waterfront or on a natural canal and is NOT APPLICABLE for this variance request.

D. Architectural Exterior Elevations:

Refer to Exhibit C for reference to the First Floor Plan and North, East, and West Exterior Elevations of the existing hotel building produced in 2013.

If you have any questions or comments, we are available to discuss with you any aspect of the information contained herein. We look forward to your favorable consideration and approval.

Sincerely,



James L. Moore, AIA, NCARB
Principal
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(407) 810.2606



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December 4, 2020

Orange County Board of Zoning
201 South Rosalind Avenue, 1st Floor
Orlando, Florida 32801

RE: COVER LETTER TO SUPPORT THE VARIANCE REQUEST APPLICATION FOR DELTA HOTEL - LAUNDRY BUILDING ADDITION

To Whom It May Concern,

Please find this cover letter and associated response information (which follows the requested BZA documentation) acceptable for the above referenced project's variance request.

A. Detailed Cover Letter:

The proposed project is located on the existing hotel site which is located at 12490 South Apopka-Vineland Road just south of the intersection of Apopka-Vineland Road and Winter Garden-Vineland Road. The hotel has been located and functioning on this property since 1973. The hotel currently serves 241 rooms, and this is not proposed to change as part of this project. The existing structures on the site include the hotel building, a port-a-cochere, and a pool structure. One item of specific note is the existence of a "screen wall" which extends from the northeast corner of the existing hotel building, northward and then westward, and finally southward back to the hotel building, encompassing the service area and the pool area.

The proposed project includes the addition of one (1) laundry building addition of 1,598 SF to be connected to the northeast corner of the existing hotel building. This addition will allow the hotel to install the necessary laundry equipment to provide service to the hotel. The proposed placement of the addition on the site, which is over existing paved service drive area, will result in a building setback from the north property line of 28.24 feet which would make this addition the closest structure building structure to the north boundary, however there is no building setback on the north side since it is adjacent to C-1, therefore the north side meets the setback requirements. The new addition is proposed to have a variable building setback from the east boundary, which is adjacent to South Apopka-Vineland Road. At the northeast corner of the addition the building would be 15.74 feet from the right-of-way line and the southeast corner of the addition would be 23.67 feet from the right-of-way. The building setback requirements for the east side are 60 feet from the centerline of Apopka-Vineland Road, or 25 feet from the right-of-way, whichever is greater. The 25 feet from the right-of-way is the most restrictive setback in this location. Based on this setback requirement, the eastern side of the laundry addition would extend into the setback, and therefore we are making this variance request. It should be noted that the existing "screen wall" discussed above, is currently located closer to the South Apopka-Vineland Road right-of-way than the proposed laundry addition. This wall will be removed as part of the project, and the laundry addition will become the closest structure wall to the east boundary, resulting in a greater structure setback than currently exists.

Variance Criteria:

1. **Special Conditions and Circumstances:** The existing site contains a "screen wall" which is closer to the right-of-way than what this project is proposing. This screen wall will be removed where the new addition is proposed and will result in a greater structure setback than what currently exists along the east boundary. The existing hotel building is currently partially located within the east setback and it appears that the adjacent parcel structure, to the north, also is partially located within the east setback. In addition, due to equipment and staging area needs, this laundry building addition is necessary to adequately serve the existing hotel.

Refer to **Exhibit A** for reference to existing photos to highlight the current "screen wall" conditions and surrounding elements.

2. **Not Self-Created:** The laundry building addition is necessary to adequately provide laundry service to the existing hotel building. The site is currently fully developed for the hotel building and the required parking. The selected location for the addition is over existing service area pavement, adjacent to the current service areas of the hotel building. Since the addition is over existing paved areas (not parking) there is no increase in impervious coverage and the green areas can remain and are increased on the east side since the existing "screen wall" will be removed and replaced by the wall of the laundry addition. Since there are other structures, both on-site and adjacent, which extend into the setback area adjacent to South Apopka-Vineland Road, this request is not a "special" request and has existing precedence for being approved.
3. **No Special Privilege Conferred:** The site currently contains a "screen wall" which is located closer to the west right-of-way line of South Apopka-Vineland Road than the wall of the proposed laundry building addition. Since the new addition will increase the existing setback along the east side, this would not constitute a "special" privilege for this request. In addition, there are other structures, both on-site and adjacent, which extend into the setback area adjacent to South Apopka-Vineland Road, thus this request is not a "special" request and has existing precedence for being approved.
4. **Deprivation of Rights:** The site currently contains a "screen wall" which is located closer to the west right-of-way line of South Apopka-Vineland Road than the wall of the proposed laundry building addition. Since the existing screen wall has already been approved and is a condition that exists in the field today, not allowing the variance to place the new building wall FURTHER from the right-of-way than the existing condition seems to be a deprivation of rights that is currently enjoyed on site. Encroachment into the east setback area has also been previously approved both on-site and on the adjacent parcel to the north. Lastly, there would a hardship imposed on the hotel in that the laundry facility expansion area needed to adequately serve the hotel, would not be able to be constructed otherwise.
5. **Minimum Possible Variance:** The requested variance in the setback is the minimum possible in that the 1,598 SF addition is what is needed to properly provide space for the new laundry equipment and the staging area. A smaller building addition would not provide the necessary space.
6. **Purpose and Intent:** The limits of the proposed building expansion, and the associated requested variance to the east setback, is in keeping with other setback distances currently in place both on the subject parcel and on the parcel to the north. Both existing screen walls and physical building

walls are both currently located, in multiple locations, within the 25-foot setback adjacent to South Apopka-Vineland Road in this area. Based on the placement of the new building expansion and the fact we are increasing the current building setback in the area, it would reason that our request is in harmony with surrounding approvals, and the location of the new wall for the addition will not adversely impact the adjacent property to the north since the new wall is further from the right-of-way than the existing screen wall currently offers.

B. Detailed Site Plan/Survey:

The new addition is proposed to have a variable building setback from the east boundary, which is adjacent to South Apopka-Vineland Road. At the northeast corner of the addition the building would be 15.74 feet from the right-of-way line and the southeast corner of the addition would be 23.67 feet from the right-of-way.

Refer to Exhibit B for both the Existing Site Plan and the Proposed Variance Request Site Plan as required.

C. Detailed Site Plan/Survey:

This project is not located on a lakefront, waterfront or on a natural canal and is NOT APPLICABLE for this variance request.

D. Architectural Exterior Elevations:

Refer to Exhibit C for reference to the North, East, and West Exterior Elevations of the proposed structure.

If you have any questions or comments, we are available to discuss with you any aspect of the information contained herein. We look forward to your favorable consideration and approval.

Sincerely,

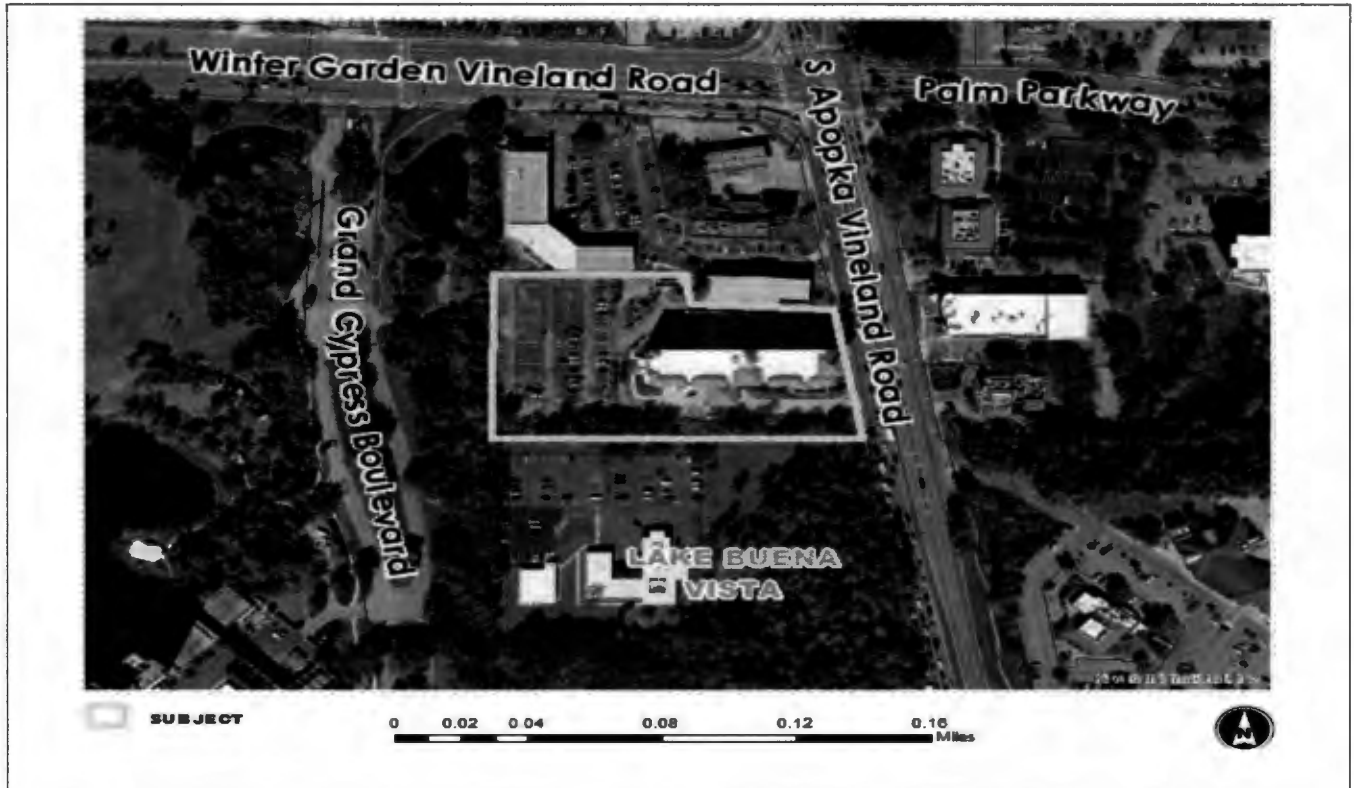


James L. Moore, AIA, NCARB
Principal
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(407) 810.2606

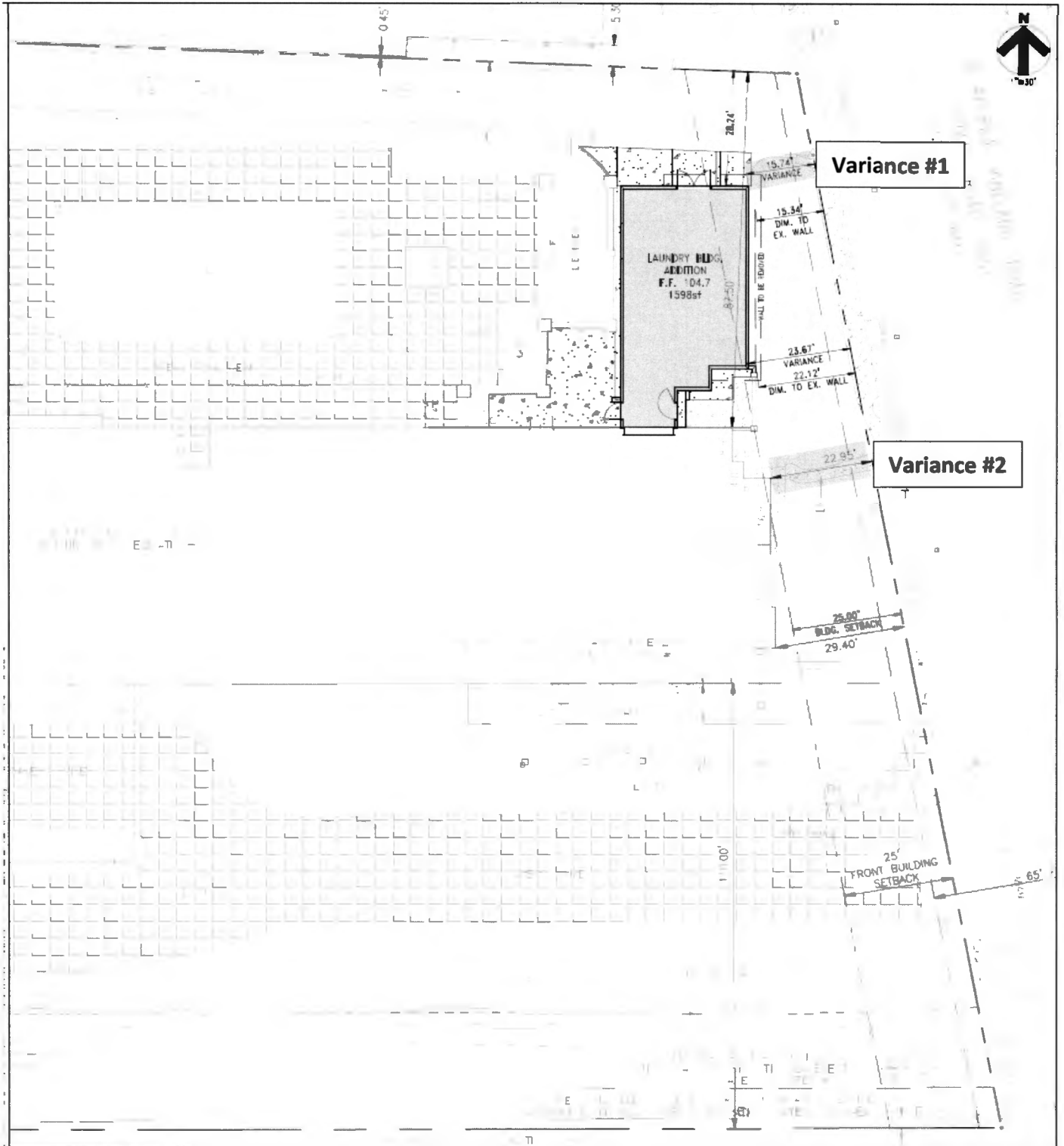
ZONING MAP



AERIAL MAP



SITE PLAN DETAIL/ PROPOSED LAUNDRY BUILDING LOCATION

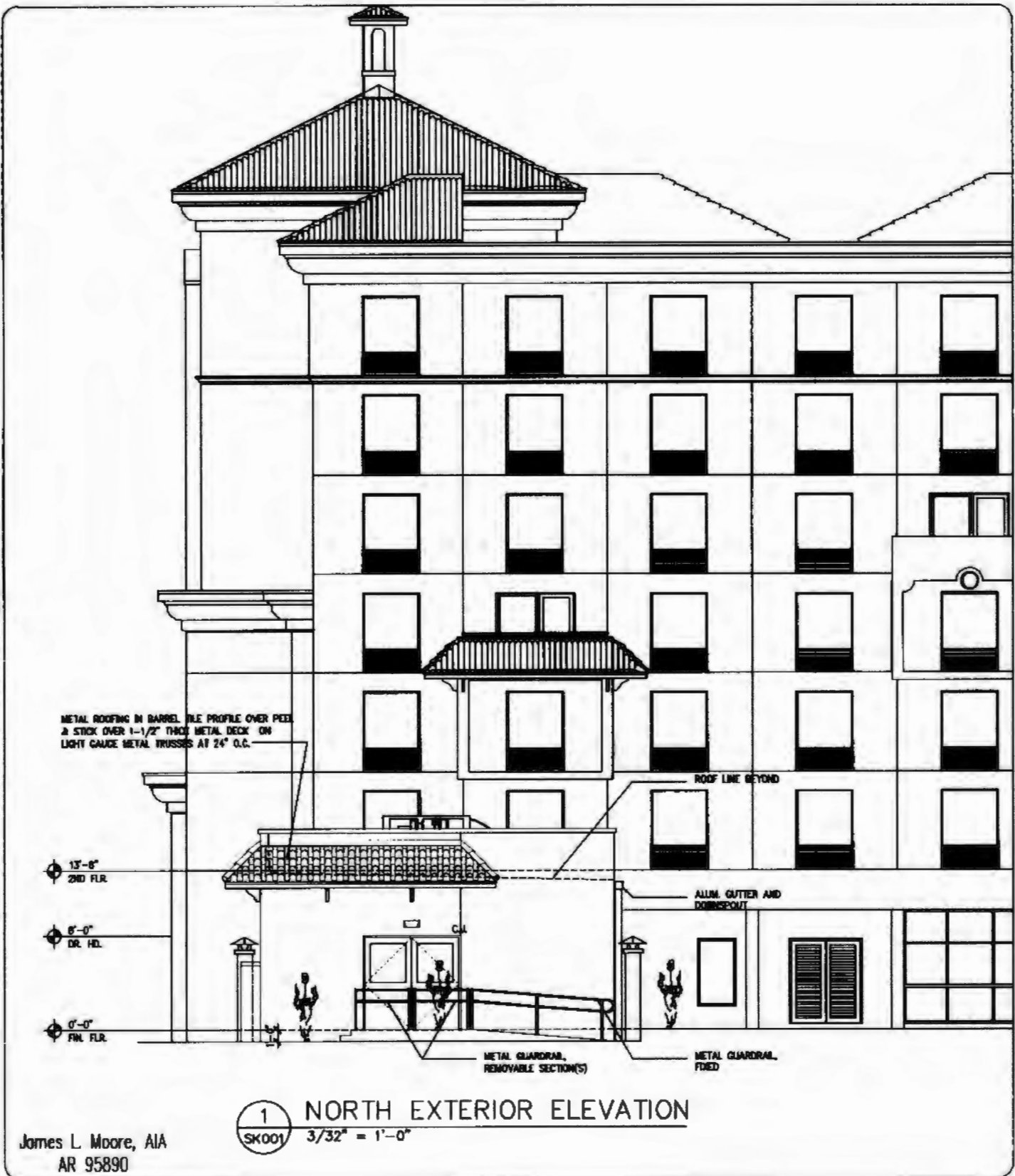


**VARIANCE REQUEST
SITE PLAN**

TD Lake Buena Vista Hotel, LLC
 d/b/a Delta Orlando LBV -
 Laundry Building Addition
 12490 S. Apopka Vineland Rd.
 Orlando, FL 32836



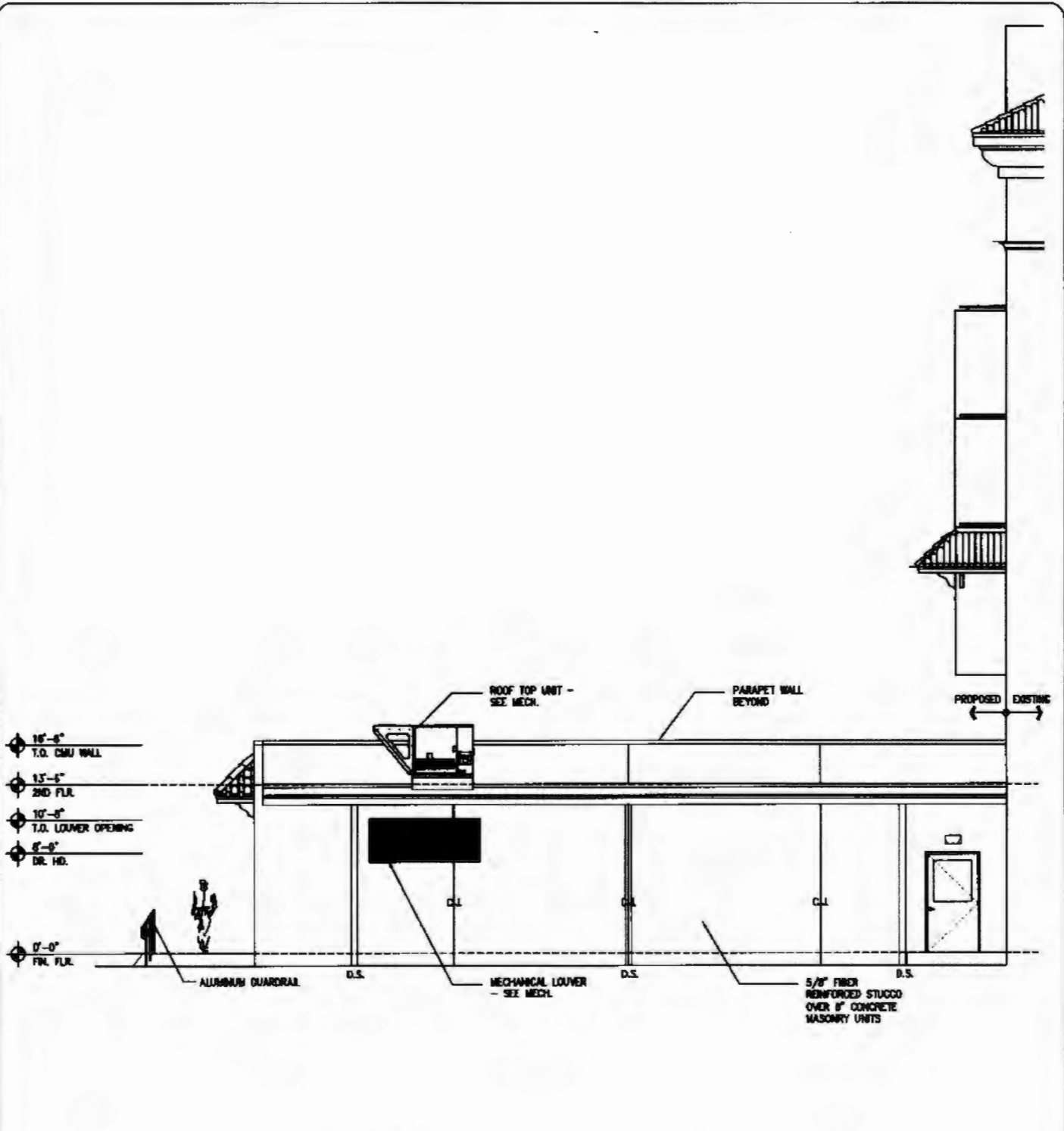
NORTH ELEVATION



1 NORTH EXTERIOR ELEVATION
 SK001 3/32" = 1'-0"

James L. Moore, AIA
 AR 95890

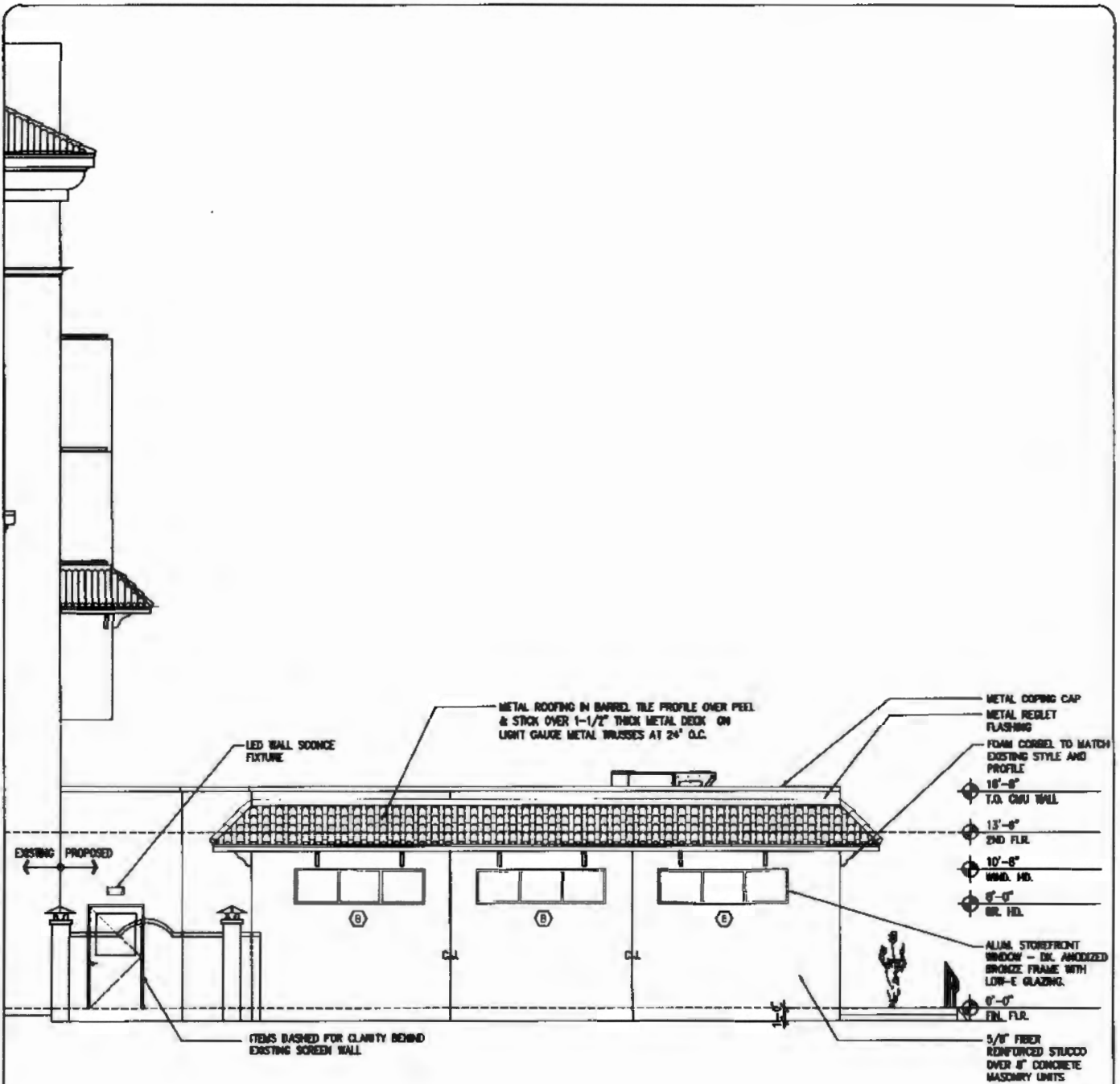
WEST ELEVATION



1 WEST EXTERIOR ELEVATION
 SK002 3/32" = 1'-0"

James L. Moore, AIA
 AR 95890

EAST ELEVATION



1 EAST EXTERIOR ELEVATION
 SK003 3/32" = 1'-0"

James L. Moore, AIA
 AR 95890

SITE PHOTOS



Front from S. Apopka Vineland Rd. facing southwest



Proposed location of laundry room addition looking south

SITE PHOTOS



Proposed location of laundry room addition in background (in front of pool) looking east



Proposed location of laundry room addition (behind wall) looking west

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **FEB 04, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-20-10-093**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): BRIAN SANZ

OWNER(s): BRIAN SANZ, ANA M. SANZ

REQUEST: Variances in the PD zoning district as follows:

- 1) To allow an 8 ft. high wall within the 50 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 4 ft. high.
- 2) To allow a west side setback of 0.5 ft. for a pergola in lieu of 5 ft.
- 3) To allow an east side setback of 2 ft. for a pergola in lieu of 5 ft.
- 4) To allow an east side setback of 0.5 ft. for a summer kitchen in lieu of 5 ft.
- 5) To allow an east side setback of zero for pool deck in lieu of 5 ft.
- 6) To allow a west side setback of zero for a pool deck in lieu of 5 ft.

PROPERTY LOCATION: 8102 Firenze Blvd., Orlando, Florida, 32836, south side of Firenze Blvd. on the north side of Big Sand Lake, west of The Esplanade.

PARCEL ID: 34-23-28-8880-04-190

LOT SIZE: 0.26 acres (11,326 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 136

DECISION: THIS CASE WAS CONTINUED TO THE MAY 6, 2021 BZA MEETING

SYNOPSIS: Staff gave a presentation on the case covering 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 three (3) commentaries were received in favor of the application, and one (1) was received in opposition to the application.

The applicant contended that there is a separation of HOA restrictions and County requirements, that the BZA has the authority to approve these variances, and that compliance with HOA regulations is a private, separate matter between the owner and the HOA. There was one in attendance to speak in favor of the request and there was no one in attendance to speak in opposition.

The BZA discussed the jurisdiction of the Board pertaining the improvements encroaching into the environmental swale easement that is owned and maintained by the Vizcaya Master Property Owner's Association. The BZA also discussed the purpose and need for the wall, which was originally to mitigate the effects caused by the abandoned property next door, and confirmed that the deterioration has been alleviated by the new neighbor.

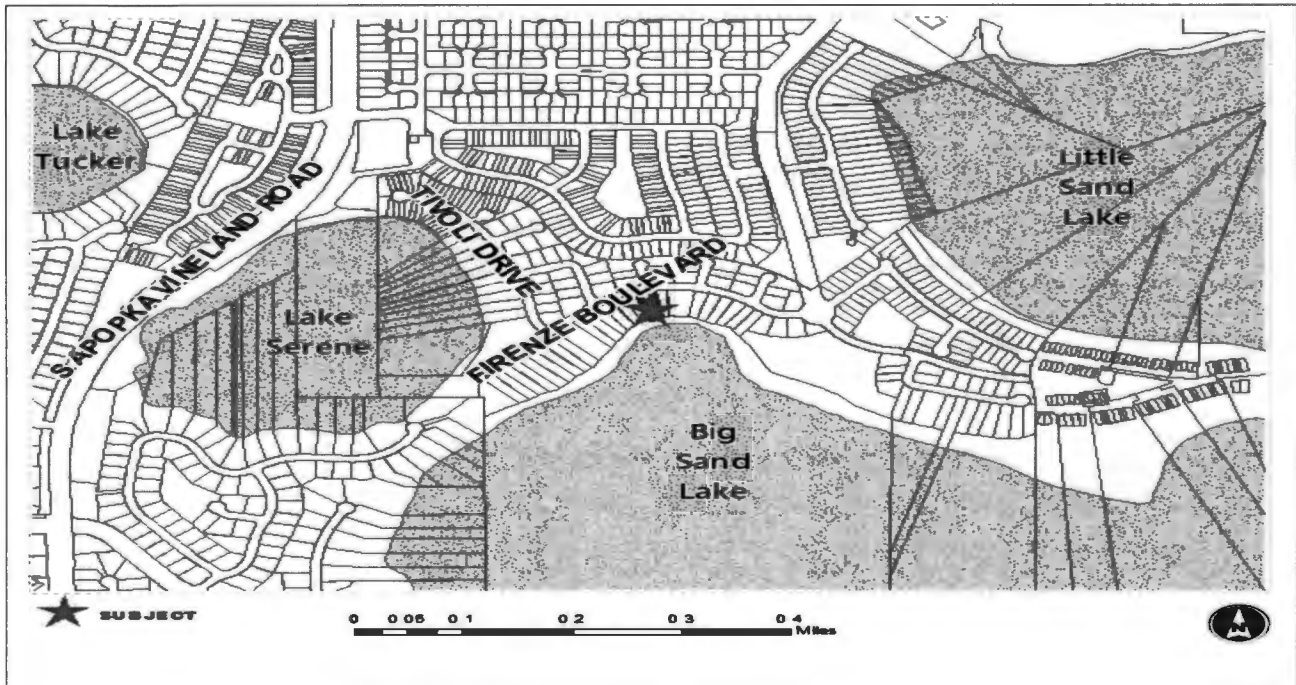
The BZA discussed the possibility of approving the requests with the condition that any modification or replacement shall comply with minimum setbacks.

A motion was made to recommend approval of the variances, subject to the five (5) conditions in the staff report, and the motion failed with a 3-3 vote. A motion was then made to recommend approval of variances #1, #5, and #6, subject to the five (5) conditions in the staff report, and approval of variances #2, #3, and #4 subject to an additional condition that any modification or replacement of the structures shall comply with minimum setbacks in effect at the time, if the structures were damaged or destroyed, and that motion failed with a 3-3 vote. A motion was then made to continue the case to May 6, 2021 and the BZA unanimously approved.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	P-D	P-D	Big Sand Lake	P-D	P-D
Future Land Use	MDR	MDR	Big Sand Lake	MDR	MDR
Current Use	Single-family residence	Single-family residence	Big Sand Lake	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Granada Properties PD. This PD allows single-family homes, townhomes, motel and timeshare uses.

The area consists of townhomes and single-family homes, many of which are lakefront. The lot was platted in 2000 as part of the Vizcaya Phase One Plat, and is considered to be a conforming lot of record. It is developed with a 6,563 sq. ft. single family home (B01002922) and swimming pool (B01010297) that were constructed in 2002, and a boat dock (B10001669) that was constructed in 2010. The property also contains additional structures: 2 pergolas, a 112.36 sq. ft. one on the east side that appears to have been built in 2007, and a 138.83 sq. ft. one on the west side that appears to have been built in 2008, and a 119.34 sq. ft. summer kitchen that appears to have been built in 2010. Additionally, the pool deck appears to have been expanded between 2001 and 2006, based on aerial photos. Staff was unable to locate permits for these. The applicant purchased the property in 2002.

The subject request was initially heard by the BZA on November 5, 2020, with the same entitlements except the original wall height request was 10 ft. A member of the Home Owner's Association (HOA), on the architectural review board (ARB), spoke in opposition, stating that the wall was built without approval or permits, and that no such wall is allowed, and it should be lowered to the appropriate height, and that all variances should be denied. The BZA suggested that the applicant work out issues with the HOA first, and then come back before the BZA since the wall, pergola and pool deck encroach into a 15 ft. easement dedicated to the HOA. Since the November 5th BZA meeting, the applicant has met with the HOA and has provided a response letter from the HOA indicating that the ARB application will be approved by the HOA if the height of the wall was reduced to meet Orange County Code (attached). Since then, the applicant has reduced the wall height from 10 ft. to a compliant 4 ft. within the 50 ft. setback from the Normal High Water Elevation (NHWE), however a modified request for an 8 ft. in height within the 50 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 4 ft. is being requested (revised variance #1). If approved, the applicant will add back onto the 4 ft. high wall. The applicant is also requesting the same variances as were requested previously: to allow two existing pergolas to remain: with a 0.5 ft. west side setback, and a 2 ft. east side setback, in lieu of 5 ft. (variances #2 and #3 respectively), and a summer kitchen with a 0.5 ft. east side setback in lieu of 5 ft. (variance #4), and to allow a pool deck with an east and west side setback of zero in lieu of 5 ft. (variances #5 and #6 respectively). All of these were built without permits. The pool deck was permitted in 2001, but was subsequently expanded to the east and west property lines without a permit.

As stated above, the southern pergola, the wall and the pool deck are encroaching into a 15 ft. environmental swale easement. This easement is dedicated to and maintained by the Vizcaya Master Property Owner's Association. The Orange County Development Engineering Division has no objection as to constructing within the environmental swale easement that is owned and maintained by the Vizcaya Master Property Owner's Association, as long as the water quality volume required to be contained and treated within the environmental swale is provided, before any runoff is directed to Big Sand Lake. However, the easement holder must approve these improvements/structures, prior to permitting.

The applicant has submitted 2 letters of no objection from the adjacent property owners to the east and west. Staff has received a letter in support of the request from a Director of the Vizcaya Master HOA, and a letter against the request from members of the Vizcaya Master HOA Architectural Review Board.

District Development Standards

	Code Requirement	Proposed
Max Height:	4 ft. wall within NHWE. (15 ft. accessory structure)	8 ft. wall (variance #1) 14 ft. accessory structure
Min. Lot Width:	50 ft.	68 ft.
Min. Lot Size:	Not specified	0.26 ac. (11,409 sq. ft.)

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

	Code Requirement	Proposed
Front:	20 ft.	20.5 ft. (North)
Rear:	20 ft.	87 ft. (South)
Side:	5 ft. (for primary and accessory structures)	5 ft. house; 6 in. pergola (West-variance #2); 2 ft. pergola (East-variance #3); 6 in. summer kitchen (East-variance #4); 0 ft. pool deck (East and West-variances #5 and #6)
NHWE:	50 ft.	37 ft. to wall (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances, as the deck, wall and accessory structures were all installed without permits, and could have been installed in a manner that would not have required variances. While it is noted that the non-conforming part of the wall has been removed, the request is to re-install it in a non-conforming manner, for which there are no special conditions and circumstances to justify approval.

Not Self-Created

The request for the variances is self-created as a result of installation without permits. The request to allow a wall height of 8 ft. is self-created as they can meet code as evidenced by the existing 4 ft. wall.

No Special Privilege Conferred

Granting the variances as requested will confer special privilege that is denied to other properties in the same area and zoning district, as the applicant may rectify the issue by moving, removing, or modifying the deck, and accessory structures that were installed without permits, and to leave the wall in the currently conforming configuration.

Deprivation of Rights

The applicant is not being deprived of the right to enjoy the use of the property as a single-family residence. The owner has the opportunity to meet the deck, wall and accessory structure setback requirements.

Minimum Possible Variance

Since the applicant has other available options, these are not the minimum possible variances.

Purpose and Intent

Approval of the variances will not be in harmony with the purpose and intent of the zoning regulations, as the deck and accessory structures encroach significantly into the required setbacks, and the height of the wall conflicts with the intent of the code, which is to ensure visibility of the lake from adjacent properties.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated January 7, 2021, 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 all unpermitted structures, decking and wall within 1 year 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 a building permit, the property owner shall record in the official records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the 8 ft. high wall is located no closer than 37 feet from the Normal High Water Elevation (NHWE) of Big Sand Lake.

C: Brian Sanz
8102 Firenze Blvd.
Orlando, FL 32836

BRIAN SANZ
8102 Firenze Blvd. Orlando, FL 32836
briansanz@me.com

December 23, 2020

Nick Balevich
Board of Zoning Adjustment BZA
Orange County Zoning Division
201 S. Rosalind Ave. 1st Floor
Orlando, FL 32801
Via Email Nick.Balevich@ocfi.net

RE: Variance in the PD zoning district to allow 1) small **8 FT section** of a continuous straight wall (running South to North) with a **maximum height of 8 FT in.** within the 50 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 4 ft.; and 2) Variance to allow summer/outdoor kitchen and pergolas with 6 in. side setback lines in lieu of 5 ft. Parcel ID # 34-23-28-8880-04-190

Dear Mr. Balevich:

I respectfully request a zoning variance pursuant to Orange County Code Section 30-34. Attached find completed application and requested documentation including neighbors' letters of no-objection.

The requested variance is for height variance of 8 ft. in maximum height of a straight wall with a 8 ft. section within the Normal High Water Elevation NHWE setback. The wall does not present an environmental issue and is on the side of my property, the wall is perpendicular from Big Sand Lake and does not interfere with the lake. I also request variance to allow built summer/outdoor kitchens and pergolas with 6 in. side setback from the east and west property lines in lieu of 5 ft.

The outdoor kitchen and pergolas were built over 10 years ago when my backyard went renovation to mitigate damage to the Vizcaya community retaining wall, repairs due to hurricane damage and flooding of retaining wall and backyard. The repairs of the Vizcaya HOA wall were not performed by the HOA, instead the HOA allowed homeowners to do the needed work (see attached letter).

The wall was built to mitigate damage suffered by our property as the abutting property, 8044 Firenze Blvd, was abandoned for many years in decrepit and unsanitary conditions. I appreciate the help given by Code Enforcement as I was not able to obtain help from my HOA.

You may check the multiple cases of Orange County Code Enforcement that accumulated for many years on that property. Unfortunately, due to neglect of the abutting property the backyard suffered erosion and degradation and it affected my property causing damage to my property rear yard pool and pool deck.

The wall was built in excess of height to maintain the aesthetics and look of other similar walls built in the community. My new owner of the abutting property is repairing the damage to the property and agrees to the wall as he shared the cost of the wall.

Nick Balevich
Orange County Zoning
December 23, 2020
Page 2

To meet variance criteria:

1. Special Conditions and Circumstances: the property was damaged by the abutting property multiple years of neglect. The retaining wall was damaged and had to be repaired after 2004 hurricane and rising lake level after the break of the berm of Little and Big Sand Lake which caused tremendous rising of Big Sand Lake flooding backyard and damaged many properties requiring the intervention of Orange County Government and the State of Florida. (See attached article by Orlando Sentinel). <https://www.orlandosentinel.com/news/os-xpm-2005-01-06-0501050467-story.html>

2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant. I was not in control of the abutting houses which was neglected by many years by the bank that owned it and the HOA did not help. Additionally, the rising lake level and damage was an act of nature.

3. No Special Privilege Conferred – I understand that the approval of the zoning variance requested will not confer on me any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

4. Deprivation of Rights – The literal interpretation of the provisions contained in OC Code Section 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 to me, hence the requested variance.

5. Minimum Possible Variance – Please issue variance, I understand 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 – I confirm that the 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. My abutting neighbors have sent letter of no objection to the built wall, furthermore many neighbors have commented on the nice aesthetics of my property and continuous upkeep.

At the BZA hearing, Mr. Daniel Garcide appeared in opposition. I believe the opposition presented by Mr. Garside may be a personal vendetta against Mr Sanz. It seems unreasonable an HOA would oppose to a homeowner wanting to have a straight wall and to obtain permits for all work in his property. Please know here is a lengthy dispute between Mr. Sanz and the Vizcaya Master HOA and Vizcaya Multicondo Assn. (where Mr. Sanz also owns property). Mr. Sanz filed legal action against the Multicondo Assn where Mr. Daniel Garside is president, the State of Florida recently ruled in favor of Mr. Sanz, on December 15, 2020, and a new election will be held thanks to Mr. Sanz fighting for fair and just elections. (See attached DBPR Final Order).

I respectfully request variance and I thank you for your attention.

Sincerely,

Sergio Divine,
Agent for Mr. Brian Sanz



VIZCAYA MASTER HOMEOWNERS' ASSOCIATION, INC.

Architectural Review Board (ARB)

Via e-mail and regular USPS First Class Mail

RE: #20-15_8102_Firenze_Brian_Sanz_Wall_Between_Homes

November 18, 2020
Mr. Brian Sanz
8102 Firenze
Orlando, FL 32836
briansanz@me.com

Dear Mr. Sanz,

Thank you for attending the November 12, 2020 Architectural Review Board (ARB) meeting via Zoom. The ARB appreciates your willingness to meet with us to discuss the issue of the wall between your home and 8044 Firenze.

By way of a brief history of this matter, you constructed a cement block wall between your home and the house next door without first submitting an ARB application and without obtaining the necessary Orange County (OC) Building Permit(s). Later, you submitted an ARB application for the wall. Your application was considered incomplete and the ARB requested several items before your application would be considered complete and reviewed. Among those items was completed and approved OC Building Permit(s) for the wall. At some point OC determined that the wall as constructed did not meet current code. In response, you filed for a zoning variance for the wall and the ARB attended the zoning meeting to express its concerns. The ARB recognizes that you have contested some of the above and have presented your objections to the decisions of the ARB in the form of a complaint.

As a result of our discussion at the ARB meeting on November 12, we (you and the ARB) have the following understanding:

If you withdraw your request for an OC Zoning Variance and make whatever modifications (principally, lowering the wall at the rear of the property) are required so that you are able to obtain a completed OC Building Permit(s) for the wall, the ARB will consider your application #20-15 complete. At that time, the ARB will hold another meeting to review your completed application.

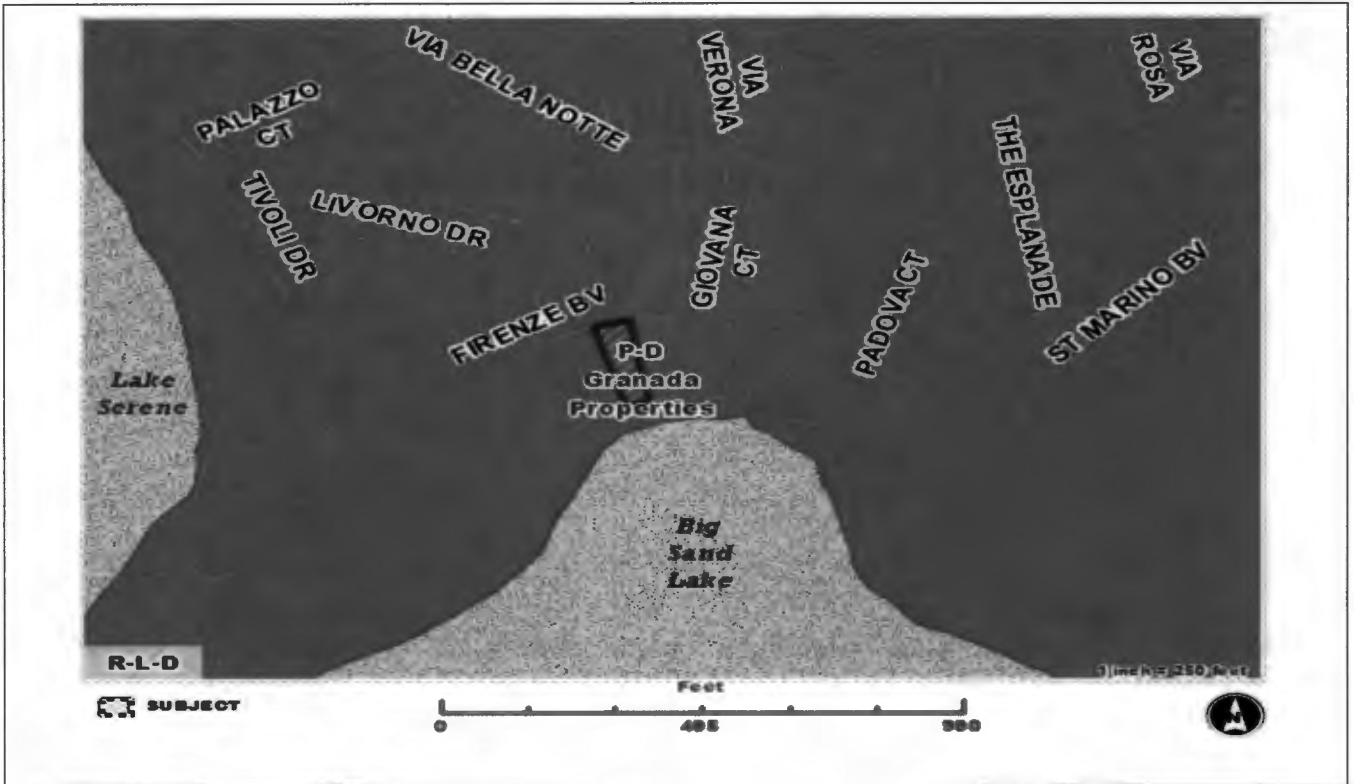
Since the BZA (Board of Zoning Adjustment) has scheduled a re-review of your request for a variance on February 6, 2021, presumably the wall will have been modified and the ARB will have reviewed your application before that date.

We thank you for participating in the ARB process. If the terms outlined above are different from your view please be in touch with Christopher Gullion of Castle Group (cgullion@castlegroup.com) who will arrange another meeting of the ARB to discuss your concerns.

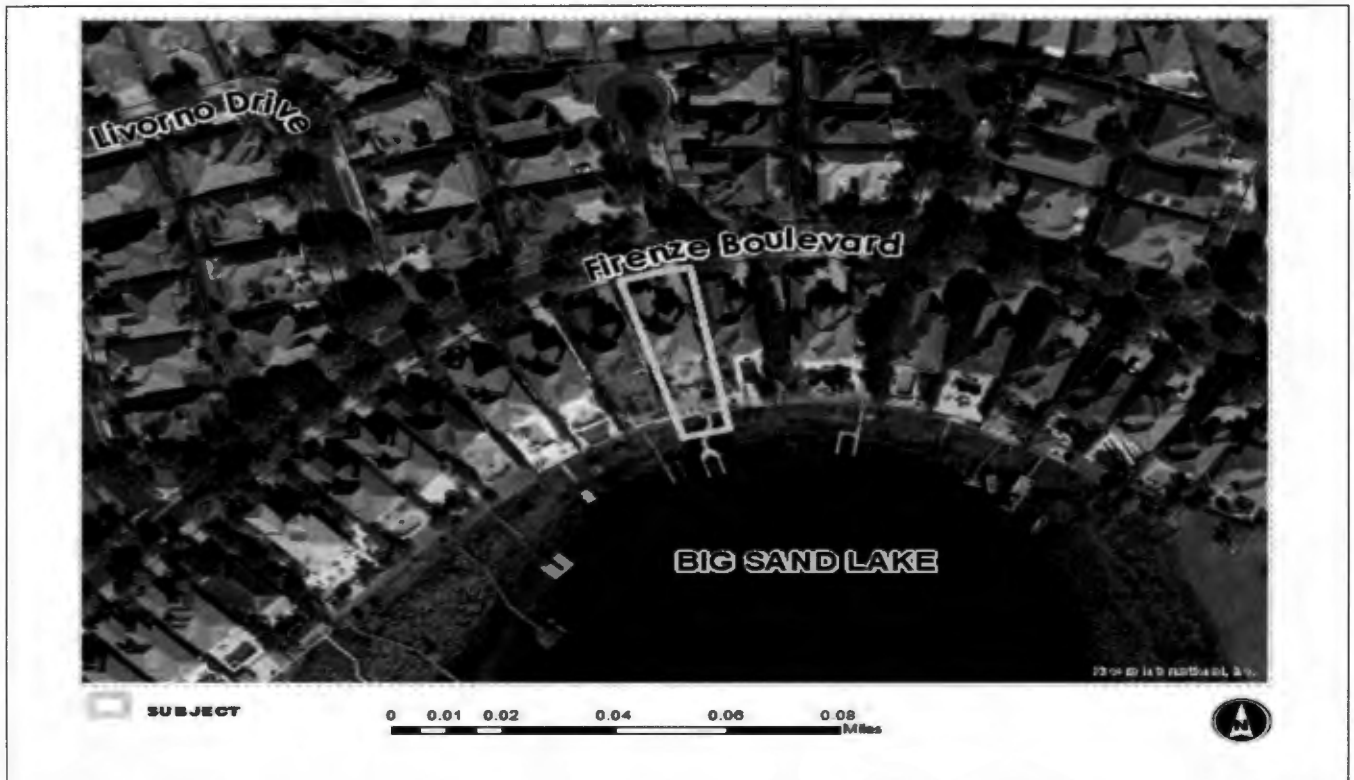
Sincerely,

Vizcaya Master Architectural Review Board

ZONING MAP



AERIAL MAP



SITE PLAN

$39^{\circ}34'57''$ E 68.73'(P)
 $39^{\circ}41'29''$ E 68.62'(M)

C44
 R=600.00'(P)
 L=68.77'(P)
 $\Delta=06^{\circ}34'00''$ (P)
 Chord Bearing=
 $3^{\circ}08'57''$ E 68.73'(P)
 $6^{\circ}08'57''$ E 68.76'(M)

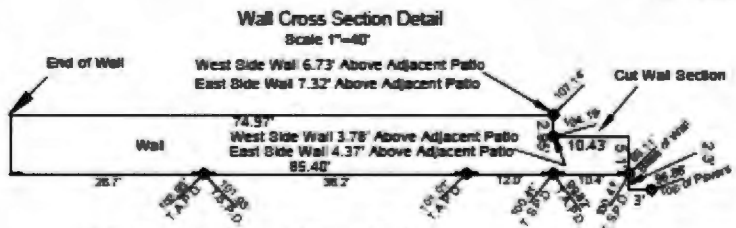
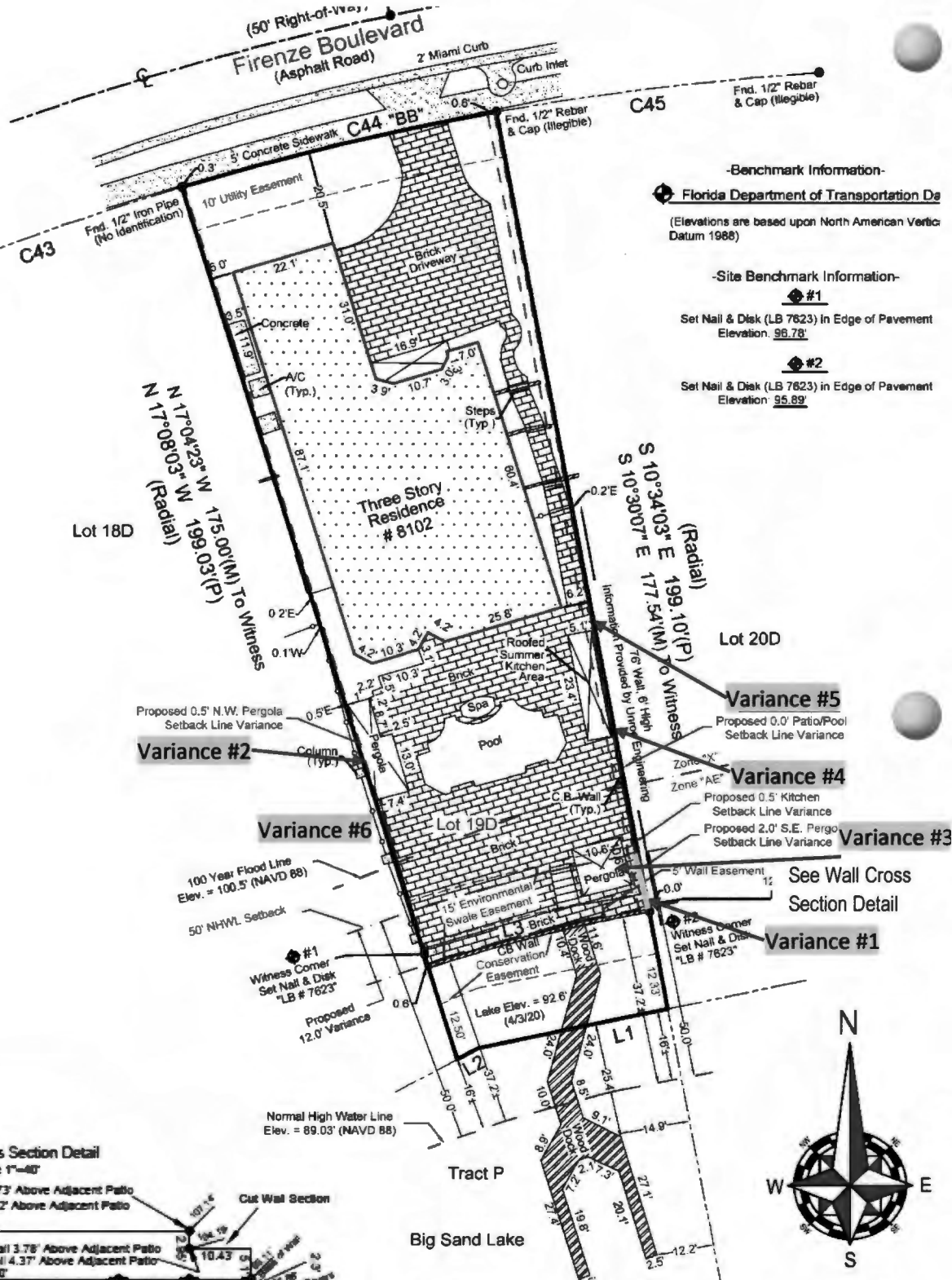
C45
 R=600.00'(P)
 L=68.77'(P)
 $\Delta=06^{\circ}34'01''$ (P)
 Chord Bearing=
 $82^{\circ}42'58''$ E 68.73'(P)
 $82^{\circ}47'51''$ E 68.68'(M)

L1
 $77^{\circ}55'52''$ W 41.36'(P)
 $77^{\circ}55'52''$ W 41.16'(M)

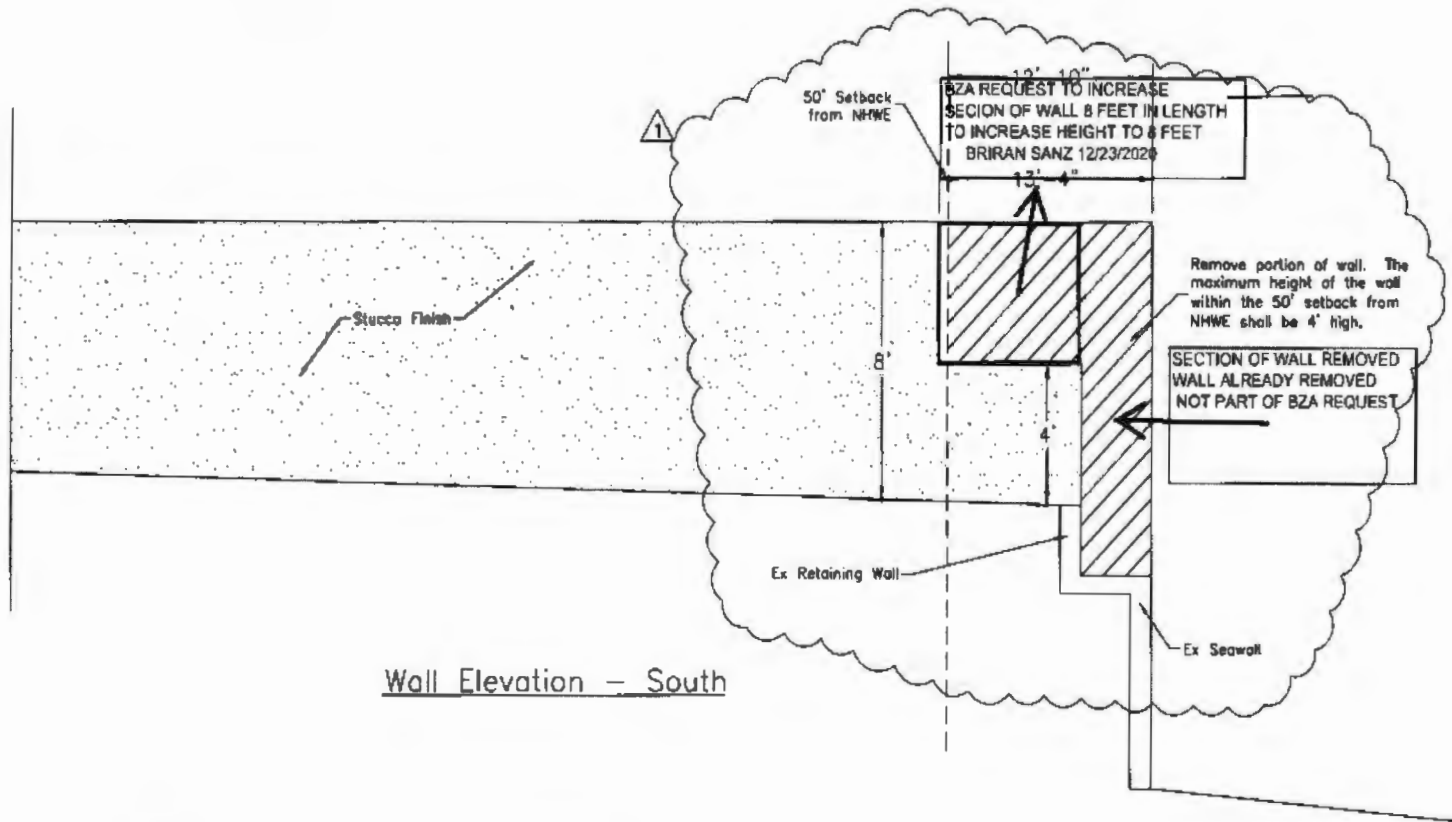
L2
 $61^{\circ}15'26''$ W 4.75'(P)
 $61^{\circ}15'26''$ W 4.97'(M)

L3
 Witness Line
 $79^{\circ}07'00''$ W 48.62'(M)

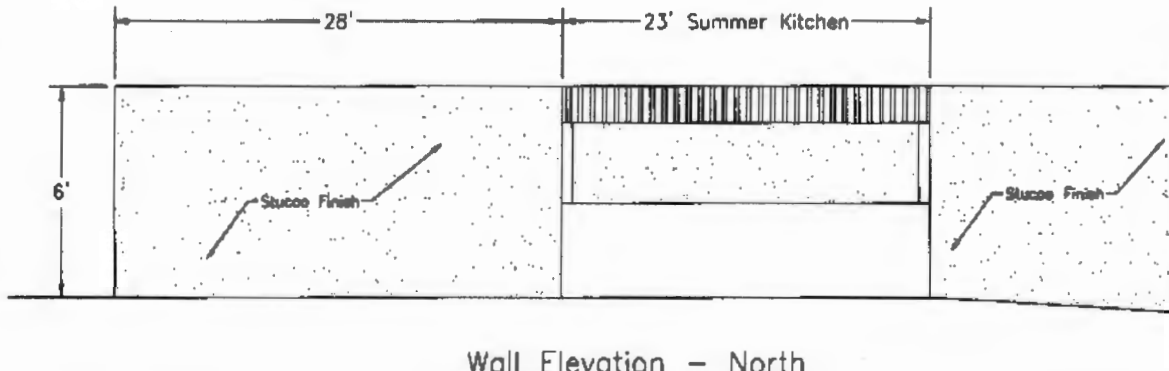
CA
 R=600.00'(P)
 L=220.65'(P)
 $\Delta=27^{\circ}38'15''$ (P)
 Chord Bearing=
 $55^{\circ}52'41''$ E 219.41'(P)



T.S.P.D.: Top of Subject Property Deck
 T.A.P.D.: Top of Adjacent Property Deck



Wall Elevation - South



Wall Elevation - North

This item has been electronically signed and sealed by Darcy Unroe, PE 60929 on the date indicated using my digital signature. Printed copies of this document are considered signed and sealed and the signature is verified on any electronic copy.



Digitally signed by Darcy Unroe
Date: 2020.11.10:41:51

SITE PHOTOS



Front from Firenze Blvd., looking south



Summer kitchen with 6 inch east side setback, looking south

SITE PHOTOS



11/5/2020 BZA-10 ft. wall within NHWE setback, and pergola with 2 ft. east side setback, looking north



2/4/2021 BZA-Wall reduced to 4 ft. within NHWE setback; pergola with 2 ft. east side setback, looking north

SITE PHOTOS



11/5/2020 BZA-10 ft. wall within NHWE setback, looking north



2/4/2021 BZA-Wall reduced to 4 ft. within NHWE setback, looking north

SITE PHOTOS



Rear, looking north



Pergola with 6 inch west side setback, looking north



BOARD OF ZONING ADJUSTMENT