

Orange County Zoning Division

VA-21-10-090
APPLICANT:
GUIMER BERNAL

November 30, 2021



Background

APPLICANT:	GUIMER BERNAL
CASE:	VA-21-10-090
ZONING:	R-2 (Residential District)
FUTURE LAND USE:	LMDR (Low Medium Density Residential)
ADDRESS:	1104 E. 1st Street, Apopka, FL 32703
LOCATION:	Southeast corner of E. 1st Street and Illinois Avenue, north of E. Semoran Boulevard and west of S. Thompson Road
TRACT SIZE:	+/- 0.34 acres (15,006 sq. ft.)
DISTRICT:	2



Background

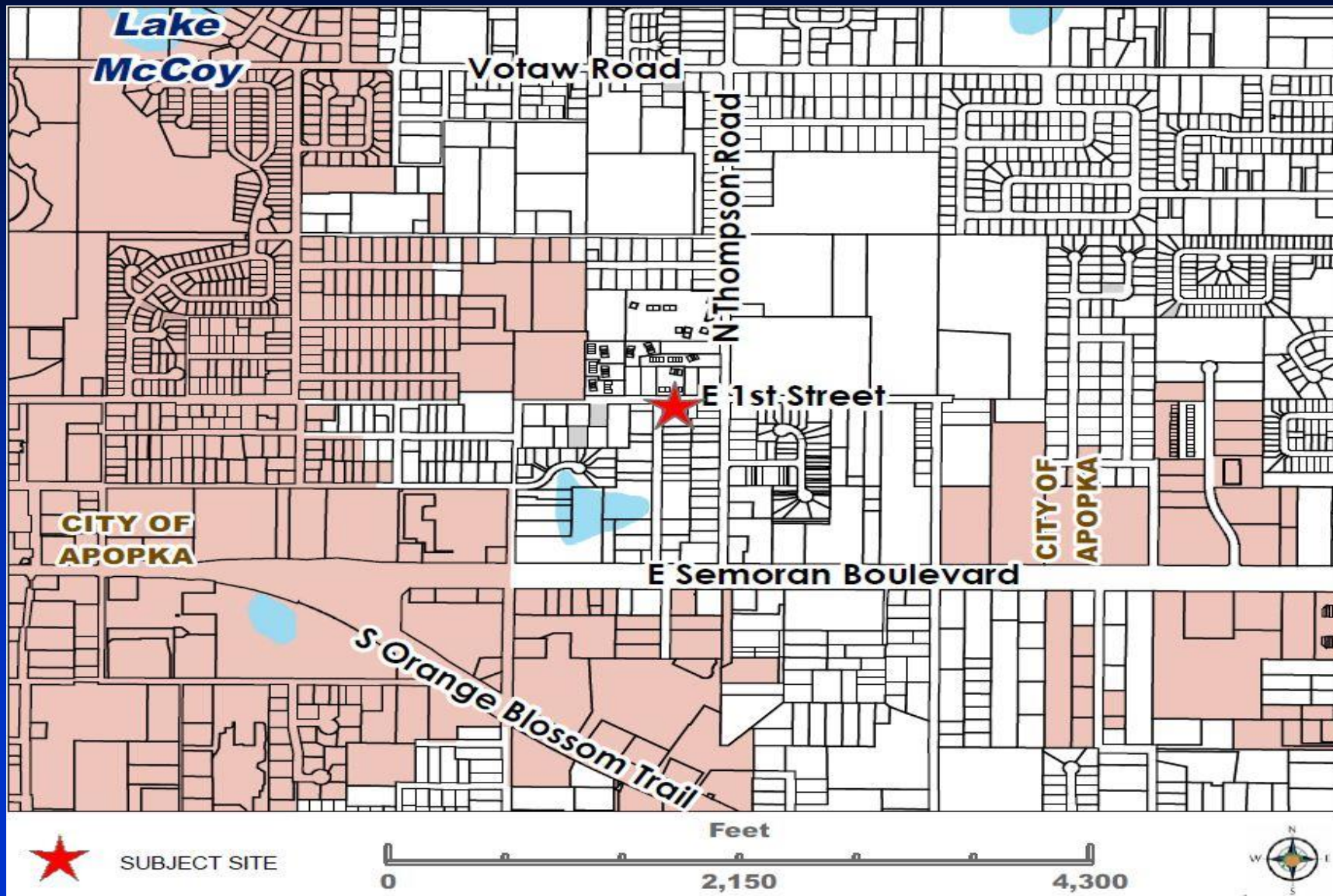
REQUEST: Variances in the R-2 zoning district:

- 1) To allow a 1,088 sq. ft. detached Accessory Dwelling Unit (ADU) in lieu of a maximum of 626 sq. ft.
- 2) To allow an ADU with 3 bedrooms in lieu of a maximum of 2.
- 3) To allow an ADU that is not designed to be similar and compatible with the primary dwelling unit, with the same exterior finish material and similar architectural details.

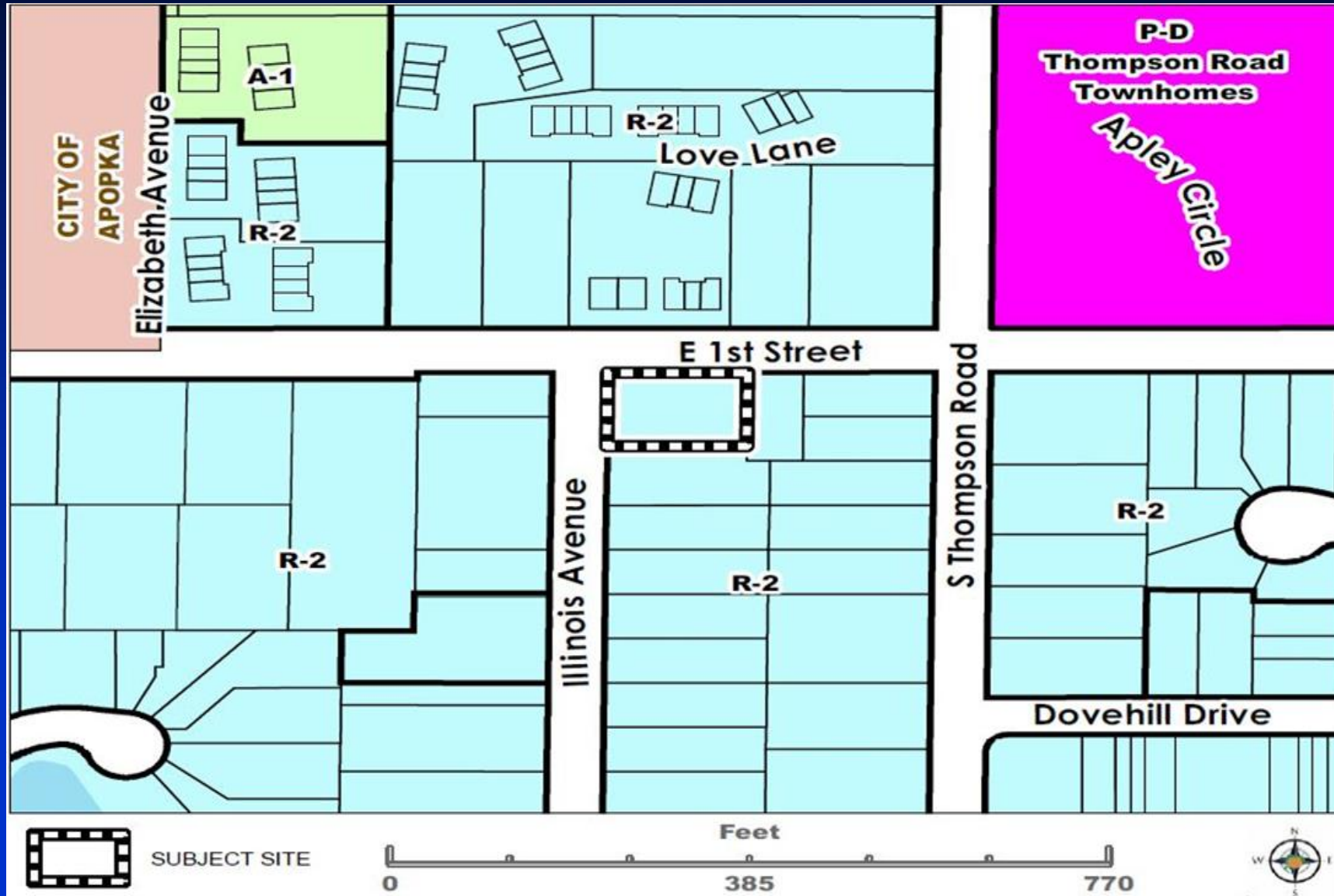
This is the result of Code Enforcement action.



Location Map



Zoning Map





Aerial Map





2019 & 2020 Aerial Maps



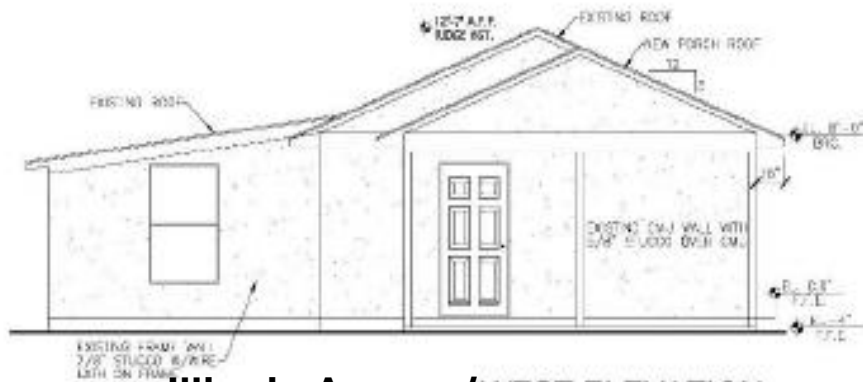
2019



2020



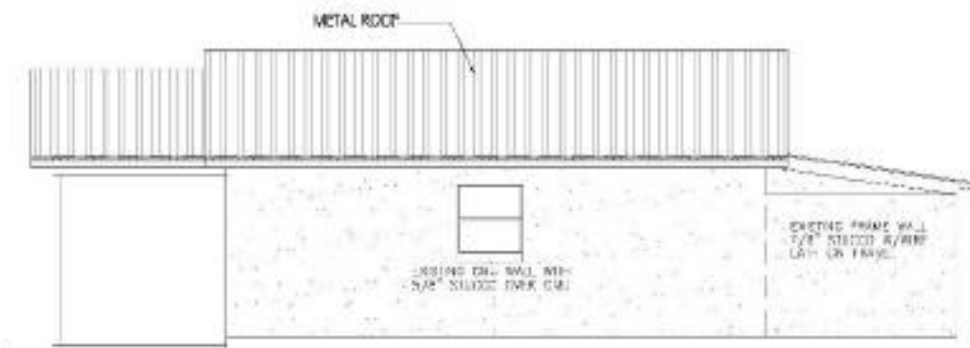
Elevations



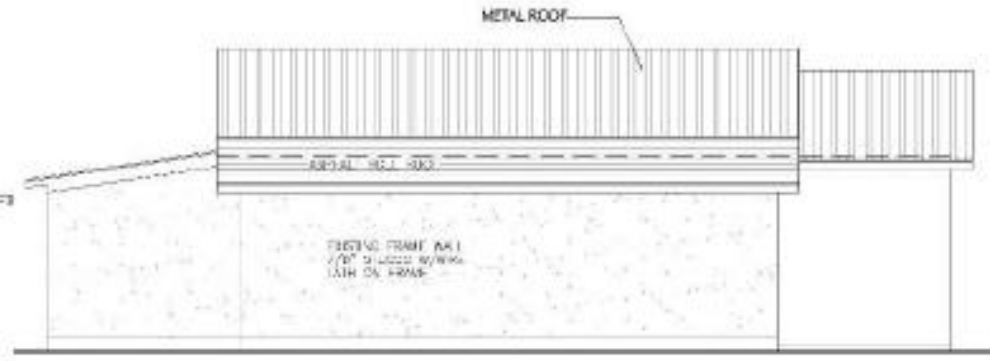
Illinois Avenue/WEST ELEVATION
31'0\"/>



EAST ELEVATION
31'0\"/>



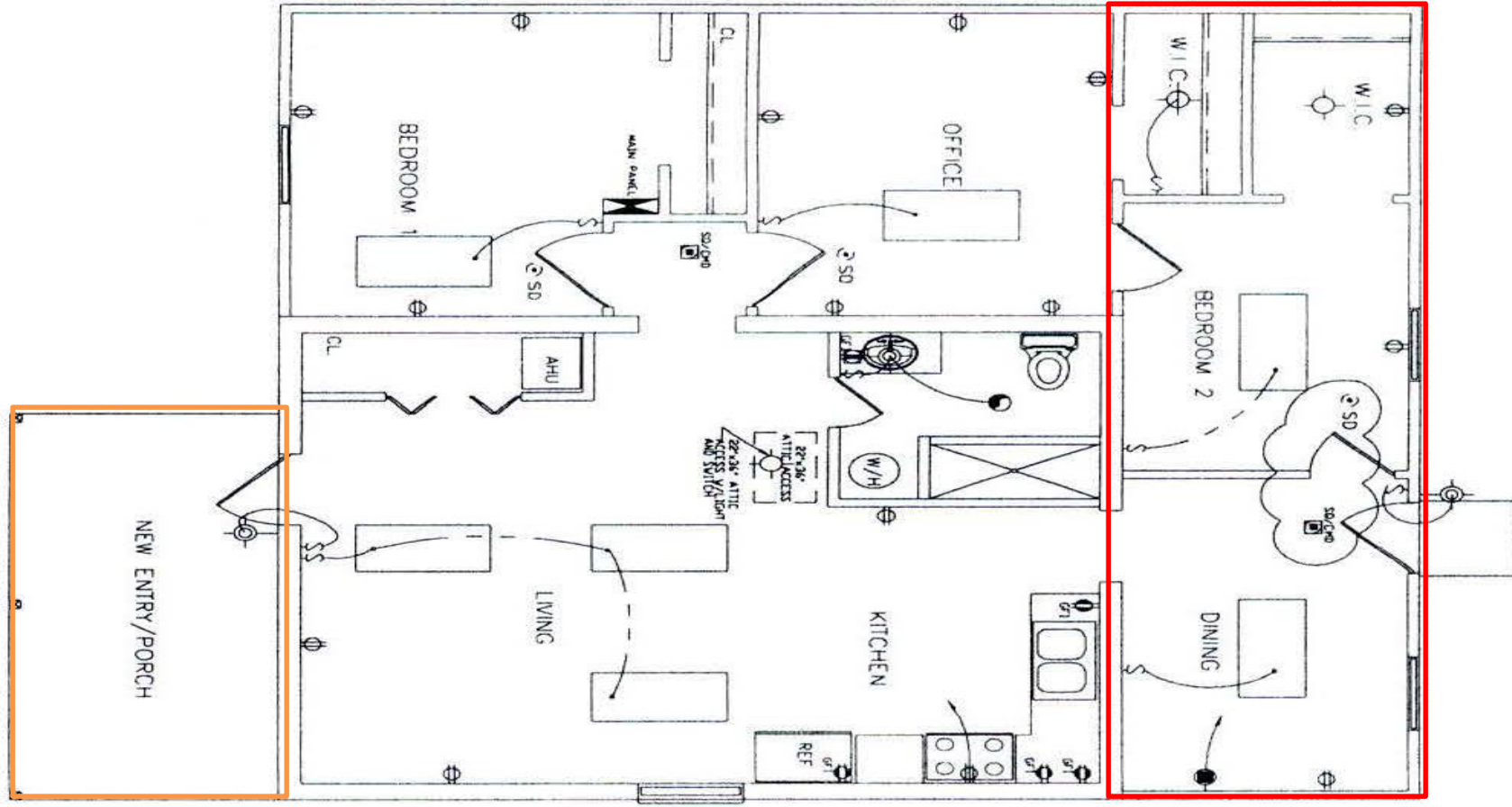
SOUTH ELEVATION
31'0\"/>



E. 1st Street/NORTH ELEVATION
31'0\"/>



ADU Floor Plan





Site Photograph

View from corner of Illinois Ave and 1st St, facing southeast





Site Photograph

Front facing from Illinois Ave., ADU is to the right





Site Photograph

Exterior materials





Site Photograph

View of rear of the ADU facing west





Staff Findings and Analysis

- Existing 1,253 sq. ft. single-family home
- Existing 1,088 sq. ft. accessory dwelling unit
- Requests related to the after the fact conversion from a detached garage to an ADU, and an addition onto the ADU.
 - ADU - 1,088 sq. ft., maximum 626 sq. ft. allowed (Variance # 1).
 - 3 bedrooms in lieu of a maximum of 2 (Variance #2)
 - To allow for exterior finish material different than the primary dwelling unit (Variance #3)
 - Residence - wood siding/concrete block
 - ADU – stucco/concrete block



Staff Findings and Analysis

- Detached accessory structure was previously 802 sq. ft.
- 2019/2020 – construction without a permit, increased detached structure size by 286 sq. ft. (total of 1,088 sq. ft.)
- Intention of ADU Code
 - Allows greater infill development and affordable housing opportunities
 - Do not count towards the maximum density
 - Charged impact fees at a lower rate than 2 single-family homes
 - Maintains the character of existing neighborhoods
 - Meant to be subordinate in size in relation to the primary home
 - Limitation on maximum square footage and number of bedrooms
 - Similar and compatible with primary structure.



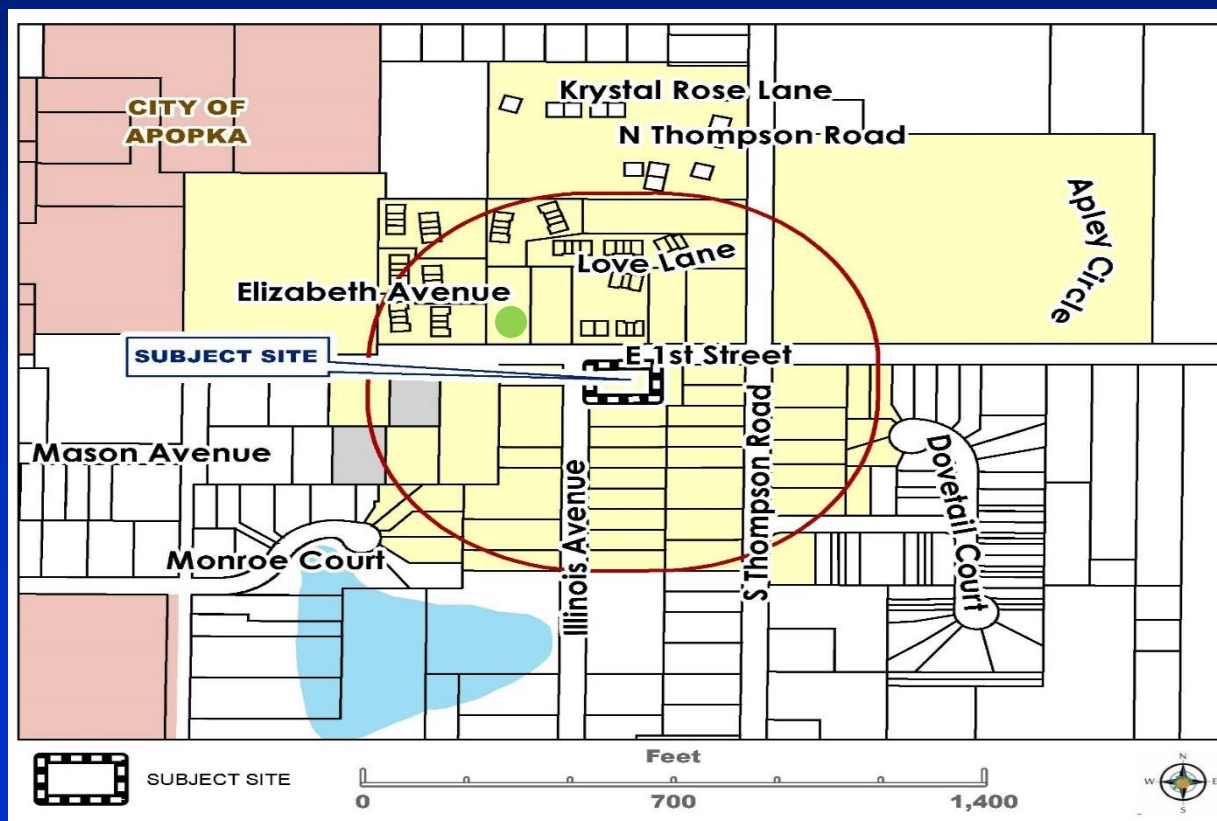
Staff Recommendation

- Staff recommended denial of the variances, as there are not special conditions and circumstances, the need for the variances are self-imposed, granting of the variances will confer special privilege, they are not the minimum possible, and they do not meet the purpose and intent of the code.



Public Feedback

- Staff mailed a total of 149 notices to adjacent property owners in a 500 ft. radius
 - Staff received one correspondence in favor of this request
 - Staff received two correspondences in opposition of this request, unmapped





Variance Criteria

Section 30-43 (3), Orange County Code

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for 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 property and which are not applicable to other properties
2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant
3. **No Special Privileges Conferred** - Approval will not confer on the applicant any special privilege
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
5. **Minimum Possible Variance** - The minimum variance that will make possible the reasonable use of the land, building, or structure
6. **Purpose and Intent** - Approval will be in harmony with the purpose and intent of this Chapter and will not be injurious to the neighborhood



BZA Findings

- **The BZA recommended approval of Variance #1, subject to seven conditions as there was no special privilege conferred and that is was a minimum request.**
- **The BZA recommended denial of Variances #2 & #3, concluding that there was special privilege conferred and that there was no unnecessary hardship shown.**



Conditions of Approval

1. Development shall be in accordance with the site plan dated July 20, 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.



Conditions of Approval

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the ADU and the addition to the building within 180 days of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Parking shall be on an improved surface in accordance with County Code 38-1479.



Conditions of Approval

6. The closet shall be removed from the office (bedroom) on the floor plan.
7. The exterior of the ADU shall match the exterior of the principal structure with a stucco finish.



Requested Action

- Deny the applicant's requests; or
- Approve the applicant's requests with conditions



Site Photograph

Looking northeast from Illinois Ave.





Site Photograph

E. 1st Street






Site Photograph

E. 1st Street



Site Photograph





Site Photograph

