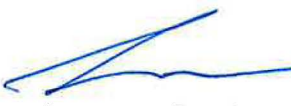




Interoffice Memorandum

February 12, 2024

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

FROM: Tanya Wilson, AICP, Director
Planning, Environmental, and Development Services
Department 

CONTACT PERSON: **Ted Kozak, AICP, Chief Planner**
Zoning Division
(407) 836-5537

SUBJECT: March 5, 2024 - Appeal Public Hearing
Applicant/ Appellant: Herbert Betancourt
BZA Case # VA-23-12-119, January 4, 2024; District 5

Board of Zoning Adjustment (BZA) Case # VA-23-12-119, located at 4715 Shorecrest Dr., Orlando, FL 32817, in District 5, is an appeal to the Board. The applicant is requesting variances in the R-1AA zoning district as follows: 1) To allow for an existing detached accessory structure (treehouse) 11 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.; 2) To allow an existing detached accessory structure (gazebo) 3.8 ft. from the NHWE in lieu of 35 ft.; 3) To allow an existing detached accessory structure (outdoor shower) 12.9 ft. from the NHWE in lieu of 35 ft.; 4) To allow an existing detached accessory structure (pergola) 15.1 ft. from the NHWE in lieu of 35 ft.; and 5) To allow an existing pool/deck with a south side setback of 3.5 ft. in lieu of 5 ft.

At the January 4, 2024 BZA hearing, staff recommended denial of variances #1, #3, #4, and #5, and for approval of variance #2. There was no one in attendance to speak for or against the request. It was also noted that prior to the BZA hearing, no comments were received in favor of the requests, and four comments were received in opposition. The BZA recommended approval of the variance requests #2 and #5; and denial of the variance requests #1, #3, and #4. The applicant subsequently appealed the BZA decision of the denial of the variance requests #1, #3, and #4, as he believes there is additional information for Board consideration.

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

If you have any questions regarding this matter, please contact Ted Kozak at (407) 836-5537.

ACTION REQUESTED: Deny the applicant's request; or approve the applicant's request with conditions. District 5.

TW/TK:js

Attachment: Zoning Division public hearing report, appeal with exhibits, BZA staff report.

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

March 5, 2024

The following is a public hearing on an appeal before the Board of County Commissioners on March 5, 2024 at 2:00 p.m.

APPLICANT/APPELLANT: HERBERT BETANCOURT

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

- 1) To allow for an existing detached accessory structure (treehouse) 11 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.
- 2) To allow an existing detached accessory structure (gazebo) 3.8 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft. pp
- 3) To allow an existing detached accessory structure (outdoor shower) 12.9 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.
- 4) To allow an existing detached accessory structure (pergola) 15.1 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.
- 5) To allow an existing pool/deck with a south side setback of 3.5 ft. in lieu of 5 ft.

Note: This is a result of Code Enforcement

LOCATION: 4715 Shorecrest Dr., Orlando, FL 32817, east side of Shorecrest Dr., west side of Lake Martha, north of University Blvd., west of S.R. 417.

TRACT SIZE: +/-1.92 acres (+/- 0.90 acres upland)

ZONING: R-1AA

DISTRICT: #5

PROPERTIES NOTIFIED: 78

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

Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial of Variances #1, #3, #4, and #5, and for approval of Variance #2. Staff noted that no comments were received in favor of the requests, and four (4) comments were received in opposition to the requests.

The applicant provided reasons for the Variances and compared the location of the structures relative to the NHWE within the area, with the proposed structures on the subject property. There was no one in attendance to speak in favor or in opposition to the request.

Code enforcement staff briefly discussed the history of citation.

The BZA discussed the requests, noted that the unpermitted structures could have been built to meet code requirements, noted that over time the owners constructed additions to the treehouse and within the rear yard without permits and recommended denial of variances #1, #3, and #4, and recommended approval of variances #2 and #5 by a 4-1 vote, with one absent and one seat vacant, subject to the four (4) conditions in the staff report, with an amendment to Condition #4 as follows, "Prior to the issuance of any building permit of the existing pool and deck, the portion of the fence which encroaches into the adjacent property shall be removed."

Additionally, to include added Condition #5, which states, "A permit shall be obtained for the existing pool and deck 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." and the addition of Condition #6, which states, "Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance request and, which shall inform all interested parties that the gazebo is located no closer than 3.8 feet from the Normal High Water Elevation (NHWE) of Lake Martha."

BZA HEARING DECISION:

A motion was made by Deborah Moskowitz, seconded by Thomas Moses; carried to recommend to **APPROVAL** variance requests #2 and #5, in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to conditions as amended; and, **DENIAL** of the variance requests #1, #3, and #4, in that there was no unnecessary hardship shown on the land; and further, they do not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (4 in favor; 1 opposed; 1 absent; 1 vacant).

1. Development shall be in accordance with the survey received November 20, 2023, and elevations received October 11, 2023, as modified to remove the treehouse, pergola, and outdoor shower structure, 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. Prior to the issuance of any building permit of the existing pool and deck, the portion of the fence which encroaches into the adjacent property shall be removed.
5. A permit shall be obtained for the existing pool and deck 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.
6. Prior to the issuance of any building permit, the property owner shall record in the official records of Orange County, Florida an Indemnification/Hold Harmless Agreement, on a form provided by the County, which indemnifies Orange County, Florida from any damages and losses arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the Variance request and, which shall inform all interested parties that the gazebo is located no closer than 3.8 feet from the Normal High Water Elevation (NHWE) of Lake Martha.



ORANGE COUNTY ZONING DIVISION
281 South Rosalind Avenue, 1st Floor, Orlando, Florida
32804 Phone: (407) 836-3111 Email: BZA@ocfl.net
www.orangecountyfl.net

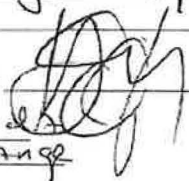
Board of Zoning Adjustment (BZA) Appeal Application

Appellant Information

Name: Herbert Betancourt
Address: 4112 Firewater Ct
Email: Lamad724@gmail.com Phone #: (407) 617-8271
BZA Case # and Applicant: VA-23-12-119
Date of BZA Hearing: 1/4/24

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

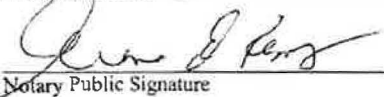
OWNER seeks permission to keep the treehouse decks (levels) which were improvements to a previously permitted deck and wood slide as recorded on 7/11/08 and approved by the Orange County Environmental Protection Division.

Signature of Appellant: 

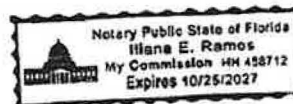
Date: 1/12/24

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 17 day of January, 2024, by Herbert Betancourt who is personally known to me or who has produced DL as identification and who did/did not take an oath.


Notary Public Signature

Notary Stamp:



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

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

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

See Page 2 of application for the Appeal Submittal Process.

Herbert Betancourt
4715 Shorecrest
Dr Orlando, Florida
1/19/2024

Board of Zoning Adjustment
Orange County Government
201 South Rosalind Avenue, 1st Floor
Orlando, FL 32801

Subject: Appeal for Board of Zoning Adjustment Hearing

To Whom It May Concerns

I am writing to respectfully request a reconsideration of the Variance request VA-23-12-119 related to 4715 Shorecrest Dr Orlando FL, which involves the existing structures on my property, specifically a treehouse.

During the initial hearing, a question was raised regarding the county's approval of these structures any in the past. At the time, I was unable to provide a definitive response. However, I would like to present a site plan that was approved by the Orange County Environmental Protection Division in 2008. This document clearly illustrates the presence of both the deck and the water slide, affirming their compliance with regulations at that time.

Furthermore, I wish to address a point raised by the Chairwoman concerning community support. It was noted that there were four emails opposing the variances, with none in favor. I would like to clarify that on September 8, prior to the hearing, I submitted 11 letters from neighboring residents who support the requested variances. I believe these letters were not considered in the initial decision, and I request an opportunity to present them again for the Board's consideration.

The goal of this appeal is not only to seek approval for the existing structures but also to express my willingness to work collaboratively with Orange County to ensure that all necessary permits and approvals are secured. I am committed to adhering to the county's regulations and maintaining a harmonious relationship with both the county and my neighbors.



I believe that the additional information and neighbor support I can provide will be beneficial for a comprehensive review of my case. Therefore, I respectfully request the opportunity to present this information at a forthcoming BZA hearing.

Thank you for considering my request. I look forward to the opportunity to work together towards a resolution that is satisfactory for all parties involved.

Sincerely,

Herbert Betancourt
Applicant

[illegible]

<div style="text-align: right;">  </div>	<h2 style="text-align: center;">Surveying & Mapping Services, Inc.</h2>	<p>Legal Description: LOT 4.2, BLOCK 10 OF LOT 4.2, BLOCK 10, PHASE 1, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.</p> <p>Property Address: * 4115 SUPERIOR DRIVE * WELLSVILLE, FLORIDA</p>	<p>PROPERTY TO</p> <p>PARISH COOP COMMUNITY PHILANTHROPY PLANNED GROWTH ASSOCIATION PLANNED HOME ASSOCIATION PLANNED HOME ASSOCIATION PLANNED HOME ASSOCIATION</p>	<p>SCALE 1 inch = 50'.</p>	<p>INSTRUMENT 1000004711C DATE 08/08/2011 BY JEFFREY B. JONES</p>
<div style="text-align: right;">  </div>	<p>Surveyor's Notes:</p> <ol style="list-style-type: none"> 1. Large lot shown, shown as 1.11, 1.12, 1.13, 1.14, 1.15, 1.16, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, 1.27, 1.28, 1.29, 1.30, 1.31, 1.32, 1.33, 1.34, 1.35, 1.36, 1.37, 1.38, 1.39, 1.40, 1.41, 1.42, 1.43, 1.44, 1.45, 1.46, 1.47, 1.48, 1.49, 1.50, 1.51, 1.52, 1.53, 1.54, 1.55, 1.56, 1.57, 1.58, 1.59, 1.60, 1.61, 1.62, 1.63, 1.64, 1.65, 1.66, 1.67, 1.68, 1.69, 1.70, 1.71, 1.72, 1.73, 1.74, 1.75, 1.76, 1.77, 1.78, 1.79, 1.80, 1.81, 1.82, 1.83, 1.84, 1.85, 1.86, 1.87, 1.88, 1.89, 1.90, 1.91, 1.92, 1.93, 1.94, 1.95, 1.96, 1.97, 1.98, 1.99, 2.00, 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18, 2.19, 2.20, 2.21, 2.22, 2.23, 2.24, 2.25, 2.26, 2.27, 2.28, 2.29, 2.30, 2.31, 2.32, 2.33, 2.34, 2.35, 2.36, 2.37, 2.38, 2.39, 2.40, 2.41, 2.42, 2.43, 2.44, 2.45, 2.46, 2.47, 2.48, 2.49, 2.50, 2.51, 2.52, 2.53, 2.54, 2.55, 2.56, 2.57, 2.58, 2.59, 2.60, 2.61, 2.62, 2.63, 2.64, 2.65, 2.66, 2.67, 2.68, 2.69, 2.70, 2.71, 2.72, 2.73, 2.74, 2.75, 2.76, 2.77, 2.78, 2.79, 2.80, 2.81, 2.82, 2.83, 2.84, 2.85, 2.86, 2.87, 2.88, 2.89, 2.90, 2.91, 2.92, 2.93, 2.94, 2.95, 2.96, 2.97, 2.98, 2.99, 3.00, 3.01, 3.02, 3.03, 3.04, 3.05, 3.06, 3.07, 3.08, 3.09, 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, 3.16, 3.17, 3.18, 3.19, 3.20, 3.21, 3.22, 3.23, 3.24, 3.25, 3.26, 3.27, 3.28, 3.29, 3.30, 3.31, 3.32, 3.33, 3.34, 3.35, 3.36, 3.37, 3.38, 3.39, 3.40, 3.41, 3.42, 3.43, 3.44, 3.45, 3.46, 3.47, 3.48, 3.49, 3.50, 3.51, 3.52, 3.53, 3.54, 3.55, 3.56, 3.57, 3.58, 3.59, 3.60, 3.61, 3.62, 3.63, 3.64, 3.65, 3.66, 3.67, 3.68, 3.69, 3.70, 3.71, 3.72, 3.73, 3.74, 3.75, 3.76, 3.77, 3.78, 3.79, 3.80, 3.81, 3.82, 3.83, 3.84, 3.85, 3.86, 3.87, 3.88, 3.89, 3.90, 3.91, 3.92, 3.93, 3.94, 3.95, 3.96, 3.97, 3.98, 3.99, 4.00, 4.01, 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24, 4.25, 4.26, 4.27, 4.28, 4.29, 4.30, 4.31, 4.32, 4.33, 4.34, 4.35, 4.36, 4.37, 4.38, 4.39, 4.40, 4.41, 4.42, 4.43, 4.44, 4.45, 4.46, 4.47, 4.48, 4.49, 4.50, 4.51, 4.52, 4.53, 4.54, 4.55, 4.56, 4.57, 4.58, 4.59, 4.60, 4.61, 4.62, 4.63, 4.64, 4.65, 4.66, 4.67, 4.68, 4.69, 4.70, 4.71, 4.72, 4.73, 4.74, 4.75, 4.76, 4.77, 4.78, 4.79, 4.80, 4.81, 4.82, 4.83, 4.84, 4.85, 4.86, 4.87, 4.88, 4.89, 4.90, 4.91, 4.92, 4.93, 4.94, 4.95, 4.96, 4.97, 4.98, 4.99, 5.00, 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 5.07, 5.08, 5.09, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, 5.16, 5.17, 5.18, 5.19, 5.20, 5.21, 5.22, 5.23, 5.24, 5.25, 5.26, 5.27, 5.28, 5.29, 5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.36, 5.37, 5.38, 5.39, 5.40, 5.41, 5.42, 5.43, 5.44, 5.45, 5.46, 5.47, 5.48, 5.49, 5.50, 5.51, 5.52, 5.53, 5.54, 5.55, 5.56, 5.57, 5.58, 5.59, 5.60, 5.61, 5.62, 5.63, 5.64, 5.65, 5.66, 5.67, 5.68, 5.69, 5.70, 5.71, 5.72, 5.73, 5.74, 5.75, 5.76, 5.77, 5.78, 5.79, 5.80, 5.81, 5.82, 5.83, 5.84, 5.85, 5.86, 5.87, 5.88, 5.89, 5.90, 5.91, 5.92, 5.93, 5.94, 5.95, 5.96, 5.97, 5.98, 5.99, 6.00, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, 6.08, 6.09, 6.10, 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.17, 6.18, 6.19, 6.20, 6.21, 6.22, 6.23, 6.24, 6.25, 6.26, 6.27, 6.28, 6.29, 6.30, 6.31, 6.32, 6.33, 6.34, 6.35, 6.36, 6.37, 6.38, 6.39, 6.40, 6.41, 6.42, 6.43, 6.44, 6.45, 6.46, 6.47, 6.48, 6.49, 6.50, 6.51, 6.52, 6.53, 6.54, 6.55, 6.56, 6.57, 6.58, 6.59, 6.60, 6.61, 6.62, 6.63, 6.64, 6.65, 6.66, 6.67, 6.68, 6.69, 6.70, 6.71, 6.72, 6.73, 6.74, 6.75, 6.76, 6.77, 6.78, 6.79, 6.80, 6.81, 6.82, 6.83, 6.84, 6.85, 6.86, 6.87, 6.88, 6.89,				

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JAN 04, 2024**

Commission District: **#5**

Case #: **VA-23-12-119**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): HERBERT BETANCOURT

OWNER(s): NYMA WHITMIRE, CARTER WHITMIRE

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

- 1) To allow for an existing detached accessory structure (treehouse) 11 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.
- 2) To allow an existing detached accessory structure (gazebo) 3.8 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.
- 3) To allow an existing detached accessory structure (outdoor shower) 12.9 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.
- 4) To allow an existing detached accessory structure (pergola) 15.1 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.
- 5) To allow an existing pool/deck with a south side setback of 3.5 ft. in lieu of 5 ft.

Note: This is a result of Code Enforcement

PROPERTY LOCATION: 4715 Shorecrest Dr., Orlando, FL 32817, east side of Shorecrest Dr., west side of Lake Martha, north of University Blvd., west of S.R. 417.

PARCEL ID: 01-22-30-4848-02-040

LOT SIZE: +/-1.92 acres (+/- 0.90 acres upland)

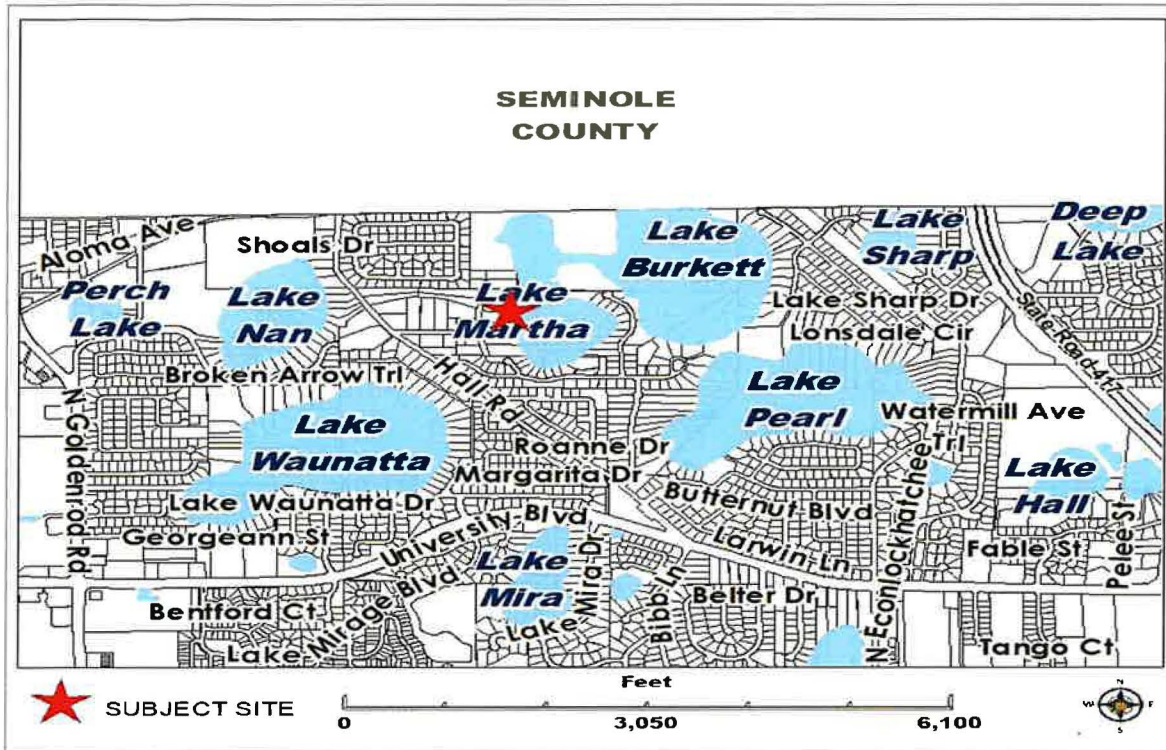
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 78

STAFF RECOMMENDATIONS

Denial of Variances #1, #3, #4, and #5, and approval of Variance #2, subject to the conditions in this report. However, if the BZA should find that the applicant has satisfied the criteria for the granting of all the Variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1AA	R-1AA	R-1AA	Lake Martha	R-1AA
Future Land Use	LDR	LDR	LDR	Lake Martha	LDR
Current Use	Single-family residential	Single-family residential	Vacant	Lake Martha	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1AA, Single-Family Dwelling District, which allows single-family homes and associated accessory structures on lots a minimum of 10,000 sq. ft. or greater. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1AA zoning district.

The area surrounding the subject site is comprised of single-family homes, many of which are lakefront. The subject property is comprised of Lot 4 and a portion of Lot 5 of the Lakeside Terrace Plat, recorded in 1953, and is considered to be a conforming lot of record. It is a +/- 1.93 acre platted parcel of land located on Lake Martha, of which +/- 0.90 acres is upland. The remainder of the parcel is either wetland or submerged property under Lake Martha. The subject property is developed with a 5,915 gross sq. ft. two story single-family home, constructed in 1959, with an attached 2-car garage and pool and deck. Improvements to the property include a 144 sq. ft. gazebo constructed in 1999 (B99017295), a 2,012 sq. ft. addition and a 1,380 sq. ft. porch addition built in 2002 (B02013242), and a 595 sq. ft. screen enclosure at the rear of the existing residence over the existing deck installed in 2011 (B11004392). Additionally, there are several detached accessory structures installed without permits including a 3-story-22.3 ft. high 2,030 sq. ft. accessory structure built as a treehouse, a

131 sq. ft. pergola, and an 80 sq. ft. outdoor shower structure. The year of installation for these structures cannot be ascertained via aerial photography due to the heavily vegetated property. The owners purchased the property in 1998.

A Code Enforcement citation was issued in December 2022 (CE#: 616540) for the construction of an accessory structure in the tree without permits.

The proposal is to allow the recognition of existing improvements which includes the 3-story treehouse located in the rear yard with a 11 ft. setback from the NHWE line in lieu 35 ft., requiring Variance #1. The owner is proposing to convert the ground floor from an enclosed room to an open covered deck. The second level consists of a changing room, and on the third level an open sun deck, which will remain the same. Other improvements include the 12 ft. by 12 ft., 12 ft. tall gazebo with a 3.8 ft. setback from the NHWE in lieu of 35 ft., requiring Variance #2, and an 8 ft. tall outdoor shower structure along the north side in the rear yard of the home with a 12.9 ft. setback from the NHWE in lieu of 35 ft., requiring Variance #3. Also, there is a pergola with a height of 8 ft. located in the rear yard 15.1 ft. from the NHWE in lieu of 35 ft., requiring Variance #4. The existing pool and deck located at the rear of the residence with a south side setback of 3.5 ft. in lieu of 5 ft., requiring Variance #5. Furthermore, there is a fence that encroaches into the adjacent property to the south, which will be removed. As per Sec. 38-1501, the NHWE setback requirements for accessory structures are the same as the district setbacks, which in this case is the R-1AA zoning district.

Staff has reviewed the request and recommends denial for Variances #1, #3, #4 and #5. Based on staff analysis, the existing location of the detached accessory structures were installed without permits and could be relocated to comply with the code. There is sufficient space in the rear yard of the property for the structures to be moved in a manner that meets code. Additionally, the existing pool and deck appeared in 2006 via aerial photography to have been renovated without permits, and the previously constructed pool and deck in 2005 via aerial photography appeared to meet code. However, staff is recommending approval of Variance #2 to recognize the existing non-conforming setback of the permitted gazebo to remain in the same location since 1999 as indicated in the issued permit.

The Orange County Environmental Protection Division has reviewed the request and has no objection to the proposal.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	25 ft.	22.3 ft. (existing treehouse) 12 ft. (gazebo) 8 ft. (outdoor shower) 8 ft. (pergola)
Min. Lot Width:	85 ft.	176.5 ft.
Min. Lot Size:	10,000 sq. ft. (0.23 acres)	+/-1.92 acres (+/- 0.90 acres upland)

Building Setbacks

	Code Requirement	Proposed
Front:	30 ft.	52.8 ft. house (West)
Rear:	35 ft.	425 ft. house (East)
Side:	10 ft. (accessory structure) (greater than 15 ft. high) 5 ft. (pool and deck)	37 ft. treehouse (North) 79.6 ft. treehouse (South) 3.5 ft. (South – Variance #5)
NHWE	35 ft. (accessory structure)	11 ft. treehouse (East – Variance #1) 3.8 ft. gazebo (East- Variance #2) 12.9 ft. outdoor shower (East – Variance #3) 15.1 ft. pergola (East – Variance #4)

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

Variances #1, #3, #4, and #5: There are no special conditions or circumstances as there are other options to relocate the detached accessory structures to a location that will meet code, eliminating the need for the Variances. Furthermore, the pool and deck could have been constructed in a manner to meet code as it was expanded after 2005 without obtaining a permit.

Variance #2: The special condition and circumstance particular to this particular request is the gazebo being permitted in the same location in 1999.

Not Self-Created

Variances #1, #3, #4 and #5: The request is self-created since there are alternatives available to relocate the detached accessory structures to a location that will meet code, and the structures were built without a permit. Also, the pool and deck could have been renovated in a manner to be code compliant.

Variance #2: The request is not self-created since the permitted gazebo has been in the same location since 1999 as permitted.

No Special Privilege Conferred

Variances #1, #3, #4 and #5: Granting the Variances as requested would confer special privilege since all the developed properties in the surrounding area do not have Variance requests for similar detached accessory structures and pool and decks.

Variance #2: Due to the permitted gazebo being in the same location and configuration since year built, granting the requested Variance will not confer any special privilege conferred to others under the same circumstances.

Deprivation of Rights

Variances #1, #3, #4 and #5: There is no deprivation of rights since code compliant options are available to relocate the detached accessory structures to a location that meets code requirements. The pool and deck could have remained as installed in the same configuration prior to 2006 which met code requirements.

Variance #2: Without approval of the requested Variance, the owners will be deprived of the right for the permitted gazebo to remain in the same location since 1999.

Minimum Possible Variance

Variances #1, #3, #4 and #5: The requests are not the minimum possible as the detached accessory structures could have been built in a code compliant manner since there is sufficient space in the rear yard of the property. Also, the pool and deck could have been renovated in a manner to meet code.

Variance #2: Due to the existing setbacks and location of the gazebo, the Variance is the minimum possible.

Purpose and Intent

Approval of the requested Variances will allow improvements to the site, which will be in harmony with the purpose and intent of the Zoning Regulations. Also, it will allow for the existing structures non-conforming setbacks to remain. Furthermore, the detached accessory structures and pool and deck will not be significantly visible from any of the surrounding properties, thereby limiting any quantifiable negative impact to surrounding property owners.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the survey received November 20, 2023, and elevations received October 11, 2023, as modified to remove the treehouse, pergola, and outdoor shower structure, 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. Prior to the issuance of any building permit of the existing detached structures and the pool and deck, the portion of the fence which encroaches into the adjacent property shall be removed.

C: Herbert Betancourt
4112 Firewater Court
Orlando, FL 32829



2886 Aloma Oaks Drive, Oviedo, Florida 32765
Phone: (407) 232-4579; email: gsharp@cfllr.com

Fla. Lic. # AA26002910

Nov. 20, 2023

Ms. Jenale J. Garnet, MPA, MURP
Orange County Zoning Division
Planning, Environmental, and Development Services Department
201 S. Rosalind Ave.
Orlando, FL 32801

Sent via e-mail to: Jenale.Garnett@ocfl.net

**RE: 4715 Shorecrest Drive
Orlando, FL**

Dear Ms. Garnet,

We are hereby submitting this application to the Board of Zoning Adjustment for the purposes of getting an approval for existing structures located on the above noted property address. Said structures include a three story observation deck, a gazebo, an outdoor shower structure, a pool deck and a lanai as depicted in the sketches and site plan provided with this application. Certain structures are located within close proximity to the lake edge and are constructed of wood. The pool deck is within the minimum setback of the southern edge of the property. It is understood that if we were to get this approval, we will then undergo the building permitting process through Building Safety for said structures. The actual application for such will be submitted under separate cover after this phase of the work.

Should there be any further requirements to complete this application, please advise.

Thank you and best regards,

Sincerely,

A handwritten signature in black ink that reads 'G. Sharp'.

George W. Sharp, AIA
Principal

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

There are no special conditions or circumstances existing peculiar to the land.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

The special conditions and circumstances do not result from the actions of this homeowner. The hardship is not self-imposed nor self-created. The structure is located in the only possible location to be effective as a sun deck.

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

We are not requesting for a variance that would not be allowed on other properties of similar use.

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

The construction of an observation deck overlooking the lake on other properties exists. The resulting structure, will provide such on this property.

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.

We will vacate and clear the ground level space for purposes of acknowledging the flood plain as specified by the FEMA Flood plans.

PLEASE SEE ATTACHMENT PAGE

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

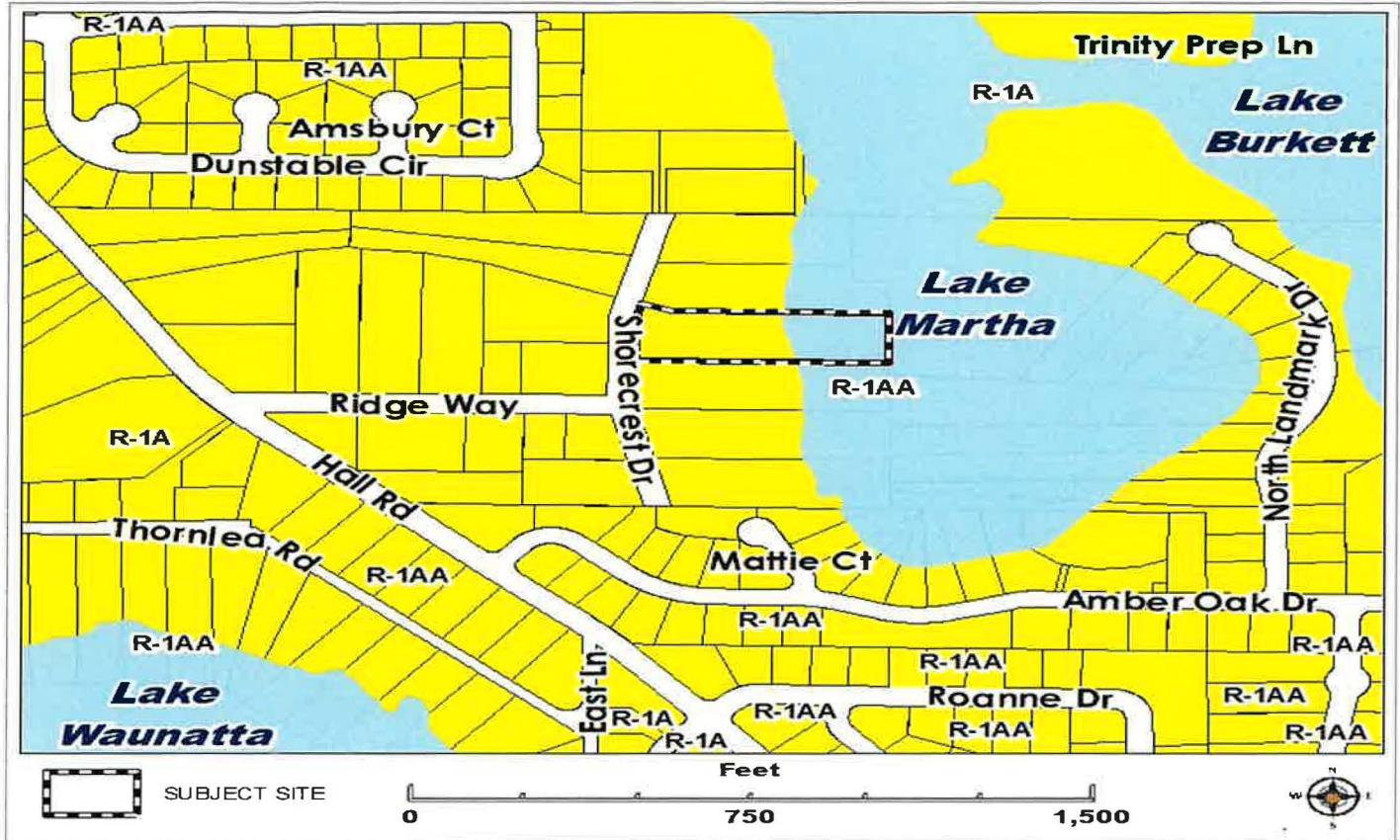
The proposed structure will respect the FEMA 100 yr Flood level

ATTACHMENT TO EXTEND CRITERIA # 5

Request is made for an allowance of the Pool Deck to be closer to the property line at a distance of 3' - 6", instead of the minimum allowable under zoning ordinances.

Additionally, we acknowledge that the chain link fence on the south side of the property was installed beyond the property limits. Owner is taking steps to correct this.

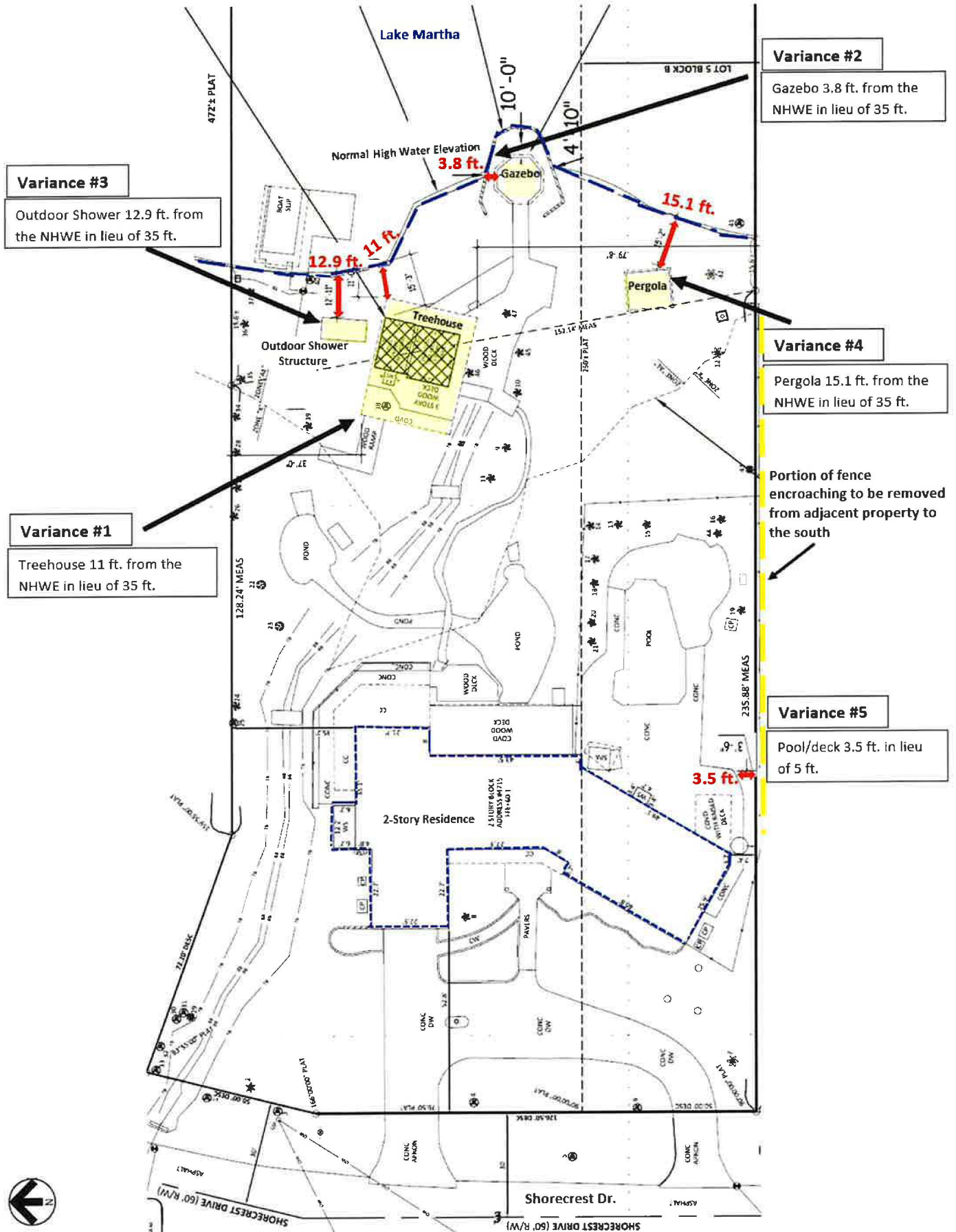
ZONING MAP



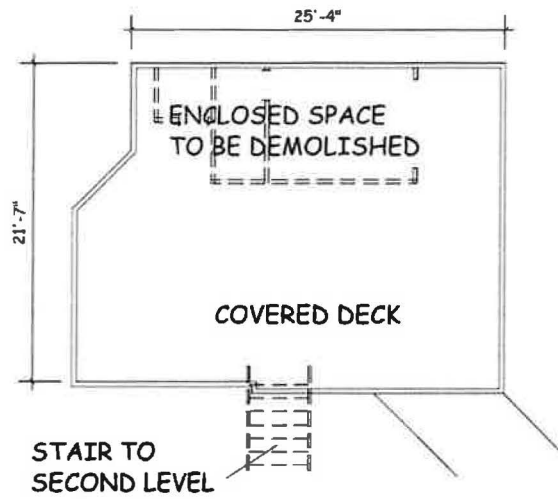
AERIAL MAP



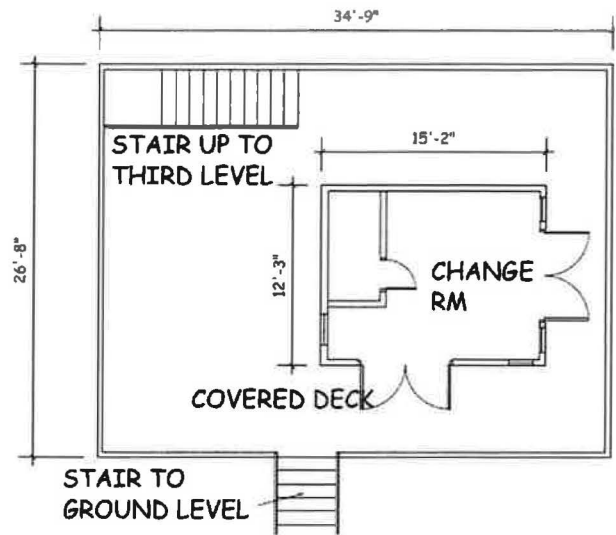
SITE PLAN



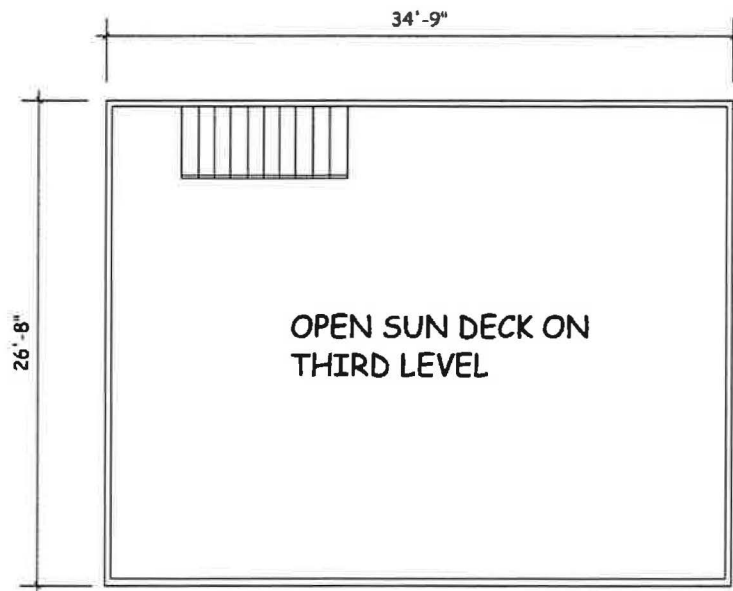
TREEHOUSE FLOOR PLAN



Ground Level

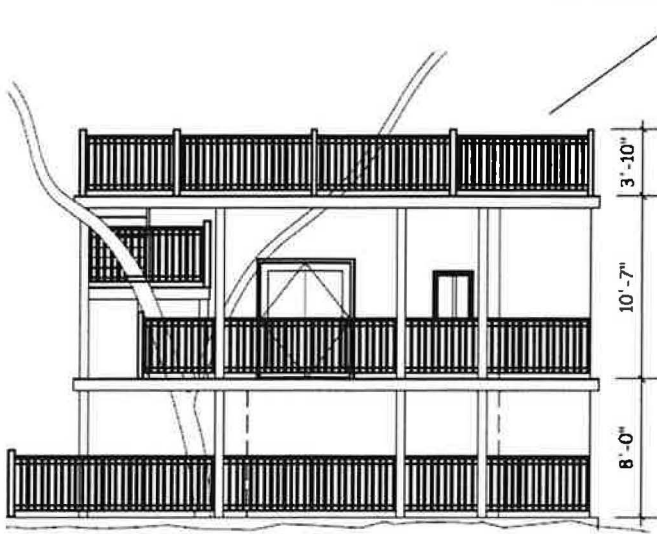


Second Level

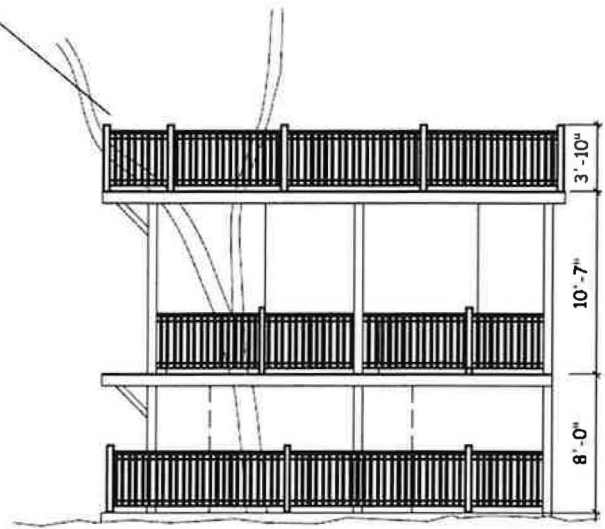


Third Level

OPEN SUN DECK ON
THIRD LEVEL



West Elevation

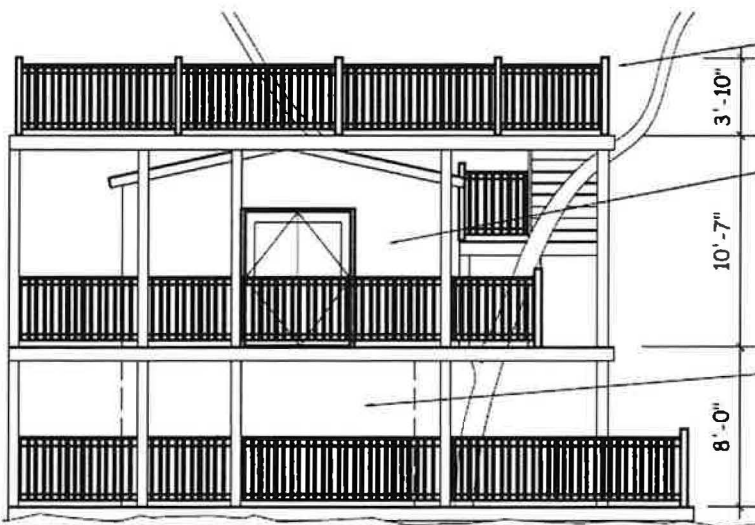


South Elevation

OPEN SUN DECK ON
THIRD LEVEL

LAKE SIDE CHANGE
ROOM

EXISTING ROOM
ENCLOSURE ON
FIRST LEVEL TO BE
REMOVED



East Elevation

SITE PHOTOS



Facing east from Shorecrest Dr. towards front of subject property



Rear yard, facing northeast towards pool and deck

SITE PHOTOS



Rear yard, facing northeast towards treehouse



Rear yard, facing west from gazebo towards proposed treehouse ground level modifications

SITE PHOTOS



Rear yard, facing southeast toward outdoor shower structure



Rear yard, facing east towards pergola



Rear yard, facing east towards gazebo and Lake Martha