



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

March 7, 2024

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)
ORANGE COUNTY GOVERNMENT

<u>Board Member</u>	<u>District</u>
Thomas Moses	1
John Drago (Vice Chair)	2
Juan Velez	3
Deborah Moskowitz (Chair)	4
VACANT	5
Sonya Shakespeare	6
Roberta Walton Johnson	At Large

BZA Staff

Ted Kozak, AICP	Chief Planner
Nick Balevich	Planner II
Jenale Garnett	Planner I

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
MARCH 7, 2024**

Case #	Applicant	Commission District	Staff Recommendation	BZA	Page #
VA-24-02-149	Latavious Fails	6	Denial	Approval w/Conditions	1
VA-24-03-001	Matthew Larosiere	4	Denial	Approval w/Conditions	15
VA-24-03-002	Lenny Nelms	1	Approval w/Conditions	Approval w/Conditions	27
VA-24-04-003	Harris Tyrell For Tyrell Enterprises LLC	6	Continued to 4/4/24	Continued to 4/4/24	37
VA-24-04-005	Penny Seater For Habitat For Humanity 3403 Warren Sapp	2	Denial	Approval w/Conditions	38
VA-24-04-006	Penny Seater For Habitat For Humanity 3411 Warren Sapp	2	Denial	Approval w/Conditions	51
VA-24-03-148	Momtaz Barq	1	Request #1, Denial Request #2, Approval w/Conditions	Approval w/Conditions	62
VA-24-03-150	Clifford R Risley For Mr. Car Wash	4	Denial	Approval w/Conditions	76

Please note that approvals granted by the BZA are not final unless no appeals are filed within 15 calendar days of the BZA's recommendation and until the Board of County Commissioner (BCC) confirms the recommendation of the BZA on March 26, 2024.

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 Site and Principal Building Requirements

District	Min. Lot Area ^M (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	^A Min. Front yard (ft.)	^A Min. Rear yard (ft.)	^A Min. Side yard (ft.)	^A Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
A-1	SFR 21,780 (½ acre)	850	100	35	50	10	15	35	50 ^A	L	
	Mobile home 2 acres	850	100	35	50	10	15	35	50 ^A	L	
A-2	SFR 21,780 (½ acre)	850	100	35	50	10	15	35	50 ^A	L	
	Mobile home 2 acres	850	100	35	50	10	15	35	50 ^A	L	
A-R	108,900 (2½ acres)	950	270	35	50	25	15	35	50 ^A	L	
R-CE	43,560 (1 acre)	1,500	130	35	50	10	15	35	50 ^A	L	
R-CE-2	2 acres	1,200	185	45	50	30	15	35	50 ^A	L	
R-CE-5	5 acres	1,200	250	50	50	45	15	35	50 ^A	L	
R-1AAAA	21,780(½ acre)	1,500	110	30	35	10	15	35	50 ^A	L	
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	15	35	50 ^A	L	
R-1AA	10,000	1,200	85	25/30 ^H	30/35 ^H	7.5	15	35	50 ^A	L	
R-1A	7,500	1,200	75	20/25 ^H	25/30 ^H	7.5	15	35	50 ^A	L	
R-1	5,000	1,000	50	20/25 ^H	20/25 ^H	5/6 ^H	15	35	50 ^A	L	
R-2	One-family dwelling, 4,500	1,000	45 ^C	20/25 ^H	20/25 ^H	5/6 ^H	15	35	50 ^A	L	38-456
	Two dwelling units, 8,000/9,000	500/1,000 per dwelling unit ^D	80/90 ^D	20/25 ^H	25	5/6 ^H	15	35	50 ^A	L	38-456
	Three dwelling units, 11,250	500 per dwelling unit	85 ^J	20/25 ^H	30	10	15	35 ^E	50 ^A	L	38-456
	Four or more dwelling units, 15,000	500 per dwelling unit	85 ^J	20/25 ^H	30	10 ^B	15	35 ^E	50 ^A	L	38-456; limited to 4 units per building
R-3	One-family dwelling, 4,500	1,000	45 ^C	20/25 ^H	20/25 ^H	5/6 ^H	15	35	50 ^A	L	38-481
	Two dwelling units, 8,000/9,000	500/1,000 per dwelling unit ^D	80/90 ^D	20/25 ^H	20/25 ^H	5/6 ^H	15	35	50 ^A	L	38-481
	Three dwelling units, 11,250	500 per dwelling unit	85 ^J	20/25 ^H	30	10	15	35 ^E	50 ^A	L	38-481
	Four or more dwelling units, 15,000	500 per dwelling unit	85 ^J	20/25 ^H	30	10 ^B	15	35 ^E	50 ^A	L	38-481
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10 ^S	15	35 ^Q	50 ^A	L	38-605
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	15	35	50 ^A	L	38-578
R-T-1 SFR	4,500 ^C	1,000	45	20	20	5	15	35	50 ^A	L	
Mobile Home	4,500 ^C	Min. mobile home size 8 ft. x 35 ft.	45	20	20	5	15	35	50 ^A	L	

District	Min. Lot Area ^M (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	^A Min. Front yard (ft.)	^A Min. Rear yard (ft.)	^A Min. Side yard (ft.)	^A Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
R-T-2 (zoned prior to 1/29/73)	6,000	SFR 500 Min. mobile home size 8 ft. x 35 ft.	60	25	25	6	15	35	50 ^A	L	
(zoned after 1/29/73)	21,780	SFR 600 Min. mobile home size 8 ft. x 35 ft.	100	35	50	10	15	35	50 ^A	L	
NR	One family dwelling, 4,500	1,000	45 ^C	20	20	5	15	35/3 stories	50 ^A	L	38-1748
	Two dwelling units, 8,000	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 ^A	L	38-1748
	Three dwelling, 11,250	1,000	45 ^C	20	20	5	15	35/3 stories	50 ^A	L	38-1748
	Four or more dwelling, units, 1,000 plus, 2,000 per dwelling unit	500 per dwelling unit	85	20	20	10	15	50/4 stories	50 ^A	L	38-1748
	Townhouse 1,800	750 per dwelling unit	20	25, 15 for rear entry driveway	20,15 for rear entry garage	0,10 for end units	15	40/3 stories	50 ^A	L	38-1748
NAC	Nonresidential and mixed use development, 6,000	500	50	0/10 maximum 60% of building frontage must conform to maximum setback	15,20 adjacent to single-family zoning district	10,0 if buildings are adjoining	15	50 feet	50 ^A	L	38-1741
	One family dwelling, 4,500	1,000	45 ^C	20	20	5	15	35/3 stories	50 ^A	L	38-1741
	Two dwelling units, 11,250	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 ^A	L	38-1741
	Three dwelling, 11,250	500 per dwelling unit	85	20	20	10	15	35/3 stories	50 ^A	L	38-1741
	Four or more dwelling, units, 1,000 plus, 2,000 per dwelling unit	500 per dwelling unit	85	20	20	10	15	50 feet/4 stories, 65 feet with ground floor retail	50 ^A	L	38-1741
	Townhouse 1,800	750 per dwelling unit	20	25, 15 for rear entry driveway	20,15 for rear entry garage	0,10 for end units	15	40/3 stories	50 ^A	L	38-1741
NC	Nonresidential and mixed use development, 8,000	500	50	0/10 maximum 60% of building frontage must conform to maximum setback	15,20 adjacent to single-family zoning district	10,0 if buildings are adjoining	15	65 feet	50 ^A	L	38-1734
	One family dwelling, 4,500	1,000	45 ^C	20	20	5	15	35/3 stories	50 ^A	L	38-1734
	Two dwelling units, 8,000	500 per dwelling unit	80	20	20	5	15	35/3 stories	50 ^A	L	38-1734
	Three dwelling, 11,250	500 per dwelling unit	85	20	20	10	15	35/3 stories	50 ^A	L	38-1734

District	Min. Lot Area ^M (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	^A Min. Front yard (ft.)	^A Min. Rear yard (ft.)	^A Min. Side yard (ft.)	^A Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
	Four or more dwelling, units, 1,000 plus, 2,000 per dwelling unit	500 per dwelling unit	85	20	20	10	15	65 Feet, 80 feet with ground floor retail	50 ^A	L	38-1734
	Townhouse 1,800	N/A	20	25, 15 for rear entry driveway	20,15 for rear entry garage	0,10 for end units	15	40/3 stories	50 ^A	L	38-1734
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 feet for each add. story	15	35	50 ^A	L	38-806
C-1	6,000	500		25	20	0; or 15 ft. when abutting residential district	15	50; or 35 within 100 ft. of any residential use or district	50 ^A	L	38-830
C-2	8,000	500		25	15; or 25 when abutting residential district	5; or 25 when abutting residential district	15	50; or 35 within 100 ft. of any residential use or district	50 ^A	L	38-855
C-3	12,000	500		25	15; or 30 when abutting residential district	5; or 25 when abutting residential district	15	75; or 35 within 100 ft. of any residential use or district	50 ^A	L	38-880
I-1A	N/A	N/A	N/A	35	25, or 30 ft. when abutting residential district ^N	25, or 30 ft. when abutting residential district ^N	15	50; or 35 within 100 feet of any residential use or district	50 ^A	L	38-907
I-1/I-5	N/A	N/A	N/A	35	25, or 50 ft. when abutting residential district ^N	25, or 50 ft. when abutting residential district ^{N/O}	15	50; or 35 within 100 feet of any residential use or district	50 ^A	L	38-932
I-2/1-3	N/A	N/A	N/A	25	10, or 60 ft. when abutting residential district ^P	15, or 60 ft. when abutting residential district ^P	15	50; or 35 within 100 feet of any residential use or district	50 ^A	L	38-981
I-4	N/A	N/A	N/A	35	10, or 75 ft. when abutting residential district ^N	25, or 75 ft. when abutting residential district ^N	15	50; or 35 within 100 feet of any residential use or district	50 ^A	L	38-1008

District	Min. Lot Area ^M (sq. ft.)	Min. Living Area/ floor area (sq. ft.)	Min. Lot width (ft.)	^A Min. Front yard (ft.)	^A Min. Rear yard (ft.)	^A Min. Side yard (ft.)	^A Min. Side street Yard (ft.)	Max. Building Height (ft.)	NHWE Setback (ft.)	Max. FAR/ Density sq. ft./ du/ac	Additional Standards
U-R-3	Four or more dwelling units, 15,000	500 per dwelling unit	85 ^J	20/25 ^H	30	10 ^B	15	35	50 ^A	L	

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

A	Setbacks shall be measured 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 Chapter 15, Article VII, Lakeshore Protection, and Chapter 15, Article X, Wetland Protection, 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 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. A lot which is part of a subdivision, the plat of which has been lawfully recorded, or a parcel of land, the deed of which was lawfully recorded on or before August 31, 1982, either of which has a depth of less than one hundred fifty (150) feet above the normal high water elevation contour, shall be exempt from the fifty-foot setback requirement set forth in section 38-1501. Instead, the setbacks under the respective zoning district requirements shall apply as measured from the normal high water elevation contour.
B	Side setback is 30 feet where adjacent to single-family district.
C	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. feet 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.
D	For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet, the minimum duplex lot size is 8,000 square feet, and the minimum living area is 500 square feet. For detached units, the minimum duplex lot width is 90 feet, the minimum duplex lot size is 9,000 square feet, and minimum living area is 1,000 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. Existing developed duplex lots that are either platted or lots of record existing prior to 3/3/97 and are at least 75 feet in width and have a lot size of 7,500 square feet or greater, shall be deemed to be vested and shall be considered as conforming lots for width and/or size.
E	Multifamily residential buildings in excess of one story in height within 100 feet of the property line of any single-family dwelling district and use (exclusive of 2 story single family and 2 story two-family dwellings), requires a special exception.
F	Reserved.
G	Reserved.
H	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.
J	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.
K	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%.
L	Subject to the Future Land Use designation.
M	Developable land area.
N	Rear yards and side yards may be reduced to zero (0) when the rear or side property lines about the boundary of a railroad right-of-way, but only in those cases where an adjacent wall or walls of a building or structure are provided with railroad loading and unloading capabilities.
O	One of the side yards may be reduced to zero (0) feet, provided the other side yard on the lot shall be increased to a minimum building setback of fifty (50) feet. This provision cannot be used if the side yard that is reduced is contiguous to a residential district.
P	Rear yards and side yards may be reduced to zero when the rear or side property lines about the boundary of a railroad right-of-way, but only in those cases where an adjacent wall or walls of a building or structure are provided with railroad loading and unloading capabilities; however, no trackage shall be located nearer than three hundred (300) feet from any residential district. The maximum height of any structure shall be two (2) stories or thirty-five (35) feet; provided, that no structure (exclusive of single-family and two-family dwellings) shall exceed one (1) story in height within one hundred (100) feet of the side or rear lot line of any existing single-family residential district.
Q	The maximum height of any structure shall be two stories or thirty-five (35) feet; provided, that no structure (exclusive of single-family and two-family dwellings) shall exceed one story in height within one hundred (100) feet of the side or rear lot line of any existing single-family residential district.
R	A ten-foot front setback may also be permitted for the dwelling unit when a front entry garage is set back at least twenty (20) feet from the front property line.
S	Minimum side building separation is ten (10) feet. The side setback may be any combination to achieve this separation. However, if the side setback is less than five (5) feet, the standards in section 38-605(b) of this district shall apply.

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: **MAR 07, 2024**

Commission District: **#6**

Case #: **VA-24-02-149**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): LATAVIOUS FAILS

OWNER(s): LATAVIOUS FAILS

REQUEST: Variances in the R-1 zoning district to allow the construction of a single-family residence with an attached Accessory Dwelling Unit (ADU) as follows:

- 1) To allow a structure to be located nearer the side street lot line than the required front yard of such abutting lot (9 ft. in lieu of 20 ft.)
- 2) To allow a west side street setback of 9 ft. in lieu of 15 ft.

PROPERTY LOCATION: Ferguson Dr., Orlando, FL 32805, southeast corner of Ferguson Dr. and W. Robinson St., south of SR. 408, west of N. John Young Pkwy., east of N. Ivey Ln.

PARCEL ID: 28-22-29-5600-60-710

LOT SIZE: +/- 0.18 acres (+/- 8,124 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 68

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (Motion by Sonya Shakespeare, Second by Roberta Walton Johnson; unanimous; 6 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 vacant):

1. Development shall be in accordance with the site plan received December 29, 2023, and elevations received December 14, 2023, 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.

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 denial of the Variances. Staff noted that no comments were received in favor or in opposition to the request.

The applicant rebutted the staff recommendation of denial, noted that the sidewalk provides additional distance from Ferguson Drive, that there will be sufficient space for parking, and that the house will be an asset to the community.

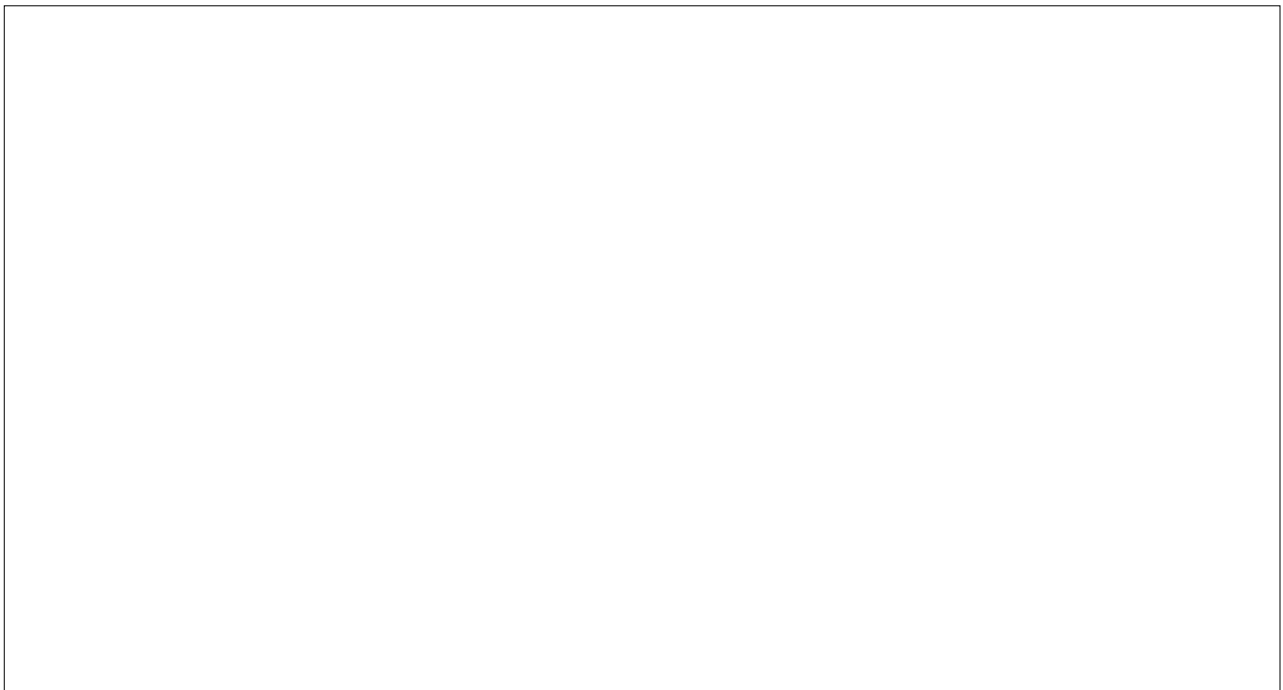
There was no one in attendance to speak in favor of the request. There were two (2) in attendance to speak in opposition of the request due the lack of adequate room for required parking and that the high traffic volume of Ferguson Drive would make using the sidewalk dangerous for pedestrians. A petition of neighbors in opposition was presented at that time.

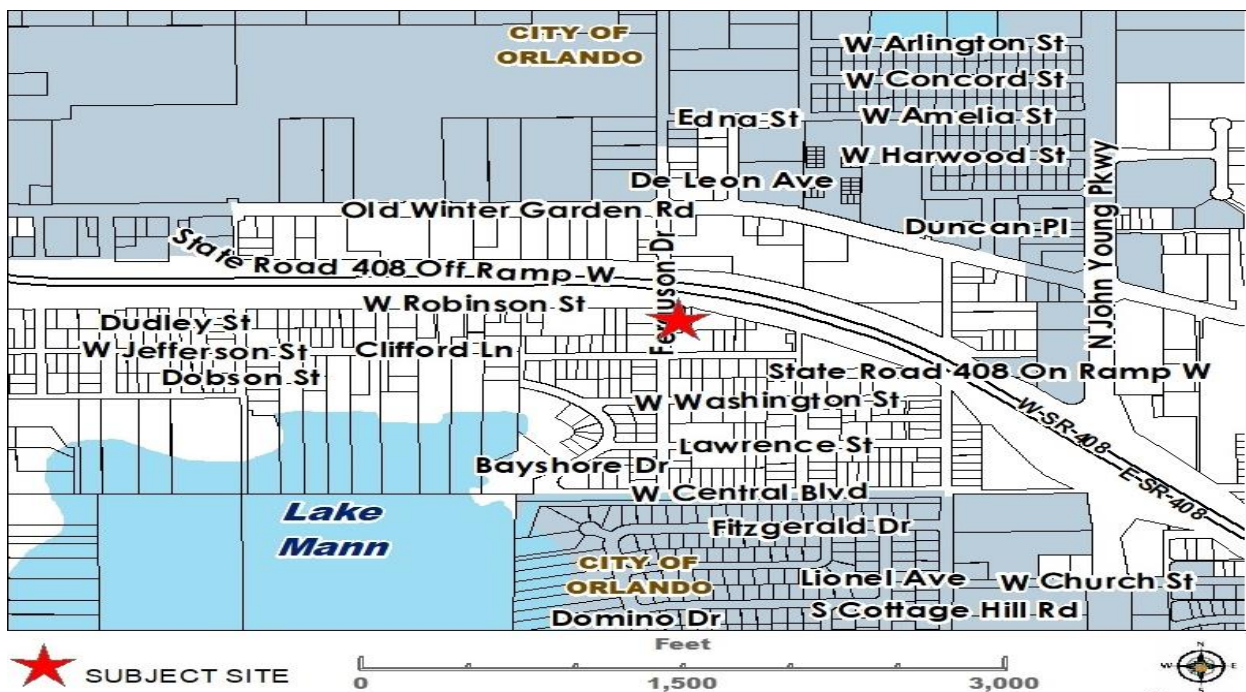
The BZA discussed the Variances, determining the property consists of unique constraints, that the proposed house meets all setbacks with the exception of along Ferguson Dr., meets all Variance criteria and unanimously recommended approval of the Variance by a 6-0 vote, with one seat vacant, subject to the three (3) conditions in the staff report conditions, as amended to modify Condition #1, which states, " Development shall be in accordance with the site plan received December 29, 2023, and elevations received December 14, 2023, 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)."

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the 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	S.R. 408	R-3	R-1	R-1
Future Land Use	LDR	S.R. 408	LDR	LDR	LDR
Current Use	Vacant	S.R. 408	Single-family residential	Vacant	Single-family residential

BACKGROUND AND ANALYSIS

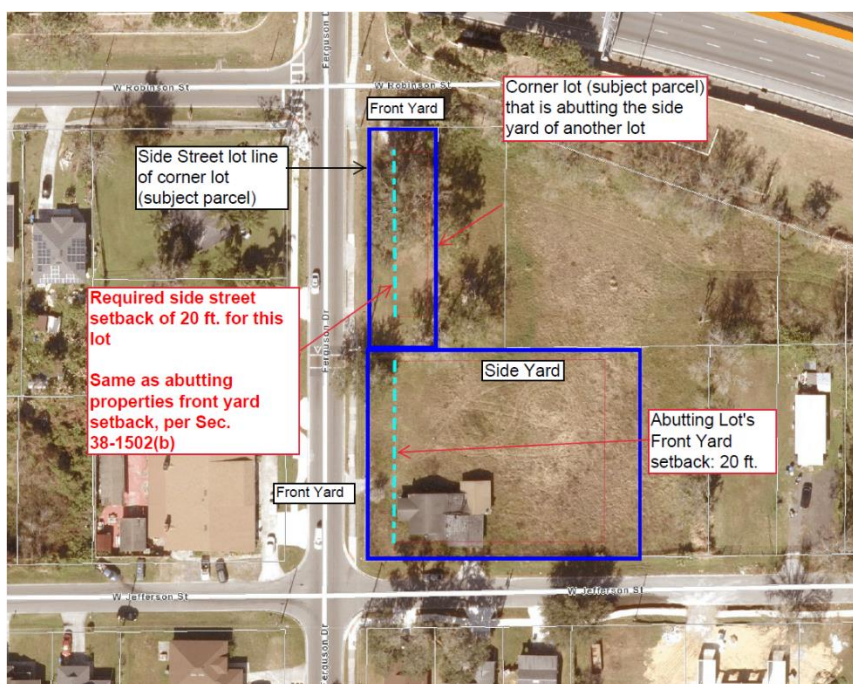
DESCRIPTION AND CONTEXT

The subject property is located in the R-1, Single-Family Dwelling District, which allows single-family homes and associated accessory structures and requires a minimum lot area of 5,000 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1 zoning district.

The area surrounding the subject site consists of single-family homes. The subject property is a vacant 0.18 acre lot, platted in 1926 as Lot 71 in Block F of the Merry Mount Subdivision. The property is a corner lot, located on the southeast corner of Ferguson Drive and W. Robinson Street, and it abuts the side of another lot to the immediate south. The frontage is considered W. Robinson Street to the north since it is the narrowest portion of the lot abutting a public street and the side street is Ferguson Drive. The portion of W. Robinson St. adjacent to the property is an unmaintained road and appears to be a restricted area for the service of State Road 408. The current owners acquired the property in February 2022, and installed a temporary fence (F23013839), which is proposed to be removed after completion of construction.

The proposal is to construct a new 3,776 gross sq. ft. two-story single-family home with an attached 492.2 sq. ft. Accessory Dwelling Unit (ADU). The proposal meets the front, rear, and east side setbacks required by the R-1 zoning district, as well as the requirements for an attached ADU. Per Sec. 38-1502 (b), on any corner lot abutting the side of another lot, no structure shall be nearer the side street lot line than the required front yard of such abutting lot. As provided in the exhibit below, the site abutting the subject property has a front

yard facing Ferguson Drive, and a side yard abutting the subject site to the north. That property is zoned R-3, Multiple-Family Dwelling District, and has a minimum required front yard of 20 ft. However, the proposed house on the subject site is located 9 ft. from the side street lot line of Ferguson Drive, where 20 ft. is required, prompting the request for Variance #1.



Additionally, Sec. 38-1501 of Orange County Code requires a minimum side street yard setback of 15 ft. While this minimum setback is less than the minimum setback required by Sec. 38-1502 (b) noted above, Variance #2 was advertised to ensure both code sections were covered. Therefore, a 9 ft. west side street setback is proposed in lieu of 15 ft., prompting the request for Variance #2. Staff is recommending denial of the Variances since the proposed residence is new construction and could be redesigned or reduced in size to meet code, thereby eliminating the need for the Variances. Furthermore, the request includes not only a single-family home, but an attached ADU, further increasing the overall size of the house. The surrounding properties in the area with similar lot widths appear to meet side street setbacks and no Variances have been requested. A permit, B23017777, for the construction of a single-family home with an ADU, is on hold pending the outcome of this request.

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:	35 ft.	26 ft.
Min. Lot Width:	50 ft.	50 ft.
Min. Lot Size:	5,000 sq. ft.	8,124 sq. ft.

Building Setbacks

	Code Requirement	Proposed
Front: Robinson Street	25 ft.	47 ft. (North)
Rear:	25 ft.	45.2 ft. (South)
Side:	6 ft.	6 ft. (East)
Side Street: Ferguson Drive	15 ft.	9 ft. (West – Variance #2)
Abutting Lot Front: Ferguson Drive	20 ft. (R-3 Zoning District)	9 ft. (West – Variance #1)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances particular to the subject property because this is new construction of a single-family residence on a lot that meets the minimum lot width and exceeds the minimum lot size, and the plans could be revised to meet the front yard setback of the abutting lot thus negating the need for the Variances.

Not Self-Created

The request is self-created in that it is new construction and there are alternatives to eliminate the requests.

No Special Privilege Conferred

The requests would confer special privilege since there are no surrounding properties with similar reduction in side street yards.

Deprivation of Rights

There is no deprivation of rights since there are other options to meet the required front yard setback of the abutting lot.

Minimum Possible Variance

The Variances are not the minimum since the house could be redesigned to meet code.

Purpose and Intent

Approval of the requested Variances would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The design as proposed will not be detrimental to the neighborhood as there are more intrusive impacts such as the S.R. 408.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan December 29, 2023, and elevations received December 14, 2023, 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.

C: Latavious Fails
P.O. Box 950013
Lake Mary, FL 32795

COVER LETTER

12/13/2023

To whom it may concern,

I am requesting a setback variance on the west side of the vacant property located at 211 Ferguson Drive, Orlando FL 32805. The current street-side setback requirement is 15' for this particular lot location, and I am requesting a 6' variance which would make the new setback 9'. The 35' x 70' foot single-family structure will be located on the southern most side of the lot away from intersection of Robinson St and Ferguson Dr.

Thank you,

Latavious C. Fails (owner) 407-312-9157

- 1) **Special Conditions and Circumstances:** Unlike most lots on located on Ferguson Dr, the entire west side property line run parallel to Ferguson drive forcing the proposed structure to be constructed along with the contour of the existing lot.
- 2) **Not Self Created:** The limitations of the structure's placement was/is caused by the original plotting of the "corner" lot.
- 3) **No Special Privilege Conferred:** Current side setbacks for the community is currently 6 feet.
- 4) **Deprivation of Rights:** Not Applicable
- 5) **Minimum Possible Variance:** Current variance request is within the current minimum setbacks for the community
- 6) **Purpose and Intent:** Current variance request is within the current minimum setbacks for the community

Special Exception Criteria:

- 1) **Yes:** The proposed structure will be built per "Approved" standards of Orange Co's Bldg Dept.
- 2) **Yes:** Most structures in the community are single family homes with 6 foot side setbacks.
- 3) **Yes:** The proposed structure will be consistent with single family homes within surrounding area.
- 4) **Yes:** The proposed structure will be built per "Approved" standards of Orange Co's Bldg Dept.
- 5) **Yes:** The proposed structure will be built per "Approved" standards of Orange Co's Bldg Dept.
- 6) **Yes:** The proposed buffer yards will be built per "Approved" standards of Orange Co's Bldg Dept.

Detailed Site Plan/Survey: Complete Survey and Site Plans submitted to Orange County Zoning Dept.

Floor Plan: Complete Floor plans submitted to Orange County Bldg and Zoning Department

Elevations: Complete Elevations for Proposed structure submitted to Orange County Zoning Dept.

Religious/Non-Profit: Not Applicable

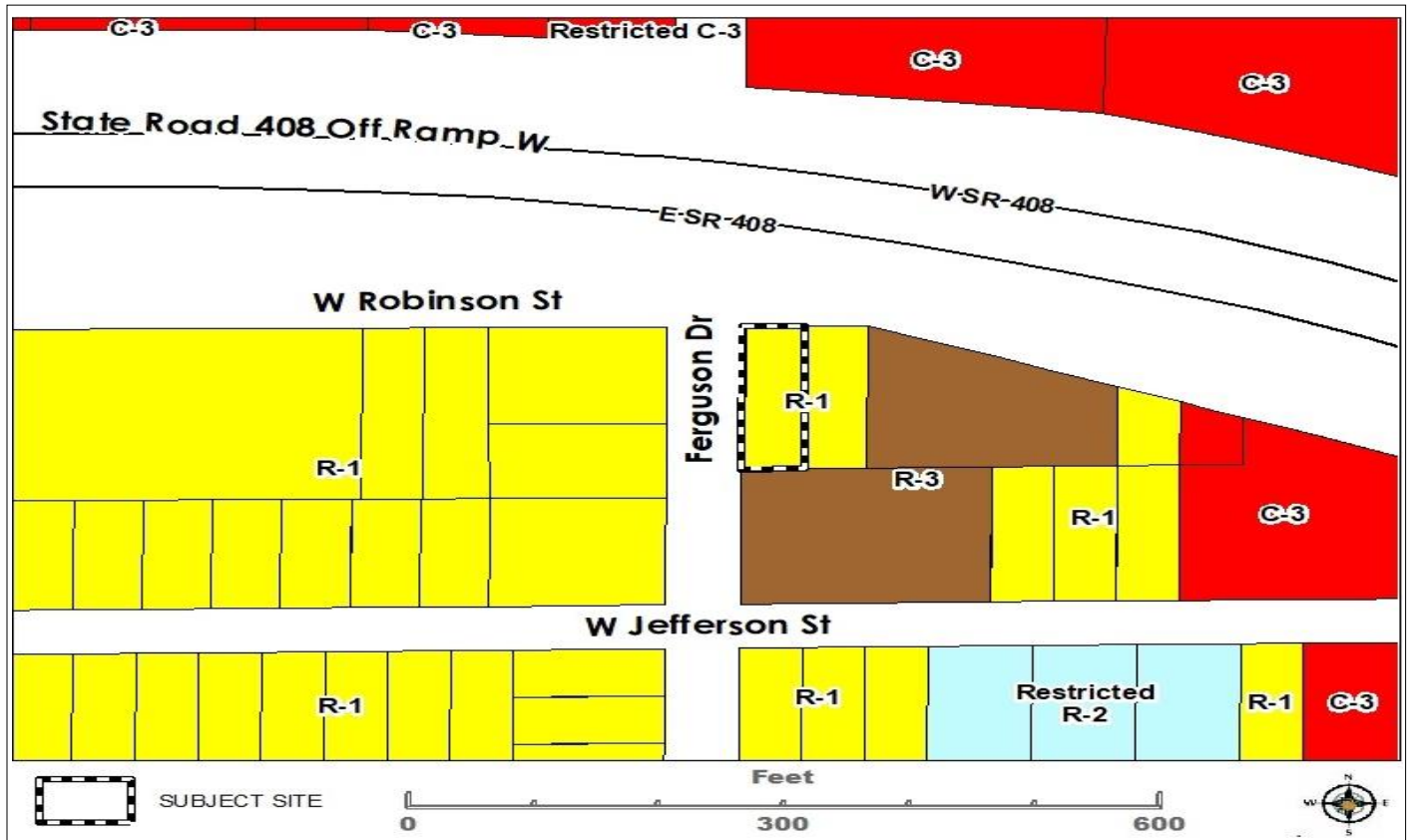
Special Exceptions: Not Applicable

Lake Front/Water Front: Not Applicable

Signage: Not Applicable

Appeal: Not Applicable

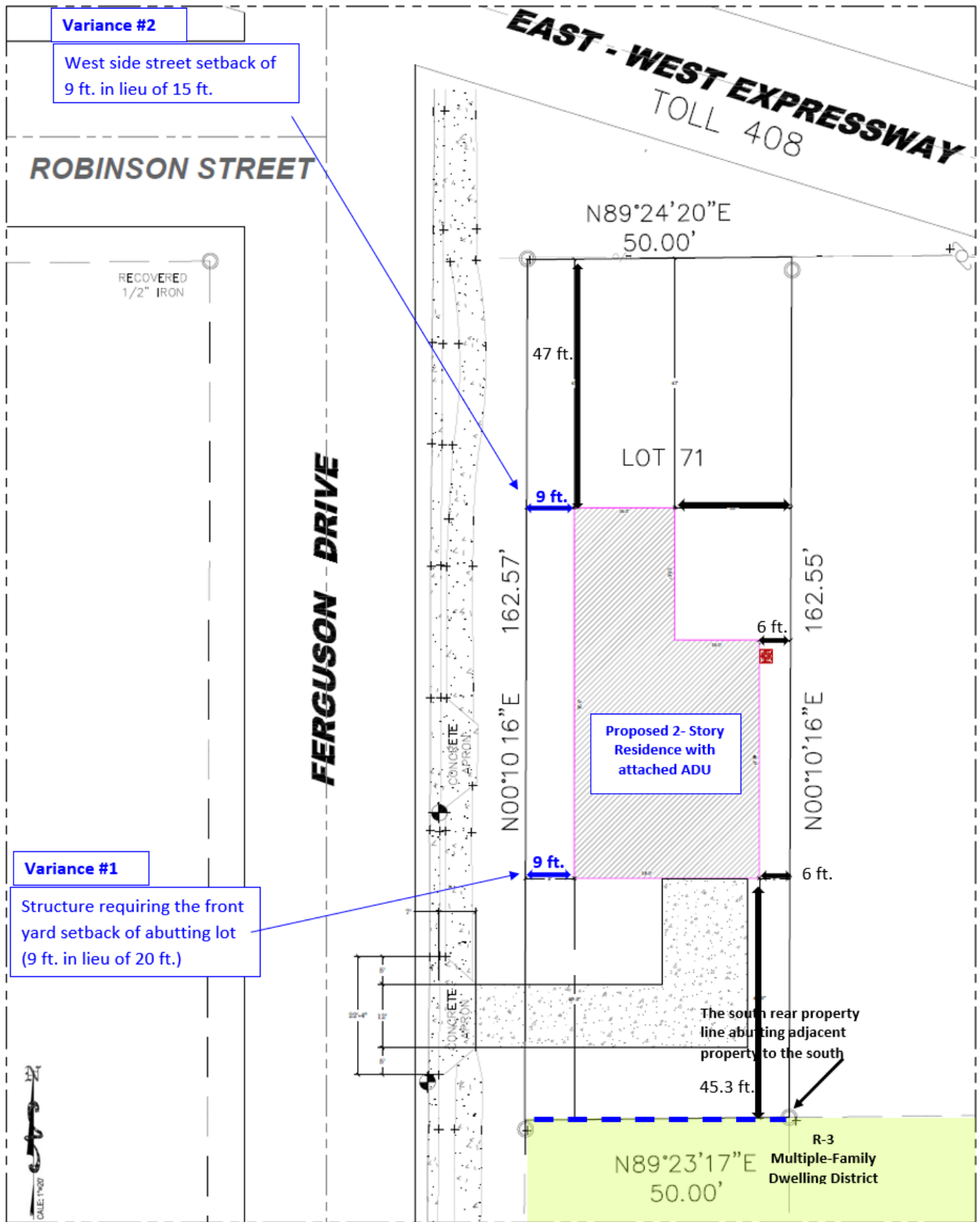
ZONING MAP



AERIAL MAP

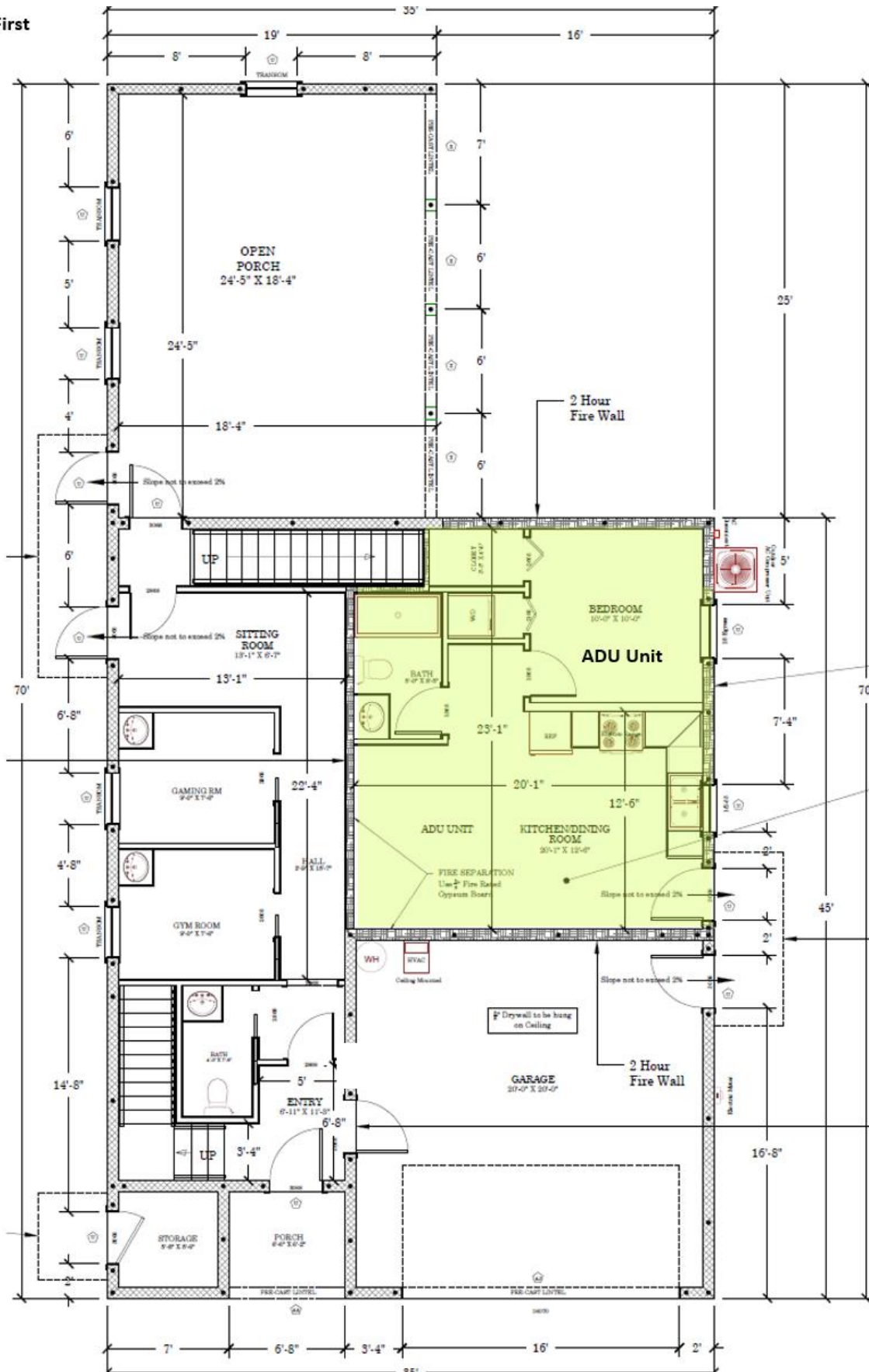


SITE PLAN



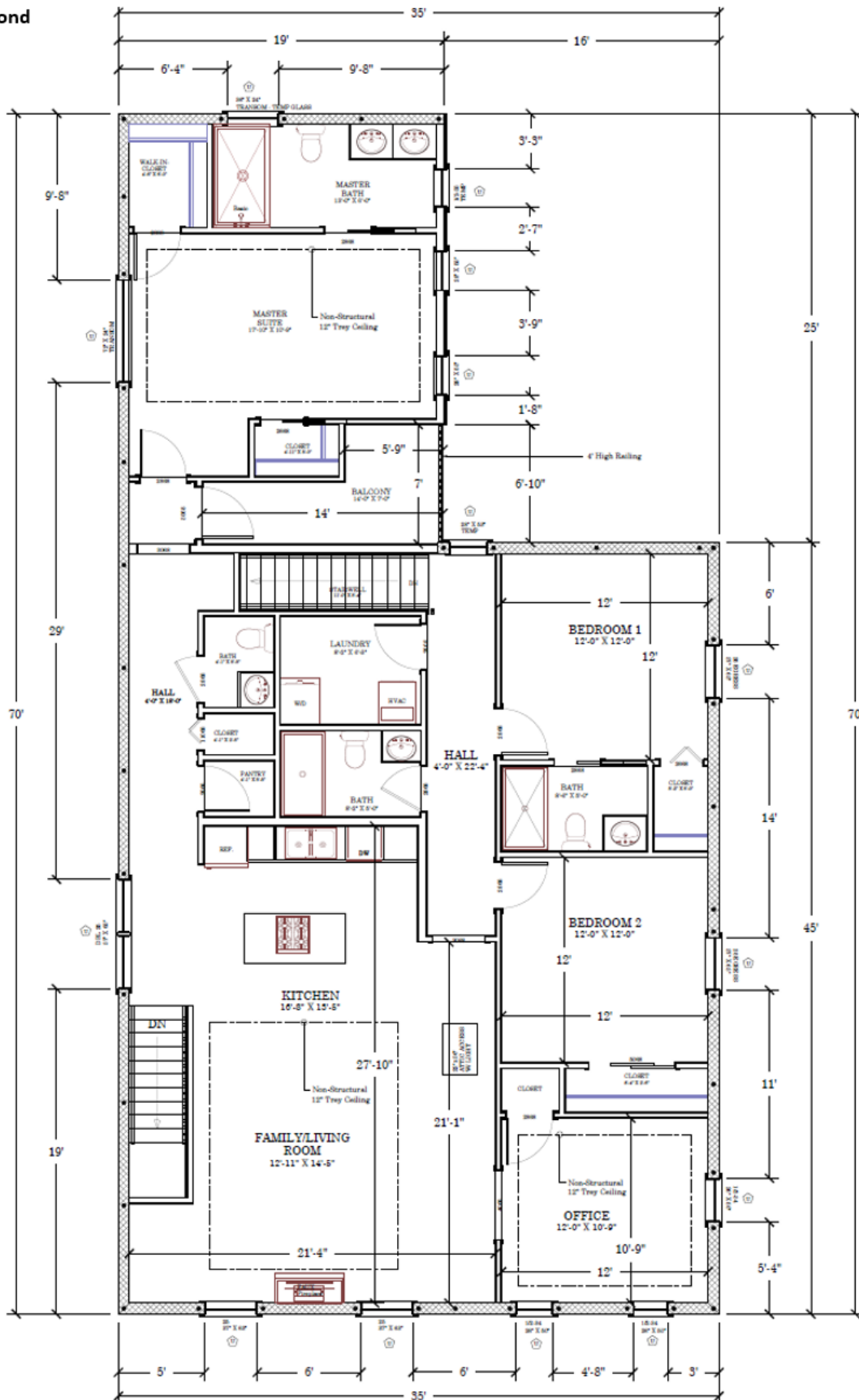
FLOOR PLAN FOR FIRST FLOOR

Proposed First Floor



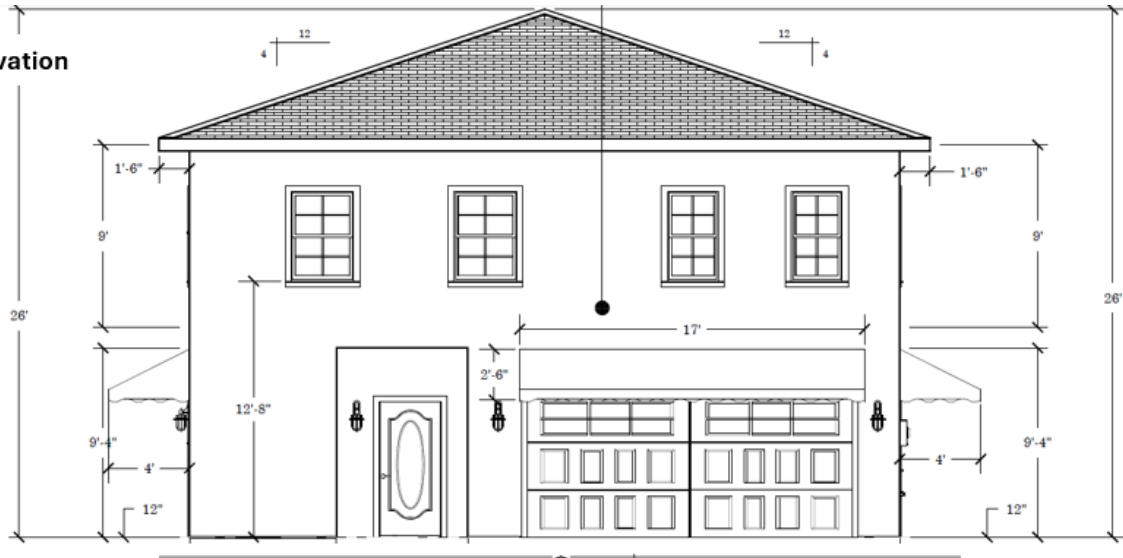
FLOOR PLAN FOR SECOND FLOOR

Proposed Second Floor

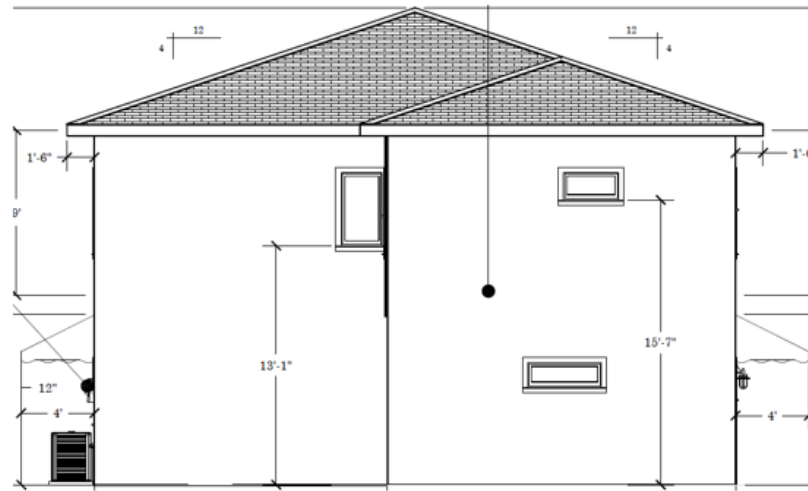


ELEVATIONS

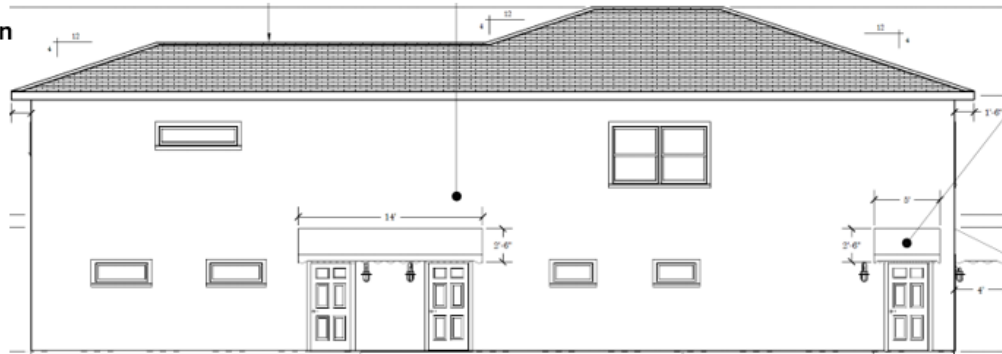
South Elevation



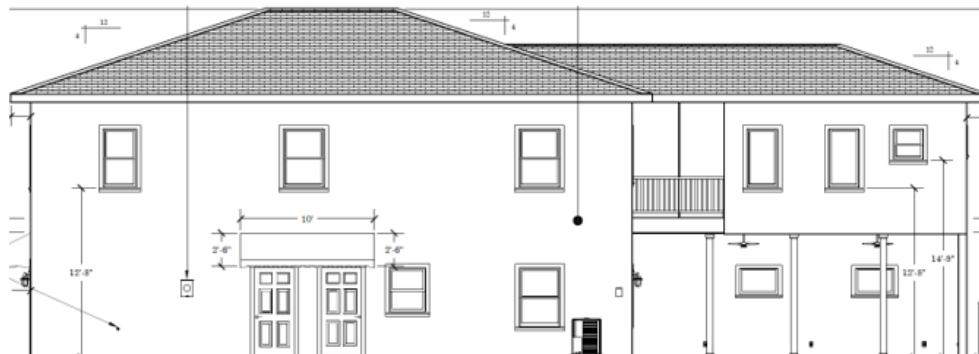
North Elevation



West Elevation



East Elevation



SITE PHOTOS



Facing southeast from the corner of Ferguson Dr. and W. Robinson St. towards street side and Variance



Facing east from W. Robinson St. towards unmaintained and restricted portion of W. Robinson St.

SITE PHOTOS



Facing north from sidewalk along Ferguson Dr. towards S.R. 408



Ajdacent property, facing north towards proposed new residence

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 07, 2024**

Commission District: **#4**

Case #: **VA-24-03-001**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): MATTHEW LAROSIERE

OWNER(s): MATTHEW LAROSIERE, KAREN LAROSIERE

REQUEST: Variance in the A-2 zoning district to allow a mobile home with a minimum developable lot area of 1.42 acres in lieu of 2 acres.

PROPERTY LOCATION: 16210 Sunflower Trl., Orlando, FL 32828, south side of Sunflower Trl., east of S. Avalon Park Blvd., south of W. Colonial Dr., west of S. County Road 13.

PARCEL ID: 29-22-32-7884-00-070

LOT SIZE: +/- 3 acres (+/- 1.42 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 38

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets that the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by Juan Velez; unanimous; 6 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 vacant):

1. Development shall be in accordance with the dimensions provided on the site plan/lot area calculations for upland area received January 2, 2024, 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.

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 denial. Staff noted that no comments were received in support, and no comments were received in opposition.

The applicant discussed the staff recommendation of denial, noted that the construction of a house would be more intrusive to the existing wetlands than the installation of a mobile home as proposed and mentioned the desire to preserve the existing trees and vegetation.

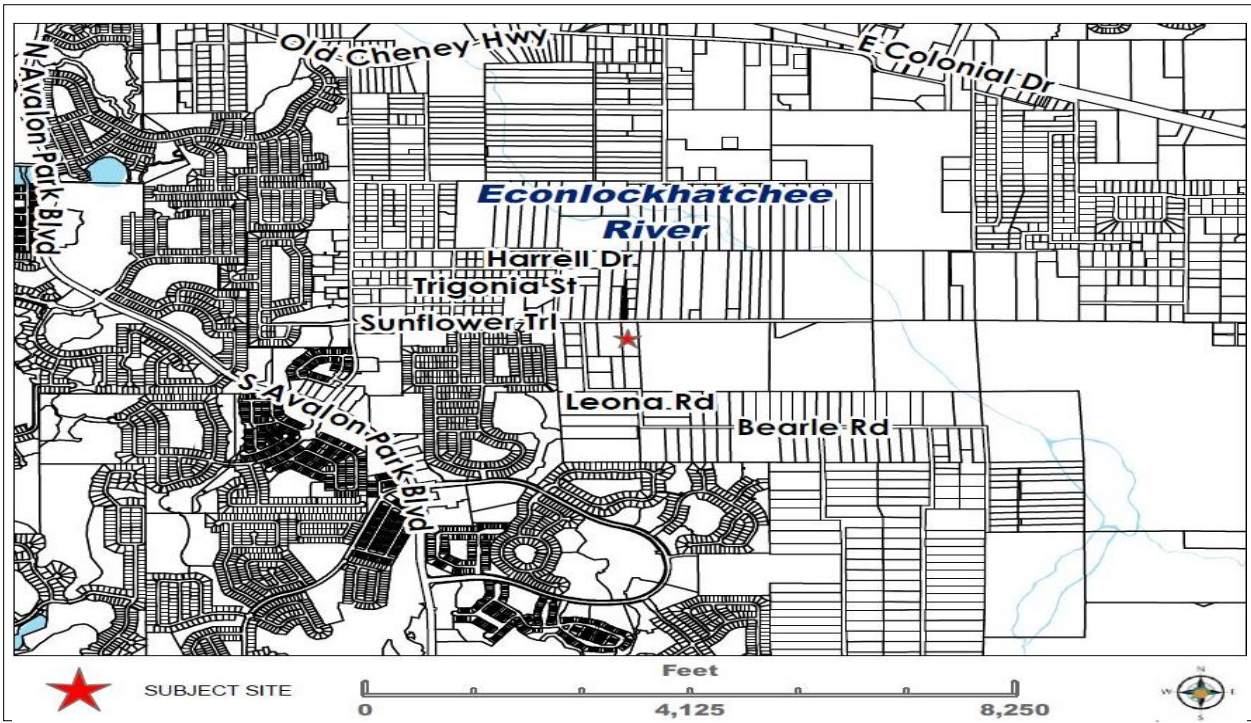
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the request, determined that the installation of a mobile home is consistent with the surrounding area., that the natural constraints of the wetlands impact the total usage of the property and unanimously recommended approval of the Variance, subject to the three (3) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary 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, Sunflower Trail Rural Settlement RS 1/1	R, Sunflower Trail Rural Settlement RS 1/1	R

Current Use	Vacant	Single-family residential, Mobile home, Vacant	Single-family residential	Timber operation site	Vacant
-------------	--------	--	---------------------------	-----------------------	--------

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 Future Land Use is Rural/Agricultural (R) which is consistent with the A-2 zoning district.

The area around the subject site consists of vacant parcels, single-family homes, mobile homes, and a timber operations site to the immediate east. The vacant subject property is Lot 7 of the Seaward Plantation Estates Third Addition plat, recorded in 1955, and is considered to be a conforming lot of record. It is a +/- 3 acre platted lot, of which +/- 1.42 acres is upland and is currently vacant. The remainder of the parcel is +/- 1.66 acres of wetland. It was purchased by the current owners in February 2020.

The proposal is to install a 60 ft. by 32 ft., 1,920 sq. ft., 17 ft. high mobile home, in a location complying with the required setbacks. Single-family homes are permitted by right in the A-2 zoning district with a minimum of a 0.5 acre lot, and mobile homes are permitted by right with a minimum of two (2) acres. A Variance is required since the property contains 1.42 developable acres. Staff reviewed the request and is recommending denial of the Variance. Based on a field evaluation of the developed parcels within a 1/2 mile of the subject property, it was found that all the homes were single-family residences or mobile homes. However, there are no similar approved Variance requests in the surrounding area to allow a mobile home on a property that does not meet the 2 acre minimum requirement. Furthermore, there are alternatives since a single-family residence could be constructed without the need for a Variance.

The Orange County Environmental Protection Division (EPD) has reviewed the request and has no objection. However, EPD does not support the proposed location of the mobile home within the wetland. A Conservation Area Determination (CAD) has been completed (CAD-21-07-171), and a Conservation Area Impact application (CAI-23-10-050) is on hold pending a revised site plan is submitted showing the proposed home can be relocated elsewhere.

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:	35 ft.	17 ft.
Min. Lot Width:	100 ft.	210.2 ft.
Min. Lot Size:	2 acres for mobile home 0.5 acres for single-family home	Mobile home on 1.42 acres upland (Variance)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	35 ft.	221.2 ft. (North)
Rear:	50 ft.	359.2 ft. (South)

Side:	10 ft.	12.3 ft. (East) 165.8 ft. (West)
-------	--------	-------------------------------------

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances peculiar to the land or building which are not applicable to other lands in the same zoning district. The owner could construct a single-family residence, eliminating the need for the Variance.

Not Self-Created

The request is self-created in that it is new construction and there are alternatives to build a code compliant single-family residence.

No Special Privilege Conferred

Granting the Variance as requested will confer special privilege since all the developed properties in the surrounding area that contain mobile homes meet the lot size.

Deprivation of Rights

There is no deprivation of rights since the property may be used for residential use since a single-family home may be constructed on the property.

Minimum Possible Variance

The request is not the minimum since a single-family home could be constructed on the existing site without the need for a Variance.

Purpose and Intent

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The request allows for the installation of a mobile home that will prevent a minimal removal of existing trees, thereby minimizing the impact to the wetlands. Furthermore, the installation of a mobile home is consistent with several of the surrounding properties which contain mobile homes, albeit at the required lot size.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the dimensions provided on the site plan/lot area calculations for upland area received January 2, 2024, 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.

C: Matthew Larosiere
6820 Hanging Moss Road
Orlando, FL 32807

COVER LETTER, BOARD OF ZONING ADJUSTMENTS

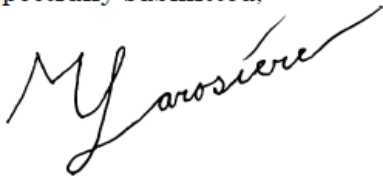
Matthew Larosiére
6820 Hanging Moss Rd
Orlando, FL 32807

I write to explain my need for a variance to install a manufactured home on my property located at 16210 Sunflower Trail, Orlando FL 32828. I acquired the property and it had been used as a lot for a manufactured home decades ago with no intervening uses that I could find, so it seemed clear to me that I would be able to install a mobile home on it. The property is approximately 3 acres, most of which appeared high and dry. Because I wanted to keep most of the property natural, I didn't protest much at the Conservation Area Determination. I was surprised, though, when it put me under the 2 upland acres required by zoning.

The wetlands that are on the property which cause the issue are extremely low quality, and my environmental scientist is of the opinion that the upland vegetation has more ecological value than what the CAD calls wetland. The property's topography, which I want to leave as undisturbed as possible, would make building of a regular house extremely difficult and would necessitate significant amounts of terraforming. There is an excellent flat spot for a manufactured home, and the location of the former mobile home.

Again, as the property was historically for a mobile home, and that most of the neighboring properties sport manufactured homes, granting this variance would meet the factors required by the board. In addition, the concern is not self-imposed. Literal interpretation would deprive the property of its historic use, and deprive me of the use enjoyed by neighboring properties, and impose unnecessary and undue hardship, as this is the only property I am able to place a home on, and my desired use is consistent with the property's history, and the neighborhood.

Respectfully submitted,



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

The property has 3.1 total acres, but low-quality wetlands leave 1.5~ upland acres, which is less than the 2 upland acres required to install a pre-manufactured home.

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.

Owner-applicant was unaware of the extent environmental would consider the property wetland, and given the presence of mobile homes on neighboring parcels, and that the property historically had a mobile home. Owner-applicant did not create the situation.

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.

No special privilege would be conferred, as the property historically had a mobile home, no intervening compliant use occurred, and similarly situated parcels in the district have mobile homes.

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.

Deprivation of right would occur because of the historical use of the property, the similar uses enjoyed within the district, and the fact that the property is otherwise well-suited for the use under the code.

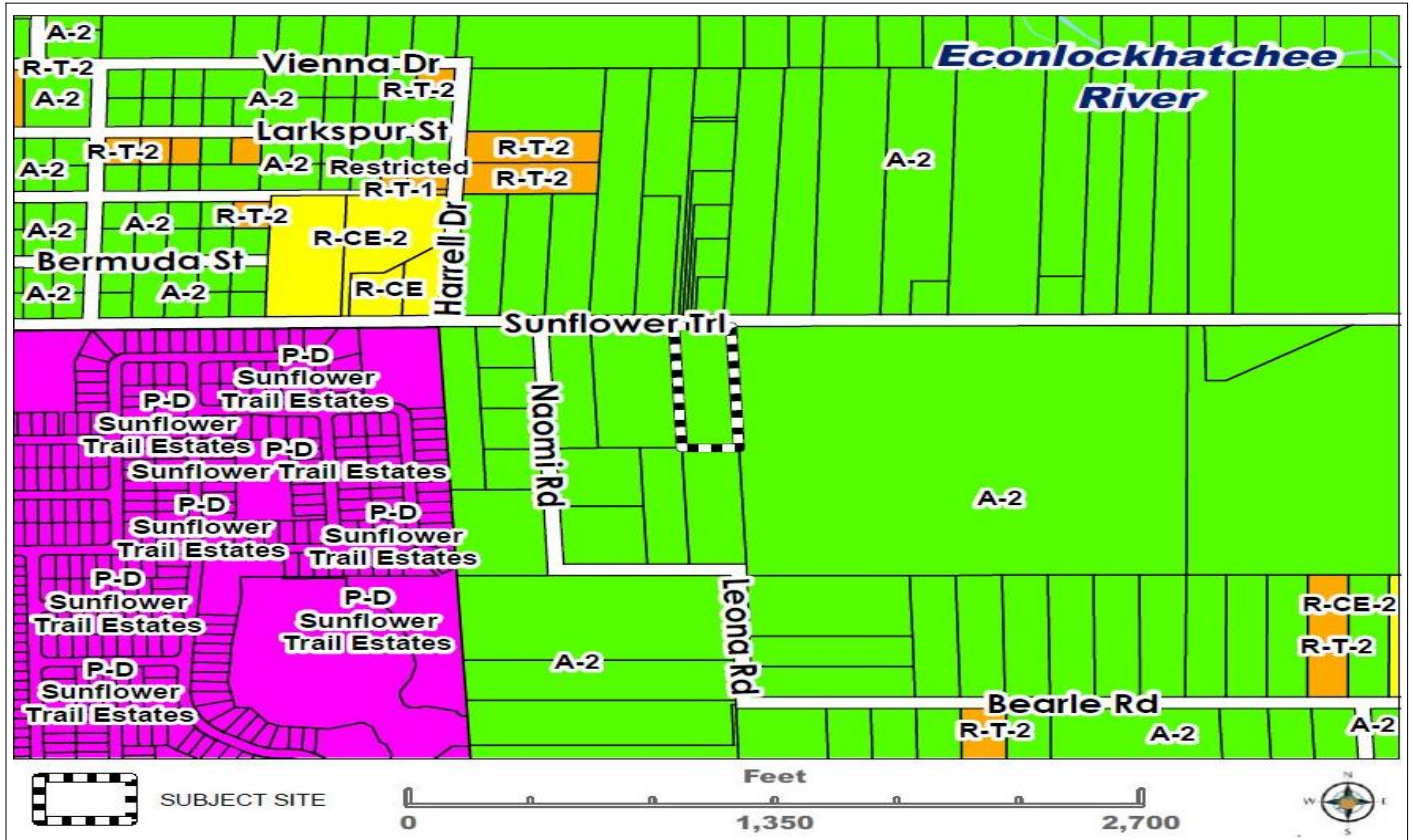
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

This is the minimum possible variance, as the intended use is otherwise in compliance with setback and zoning regulations.

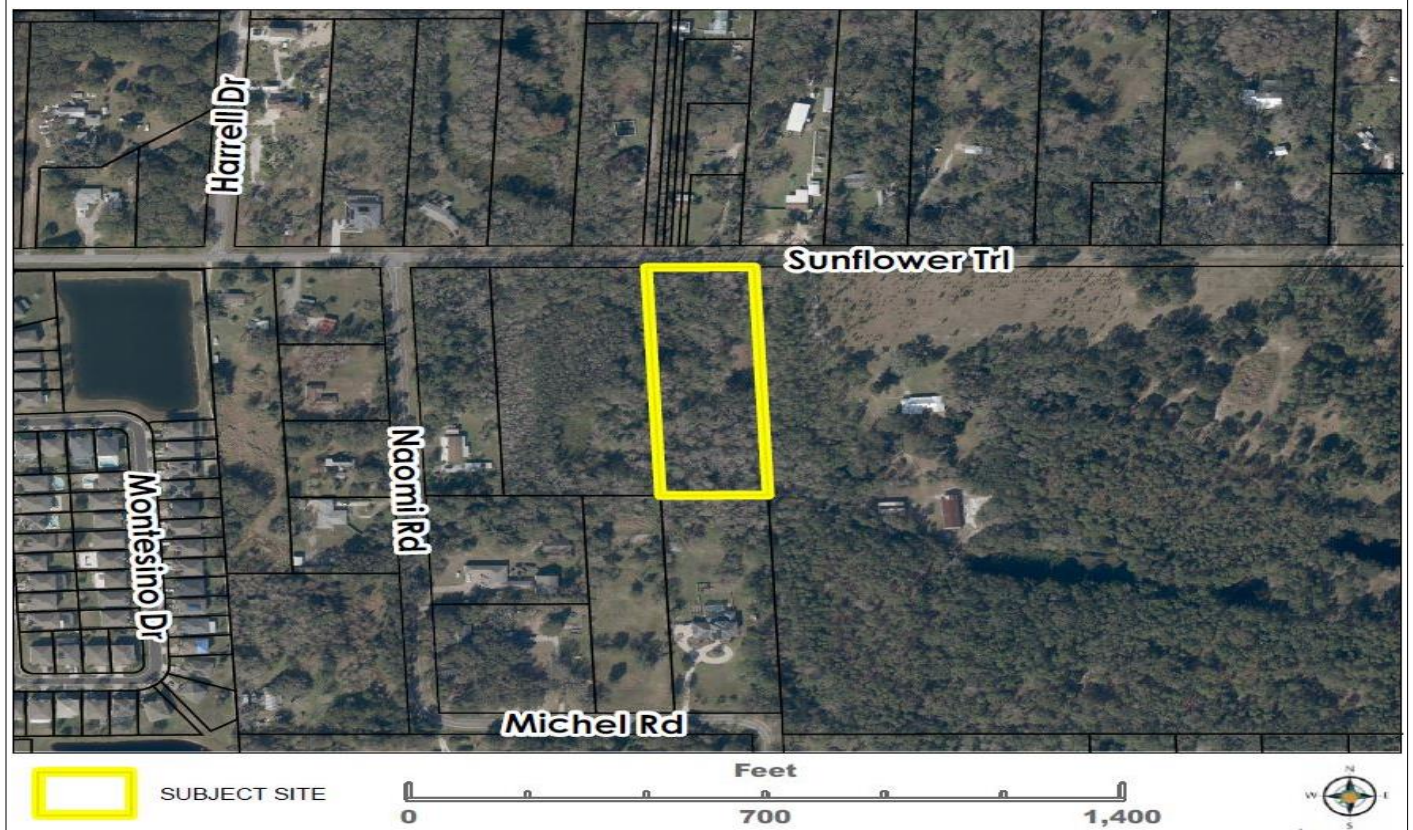
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Approval of the variance would have the property similarly situated to other parcels in the neighborhood and not be injurious to others.

ZONING MAP



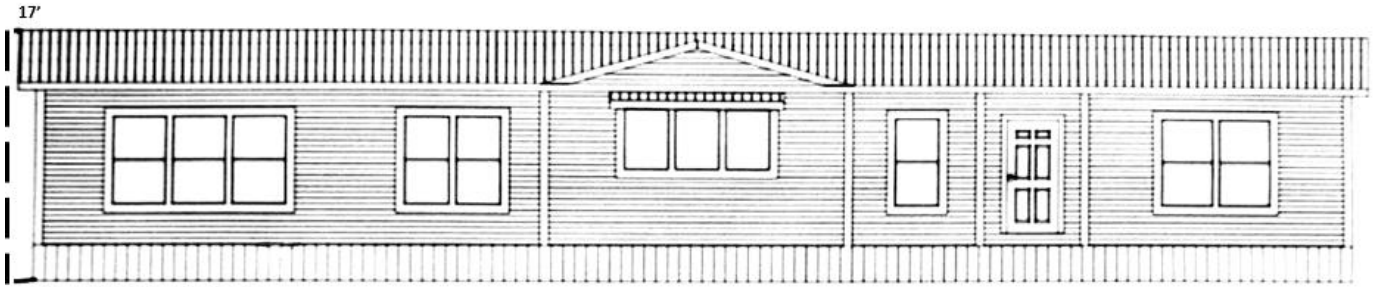
AERIAL MAP



SITE PLAN

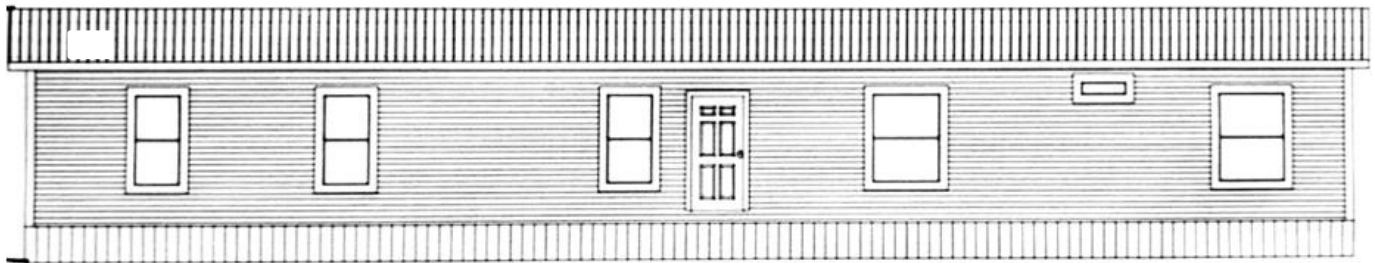


ELEVATIONS



FRONT ELEVATION

Front Elevation – West



REAR ELEVATION

Rear Elevation – East



LEFT SIDE ELEVATION

Left Elevation – North



RIGHT SIDE ELEVATION

Right Elevation – South

SITE PHOTOS



Facing south from Sunflower Trl. towards front of subject property



Rear yard, facing northeast towards proposed mobile home location

SITE PHOTOS



Rear yard, facing southwest from proposed mobile home location towards rear of property

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 07, 2024**

Commission District: **#1**

Case #: **VA-24-03-002**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): LENNY NELMS

OWNER(s): LENNY NELMS

REQUEST: Variance in the R-2 zoning district to allow a lot size of 3,757 sq. ft. in lieu of a minimum of 4,500 sq. ft.

PROPERTY LOCATION: 721 Magnolia Ave., Winter Garden, FL 34787, north side of Magnolia Ave., east of 9th St., north of E. Story Rd., west of S.R. 429, south of E. Plant St.

PARCEL ID: 24-22-27-5584-01-140

LOT SIZE: +/- 0.08 acres (+/- 3,757 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 85

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets that the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Thomas Moses, Second by John Drago; unanimous; 6 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 vacant):

1. Development shall be in accordance with the lot size and dimensions shown on the site plan received January 10, 2024, 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.

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. Staff noted that one (1) comment was received in favor of the request, and no comments were received in opposition to the request.

The applicant chose not to speak.

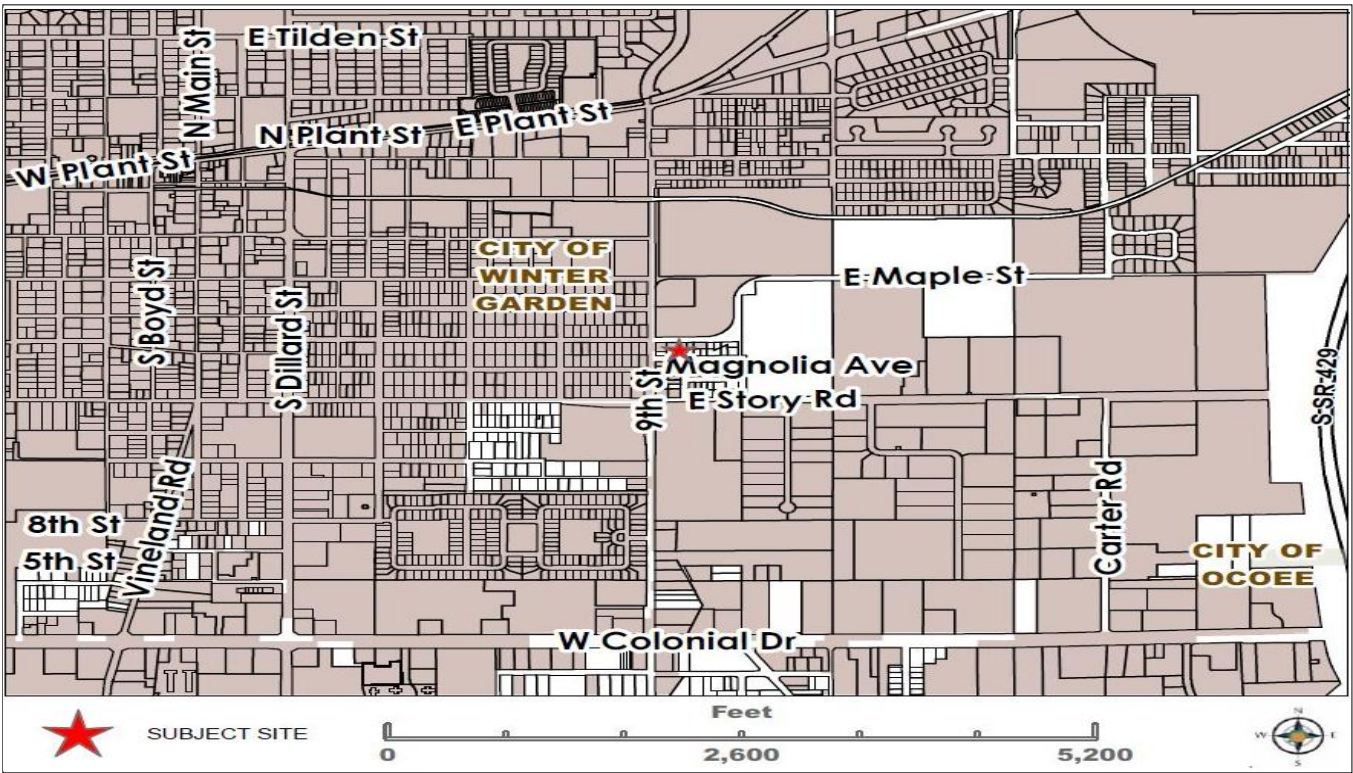
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Variance by a 6-0 vote, with one seat vacant, subject to the three (3) 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	City of Winter Garden	City of Winter Garden	R-2	R-2
Future Land Use	LDR	City of Winter Garden	City of Winter Garden	LDR	LDR
Current Use	Vacant	Single-family residential	Single-family residential	Vacant	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-2, Residential district, which allows single-family homes, duplexes, and multi-family development. The Future Land Use is Low Density Residential (LDR), which is consistent with

the R-2 zoning district but only allows up to 4 dwelling units per acre which would require the lot to be at least 0.25 acres. However, this lot meets the intent of Comprehensive Plan Policy FLU1.1.3 B which states: The Interpretation of FLU1.1.2 shall not: Preclude the construction of one (1) residential unit (including ancillary buildings or improvements) on an existing lot of record (according to Zoning Division records) as of July 1, 1991. Comprehensive Plan Policy FLU1.1.2 sets the residential densities permitted within the Urban Service Area and requires properties within the Low Density Residential (LDR) future land use designation to be a minimum of 0.25 acres. This lot is considered a lot of record under the Comprehensive Plan because it was platted prior to the adoption of the Comprehensive Plan on July 1, 1991.

The area surrounding the subject site consists of single-family homes and the City of Winter Garden to the immediate north and south of the property. The subject property is a vacant 0.08 acre lot, platted in 1946 as Lot 14 of the Merchant’s Subdivision, and is a non-conforming lot of record as it does not meet the minimum lot size. The current owner acquired the property in May 2022.

The parcel has a lot size of 3,757 sq. ft., but the R-2 zoning district requires a minimum lot size of 4,500 sq. ft., requiring the Variance in order to construct a new one story 3,940 gross sq. ft. single- family home on the property, which meets the setback and code standards. Per Orange County Code Sec. 38-1401, if two or more adjoining lots were under single ownership on or after October 7, 1957, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. The subject property was purchased on June 1, 1970, by Eddie and Dorothy Mackroy, who also owned lot 13 to the west, on January 26, 2017, lot 14 was sold to Nelms Dynasty Inc. and then on May 18, 2022, lot 14 was acquired by the current owner. Thus, the parcel cannot be considered to be a substandard lot of record, and a Variance is required for the lot size in order to build a single-family home on the property.

Staff recommends approval since the lot would be undevelopable without the Variance, and there is no possibility to acquire additional land to meet the lot size required in the R-2 zoning district. Further, the request is in harmony and consistent with the size of lots in the surrounding neighborhood, several of which are developed. A permit, B23015356, to construct a new single-family home is on hold pending the outcome of this request.

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:	35 ft.	23.7 ft.
Min. Lot Width:	45 ft.	50 ft.
Min. Lot Size:	4,500 sq. ft.	3,757 sq. ft. (Variance)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	25 ft.	25 ft. (South)
Rear:	25 ft.	25.1 ft. (North)
Side:	6 ft.	6 ft. (East) 6.1 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special conditions and circumstance particular to the subject property is that the owner will not be able to construct a single-family home without the Variance for lot size.

Not Self-Created

The owners are not responsible for the existing lot configuration. Therefore, the substandard aspects of the lot are not self-created.

No Special Privilege Conferred

Granting the Variance will not establish special privilege since there are other properties in the area developed with single-family homes with similar lot sizes.

Deprivation of Rights

Without approval of the requested Variance, the owners will be deprived of the ability to construct a residence on the parcel, as adjacent parcels to the north and west are developed.

Minimum Possible Variance

The requested Variance is the minimum necessary to construct a single-family home on the property. Furthermore, a home design that meets setback requirements has been proposed.

Purpose and Intent

Approval of this request will be in harmony with the purpose and intent of the Code, which is to allow infill development of lawfully constructed residences. The lot size as proposed will not be detrimental to the neighborhood as the proposal will be consistent with the size of lots in the area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with lot size and dimensions shown on the site plan received January 10, 2024, 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.

C: Lenny Nelms
5140 Morning Dew Loop
Oviedo, FL 32765

01/04/24

Dear Zoning board,

We are requesting a variance for the minimum lot size from 4500sqft to 3750 sqft. We were notified of this information when we applied for a building permit. They requested us to show that the lot qualified for a substandard lot of record by providing deeds. We provided a deed search back before 1957. However, Allen McNeill of zoning reviewed the attached deeds and determined the lot did not qualify as a substandard lot of record because the previous owner Dorothy Lee Mackroy Estate owned both lots 715 an prior to July 31st 2008. All of the neighbors have the same size lots as 721 Magnolia. We are requesting this variance so that we can build a home for me and my son. Attached is the application and some additional documentation.

Sincerely,



Lenny Nelms

COVER LETTER

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.

*Sub-standard lot. other lots and houses
around are the same size*

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.

*This was like this when purchased but was ~~used~~
given bad information*

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.

*This will allow a home like
the neighbors*

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.

would not be any use of land if cant build a house

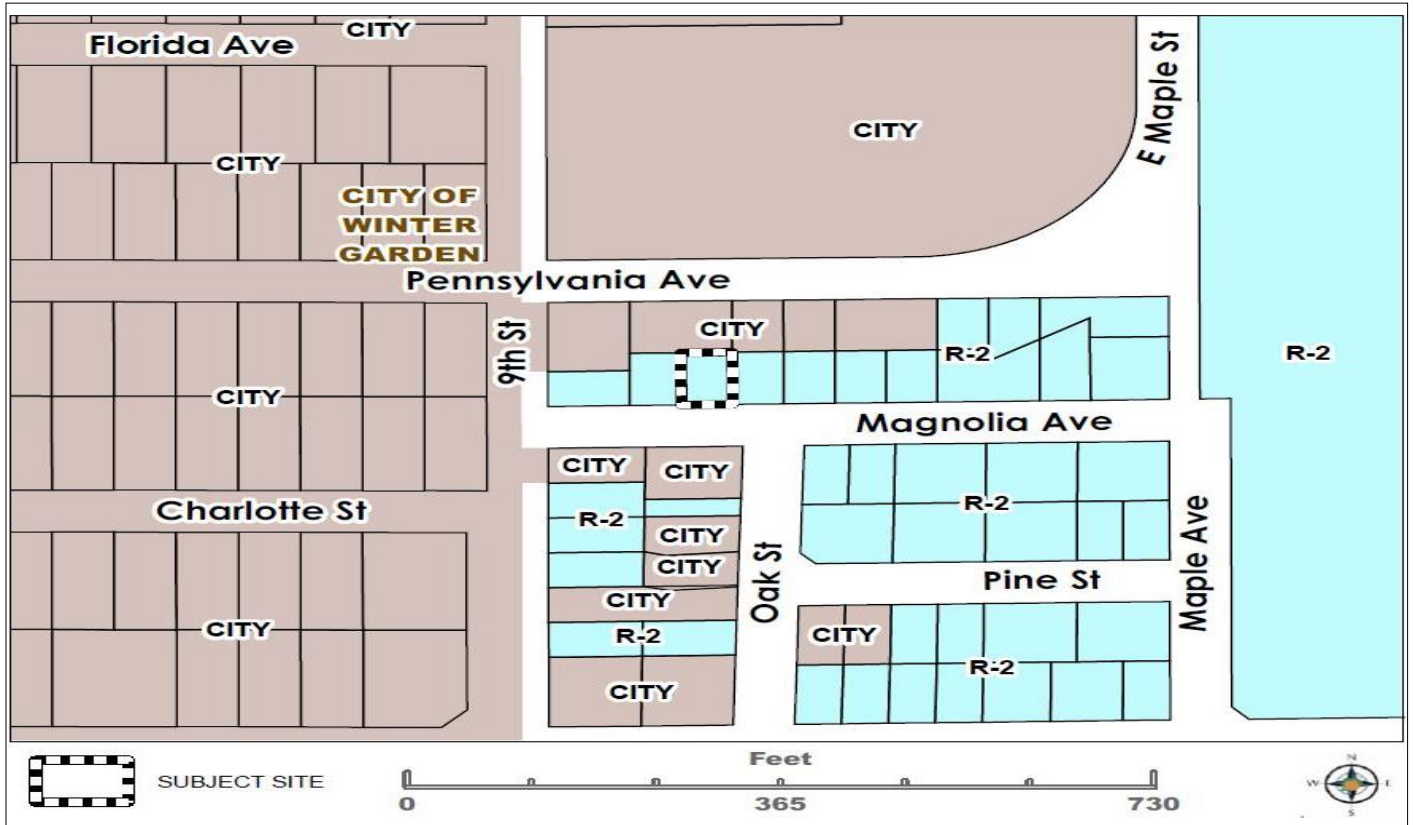
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

*~~This~~ If approved this would be minimum
variance.*

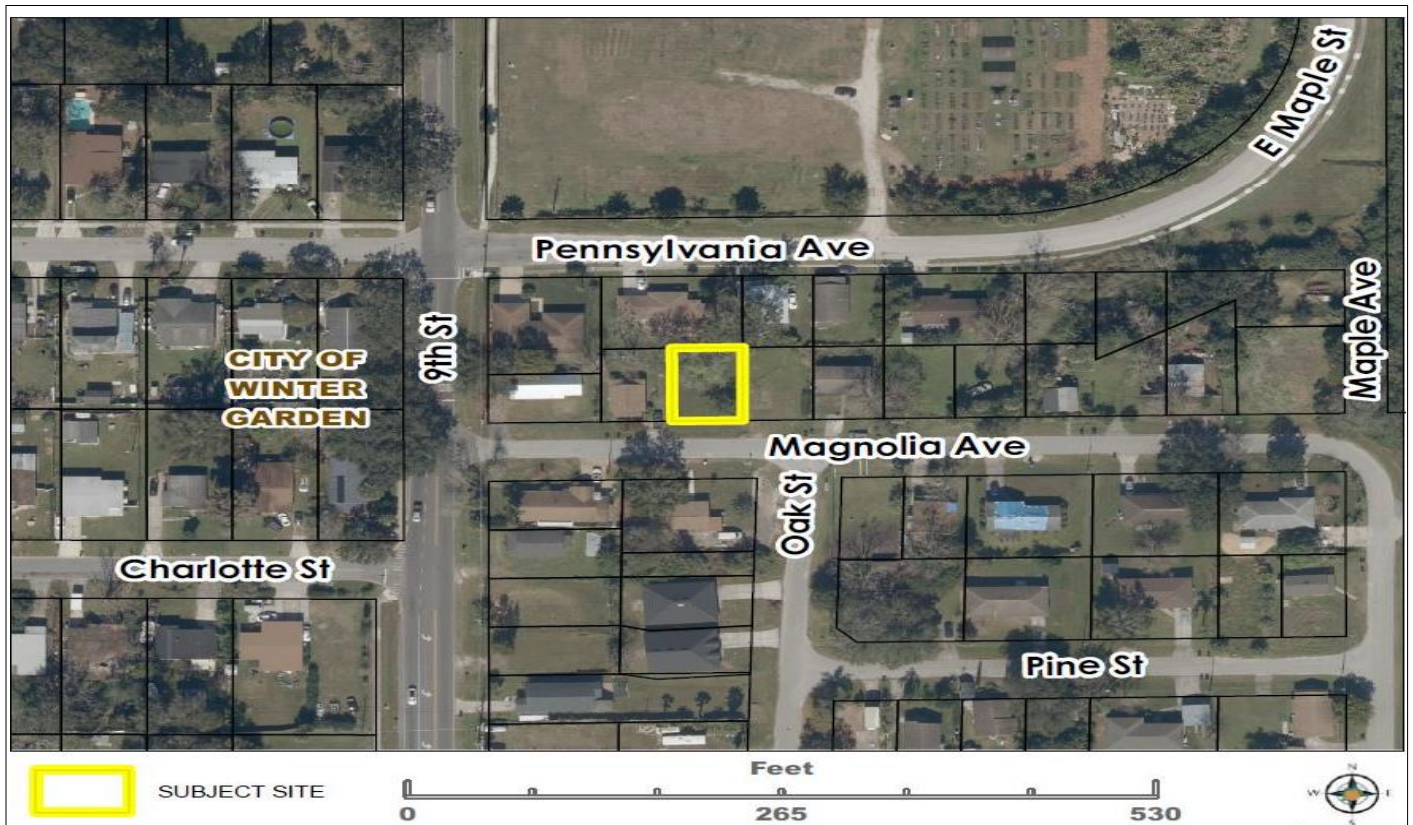
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

*I believe this will
conform with the existing house.*

ZONING MAP



AERIAL MAP



SITE PLAN



SITE PHOTOS



Facing north from Magnolia Ave. towards front of subject property



Rear yard, facing south towards future house location

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 07, 2024**

Commission District: **#6**

Case #: **VA-24-04-003**

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

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): HARRIS TYRELL FOR TYRELL ENTERPRISES LLC

OWNER(s): TYRELL ENTERPRISES LLC

REQUEST: Variances in the R-3 zoning district as follows:

- 1) To allow an existing residence with an east side setback of 8.5 ft. in lieu of 10 ft.
- 2) To allow an addition to an existing residence with an east side setback of 8.5 ft. in lieu of 10 ft.
- 3) To allow an addition to an existing residence with a north front setback of 19.9 ft. in lieu of 25 ft.
- 4) To allow an existing residence with a north front setback of 18.9 ft. in lieu of 25 ft.
- 5) To allow an existing residence with a north front setback of 18.3 ft. in lieu of 25 ft.
- 6) To allow an existing residence with a south rear setback of 27.1 ft. in lieu of 30 ft.
- 7) To allow an existing residence with a west side street setback of 12.8 ft. in lieu of 15 ft.

PROPERTY LOCATION: 732 19th St., Orlando, FL 32805, Southeast corner of 19th St. and Lee St., north of W. Kaley Ave., east of S. Westmoreland Dr., west of Interstate 4.

PARCEL ID: 03-23-29-0180-13-110

LOT SIZE: +/- 0.3 acres (+/- 13,483 sq. ft.)

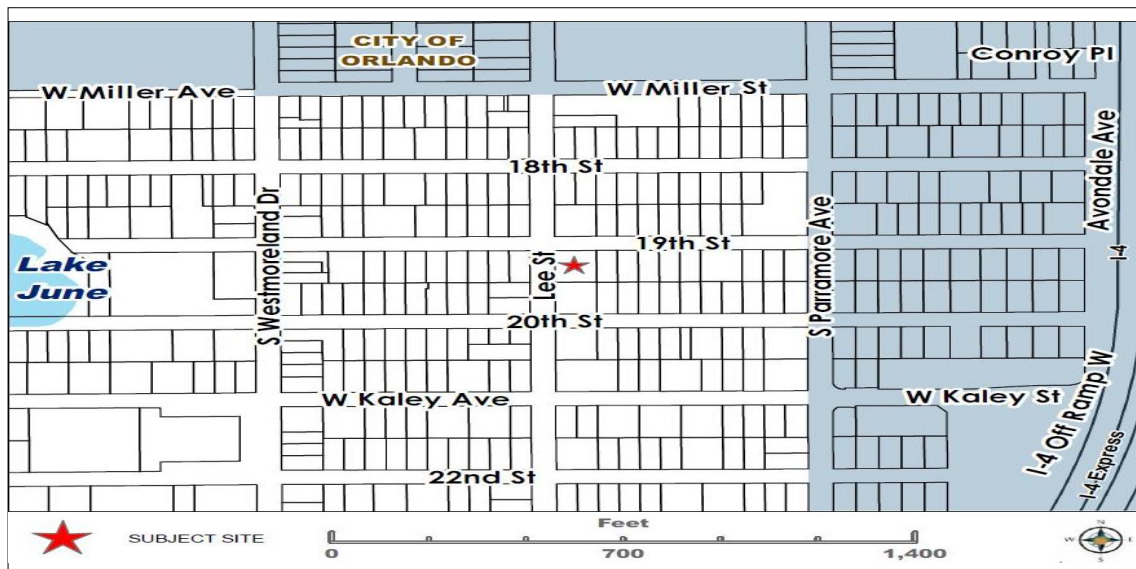
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 160

STAFF RECOMMENDATIONS

CONTINUED TO THE 4/4/2024 BZA MEETING

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 07, 2024**

Commission District: **#2**

Case #: **VA-24-04-005**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): PENNY SEATER FOR HABITAT FOR HUMANITY 3403 WARREN SAPP

OWNER(s): HABITAT FOR HUMANITY OF SEMINOLE COUNTY AND GREATER APOPKA FLORIDA INC

REQUEST: Variances in the A-1 zoning district for the construction of a single-family residence as follows:

- 1) To allow a minimum lot size of 0.19 acres in lieu of 0.5 acres.
- 2) To allow a lot width of 86.47 ft. in lieu of 100 ft.
- 3) To allow a north rear setback of 35 ft. in lieu of 50 ft.
- 4) To allow a structure to be located nearer the side street lot line than the required front yard of such abutting lot (21.2 ft. in lieu of 25 ft.)

PROPERTY LOCATION: 3403 Warren Sapp Dr., Apopka, FL 32712, northwest corner of Warren Sapp Dr. and Monk Ave., north of W. Orange Blossom Trl., west of S.R. 429, east of Hermit Smith Rd.

PARCEL ID: 36-20-27-5754-01-100

LOT SIZE: +/- 0.19 acres (+/- 8,633 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 93

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, Second by Roberta Walton Johnson; unanimous; 6 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received January 30, 2024, 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.

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 denial since the subject property and the adjacent property are under common ownership. Staff noted that no comments were received in support or in opposition.

The applicant was not in attendance.

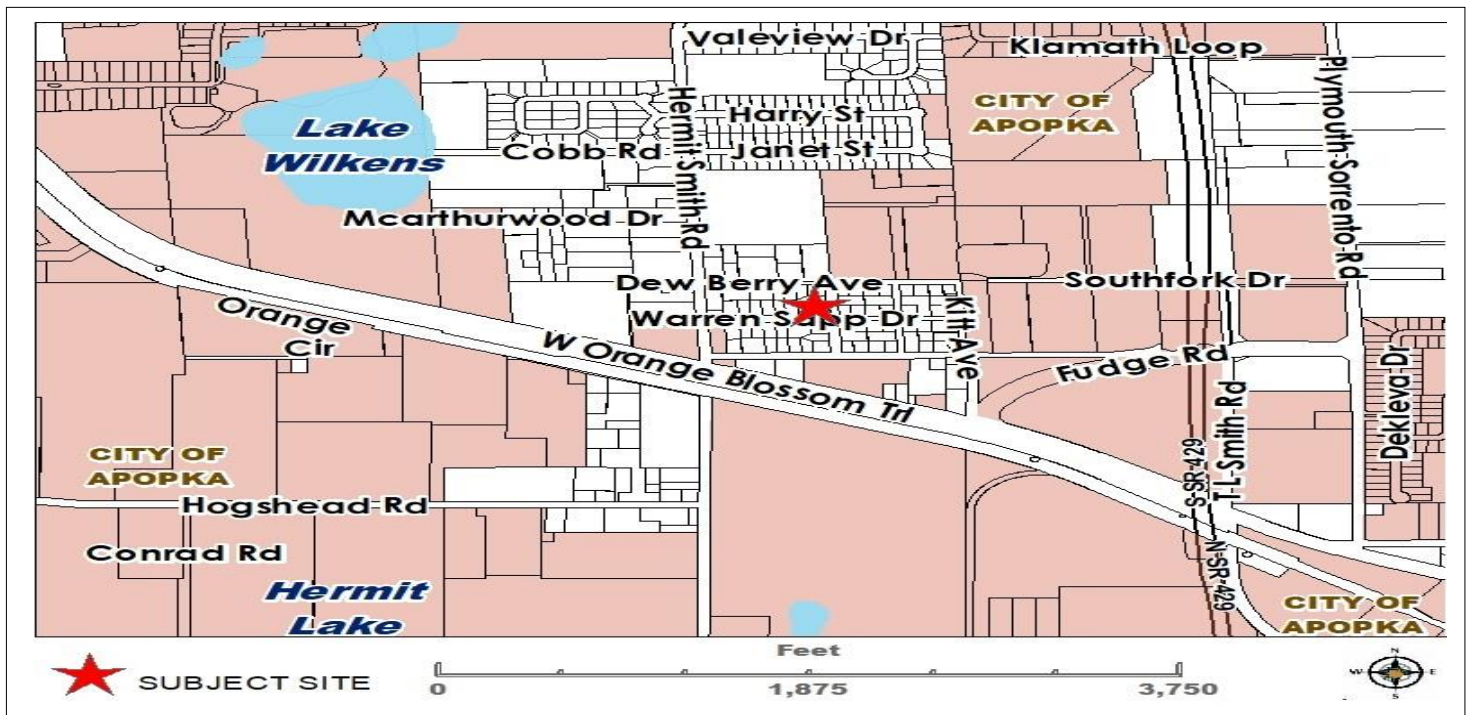
There was no one in attendance to speak in favor or in opposition to the request.

The BZA noted that the lots were created and platted in a non-conforming manner, noted that the county supports affordable housing, noted that this case is nearly identical to the following case under the same ownership, stated justification for the six (6) criteria and unanimously recommended approval, subject to the three (3) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary 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	A-1	A-1	A-1	A-1	A-1
Future Land Use	R	R	R	R	R
Current Use	Vacant	Single-family residential	Vacant	Single-family residential	Vacant

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-1 Citrus Rural district, which allows agricultural uses, as well as mobile homes and single-family homes on larger lots. The Future Land Use is Rural/Agricultural (R), which is consistent with the zoning district.

The area surrounding the subject site consists of single-family homes and vacant lots. The subject property is a 0.19 acre vacant lot, located in the Morrison's Subdivision First Addition Plat, recorded in 1966. The lot was assigned A-1 zoning in 1957, when zoning was established. It is unclear why lots were created/platted in non-conformance with the A-1 district, but they have always been substandard lots, as they do not meet the minimum lot size or width. The property is a corner lot located on the northwest corner of Monk Ave. and Warren Sapp Dr., and it abuts the side of another lot to the immediate north. The frontage is considered Warren Sapp Dr. since it is the narrowest portion facing a public street. The side street yard is Monk Ave. The property is currently vacant and contains a significant amount of mature trees. The current owners acquired the property in 2023.

Per Orange County Code Sec. 38-1401, if two or more adjoining lots were under single ownership on or after October 7, 1957, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. The subject property was conveyed along with the property to the west prior to 2019 and is currently under the same ownership as the property to the west. Thus, the lot cannot be considered a substandard lot of record, and Variances are required for the lot width and area in order to build a single-family home on the property. A separate request for Variances has also been submitted for the adjacent lot currently under the same ownership.

The property is 0.19 acres in lieu of a minimum of 0.5 acres, requiring Variance #1, and is 86.47 ft. in width in lieu of a minimum of 100 ft., requiring Variance #2. The proposal is to construct a single story, 1,428 gross sq. ft. single-family home on the property with a north rear setback of 35 ft. in lieu of 50 ft. requiring Variance #3, and a west side street setback of 21.2 ft. on Monk Ave. in lieu of 25 ft. requiring Variance #4. (This is due to Code Sec. 38-1502 (b) which states that no structure shall be nearer the side street lot line than the required front yard of such abutting lot.) The adjacent property to the north at 1074 Monk Ave. fronts on Monk Ave. and was granted a Variance to allow a mobile home on a substandard lot with a front setback of 25 ft in lieu of 35 ft. in April 1990. Therefore, the required front yard of such abutting lot is 25 ft.

Staff has reviewed the requests and is recommending denial since the current owner/applicant owns the subject property and the lot to the immediate west. As stated above, per code, if two or more adjoining lots are under single ownership, and one of the lots has a frontage or lot area less than what is required by the

zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. Thus, the current owner/applicant has the ability to combine the two substandard lots in order to meet the requirements for lot width and to become more conforming as to lot size. Aggregating them will result in compliance with the lot width requirement, and the total combined lot size will be 0.35 acres, which does not comply with the 0.5 acre minimum lot size requirement, however it results in the property becoming closer to meeting the requirement, which is the intent of code. Further, when the lots are combined to build one single-family house, the larger lot size and width would allow for the setbacks to be met, thus eliminating the need for the Variances.

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:	35 ft.	13.9 ft.
Min. Lot Width:	100 ft.	86.47 ft. (Variance #2)
Min. Lot Size:	0.5 acres	0.19 acres (Variance #1)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front: Warren Sapp Dr.	35 ft.	35 ft. (South)
Side:	10 ft.	10 ft. (West)
Rear:	50 ft.	35 ft. (North-Variance #3)
Side street: Monk Ave.	15 ft.	21.2 ft. (East)
Abutting neighbor's lot front: Monk Ave.	25 ft. Per Variance granted in 1990	21.2 ft. (East-Variance #4)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances particular to the subject property, as compliance with the requirement to aggregate the 2 lots would eliminate the need for the requested Variances for lot width and setbacks and reduce the amount of Variance required for lot size.

Not Self-Created

The need for the Variances is self-created, as the applicant could comply with the requirement to aggregate the 2 lots.

No Special Privilege Conferred

Granting the Variances will not establish special privilege since there are other properties in the area developed with single-family homes with similar lot widths, sizes, and setbacks.

Deprivation of Rights

The applicant is not being deprived of the right to build a single-family home on the 2 lots if they are aggregated.

Minimum Possible Variance

The requested Variances are not the minimum necessary to construct improvements on the property, as the lots could be aggregated and a reconfigured request for one house would only require a Variance for lot size. Further, the setback variance on the current lot size could be minimized or removed by building a 2 story house instead of 1 story.

Purpose and Intent

Approval of the requests will be in harmony with the purpose and intent of the Code, which is to allow infill development of lawfully constructed residences. The lot size and setbacks as proposed will not be detrimental to the neighborhood as the proposed residences will be consistent with the lots in the area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received January 30, 2024, 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.
- C: Penny Seater
P.O. Box 181010
Casselberry, Florida, 32718
- C: Alisa Adams
P.O. Box 181010
Casselberry, Florida, 32718



December 27, 2023

Orange County Building Department
201 South Rosalind Avenue, 1st Floor
Orlando, FL 32801
(407) 836-3111
BZA@ocfl.net

Address: 3403 Warren Sapp Drive, Apopka, FL 32712
Parcel ID# 36-20-27-5754-01-100
Project: Single Family Residence

RE: Variance for Minimum Lot Width and Rear Setback Required for A1 Zoning

Habitat for Humanity Seminole Apopka is requesting a variance to develop 3403 Warren Sapp Drive in unincorporated Orange County for affordable housing. The zoning is A1 with a land use of vacant residential. The minimum lot width requirements for A1 zoning is 100' and the minimum rear setback required is 50'. The platted parcel does not meet those requirements to develop for a single family dwelling. Habitat for Humanity is requesting a variance to the A1 requirements for minimum lot width requirement and rear setback per the attached site plan showing the lot width at 86.47' and rear setback at **35.00'**.

1. The current platted parcel intact today does not meet the A1 zoning requirements for minimum lot width. The minimum lot width for A1 is 100'. The current parcel is 86.47' wide. The land use is vacant residential and the neighboring properties have also been developed for single family residences with the same zoning and lot widths that do not meet the A1 minimum requirements. Per Ted Kozak, Chief Planner, the majority of single family residences in the area have received a variance in order to develop their single family dwellings on the parcels.
2. The parcel was platted prior to purchasing at the lot width of 86.47' with the A1 zoning and land use of vacant residential. Per Jason Sorenson a rezone is not possible and a variance needs to be requested as other neighboring property owners have done in order to develop their properties to construct single family dwellings.
3. No special privilege will be granted by allowing the minimum lot width and rear setback requirements be varied per Habitat's request. Per the County's chief planner the other neighboring properties were granted similar variances in order to develop their single family dwellings.
4. Should the variance not be granted Habitat's rights would be violated to develop a single family dwelling as the neighboring properties with the same A1 zoning that do not meet the minimum lot width and rear setback requirements have been able to do through the request and award of a variance.

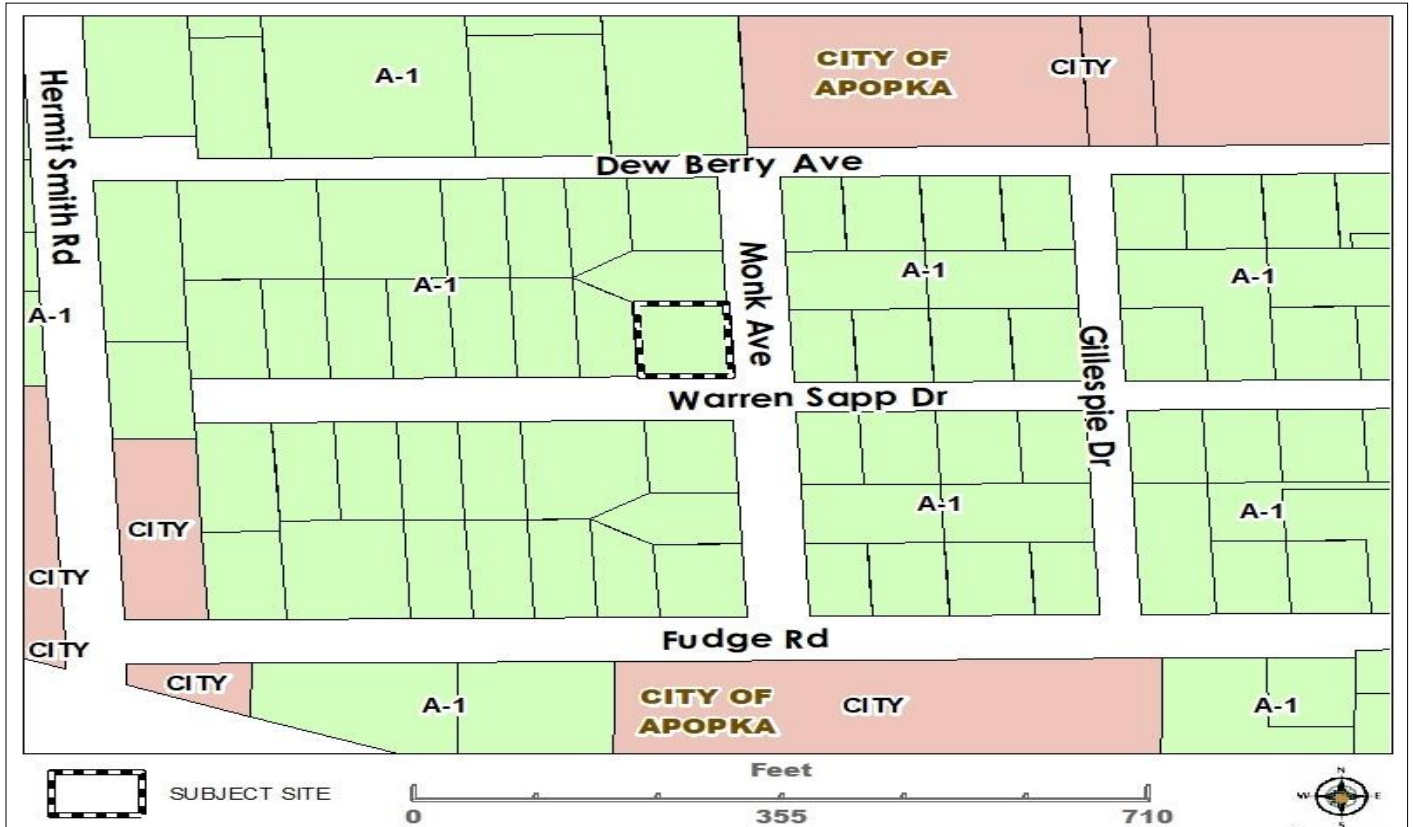


5. Habitat is requesting a variance of the minimum lot width requirements and rear setback requirements from 100' and 50' to 86.47' and **35.00'** which is the minimum needed to allow for the single family dwelling to be constructed on the parcel in question.

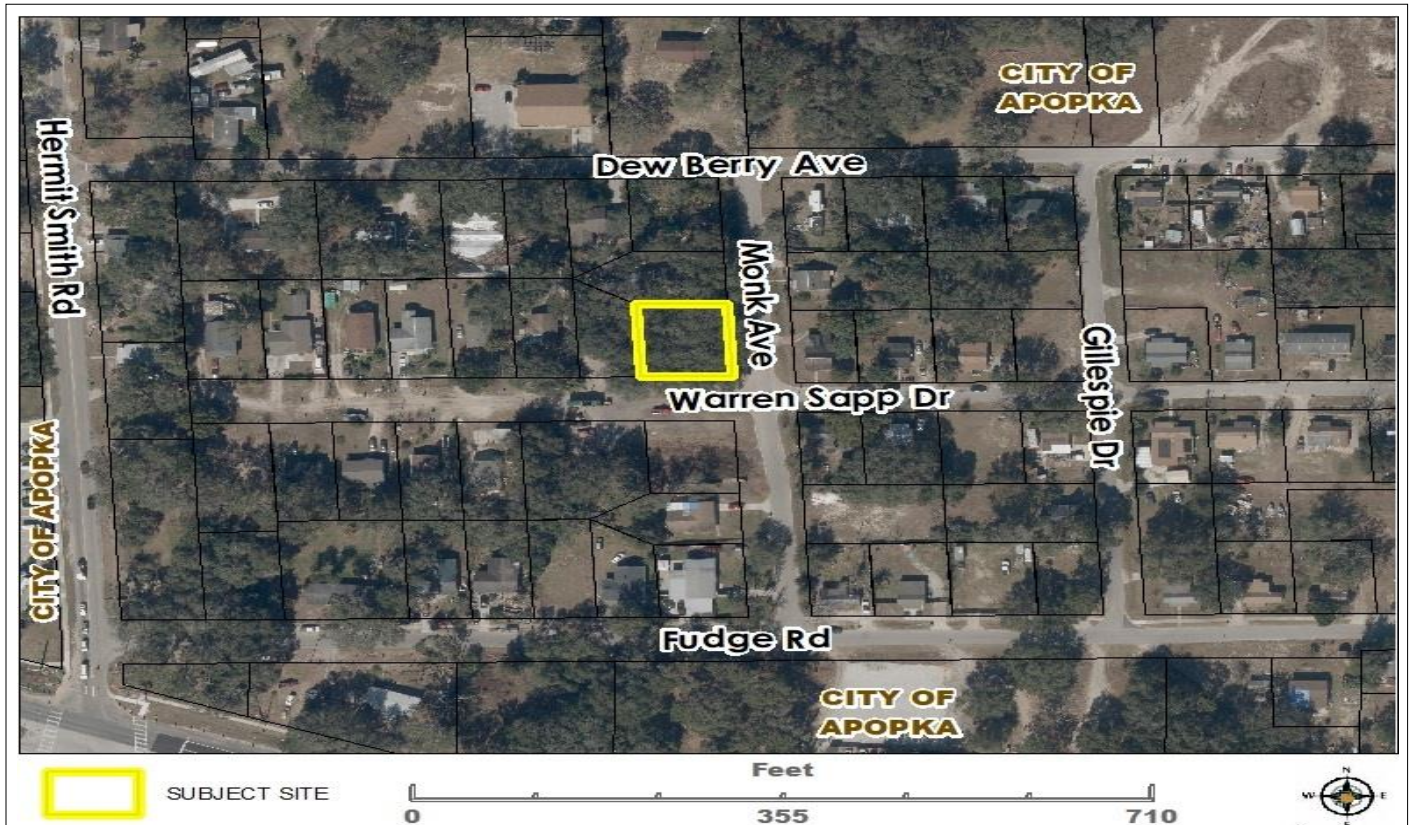
6. Approval of the zoning variance is in line with other variances in the area with the same zoning that neighboring property owner's were granted to construct their single family dwellings on the parcels. There would be no injury to neighboring property owners.

Alisa Adams
Habitat for Humanity Seminole Apopka
PO Box 181010
Casselberry, FL 32718
(321) 240-3126
Aadams@Habitat-sa.org

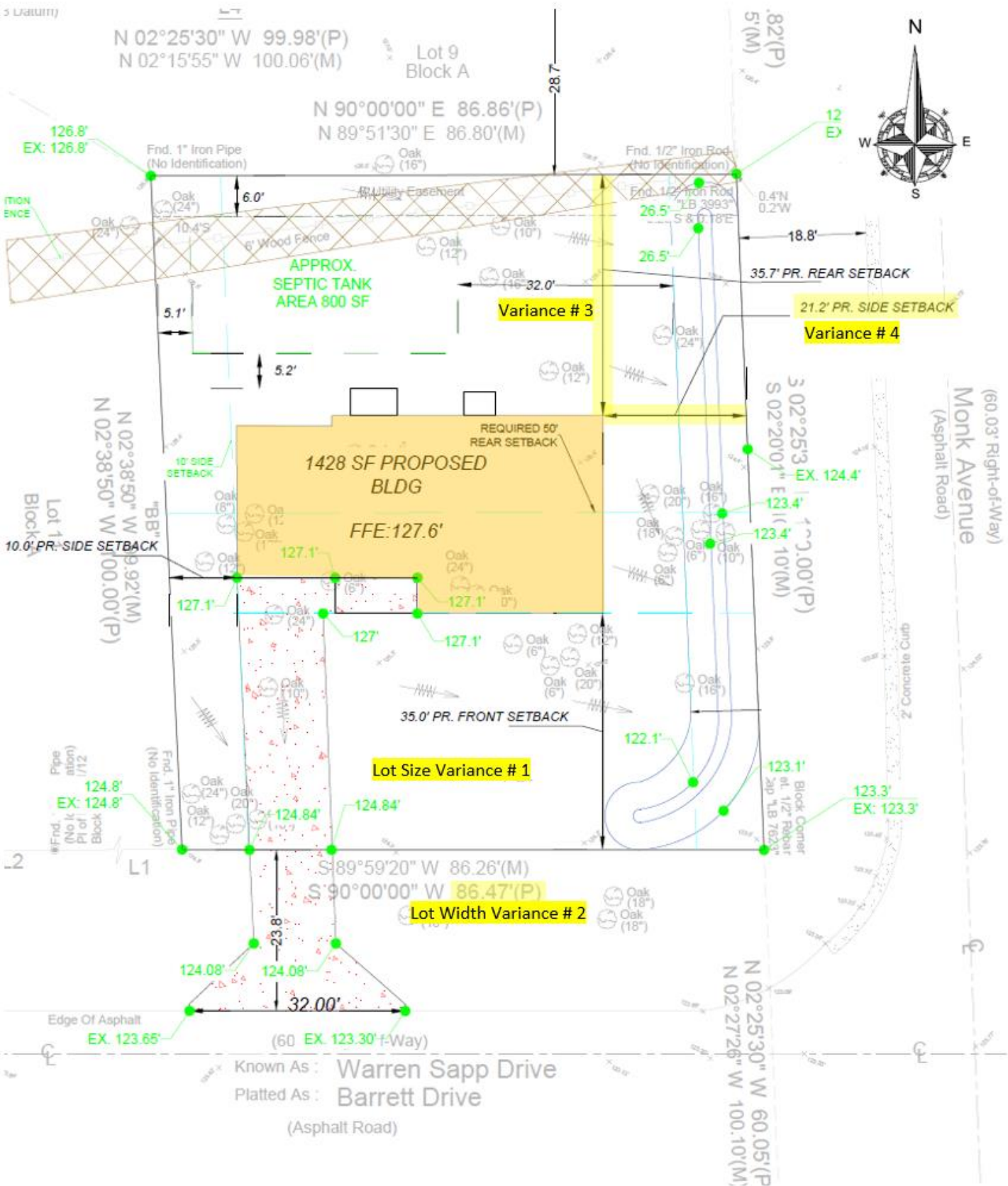
ZONING MAP



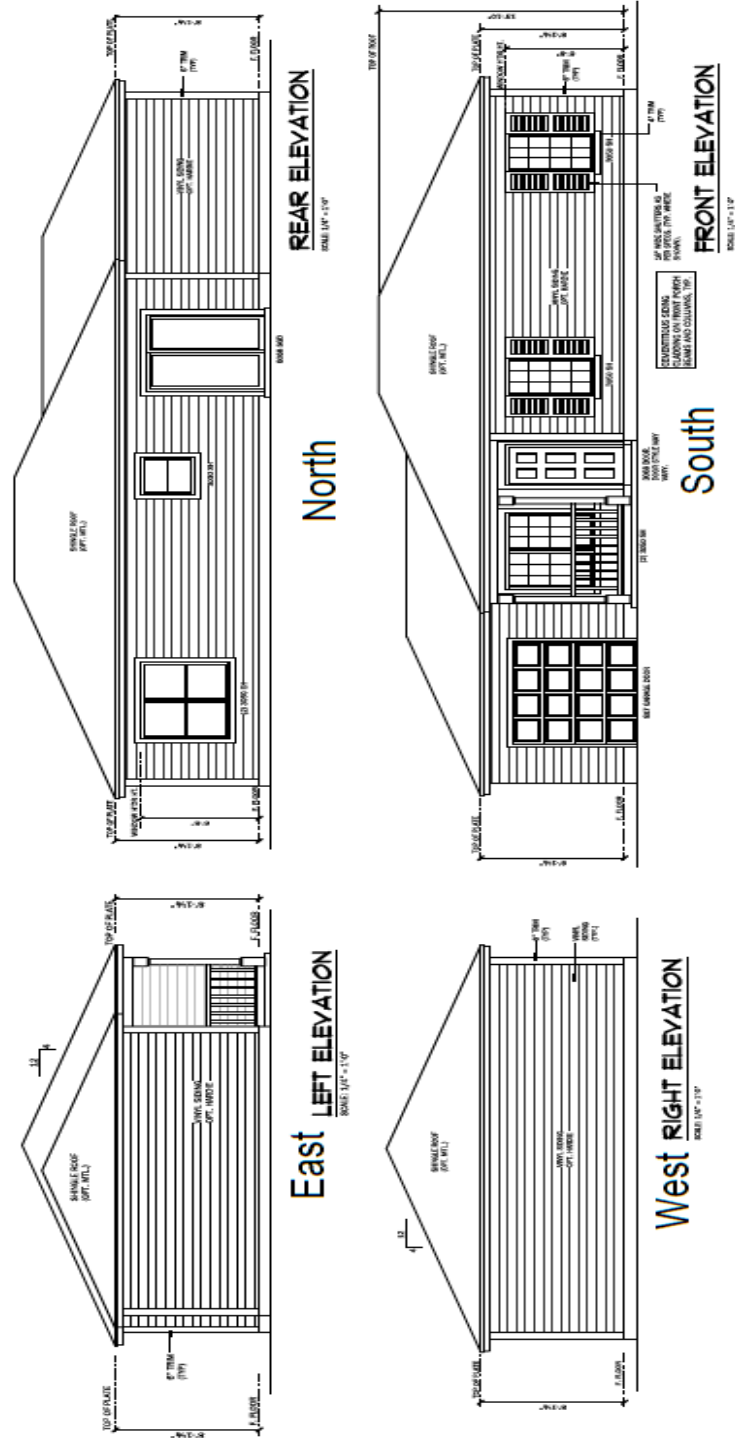
AERIAL MAP



SITE PLAN



ELEVATIONS



SITE PHOTOS



Property facing north from Warren Sapp Dr.



Property facing west from Monk Ave.

SITE PHOTOS



Adjacent property with front setback on Monk Ave. facing north



Adjacent property with front setback on Monk Ave. facing west

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 07, 2024**

Commission District: **#2**

Case #: **VA-24-04-006**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): PENNY SEATER FOR HABITAT FOR HUMANITY 3411 WARREN SAPP

OWNER(s): HABITAT FOR HUMANITY OF SEMINOLE COUNTY AND GREATER APOPKA FLORIDA INC

REQUEST: Variances in the A-1 zoning district for the construction of a single-family residence as follows:

- 1) To allow a minimum lot size of 0.16 acres in lieu of 0.5 acres.
- 2) To allow a lot width of 60 ft. in lieu of 100 ft.
- 3) To allow a north rear setback of 23 ft. in lieu of 50 ft.

PROPERTY LOCATION: 3411 Warren Sapp Dr., Apopka, FL 32712, north side of Warren Sapp Dr., north of W. Orange Blossom Trl., west of S.R. 429, east of Hermit Smith Rd.

PARCEL ID: 36-20-27-5754-01-110

LOT SIZE: +/- 0.16 acres (+/- 7,069 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 94

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by John Drago, Second by Roberta Walton Johnson; unanimous; 6 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received February 2, 2024, 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.

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 denial since the subject property and the adjacent property are under common ownership. Staff noted that no comments were received in support and no comments were received in opposition.

The applicant was not in attendance.

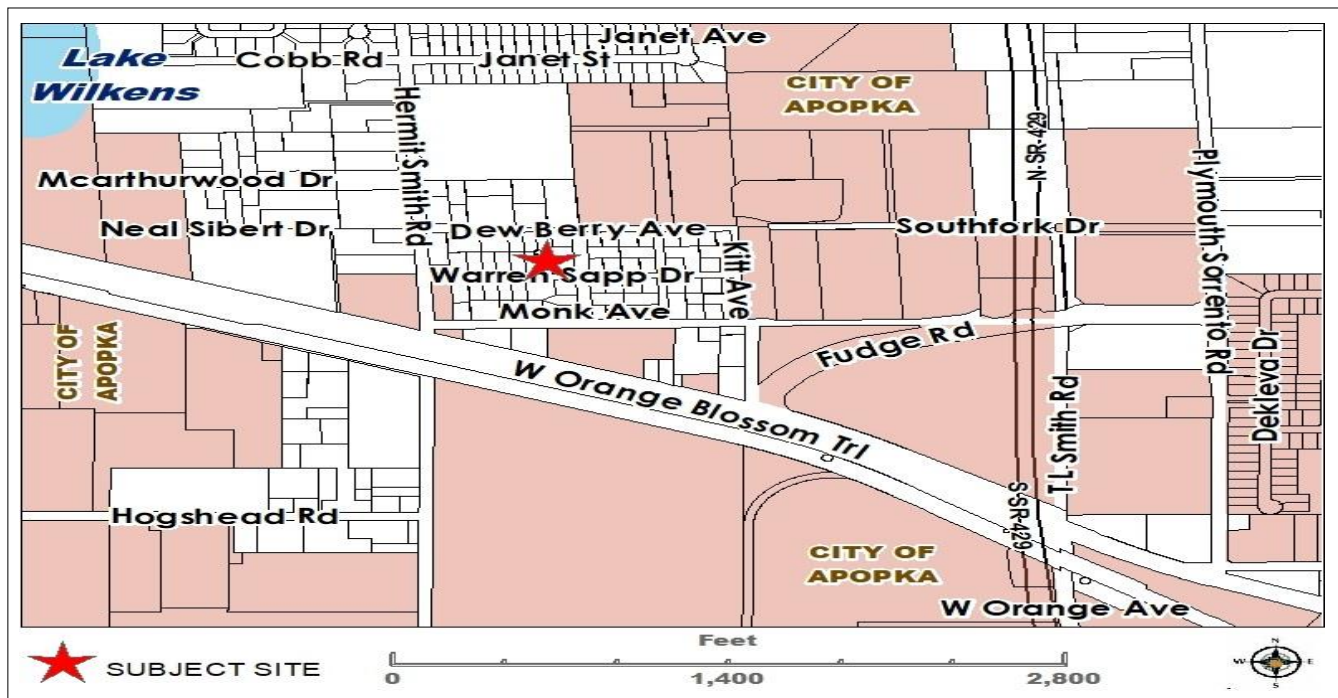
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the neighboring properties in the area, that they were always substandard, noted that the county supports affordable housing, discussed the Variances, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 6-0 vote, with 1 seat vacant, subject to the three (3) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary 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	A-1	A-1	A-1	A-1	A-1
Future Land Use	R	R	R	R	R
Current Use	Vacant	Single-family residential	Vacant	Vacant	Single family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-1 Citrus Rural district, which allows agricultural uses, as well as mobile homes and single-family homes on larger lots. The Future Land Use is Rural/Agricultural (R), which is consistent with the zoning district.

The area surrounding the subject site consists of single-family homes and vacant lots. The subject property is a 0.16 acre vacant lot, located in the Morrison's Subdivision First Addition Plat, recorded in 1966. The lot was assigned A-1 zoning in 1957, when zoning was established. It is unclear why lots were created/platted in non-conformance with the A-1 district, but they have always been substandard lots, as they do not meet the minimum lot size or width. The current owners acquired the property in 2023.

Per Orange County Code Sec. 38-1401, if two or more adjoining lots were under single ownership on or after October 7, 1957, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. The subject property was conveyed along with the property to the east prior to 2019 and is currently under the same ownership as the property to the east. Thus, the lot cannot be considered a substandard lot of record, and Variances are required for the lot width and area in order to build a single-family home on the property. A separate request for Variances has also been submitted for the adjacent lot currently under the same ownership.

The property is 0.16 acres in lieu of a minimum of 0.5 acres, requiring Variance #1. The property is 60 ft. in width in lieu of a minimum of 100 ft., requiring Variance #2. The proposal is to construct a single story, 1,465 gross sq. ft. single-family home on the property with a north rear setback of 23 ft. in lieu of 50 ft. requiring Variance #3.

Staff has reviewed the requests and is recommending denial since the current owner/applicant owns the subject property and the lot to the immediate east. As stated above, the County Code, states that if two or more adjoining lots are under single ownership, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. Thus, the current owner/applicant has the ability to combine the two substandard lots in order to meet the requirements for lot width, and to become more conforming as to lot size. Aggregating the 2 lots will result in compliance with the lot width requirement, and the total combined lot size will be 0.35 acres, which does not comply with the 0.5 acre minimum lot size requirement, however it results in the property becoming closer to meeting the requirement, which is the intent of code. Further, when the lots are combined to build one single-family house, the larger lot size and width would allow for the setbacks to be met, thus eliminating the need for the Variances.

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:	35 ft.	13.9 ft.
Min. Lot Width:	100 ft.	60 ft. (Variance #2)
Min. Lot Size:	0.5 acres	0.16 acres (Variance #1)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	35 ft.	35 ft. (South)
Side:	10 ft.	13 ft. (West) 12.7 ft. (East)
Rear:	50 ft.	23 ft. (North - Variance #3)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances particular to the subject property, as compliance with the requirement to aggregate the 2 lots would eliminate the need for the requested Variances for lot width and setbacks and reduce the amount of Variance required for lot size.

Not Self-Created

The need for the Variances is self-created, as the applicant could comply with the requirement to aggregate the two lots.

No Special Privilege Conferred

Granting the Variances will not establish special privilege since there are other properties in the area developed with single-family homes with similar lot widths, sizes, and setbacks in the area.

Deprivation of Rights

The applicant is not being deprived of the right to build a single-family home on the 2 lots if they are aggregated.

Minimum Possible Variance

The requested Variances are not the minimum necessary to construct improvements on the property, as the lots could be aggregated and a reconfigured request for one house would only require a Variance for lot size. Further, the setback Variance on the current lot size could be minimized or removed by building a two-story house instead of one story.

Purpose and Intent

Approval of the requests will be in harmony with the purpose and intent of the Code, which is to allow infill development of lawfully constructed residences. The lot size and setbacks as proposed will not be detrimental to the neighborhood as the proposed residences will be consistent with the lots in the area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received February 2, 2024, 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.
- C: Penny Seater
P.O. Box 181010
Casselberry, Florida, 32718
- C: Alisa Adams
P.O. Box 181010
Casselberry, Florida, 32718



December 27, 2023

Orange County Building Department
201 South Rosalind Avenue, 1st Floor
Orlando, FL 32801
(407) 836-3111
BZA@ocfl.net

Address: 3411 Warren Sapp Drive, Apopka, FL 32712
Parcel ID# 36-20-27-5754-01-110
Project: Single Family Residence

RE: Variance for Minimum Lot Width and Rear Setback Required for A1 Zoning

Habitat for Humanity Seminole Apopka is requesting a variance to develop 3411 Warren Sapp Drive in unincorporated Orange County for affordable housing. The zoning is A1 with a land use of vacant residential. The minimum lot width requirements for A1 zoning is 100' and the minimum rear setback required is 50'. The platted parcel does not meet those requirements to develop for a single family dwelling. Habitat for Humanity is requesting a variance to the A1 requirements for minimum lot width requirement and rear setback per the attached site plan showing the lot width at 60.00' and rear setback at 23.00'.

1. The current platted parcel intact today does not meet the A1 zoning requirements for minimum lot width. The minimum lot width for A1 is 100'. The current parcel is 60.00' wide. The land use is vacant residential and the neighboring properties have also been developed for single family residences with the same zoning and lot widths that do not meet the A1 minimum requirements. Per Ted Kozak, Chief Planner, the majority of single family residences in the area have received a variance in order to develop their single family dwellings on the parcels.
2. The parcel was platted prior to purchasing at the lot width of 60.00' with the A1 zoning and land use of vacant residential. Per Jason Sorenson a rezone is not possible and a variance needs to be requested as other neighboring property owners have done in order to develop their properties to construct single family dwellings.
3. No special privilege will be granted by allowing the minimum lot width and rear setback requirements be varied per Habitat's request. Per the County's chief planner the other neighboring properties were granted similar variances in order to develop their single family dwellings.
4. Should the variance not be granted Habitat's rights would be violated to develop a single family dwelling as the neighboring properties with the same A1 zoning that do not meet the minimum lot width and rear setback requirements have been able to do through the request and award of a variance.

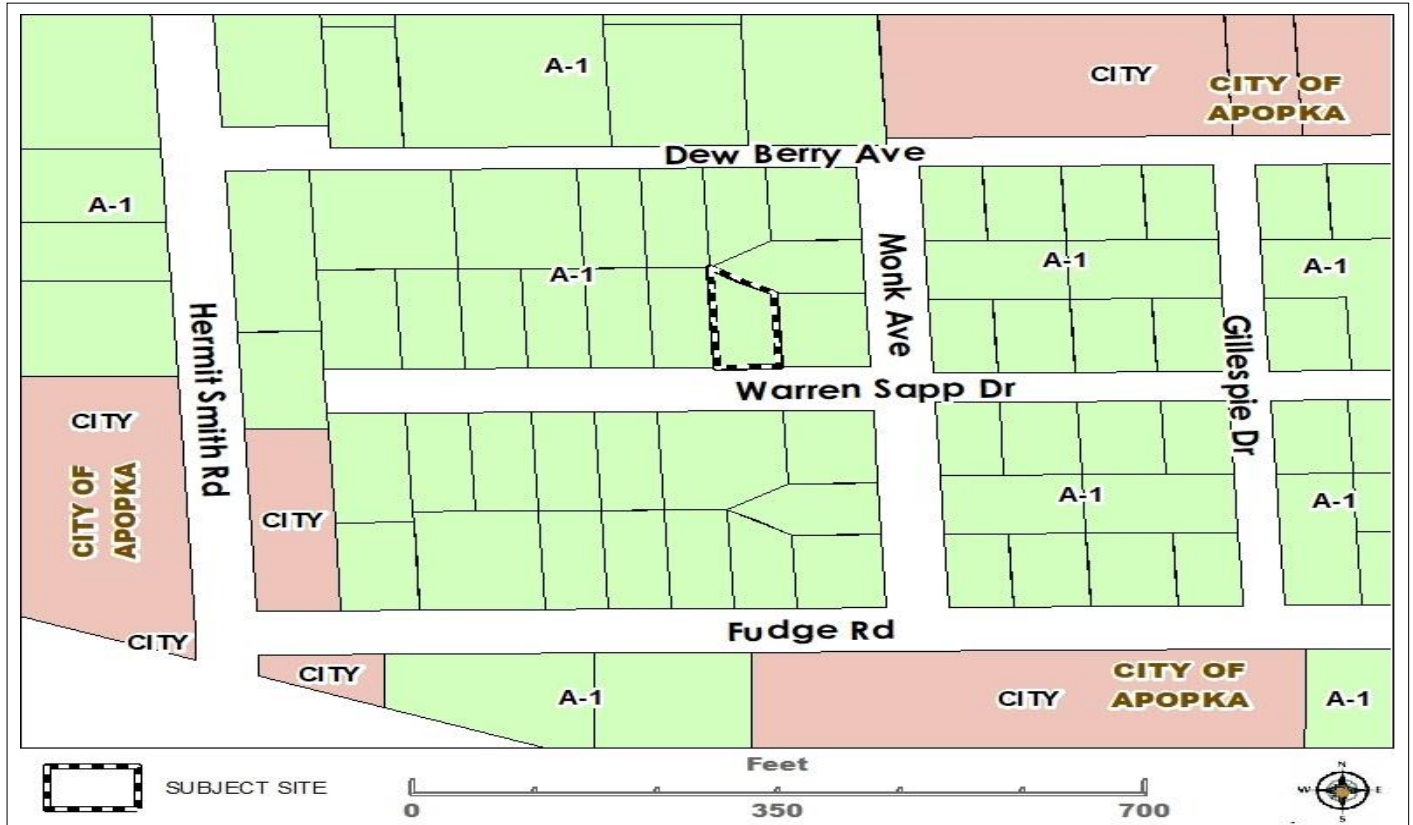


5. Habitat is requesting a variance of the minimum lot width requirements and rear setback requirements from 100' and 50' to 60.00' and 23.00' which is the minimum needed to allow for the single family dwelling to be constructed on the parcel in question.

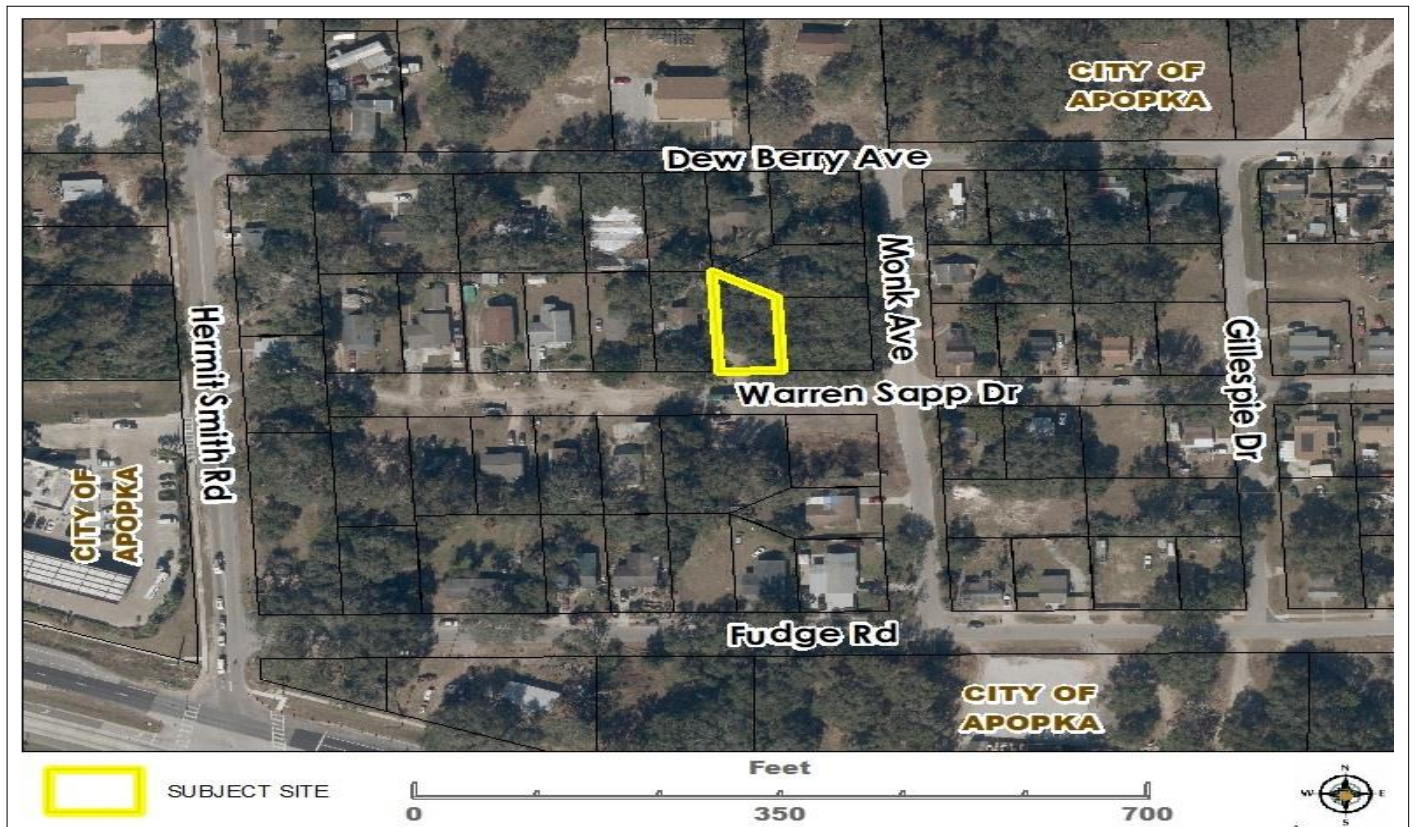
6. Approval of the zoning variance is in line with other variances in the area with the same zoning that neighboring property owner's were granted to construct their single family dwellings on the parcels. There would be no injury to neighboring property owners.

Alisa Adams
Habitat for Humanity Seminole Apopka
PO Box 181010
Casselberry, FL 32718
(321) 240-3126
Aadams@Habitat-sa.org

ZONING MAP



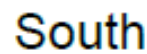
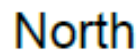
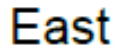
AERIAL MAP



SITE PLAN



ELEVATIONS



SITE PHOTOS



Property facing north from Warren Sapp Dr.



Properties in neighborhood with similar sized lots

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 07, 2024**

Commission District: **#1**

Case #: **VA-24-03-148**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): MOMTAZ BARQ

OWNER(s): STRUCTURE DEVELOPMENT LLC

REQUEST: Variances in the R-CE zoning district as follows:

- 1) To allow the construction of a detached Accessory Dwelling Unit (ADU) with 2,151 sq. ft. of living area in lieu of 1,000 sq. ft.
- 2) To allow a 100 ft. lot width in lieu of a minimum 130 ft. lot width.

PROPERTY LOCATION: 9646 Kilgore Rd, Orlando FL 32836, west side of Kilgore Rd., east side of Lake Sheen, west of S. Apopka Vineland Blvd., east of Winter Garden Vineland Rd., southwest of W. Sand Lake Rd., north of Palm Pkwy.

PARCEL ID: 04-24-28-0000-00-050

LOT SIZE: +/- 3.6 acres (1.74 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 52

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended (Motion by Thomas Moses, Second by Juan Velez; unanimous; 6 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 vacant):

1. Development shall be in accordance with the site plan and elevations received January 30, 2024, 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.

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 denial of Variance #1, and approval of Variance #2. Staff noted that one comment was received in support, and no comments were received in opposition.

The applicant team presented a detailed power point, noted that the structure would be a combination of an art studio and an ADU and noted the similar Variance approvals in the area. He further stated that if the art studio and ADU were built in separate buildings, that the proposal would be less harmonious with the area. The applicant noted that the structure would be 207 feet from the front property line, would be screened with very high hedges and additional landscaping, would be considerably hidden from the road and would be a good fit for the area. Also discussed was the two letters of support that were received from the neighbors.

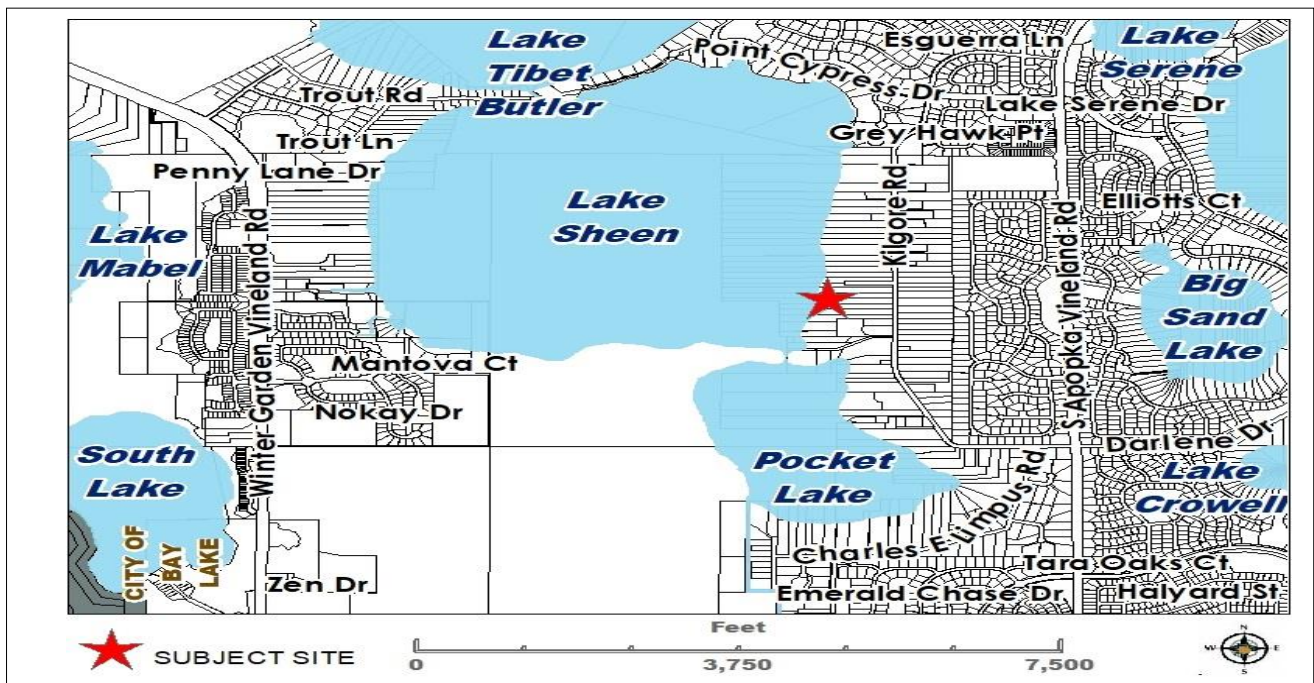
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the request, noted the heavy vegetation used for screening, discussed the prior approved Variances in the area, that the proposal adds value and is consistent with the area, stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 6-0 vote, with 1 seat vacant, subject to the 3 conditions in the staff report, as amended to modify Condition #1, which states, "Development shall be in accordance with the site plan and elevations received January 30, 2024, 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)."

STAFF RECOMMENDATIONS

Denial of Variance #1, 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 necessary 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-CE	R-CE	R-CE	R-CE	Lake Sheen
Future Land Use	R, LDR	R, LDR	R, LDR	R	Lake Sheen
Current Use	Vacant	Single-family residential	Single-family residential	Single-family residential	Lake Sheen

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-CE, Country Estate District, which allows primarily single-family homes and certain agricultural uses with a minimum lot area of one acre. The Future Land Use is partially designated as Rural (R), which is consistent with the zoning district and is partially designated as Low Density Residential (LDR), which is inconsistent with the zoning districts outside of Rural Settlements or Rural Residential Enclaves. However, the subject parcel meets the requirements of policy FLU8.2.5.1 as the lot existing in this configuration prior to the adoption of the Orange County Comprehensive Plan in 1991 based on County records.

The area surrounding the subject site consists of single-family homes many of which are lakefront. The subject property is a vacant 3.6 acre (1.74 acres upland) unplatted lakefront lot, located on Lake Sheen, and is a non-conforming lot, as it does not meet the minimum lot width. The previous residence on the property was demolished in 2019. There is a fence and gate on the property that was permitted in 2017. The owners purchased the property in 2022.

The proposal is to construct a two-story 8,678 gross sq. ft single family residence., with 5,928 sq. ft. of living area as stated in the Cover Letter, that complies with code on the rear half of the lot, and a detached two-story Accessory Dwelling Unit (ADU) on the front half of the lot which is allowed per section 38-1426(b)(3)f.2. as a detached ADU may be located in front of the principal structure if the principal structure is located on the rear half of the lot. Per Sec. 38-1426 (b) (3) (d) of the Orange County Code, “The maximum living area of an accessory dwelling unit shall not exceed fifty percent (50%) of the primary dwelling unit living area or one thousand (1,000) square feet, whichever is less, and shall not contain more than two (2) bedrooms. For lots/parcels equal to or greater than two (2) developable acres, the maximum living area of an accessory dwelling unit shall not exceed fifty percent (50%) of the primary dwelling unit living area or one thousand five-hundred (1,500) square feet, whichever is less”. The proposed ADU meets the maximum two (2) bedroom requirement and meets the exterior design standards as required per Sec. 38-1426 (b)(3) (j). However, the 2,151 sq. ft. of living area exceeds the maximum 1,000 sq. ft. of living area, requiring Variance #1. The parcel is 100 feet wide, but the R-CE zoning district requires a minimum lot width of 130 ft., requiring Variance #2.

Staff is recommending denial of Variance #1. Based on staff analysis, a smaller, code compliant ADU could be designed since this is new construction, thereby eliminating the need for the Variance. Over 1,000 square feet of the ADU is proposed to be utilized for an art studio. However, the proposed art studio could easily be incorporated into the design of the new house, allowing for the ADU to meet the size requirements. The intent and purpose of the ADU code is to support greater infill development and affordable housing opportunities, while maintaining the character of existing neighborhoods. As such, Accessory Dwelling Units

do not count towards the maximum density and are charged impact fees at a lower rate than 2 single-family homes, and are therefore intentionally meant to be small in relation to the home and property, thus the limitation on maximum square footage and number of bedrooms. The cover letter references other similar Variances in the immediate area, but there are no relevant examples.

Staff is recommending approval of Variance #2 since it is in harmony and consistent with the lot widths in the surrounding neighborhood. Further, adjacent lots are developed with the same 100 ft. lot width, as the subject property.

The Orange County Environmental Protection Division has no concerns.

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:	35 ft.	34.9 ft.
Min. Lot Width:	130 ft.	100 ft. (Variance #2)
Min. Lot Size:	1 acre	3.6 acre (1.74 acres upland)

Building Setbacks (ADU)

	Code Requirement	Proposed
Front:	35 ft.	207 ft. (East)
Rear:	15 ft.	440 ft. (West)
Side:	10 ft.	15 ft. (South) 40 ft. (North)
NHWE:	50 ft.	440 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1: There are no special conditions or circumstances peculiar to the land or building which are not applicable to other lands in the same zoning district. The owner could reduce the size of the ADU to meet code.

Variance #2: The existing lot width is a special condition and circumstance. The property would not be able to be developed without the Variance for lot width.

Not Self-Created

Variance #1: The request is self-created in that it is new construction and there are alternatives to build a smaller code compliant ADU.

Variance #2: The lot was in this configuration when the owners purchased the property in 2022 and the substandard aspect of the parcel is not self-created.

No Special Privilege Conferred

Variance #1: Granting the Variance as requested will confer special privilege since the size of the ADU could be reduced to meet code.

Variance #2: Granting the Variance will not establish special privilege since there are other properties in the area developed with single-family homes with similar lot widths.

Deprivation of Rights

Variance #1: There is no deprivation of rights since there are other options to meet the living area requirements for an ADU.

Variance #2: Without the requested width Variance, the owners will be deprived of the ability to construct a new residence on the parcel, as the adjacent parcels to the north and south are developed.

Minimum Possible Variance

Variance #1: The request is not the minimum since the size of the ADU can be reduced to meet code.

Variance #2: The requested Variance is the minimum necessary to construct a single-family home on the property. A home design that meets setback requirements has been proposed.

Purpose and Intent

Variance #1: Approval of the requested Variance for the ADU size would not be in harmony with the purpose and intent of the Zoning Regulations as the intent and purpose of the ADU code is to support greater infill development and affordable housing opportunities, while maintaining the character of existing neighborhoods. ADUs are intended to be small in relation to the home and property, thus the limitation on maximum square footage.

Variance #2: Approval of the lot width will be in harmony with the purpose and intent of the Code, which is to allow infill development with lawfully constructed residences. The proposed lot width, which will allow for the construction of a new home will not be detrimental to the neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received January 30, 2024, as modified to reduce the size of the ADU to 1,000 sq. ft, 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.

C: Momtaz Barq
1507 S. Hiawassee Road, Suite 211
Orlando, Florida 32835



December 5, 2023

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

RE: **Variance Request Narrative**
Adam's Residence, 9646 Kilgore Road, Orlando, FL
Parcel ID: 04-24-28-0000-00-050

To whom it may concern,

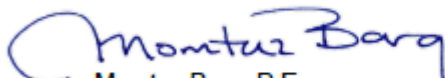
The applicant is proposing a 5,928 SF new residential house at the above-referenced R-CE zoned property. The applicant is requesting a variance to allow for the 1 bedroom detached dwelling unit (ADU) to exceed the 1,000 SF limit outlined in Section 38-1426.(b)(3)d. The property currently has an existing driveway and a lake dock which will both be replaced. The previously existing single-family home at this parcel was demolished in 2019. Variances are only requested for the detached dwelling unit.

The proposed 2,151 SF ADU will consist of a 922 SF two-story ADU and a one-story 1,229 SF art studio. The height of the proposed structure will not exceed the maximum height permitted for the principal structure. An attached 327 SF garage is also proposed for the ADU/art studio. The proposed ADU building will have two proposed uses as mentioned above, an ADU and an accessory use (art studio). If the two uses were built individually, they would each comply with the required guidelines outlined in Sec. 38-1426, however, the variance is requested to combine these two uses in one building which would be more aesthetically appealing and more consistent for a new residential development.

The requested variance appears to be commensurate with similarly Orange County approved variances in the immediate area and does not encroach or infringe on any neighboring properties, nor would it impose any hardship on any neighbors, nor would it serve to create a situation where any neighbor's quality of life, property value, or peaceful co-existence would be negatively affected.

A site plan as well as the architectural plans for the principal structure and ADU/art studio will be enclosed with the Variance Application Request.

Sincerely,
Terra-Max Engineering, Inc.


Momtaz Barq, P.E.
Principal Engineer

CIVIL | ENVIRONMENTAL | GEOTECHNICAL | LAND DEVELOPMENT

1507 S. Hiawasse Rd., Suite 211 | Orlando, FL 32835 | Phone: (407) 578-2763 | Fax: (407) 578-2953

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance. The property is currently vacant. The applicant/owner intends to construct a residential home and a detached two-story multi-purpose (ADU and art studio) building. The proposed home will consist of approximately 5,928 sf of living area under AC and the multi-purpose building will consist of approximately 2,151 sf of area under AC. Both buildings are proposed to be 34' 11.5" in height. The proposed multi-purpose building will consist of 1,229 sf of studio space and 922 sf of living space (ADU). Similar requests were approved by the County on neighboring lots.
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 actions of the applicant.

The applicant is requesting an ADU to be combined with a personal art studio.

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

Approval of the variance would not be viewed as conferring a special privilege, based on the special conditions of the property and circumstances behind the variance request.

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.

Denial of the variance would deprive the owner/applicant of the rights enjoyed by others in a similar circumstance, in that, other sites (depending on when constructed or developed) have been approved for similar constructions.

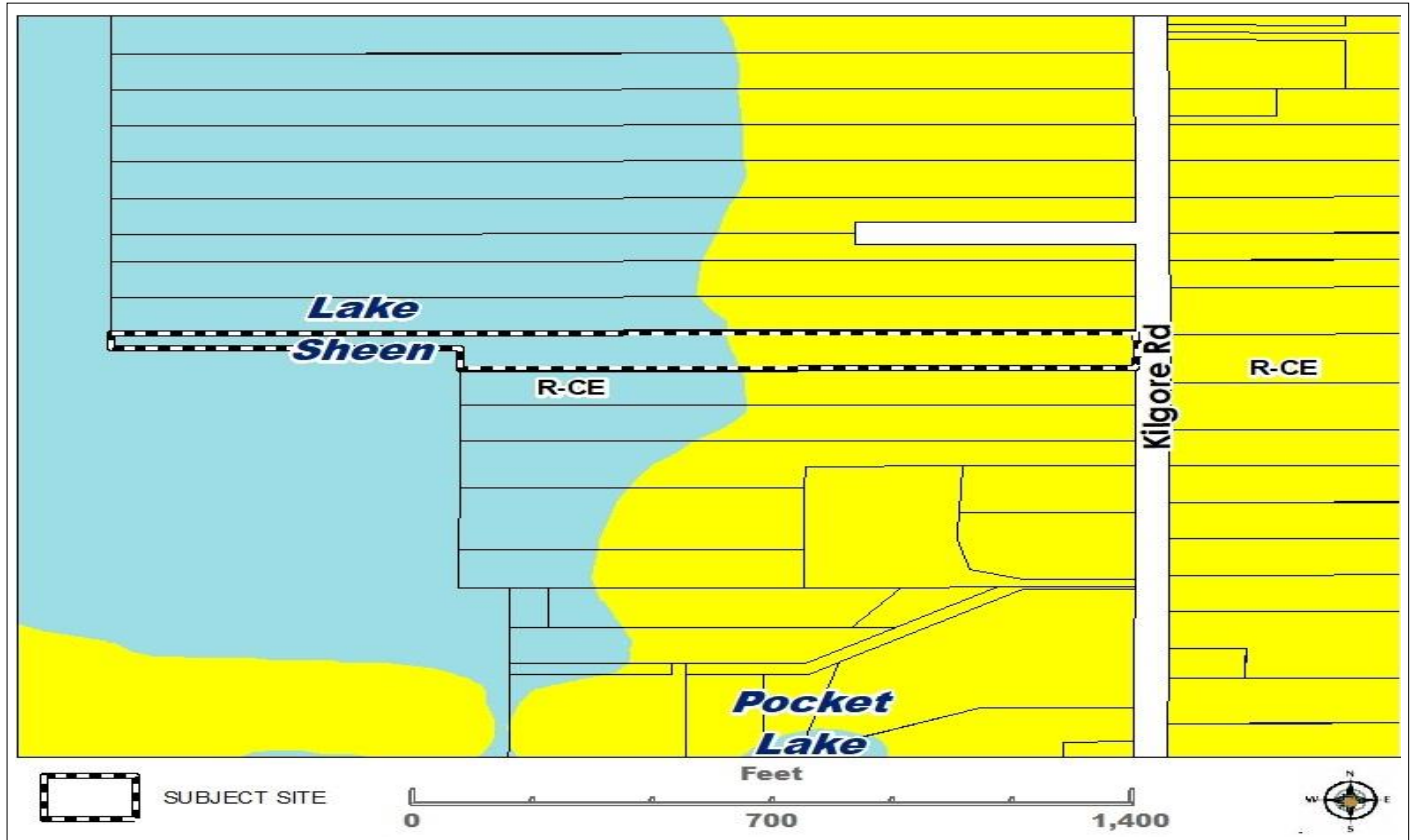
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The size of the proposed accessory structure is minimal for an art studio and ADU combination.

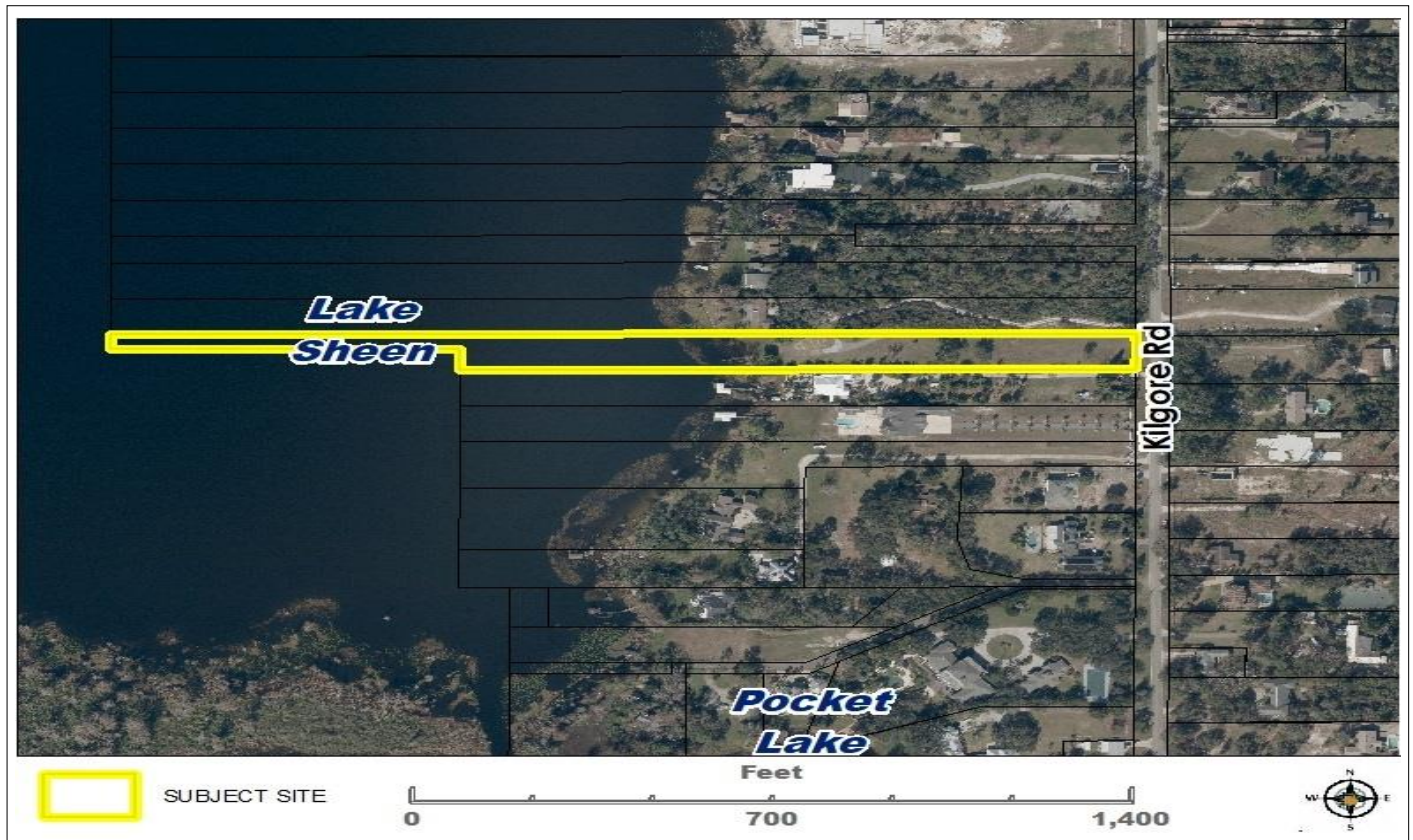
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Approval of the variance would be viewed as being harmonious with the purpose and intent of the Code. Continued used of the property within Code requirements will continue to promote the appearance and character of the immediate neighborhood. Granting the variance would not be detrimental to the public welfare.

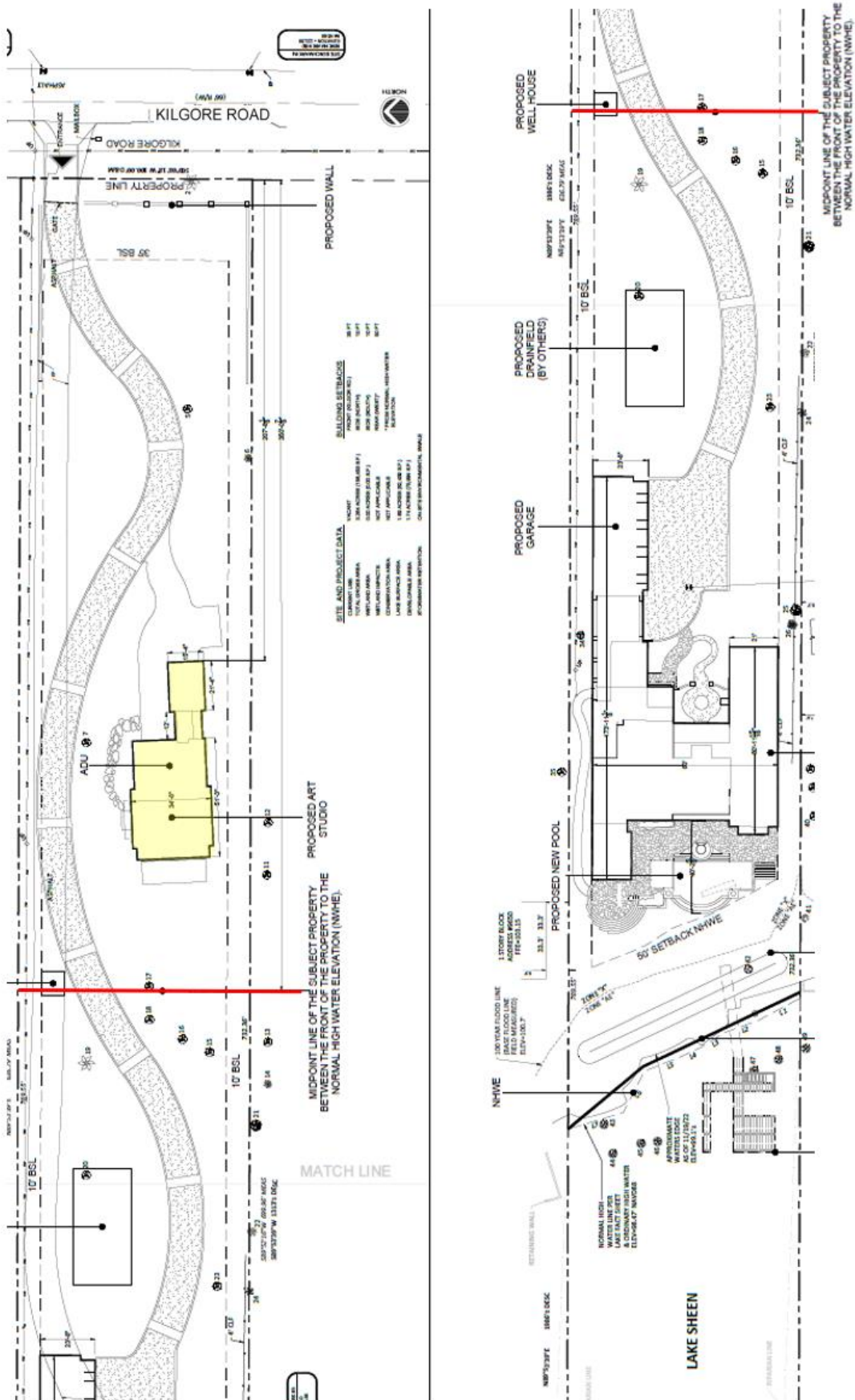
ZONING MAP



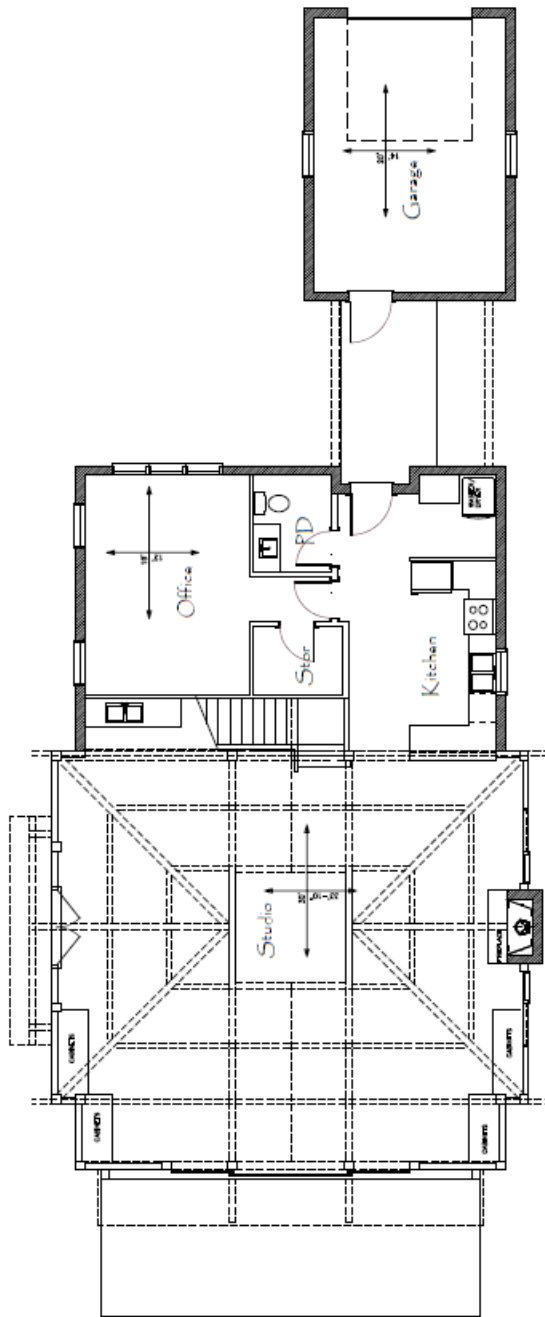
AERIAL MAP



Page | 72 Board of Zoning Adjustment [BZA]



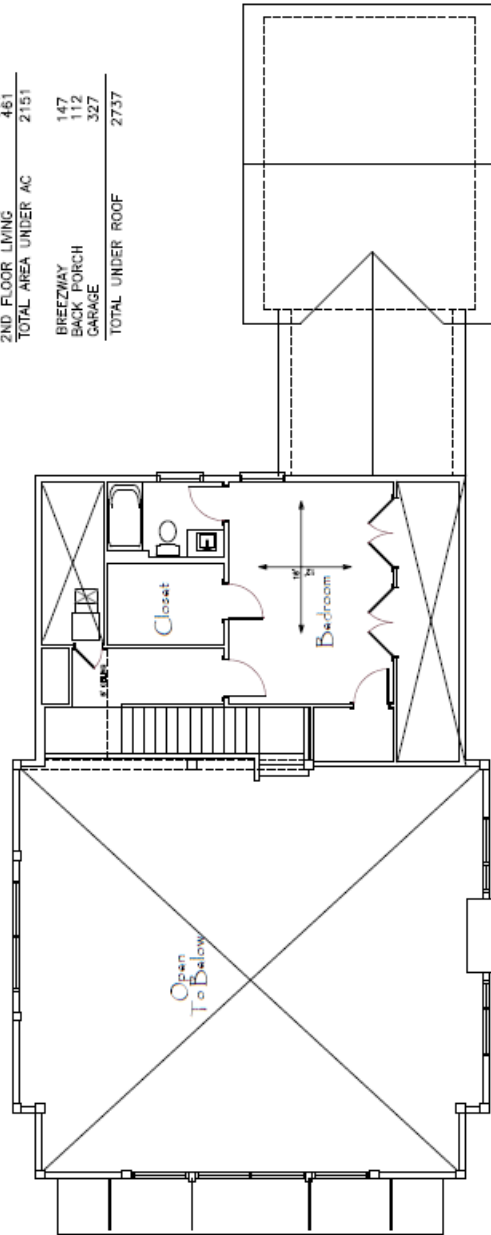
ADU FLOOR PLAN



Ground Floor
SCALE 1/4" = 1'-0"

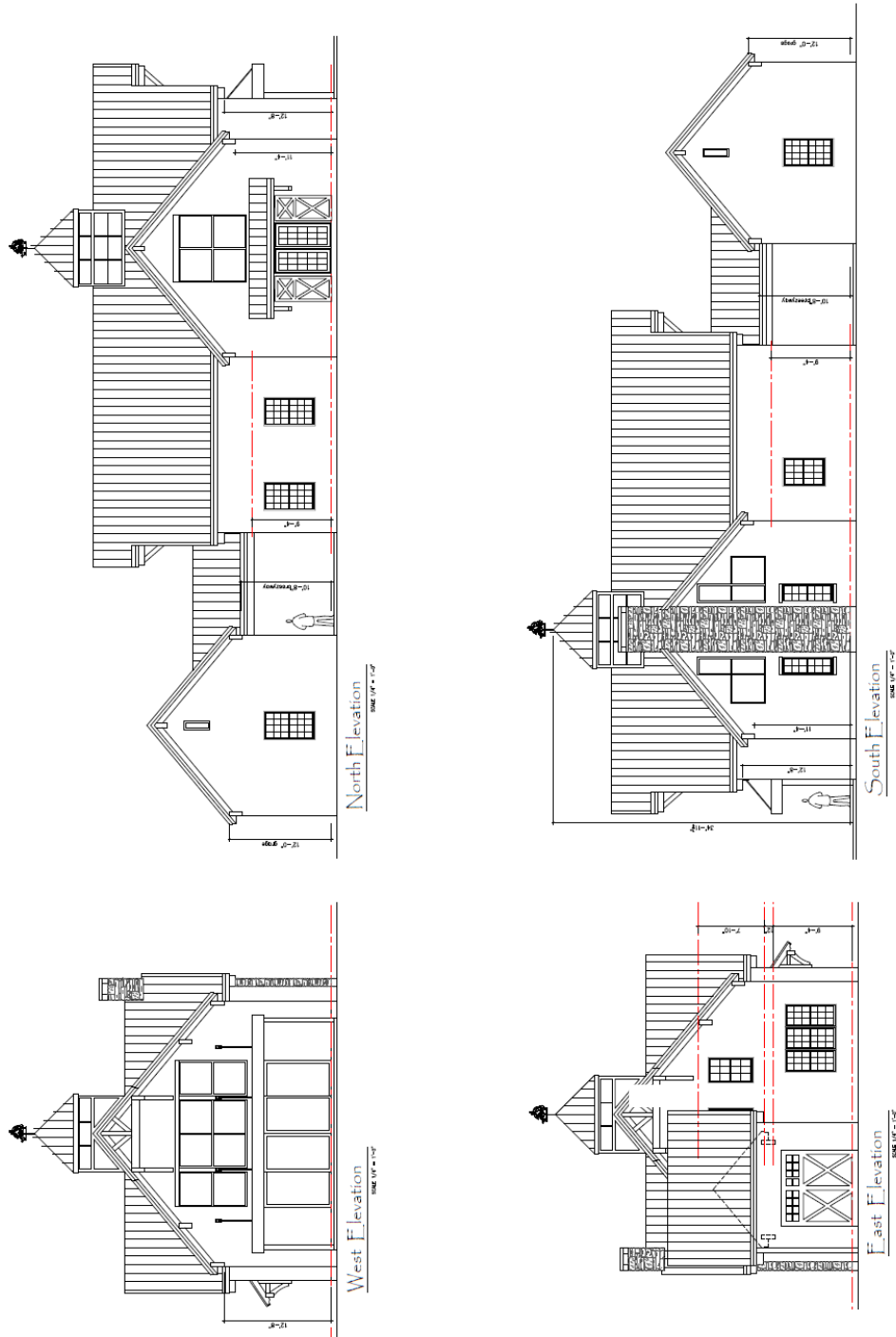
AREA MATRIX

STUDIO AREA (under AC)	1073
GROUND FL LIVING	617
2ND FLOOR LIVING	461
TOTAL AREA UNDER AC	2151
BREEZEWAY	147
BACK PORCH	112
GARAGE	327
TOTAL UNDER ROOF	2737



Second Floor
SCALE 1/4" = 1'-0"

ADU ELEVATIONS



SITE PHOTOS



Property from Kilgore Rd. facing west



Facing west from property

SITE PHOTOS



Facing east from property

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 07, 2024**

Commission District: **#4**

Case #: **VA-24-03-150**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): CLIFFORD R RISLEY FOR MR CAR WASH

OWNER(s): ORION MISTER LLC

REQUEST: Variance in the PD zoning district to allow a ground sign with a 6.4 ft. north setback in lieu of 10 ft.

PROPERTY LOCATION: 9900 Curry Ford Rd., Orlando FL 32825, south side of Curry Ford Rd., east side of S.R. 417, west of S. Dean Rd., west of Young Pine Rd.

PARCEL ID: 07-23-31-1789-01-000

LOT SIZE: +/- 5 acres

NOTICE AREA: 1,200 ft.

NUMBER OF NOTICES: 130

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Deborah Moskowitz, Second by John Drago; unanimous; 6 in favor: John Drago, Juan Velez, Deborah Moskowitz, Thomas Moses, Roberta Walton Johnson, Sonya Shakespeare; 0 opposed; 1 vacant):

1. Development shall be in accordance with the site plan and sign specifications received February 7, 2024, 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.

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 denial. Staff noted that no comments were received in support, and no comments were received in opposition.

The applicant described the proposed sign modification, assumed that the sign had been installed per code and noted that it would be expensive and difficult to relocate the sign.

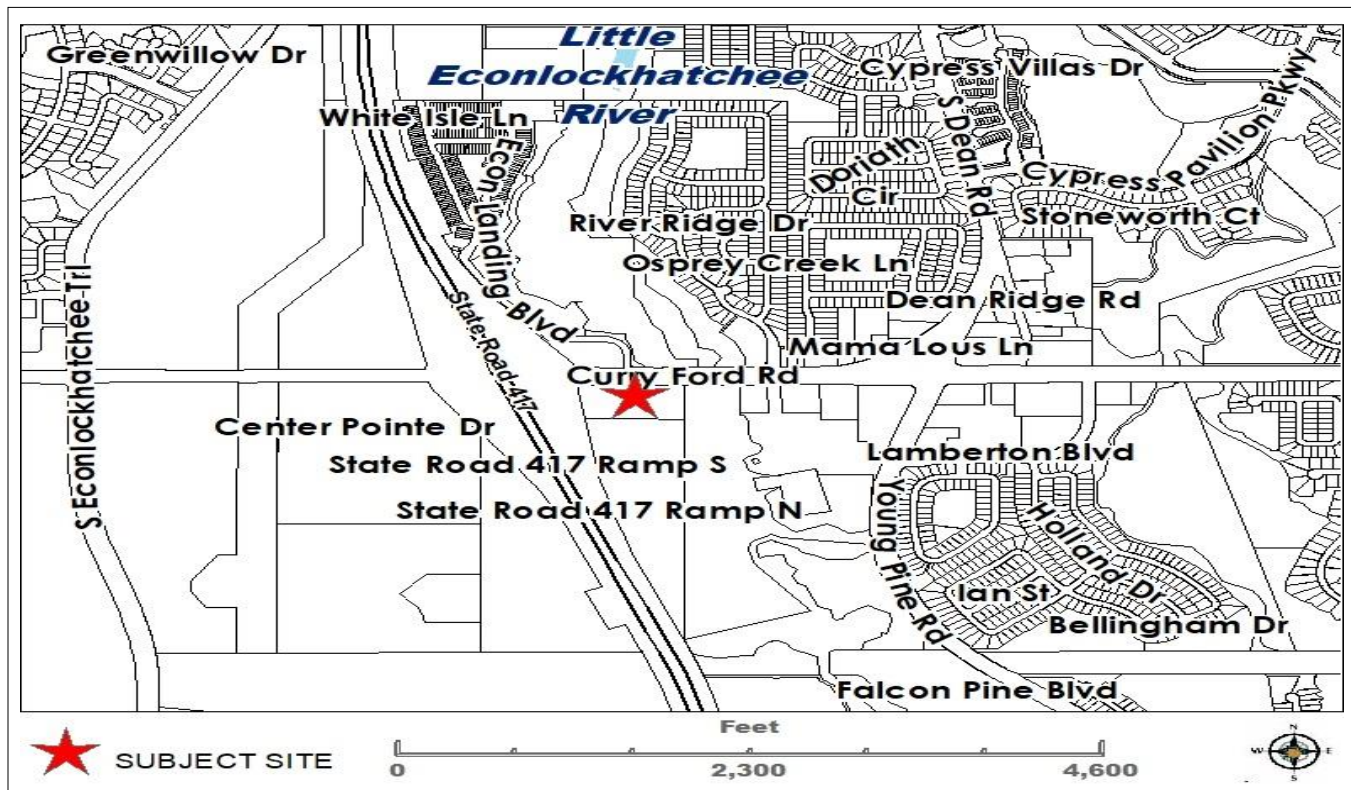
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the Variance, noted that a building permit was issued for the original sign and that permit passed the final inspection. The BZA also noted that the recent new buyer of the property would not have known about the non-conformity and that it would be a detriment to require the sign to be moved when the permit was issued with no fault to the owner. The BZA stated justification for the six (6) criteria and unanimously recommended approval of the Variances by a 6-0 vote, with 1 seat vacant, subject to the three (3) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the 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	Race Trac Curry Ford Road PD	Econ Landing PD	A-2	Weber Lakes PD	S.R. 417
Future Land Use	PD-C, MDR	PD- C/LMDR/CONS	MDR	PD- LDR/MDR/C/CONS	S.R. 417
Current Use	Car wash	Commercial, Vacant/wetlands	Vacant	Vacant/wetlands	S.R. 417

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Race Trac Curry Ford Road Planned Development, which allows commercial uses and retention. The Future Land Use is Planned Development-Commercial (PD-C) and Low Medium Density Residential (LMDR), which is consistent with the zoning district.

The subject property is a 5 acre lot and is a conforming lot. It is developed with a 4,030 gross sq. ft. car wash building, constructed in 2020. The owner purchased the property in 2023.

The proposal is to allow a ground sign (that has already been installed) located 6.4 feet from the north property line. Per Code Sec. 31.5-67(g), ground signs must be set back 10 ft. from property lines. In order for the sign to remain with a 6.4 ft. north setback, a Variance is required. A building permit for the sign (B20017812) was issued in September, 2020, showing the required 10 ft. setback to the north property line on the approved plan, and was completed in October, 2020. A permit was applied for in September, 2023 to change the face and cabinet of the sign located 6.4 feet from the north property line and is on hold pending Variance approval. In order for the sign to remain in its current location, with a 6.4 ft. north setback, a Variance is required.

Sec. 31.5-15 of the Orange County Code allows 0.5 sq. ft. of ground signage for each linear foot of right-of-way frontage. The property has right-of-way frontage along Curry Ford Rd., which would allow a maximum of 345 sq. ft. of ground signage for this property, based on 690 linear feet of frontage. The ground sign has 39.47 sq. ft. of signage which meets the allowable square footage per code. The sign has been structurally changed in addition to a face change.

Staff is recommending denial since the applicant is not being deprived of signage, as a ground sign could be permitted with a compliant setback, as shown on the approved building permit from 2020.

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

Sign Setbacks

	Code Requirement	Proposed
Front:	10 ft.	6.4 ft. (North Variance)
Rear:	10 ft.	310 ft. (South)
Side:	10 ft.	275 ft. (East) 390 ft. (West)

VARIANCE CRITERIA**Special Conditions and Circumstances**

There are no special conditions and circumstances particular to the subject property, as the sign was not installed in the permitted location per B20017812, and the applicant could request a conforming ground sign, which would eliminate the need for the Variance.

Not Self-Created

The request for the Variance is self-created, since the sign was not installed in the permitted location, and there are alternatives which will eliminate the need for the request.

No Special Privilege Conferred

Granting the Variance as requested will confer special privilege as other properties comply with the sign code and there is plenty of room on the property to install a sign in a conforming location. Further, the sign was not installed in the permitted location.

Deprivation of Rights

There is no deprivation of rights as the sign was not installed in the permitted location, and the applicant could request conforming signage.

Minimum Possible Variance

The requested Variance is not the minimum possible since the issued permit showed the sign meeting code, and there are alternatives which will meet Code requirements.

Purpose and Intent

The purpose of the sign code is to ensure that a consistent amount/location of signage is permitted for all properties and that there is an appropriate set back from the property line. The granting of a Variance for a ground sign setback would be contrary to the purpose and intent of the code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and sign specifications received February 7, 2024, 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.

C: Clifford R Risley
6130 Del Mar Drive
Port Orange, Florida 32127

C: Austin Squitieri
1725 S. Nova Road, Suite E8
South Daytona, Florida 32119



**INDEPENDENT
SIGN & LIGHTING**

1725 S Nova Rd, Suite E8, South Daytona, FL 32119
www.independentsignandlighting.com

Cover Letter

Date: 12/19/23

To whom it may concern,

I am writing regarding a Variance Request for Permit B22023045, a monument sign located at Mr. CarWash at 9900 Curry Ford Rd, Orlando FL 32825. This monument sign was permitted in Orange County by the previous ownership, permit B20017812. The survey submitted with that permit by the previous ownership showed a 10ft setback. When our client, Hurd Orlando-Landstar, LLC had the property surveyed the surveyor showed a 6.4 ft setback. This led to reviewer Byran Salamanca and the Zoning Chef Planner with Orange County to advise us to get a variance.

- This property was a Top Dog Car Wash and is now a Mr. Car Wash under Hurd Orlando-Landstar LLC. The Monument, BB22023036 is a Face Change ONLY. The existing Monument as it stands now (skirting and cabinet) is 12 ft in height and the sign is 39.47 SF with a 6.4 ft setback.
- We are not changing the dimensions of the signage. We are only replacing the face of the sign.
- A 10ft setback is required in Orange County. The survey submitted by the previous ownership showed a 10ft setback. When our client, Hurd Orlando-Landstar, LLC had the property surveyed that surveyor showed a 6.4 ft setback. Due to this our client Hurd Orlando-Landstar, LLC is requesting a variance.

1.Special Conditions and Circumstances: Circumstances exist because our client purchased the property from the previous landowner with the understanding that existing signage was permitted previously and with proper approval.

2.Not Self-Created: These actions we not due to any fault by our client. This is existing signage and Orange County did approve under the previous ownership- Permit B20017812

3.No Special Privilege Conferred: We are not asking for an exception to the existing code regarding the square footage allowable.

4.Deprivation of Rights: Due to the circumstances surrounding the issue: not being afforded our existing signage, being that it is within the allowable square footage, would be depriving our client the right to advertise and create a hardship of rights commonly enjoyed by other properties in the area.

5.Minimum Possible Variance: This zoning variance, if approved, would allow for the minimum variance to be afforded and allow for the reasonable use to the use of land, building and structure.

6. Purpose and Intent: The purpose and intent of this sign variance is to be able to operate the business with satisfactory advertising to project, maintain and advertise the client's facility and services to the public.

Included you will find a 8 ½ x11 detailed site plan and survey, along with a copy of the Shop Art for the Face Change of the monument.

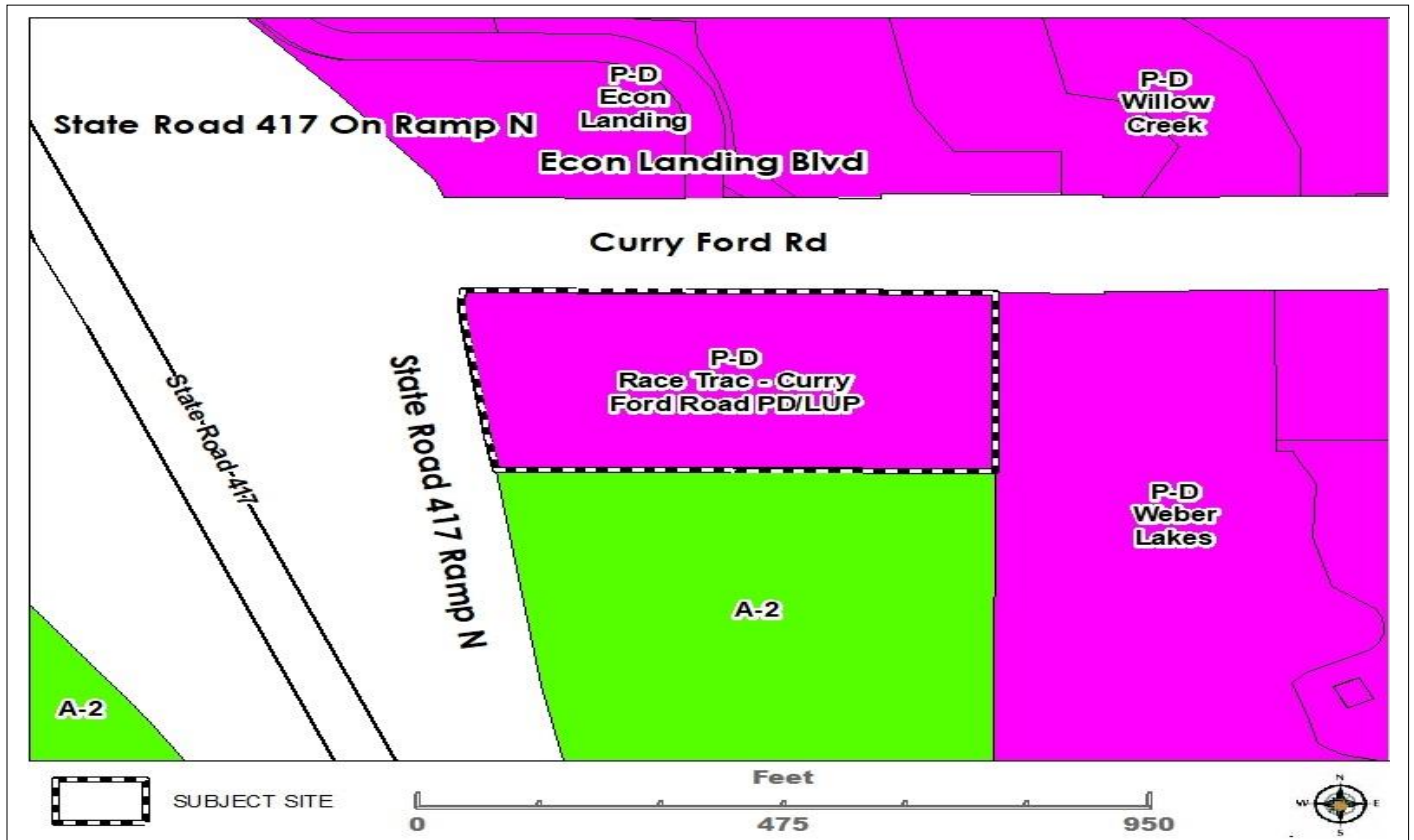
This Variance is requested for signage, a monument sign which has a current setback of 6.4 ft and Orange County requires a 10 ft setback. This monument sign was installed by the pervious ownership, permit B20017812. We are only doing a Face Change on the monument to the doublesided cabinet with dimensions of 4'1" height, 9'8" width, totaling 39.47 SF.

Thank you,

A handwritten signature in blue ink, appearing to read 'Austin Squitieri'.

Austin Squitieri
Representative of
Independent Sign and Lighting LLC

ZONING MAP



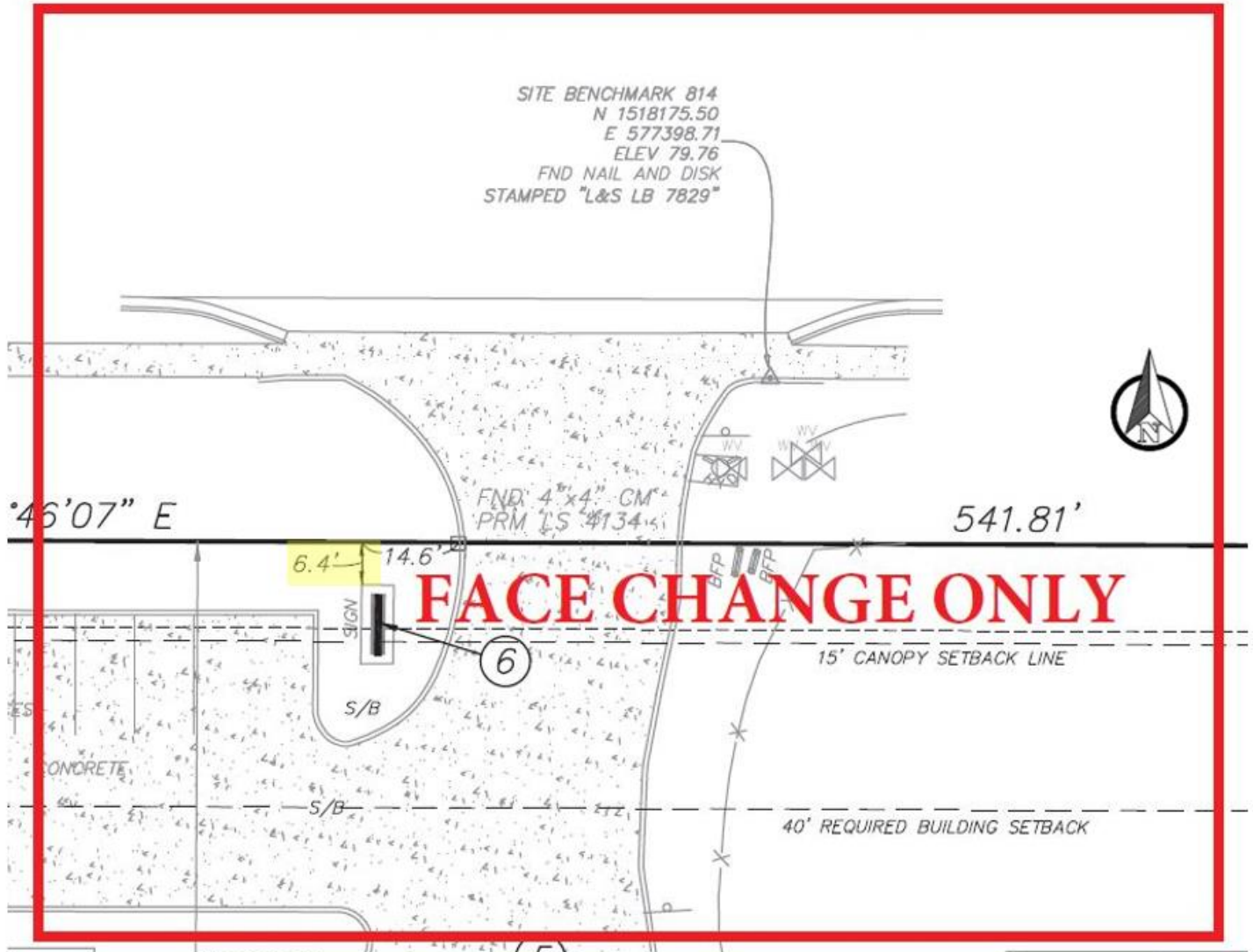
AERIAL MAP



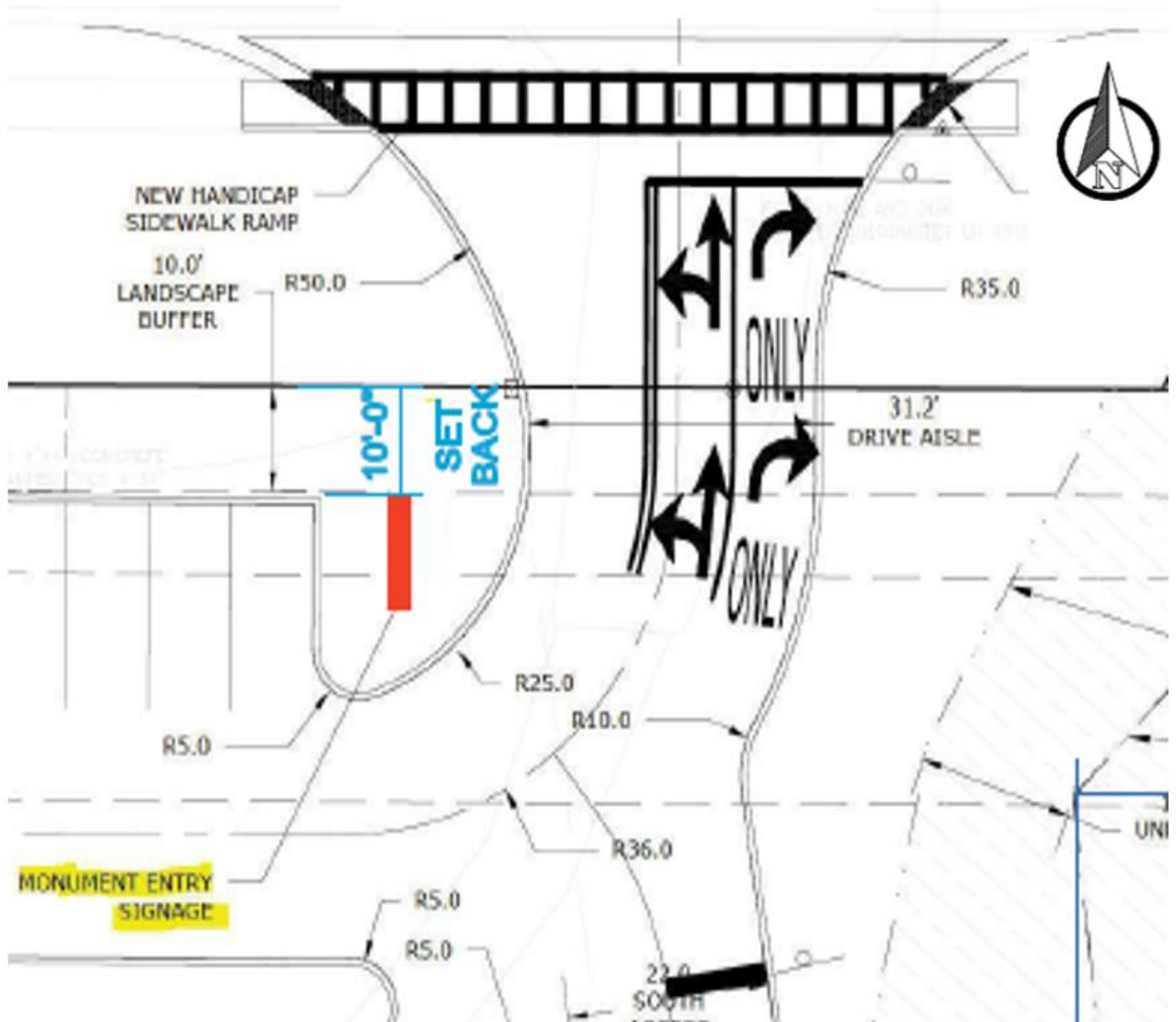
SITE PLAN



CURRY FORD ROAD
(STATE ROAD 425)



CURRY FORD ROAD
(STATE ROAD 425)



[illegible]

SITE PHOTOS



Property facing south from Curry Ford Rd.



Sign facing southwest



BOARD OF ZONING ADJUSTMENT
201 S. Rosalind Ave
Orlando, FL 32801