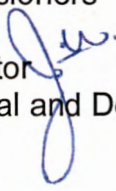




Interoffice Memorandum

July 17, 2018

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

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

CONTACT PERSON: Carol L. Knox, Manager, Zoning Division
407-836-5585

SUBJECT: July 31, 2018 – Board Appeal Public Hearing
Applicant/Appellant: Mohammad Ali
BZA Case #VA-18-06-060, June 7, 2018

Board of Zoning Adjustment (BZA) Case #VA-18-06-060, located at 9853 Kilgore Rd., in District 1, is an appeal of the BZA's recommendation to be heard on July 31, 2018. The applicant is requesting a variance in the R-CE zoning district to allow an existing chicken coop to remain 12 ft. from the western property line in lieu of 30 ft. The subject property is located west of S. Apopka Vineland Rd., on the east side of Kilgore Rd.

At the June 7, 2018 BZA hearing, staff recommended denial of the variance. Several neighbors spoke in opposition to the request stating concerns regarding odor, noise, appearance, and this structure being a nuisance to the neighborhood. The BZA recommended denial of the variance.

The application for this request is subject to the requirements of Ordinance 2008-14, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

The applicant contacted the County with a request that the hearing advertised for July 31, 2018 be postponed, as they will be out of the country on this date. Staff sent notification of the request for a continuance to surrounding property owners on July 17, 2018.

ACTION REQUESTED: Continue BZA Case #VA-18-06-60 to September 18, 2018 at 2pm. District 1

JVW/CLK
Attachment

COMMUNITY ENVIRONMENTAL DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
July 31, 2018

The following is a public hearing on an appeal before the Board of County Commissioners on July 31, 2018 at 2:00 p.m.

APPELLANT/APPLICANT: MOHAMMAD ALI

REQUEST: Variance in the R-CE zoning district to allow a chicken coop 12 ft. from the property line in lieu of 30 ft.

LOCATION: West of S. Apopka Vineland Rd., east of Kilgore Rd.

TRACT SIZE: 166 ft. x 205 ft. (AVG)

ZONING: R-CE

DISTRICT: #1

PROPERTIES NOTIFIED: 80

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

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

The applicant contended that he owns more land further north, along the back strip than is being depicted. The applicant also stated that the reason the neighbors to the east are opposing the request is because he raised the issue that the Brentwood Club neighbors had cleared the required buffer on their properties. The applicant stated that there is no other place to put the chicken coop on the property without a variance, but proposed alternate locations on the same back strip, including moving the coop closer to his house. They also noted letters of support from neighbors.

One person (who resides at the subject property) spoke in favor at the hearing, stating that the variance is needed due to the unique shape of the lot, and that the reason for the objections is due to the Brentwood neighbors not maintaining their buffer.

5 people spoke in opposition at the hearing, stating concerns about: odors; noise 24 hours per day; displeasing appearance; protection of property values; and the use attracting snakes, rats, bobcats, coyotes, and other predatory animals; and the possibility of locating the coop on other vacant land owned by the applicant.

In rebuttal to the comments, the applicant discussed fencing to buffer the use, and contended that a dog would make more noise than the chickens. The applicant also

stated that the other residents should have known that chickens would be allowed next door.

Code Enforcement stated that they issued a violation notice for: the location of the pen, goats, and roosters. Code Enforcement re-inspected the site and found that the goats, and roosters were gone, but the pen remained. Code Enforcement re-inspected the site again, and found that the goats, and roosters were back again. The case was scheduled to go before the Code Board in May, but was continued pending the outcome of this BZA meeting

Staff displayed graphics to show that the land in question further north, along the back strip, is part of a reserved right-of-way, and is not owned by the applicant,

The BZA inquired about the size of the coop and screened enclosure, and confirmed that the required setbacks are measured from any cage, pen, covered enclosure or other holding area. The BZA confirmed that the applicant owns the adjacent properties to the west and south. The BZA searched for other options to accommodate the applicant, such as locating the coop in front of the house or on the south side of the property or any other locations. The BZA also confirmed that the back strip was useable for a garage/accessory building that could meet setbacks without variances.

The BZA discussed the variance criteria and concluded that:

1. Special conditions and circumstances can be considered due to the shape of the lot.
2. The need for the variance is self-created.
3. Approval of this variance will confer special privilege to the applicant.
4. The applicant is not being deprived of rights, as there are other locations on the property to place the coop, and the BZA would not oppose a variance to place the coop in front of the house.
5. The request could be considered to be the minimum possible variance from the side.
6. The request does not meet the purpose and intent, as the request appears to be injurious to the neighborhood and detrimental to the public welfare. They are unable to determine how they can meet the 100 foot buffer to where the chicken waste is to be stored.

Staff received 8 commentaries in favor of the application, and 17 in opposition to the application.

The BZA denied the variance.

BZA HEARING DECISION:

A motion was made by Carolyn Karraker, seconded by Jessica Rivera and unanimously carried to DENY the Variance request in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (unanimous).

MOHAMMAD ALI
VA-18-06-060

REQUEST: Variance in the R-CE zoning district to allow a chicken coop 12 ft. from the property line in lieu of 30 ft.

ADDRESS: 9853 Kilgore Road, Orlando FL 32836

LOCATION: West of S. Apopka Vineland Rd., east of Kilgore Rd.

S-T-R: 04-24-28

TRACT SIZE: 166 ft. x 205 ft. (AVG)

DISTRICT#: 1

LEGAL: THAT PART OF THE S 1/2 OF THE N 1/2 OF THE N 1/2 OF THE SE 1/4 OF THE SE 1/4 LYING EAST OF KILGORE ROAD & THE E 50 FT OF THE N 1/8 OF THE N1/2 OF THE SE 1/4 OF THE SE 1/4 & THE E 50 FT OF THE S 41.25 FT OF THE S 1/4 OF THE S 1/2 OF THE NE 1/4 OF THE SE 1/

PARCEL ID: 04-24-28-0000-00-061

NO. OF NOTICES: 80

DECISION: **DENIED** the Variance request in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (unanimous; 6-0 and 1 absent).

SYNOPSIS: Staff gave a presentation on the case covering the location, site plan, and photos.

The applicant contended that he owns more land further north along the back strip than is being depicted. The applicant also stated that the reason the neighbors to the east are opposing the request is because he raised the issue that the Brentwood Club neighbors had cleared the required buffer on their properties. The applicant stated that there is no other place to put the chicken coop on the property without a variance, but proposed alternate locations on the same back strip, including moving the coop closer to his house. They also noted letters of support from neighbors.

One (1) person (who resides at the subject property) spoke in favor at the hearing, stating that the variance is needed due to the unique shape of the lot, and that the reason for the objections is due to the Brentwood neighbors not maintaining their buffer.

Five (5) people spoke in opposition at the hearing, stating concerns about: odors; noise 24 hours per day; displeasing appearance; protection of property values; and the use attracting snakes, rats, bobcats, coyotes, and other predatory animals; and, the possibility of locating the coop on other vacant land owned by the applicant.

In rebuttal to the comments, the applicant discussed fencing to buffer the use, and contended that a dog would make more noise than the chickens. The applicant also stated that the other residents should have known that chickens would be allowed next door.

Code Enforcement stated that they issued a violation notice for: the location of the pen, goats, and roosters. Code Enforcement re-inspected the site and found that the goats and roosters were gone, but the pen remained. Code Enforcement re-inspected the site again, and found that the goats, and roosters went back again. The case was scheduled to go before the Code Board in May, but was continued pending the outcome of this BZA meeting

Staff displayed graphics to show that the land in question further north, along the back strip, is part of a reserved right-of-way, and is not owned by the applicant.

The BZA inquired about the size of the coop and screened enclosure, and confirmed that the required setbacks are measured from any cage, pen, covered enclosure or other holding area. The BZA confirmed that the applicant owns the adjacent properties to the west and south. The BZA searched for other options to accommodate the applicant, such as locating the coop in front of the house or on the south side of the property or any other locations. The BZA also confirmed that the back strip was useable for a garage/accessory building that could meet setbacks without variances.

The BZA discussed the Variance Criteria and concluded that:

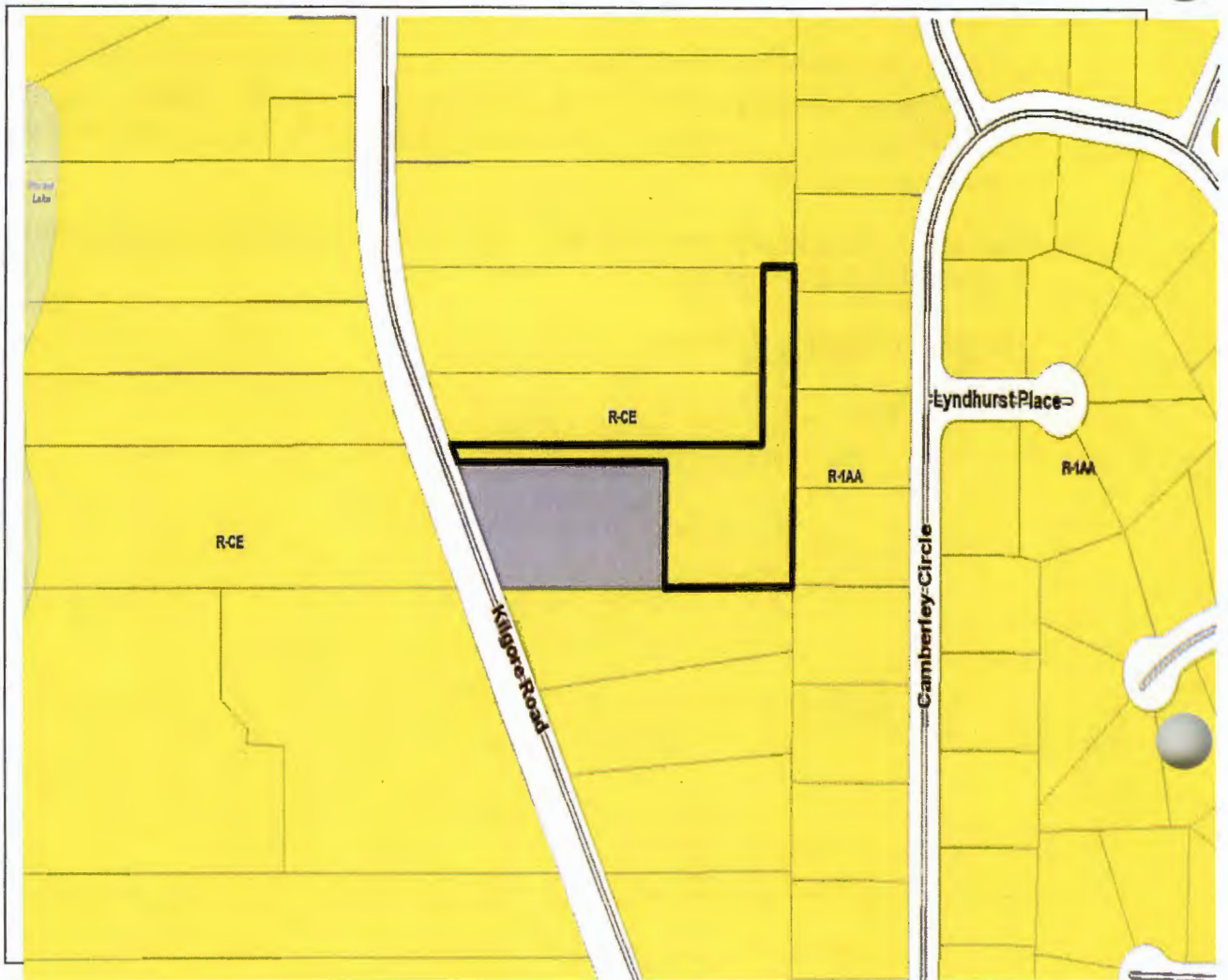
1. Special conditions and circumstances can be considered due to the shape of the lot.
2. The need for the variance is self-created.
3. Approval of this variance will confer special privilege to the applicant.
4. The applicant is not being deprived of rights, as there are other locations on the property to place the coop, and the BZA would not oppose a variance to place the coop in front of the house.

5. The request could be considered to be the minimum possible variance from the side.

6. The request does not meet the purpose and intent, as the request appears to be injurious to the neighborhood and detrimental to the public welfare. They are unable to determine how they can meet the 100 foot buffer to where the chicken waste is to be stored.

Staff received eight (8) commentaries in favor and seventeen (17) commentaries in opposition to the application.

The BZA denied the variance.



Applicant: MOHAMMAD ALI

BZA Number: VA-18-06-060 **BZA Date:** 06/07/2018

District: 1

Sec/Twn/Rge: 04-24-28-SE-D

Tract Size: 166 ft. x 205 ft. (AVG)

Address: 9853 Kilgore Road, Orlando FL 32836

Location: West of S. Apopka Vineland Rd., east of Kilgore Rd.

April 09, 2018

Board of Zoning Adjustment
Orange County Zoning Division
201 S Rosalind Avenue
Orlando, FL 32801

RECEIVED
APR 12 2018
ORANGE COUNTY,
ZONING DIVISION

Re: 9853 Kilgore Road
Orlando, FL 32836
04-24-28-0000-00-061

Dear Board of Zoning Adjustment,

This is a request for a variance to the Board of Zoning Adjustment (BZA) for the property at 9853 Kilgore Road. We are requesting a minimum possible variance to make reasonable use of land possible.

Our property at 9853 Kilgore Road has a strip which is only 50 feet wide on the north side of lot yet it has a considerable length of over 200 feet. To use the strip of land without a variance the width must be almost 70 feet wide.

The strip abuts 9809, 9837 and 9769 Kilgore Road on the west side. As it is required that any structure placed must have a 30 feet setback from all property lines we are applying for a variance due to hardship with an inability to place the structure elsewhere on the property. Since the strip is only 50 feet wide we are applying for a variance with a reduced setback to place a small chicken coop for raising of poultry which is permitted in R-CE.

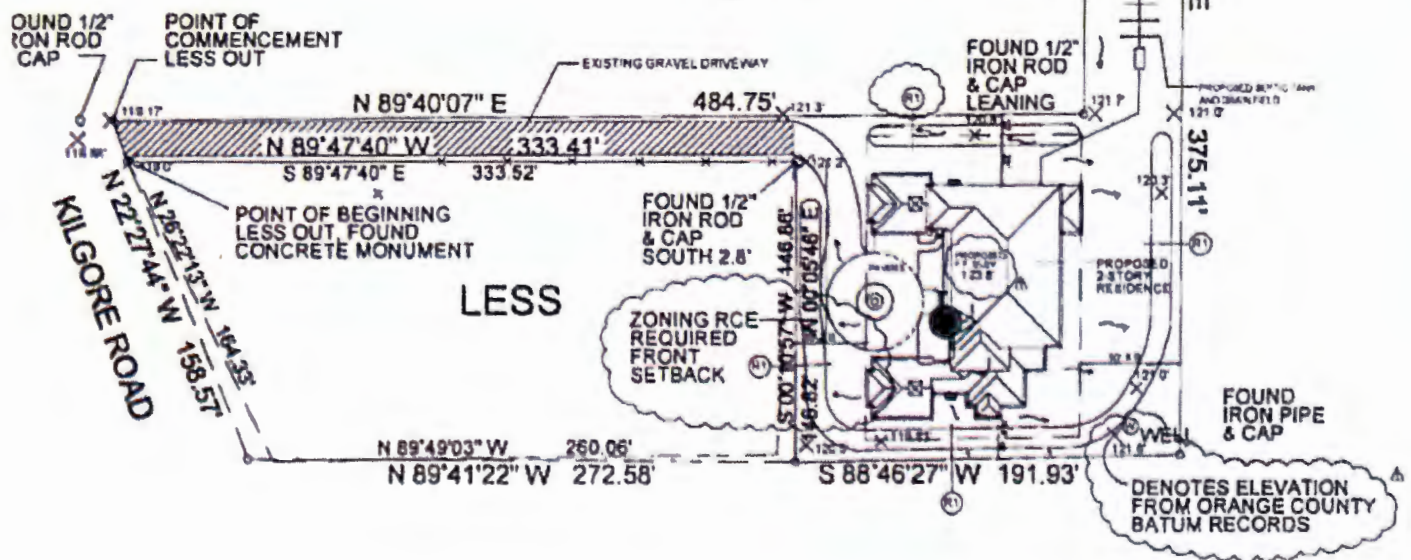
We have no objection letters from neighbors that reside at 9869, 9871, 9809 and 9769 Kilgore Road. On the west side of our property the owners of 9809 and 9769 have no objection to the reduced variance for the coop. The chicken coop will remain 30 feet away from properties on the east side which abut Camberley Circle and satisfies the setback of 30 feet.

The chicken coop will be located behind 9809 Kilgore Road and will be 12 feet away from the property line instead of 30 feet. The coop is constructed out of pressure treated outdoor wood panels which are 8 feet each along with a small chicken run. The structure including the run is only 92 square feet within a fenced area of 50 x 208 feet.

I have enclosed the complete application along with the site plan and letters from neighbors stating they have no objection.

If you have any question regarding this application, please contact me at your convenience.
Thank you for your time and consideration.

Sincerely,
9853 Kilgore Road Land Trust
9853 Kilgore Road
Orlando FL 32836





STAFF REPORT
CASE #: VA-18-06-060
Orange County Zoning Division
Planner: Nick Balevich
Board of Zoning Adjustment
June 7, 2018
Commission District: 1

GENERAL INFORMATION:

APPLICANT: MOHAMMAD ALI

REQUEST: Variance in the R-CE zoning district to allow a chicken coop 12 ft. from the property line in lieu of 30 ft.

LOCATION: West of S. Apopka Vineland Rd., east of Kilgore Rd.

PROPERTY ADDRESS: 9853 Kilgore Rd., Orlando, Florida, 32836

PARCEL ID: 04-24-28-0000-00-061

PUBLIC NOTIFICATION: 80

TRACT SIZE: 166 ft. x 205 ft. (AVG)

DISTRICT #: 1

ZONING: R-CE

EXISTING USE(S): Single Family Home

PROPOSED USE(S): Single Family Home with chicken coop

SURROUNDING USES: N - Single Family Residence
S - Single Family Residence
E - Single Family Residence
W - Single Family Residence

STAFF FINDINGS AND ANALYSIS:

1. The applicant is requesting a variance to allow an enclosure/pen for chickens to be located 12 feet from the west property line in lieu of 30 feet.

2. The property is located in the R-CE, Rural Country Estate district, which allows a single family home and associated accessory structures on minimum one (1) acre lots.
3. The R-CE zoning district allows up to twelve (12) chickens (roosters are prohibited) to be contained in an enclosure/pen located at least 30 feet from property lines.
4. Code Enforcement cited the applicant in January of 2018, for having roosters and goats, and an enclosure/pen located less than 30 feet from property lines. (CEB-2018-374603Z/Incident 499936).
5. Staff has received commentaries from neighbors in favor of the request, and commentaries against the request, expressing concerns that the proposed places, noise, and odors are closer to the neighbor's homes than that of the applicant.
6. Other locations exist on the property where the enclosure/pen can be located closer to the applicant's house, with less imposition on the neighbors and without the need for a variance.
7. Staff recommends denial of this request.
 - The applicant has not demonstrated special conditions or circumstances to justify the request.
 - The need for the variance is self-created, as the enclosure/pen is installed far from the owner's house, on a portion of the property with the most impact on the neighbors.
 - Approval would grant special privilege that is not granted to other properties in the area.
 - There are other locations on the property where the enclosure/pen can be placed without the need for a variance.

STAFF RECOMMENDATION:

Staff recommends denial of this request, however if the BZA approves the request the following conditions should be imposed:

1. Development in accordance with the site plan dated April 12, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.

2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Approval is to allow only chickens in the enclosure/pen in the location depicted on the site plan.

c: Mohammad Ali
9853 Kilgore Road
Orlando, FL 32836



ZONING DIVISION

CAROL L. KNOX, Manager

201 South Rosalind Avenue, 1st Floor • Reply To: Post Office Box 2687 • Orlando, Florida 32802-2687

(407) 836-3111 • Fax (407) 836-5507

www.orangecountyfl.net

July 16, 2018

Property owner

Mailing address

Mailing address

Mailing address

Dear Property Owner:

Mohammad Ali, 9853 Kilgore Road, VA-18-06-060, has appealed the Board of Zoning Adjustment's denial of his request for a variance. The appeal is scheduled for July 31, 2018; however Mr. Ali is not able to be present and has requested an extension to a future date. The Board of County Commissioners will consider the request for the extension at the meeting on July 31st.

If you have any questions, please contact Nick Balevich, 407-836-0092 or myself at 407-836-5806

Sincerely,

A handwritten signature in black ink, appearing to read "Sean Bailey".

Sean Bailey
Chief Planner

Bailey, Sean J (Zoning)

From: Mohammad Ali <taali2016@gmail.com>
Sent: Wednesday, July 11, 2018 11:28 AM
To: Bailey, Sean J (Zoning)
Subject: Re: FW: FW: Scheduled Public Hearing - Board of Zoning Adjustment Appeal
Attachments: image002.png

Good Afternoon Mr. Bailey,

We come back the last week of August.

Thank You.

On Mon, Jul 9, 2018, 8:21 AM <Sean.Bailey@ocfl.net> wrote:

Good Morning,

When do you get back?



Sean J Bailey | Chief Planner - BZA Section

Zoning Division

Community, Environmental, and Development Services Department

201 S Rosalind Avenue | Orlando FL | 32801

P: 407-836-5806

E: Sean.Bailey@ocfl.net | W: www.ocfl.net/bza

From: Mohammad Ali <taali2016@gmail.com>
Sent: Friday, July 6, 2018 4:58 PM
To: Bailey, Sean J (Zoning) <Sean.Bailey@ocfl.net>
Subject: Re: FW: FW: Scheduled Public Hearing - Board of Zoning Adjustment Appeal

Good Afternoon,

I am not in town that week either.

To: Gillespie, Cheryl

Subject: RE: FW: Scheduled Public Hearing - Board of Zoning Adjustment Appeal

Ok thank you.



Sean J Bailey | Chief Planner - BZA Section

Zoning Division

Community, Environmental, and Development Services Department

201 S Rosalind Avenue | Orlando FL | 32801

P: 407-836-5806

E: Sean.Bailey@ocfl.net | W: www.ocfl.net/bza

From: Gillespie, Cheryl

Sent: Thursday, July 5, 2018 4:35 PM

To: Bailey, Sean J (Zoning) <Sean.Bailey@ocfl.net>

Subject: RE: FW: Scheduled Public Hearing - Board of Zoning Adjustment Appeal

It depends on when it is published. I have sent an email to the Clerk asking for that information.

From: Bailey, Sean J (Zoning)

Sent: Thursday, July 05, 2018 3:25 PM

To: Gillespie, Cheryl

Subject: FW: FW: Scheduled Public Hearing - Board of Zoning Adjustment Appeal

Good Afternoon,

This was scheduled for the July 31st hearing and he wants to be continued, can we re-schedule this?

Thanks,

201 S Rosalind Avenue | Orlando FL | 32801
P: 407-836-5806
E: Sean.Bailey@ocfl.net | W: www.ocfl.net/bza

-----Original Message-----

From: DoNotReply@Granicus.com <DoNotReply@Granicus.com>
Sent: Thursday, June 28, 2018 12:57 PM
To: Bailey, Sean J (Zoning) <Sean.Bailey@ocfl.net>
Subject: Scheduled Public Hearing - Board of Zoning Adjustment Appeal

This email is for Informational Purposes Only.

File 18-844 is scheduled for a Public Hearing on 7/31/2018.

Board of Zoning Adjustment Appeal

Appellant: Mohammad Ali, Case # VA-18-06-060, June 7, 2018; District 1

Please visit the Comptroller's InSite page at <https://occompt.legistar.com/Calendar.aspx> to access the public hearing notice and additional supporting documentation associated with the file.

For questions, please contact the Clerk of the Board office at clerkofbcc@occompt.com or 407-836-7300.

PLEASE NOTE: Florida has a very broad public records law (F. S. 119).
All e-mails to and from County Officials are kept as a public record.
Your e-mail communications, including your e-mail address may be disclosed to the public and media at any time.

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