

**Interoffice Memorandum
Zoning Division**

DATE: March 20, 2019

TO: Katie A. Smith, Deputy Clerk of the
Board of County Commissioners,
County Comptroller's Office

THROUGH: Cheryl Gillespie, Supervisor,
Agenda Development Office

FROM: Carol L. Knox, Manager, Zoning Division

CONTACT PERSON: **Sean Bailey, Chief Planner**
Zoning Division 407-836-5806
Sean.Bailey@ocfl.net

SUBJECT: Request for Public Hearing before Board of
County Commissioners (BCC) to Consider Appeal
of December 6, 2018 Board of Zoning Adjustment
(BZA) Recommendation on BZA Case # VA-19-
03-010

Applicant: Dr. Francelis Gonzalez/Frank Case

Appellant(s): Fernando Mariano

Case Information: Case # VA-19-03-010: March 7, 2019

Type of Hearing: Board of Zoning Adjustment Appeal

Commission District: 1

General Location: East end of Scenic Oak Court, north of Boca Point
Drive and west of South Apopka Vineland Road.

**BCC Public Hearing
Required by:** Ch. 30, Orange County Code

**Clerk's Advertising
Requirements:** (1) At least 15 days before the BCC public hearing
date, publish an advertisement in the Legal

May 21, 2018
@ 2pm

Notices section of *The Orlando Sentinel* describing the particular appeal, the general location of the subject property, and the date, time, and place when the BCC public hearing will be held;

and

(2) At least 10 days before the BCC public hearing date, send notices of BCC public hearing by U.S. mail to owners of property within 300 feet of the subject property and beyond.

Advertising Language: Variance in the R-L-D zoning district to allow a rear (north) setback of 31 ft. in lieu of 50 ft.

Material Provided:

- (1) Names and last known addresses of property owners within 300 feet and beyond (*via email from Fiscal and Operational Support Division*);
- (2) Location map (*to be mailed to property owners*); and
- (3) Copy of appellant's notice of appeal (*to be mailed to property owners*).

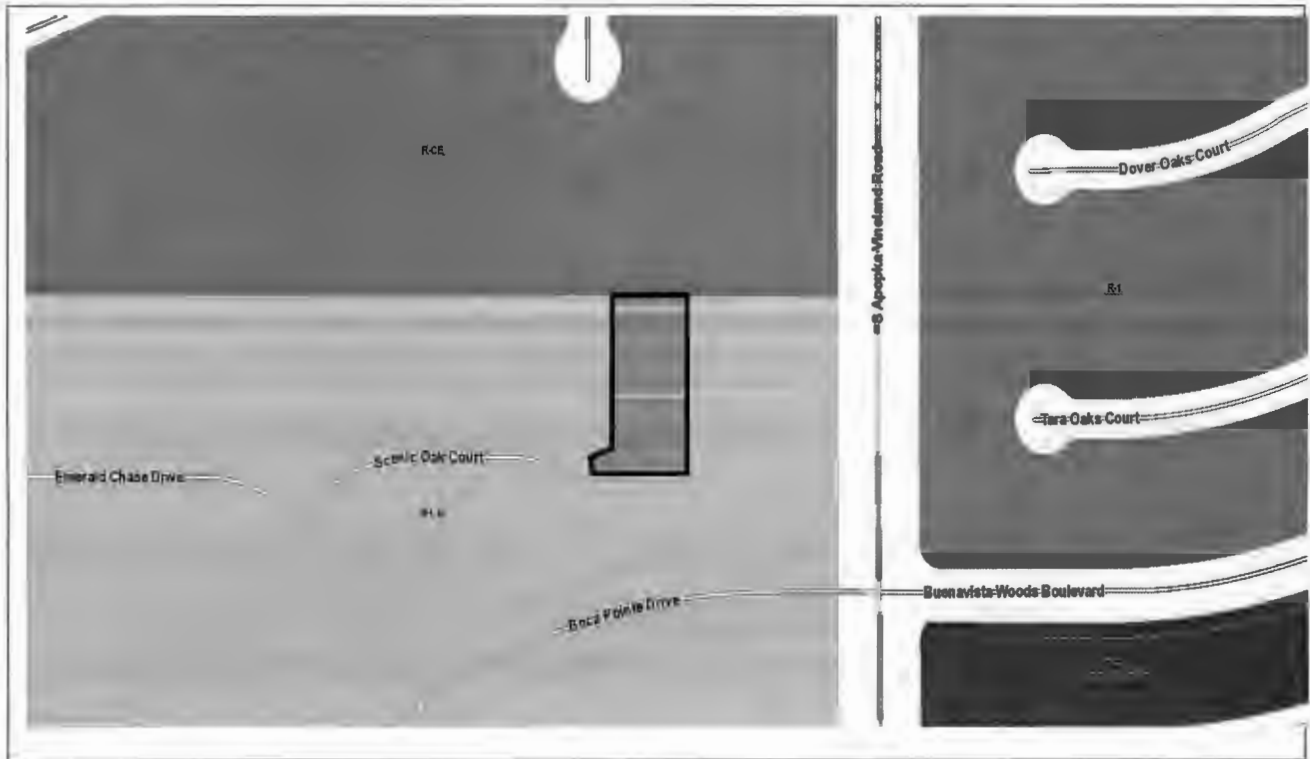
Special Instructions to the Clerk:

- (1) The BCC public hearing must be held within 45 days after March 19, 2019, which was the date the notice of appeal was filed, or as soon thereafter as the BCC's calendar reasonably permits.
- (2) Unless stated otherwise, the public hearing should be advertised to begin at 2:00 p.m., or as soon thereafter as the matter may be heard.

Attachments (location map and notice of appeal)

c: Chris R. Testerman, AICP, Assistant County Administrator
Jon V. Weiss, Director, Community Environmental Development Services
Department

ZONING MAP



AERIAL MAP



**If you have any questions
regarding this map, please call
Sean Bailey
at 407.836.5806.**

Fernando Mariano

March 19, 2019

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

Dear Members of the Board,

I respectfully file this appeal to the decision taken during the Public Hearing held on March 7, 2019, regarding the Variance Request no. VA-19-03-010, to reduce the rear setback of the house located at 8701 Scenic Oak Court in Turtle Creek subdivision, from 50 ft. to 31 ft. I indulge your attention to refuse the recommendation approved during that meeting, considering reasons 1 to 6, plus important additional points noted below, and enclosed documents.

Reasons 1 to 6:

1. The staff of the BZA that analyzed the case recommended on the record the denial of such variance, based on facts investigated and presented by them.
2. The meeting ignored the petition filled on March 5 by our attorney Mr. Scott Baker (Doc. 1). My assistance confirmed on the same day with the assistant to Mr. Nick Balevich that the petition has been properly received. During the meeting however there was no mention to it.

Among other points, our attorney Mr. Scott Baker, who has nearly three decades of practice and land use law and is a member of the real estate board of the Bar Association, highlighted that for such variance to be approved it would need to meet all of the six standards outlined in Section 30-43(3) of the Orange County Code – none were met:

- Special Conditions and Circumstances Do Not Exist;
- There is No Deprivation of Rights Commonly Enjoyed by Others in the Same Zoning District;
- The Special Conditions and Circumstances Result from the Actions of the Applicant;
- Granting the Variance Requested Will Confer on the Applicant a Special Privilege Denied to Others in the Same District;
- The Variance is Not the Minimum Variance that will Make Possible the Reasonable Use of the Land, Building or Structure; and
- The Granting of the Variance is Not in Harmony with the General Purpose and Intent of the Zoning Ordinance, and Will Be Injurious to the Neighborhood.

3. The vice-chair in charge allowed the 3 people interested in the approval – the homeowner Dr. Gonzalez, her husband and her General Contractor – to speak. However, to the best of my recap, they did not start the 3-minute timer for any of them.
4. They counted the 3-minute timer only for me, and were going to cut the microphone right when I finished my points, within exactly these 3-minute timeframe.
5. The new building proposed by Dr. Gonzalez has windows on all sides, even on the 2nd floor (Docs. 2 and 3). This will eliminate the current privacy that my family, other neighbors and even users of the Turtle Creek recreation area experience.

Fernando Mariano

6. The HOA association did not answer in writing to Dr. Gonzalez HOA request before the meeting, as Dr. Gonzalez had promised to the BZA (Doc. 4).

Important Additional Points:

My wife and I are the owners of the house located at 8707 Scenic Oak Court, next door to the house of Dr. Gonzalez. We bought this house, which was built well before the rear setback limit of 50 ft in 2001, at least two years before Dr. Gonzalez bought the lot and started building her huge house.

Dr. Gonzalez's house is already one of the biggest in Turtle Creek, with 5,400 sq. ft. of air conditioning area. It includes 5 bedrooms and 5 bathrooms. This over 2,000 sq. ft. 2-story construction that Dr. Gonzalez is planning represents an additional 40% of air conditioning area, to a total of more than 7,500 sq. ft. It is to note that if this request is approved there is nothing that will prohibit Dr. Gonzalez now or in the future to double such current expansion up to almost 10,000 sq. ft. of air conditioning area. She lives solo with her husband in that house.

I moved to Orlando in 1991 to create Multimedia, Inc., for many years already one of the most important media representative companies in the country. We represent on an exclusive worldwide basis leading newspapers and digital media from all over the world, as you may verify on our website – www.multimediausa.com – employing at our highest level more than 15 local people.

My wife and I celebrate this coming October our 40th Wedding Anniversary. We are happy members of the Orlando community and live in this great Turtle Creek subdivision since 2001, the same year that we proudly became American citizens. My wife is a longtime volunteer at the Give Kids The World Foundation.

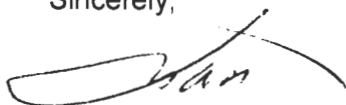
I followed Dr. Gonzalez's construction since the very beginning and may affirm you that it is just not true that Dr. Gonzalez did not know about the rear setback limit as her General Contractor states (Doc. 5). I personally heard from construction workers that Dr. Gonzalez decided to build up to the limit of 50 ft. If this GC is a new provider for Dr. Gonzalez he is misinformed. If he is the builder, he is just not recapping things that happened over 15 years ago. It is to highlight, as I had mentioned above, that our house was built, as others in our street, well reasonably away from that 50 ft. rear setback (Doc. 6).

More than one time Dr. Gonzalez promoted social parties without caring for her neighbors, with high volume music. Once we had to call the police to stop the high volume music late evening. The next day my wife had to pick up empty alcohol containers and cups thrown by Dr. Gonzalez's guests over the fence into our lot. Of course the Orlando Police has records about this case.

If this request is granted it will devalue every property in our street and will create a precedent that will degrade Turtle Creek as a whole.

Thank you for your attention. I sincerely hope that the Board of County Commissioners deny this Variance Request.

Sincerely,



Fernando Mariano

*8707 Scenic Oak Court - Water's Edge at Turtle Creek
Orlando, FL 32836-5850 USA
Tel. 1407-876-6627*