

Orange County Zoning Division

VA-19-03-010

APPLICANT:

DR. FRANCELIS GONZALEZ

APPELLANT:

FERNANDO MARIANO

MAY 21, 2019

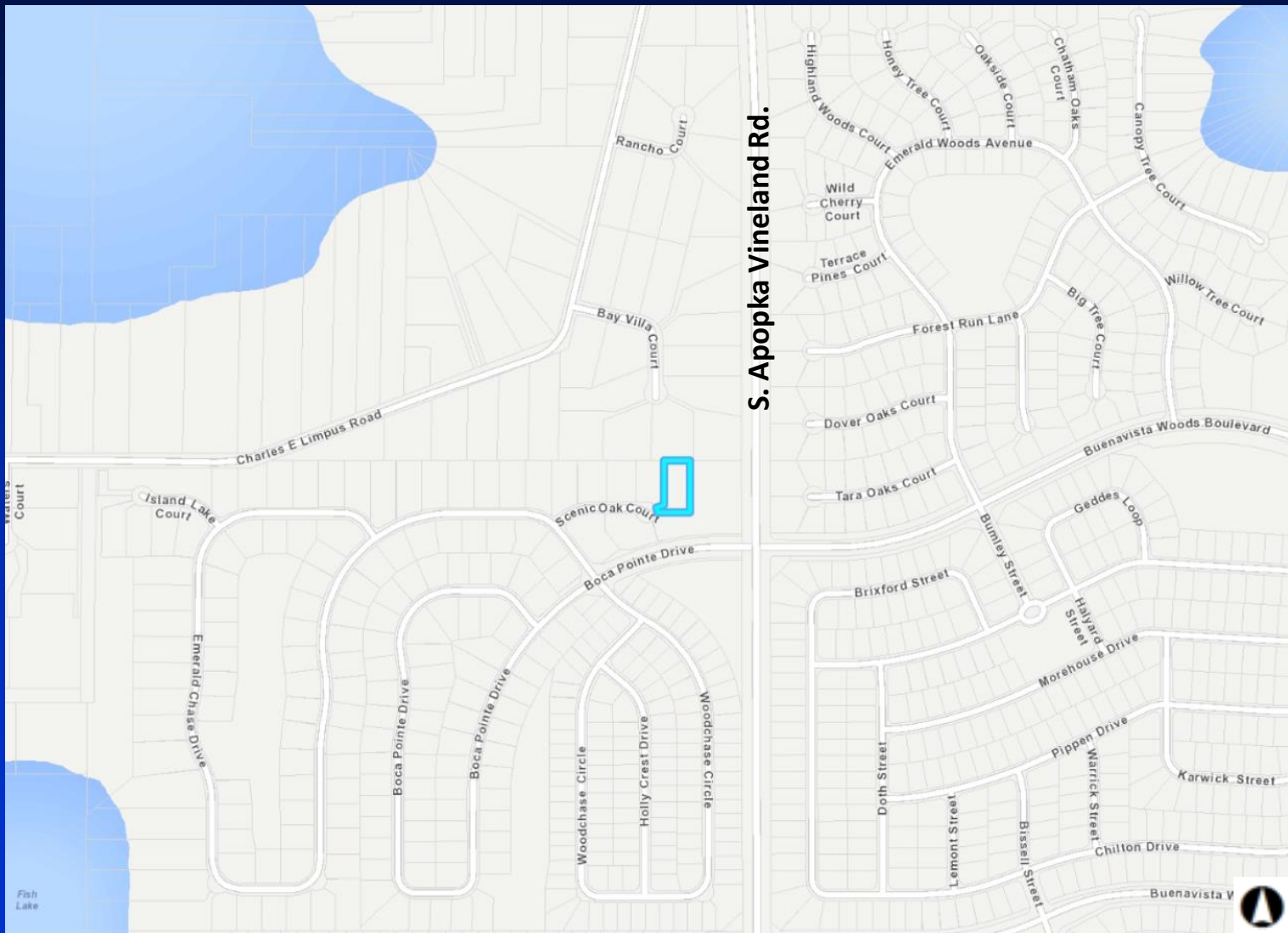


Background

CASE:	VA-19-03-010
APPLICANT:	DR. FRANCELIS GONZALEZ
ZONING:	R-L-D, Residential Low Density District
FUTURE LAND USE:	LDR, Low Density Residential (4 du/ac)
ADDRESS:	8701 Scenic Oak Ct., Orlando, FL 32836
LOCATION:	East end of Scenic Oak Ct., north of Boca Point Dr. and west of S. Apopka Vineland Rd.
TRACT SIZE:	124 ft. x 222 ft. (avg.)/.57 acres
DISTRICT:	1
REQUEST:	Variance in the R-L-D zoning district to allow a rear (north) setback of 31 ft. in lieu of 50 ft.



Location Map



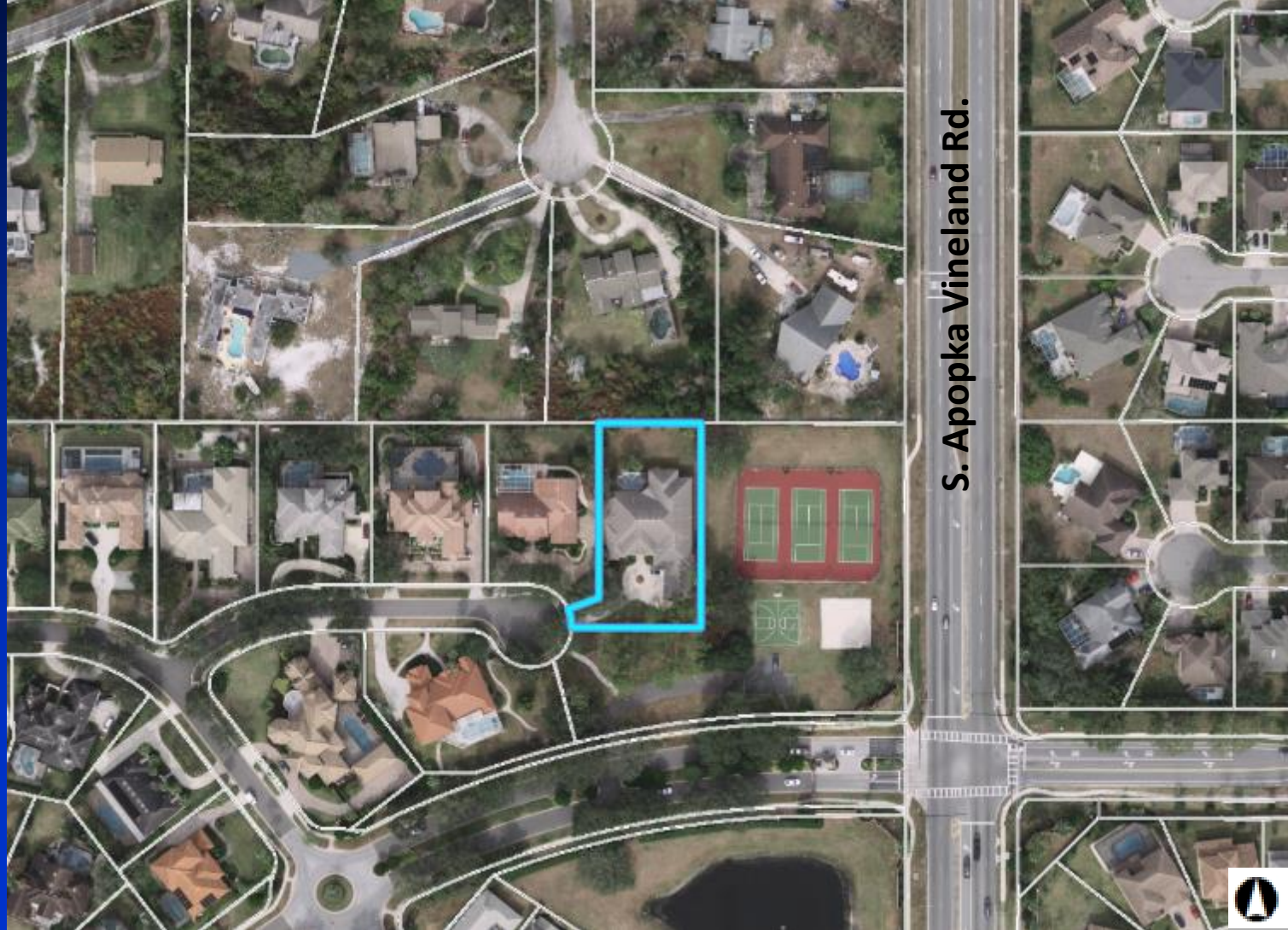


Zoning Map



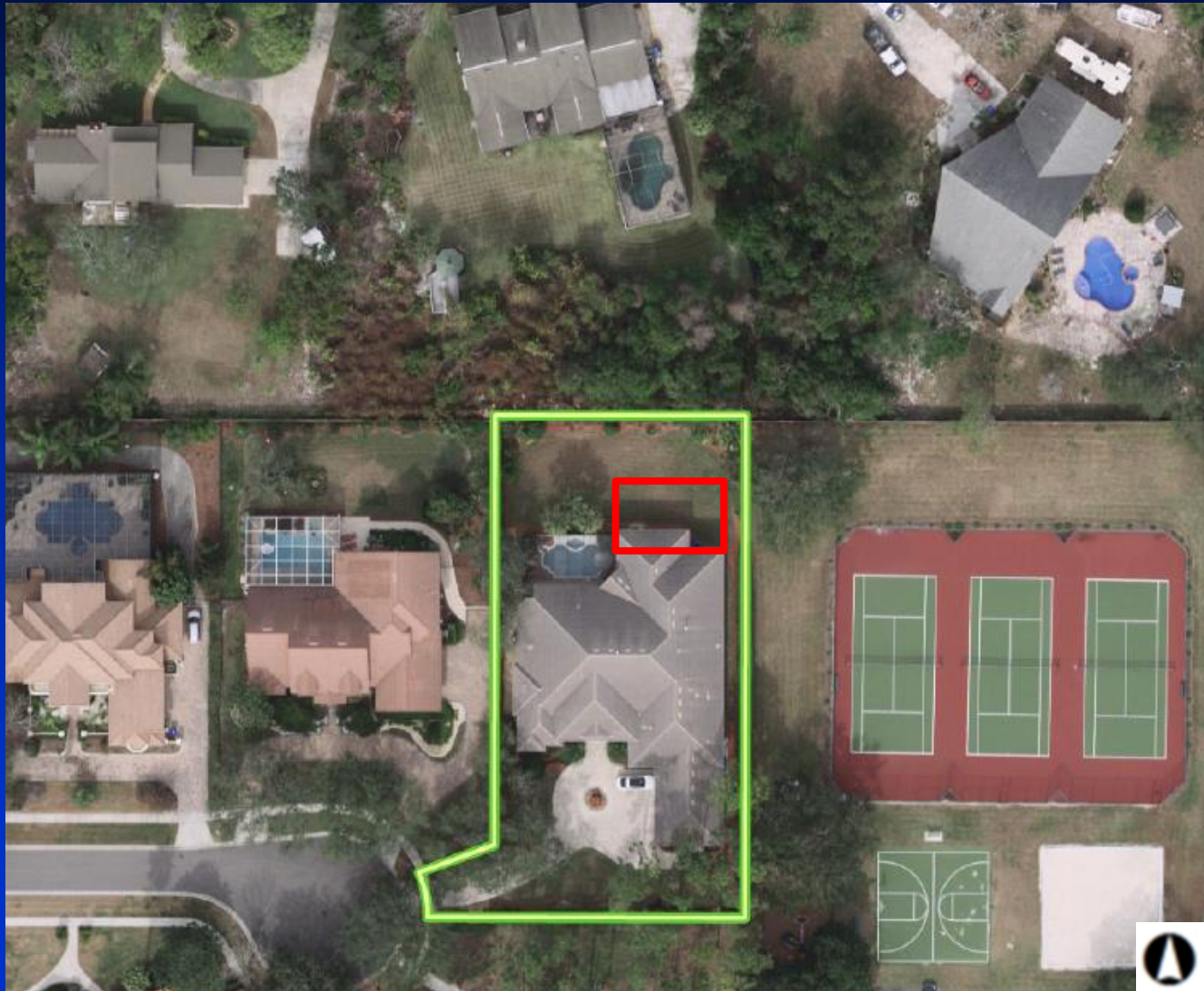


Aerial Map





Close-Up Aerial Map



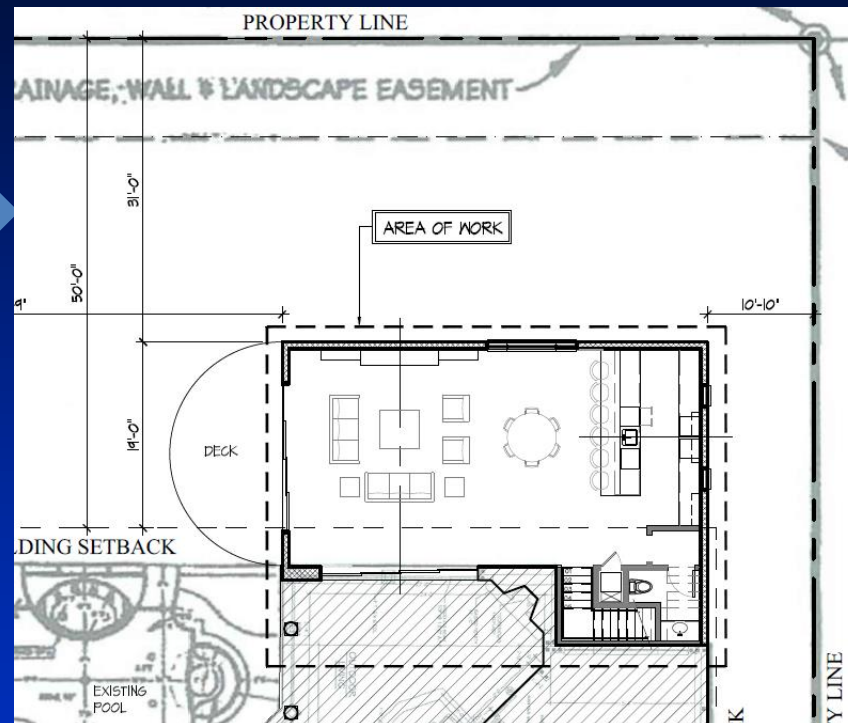
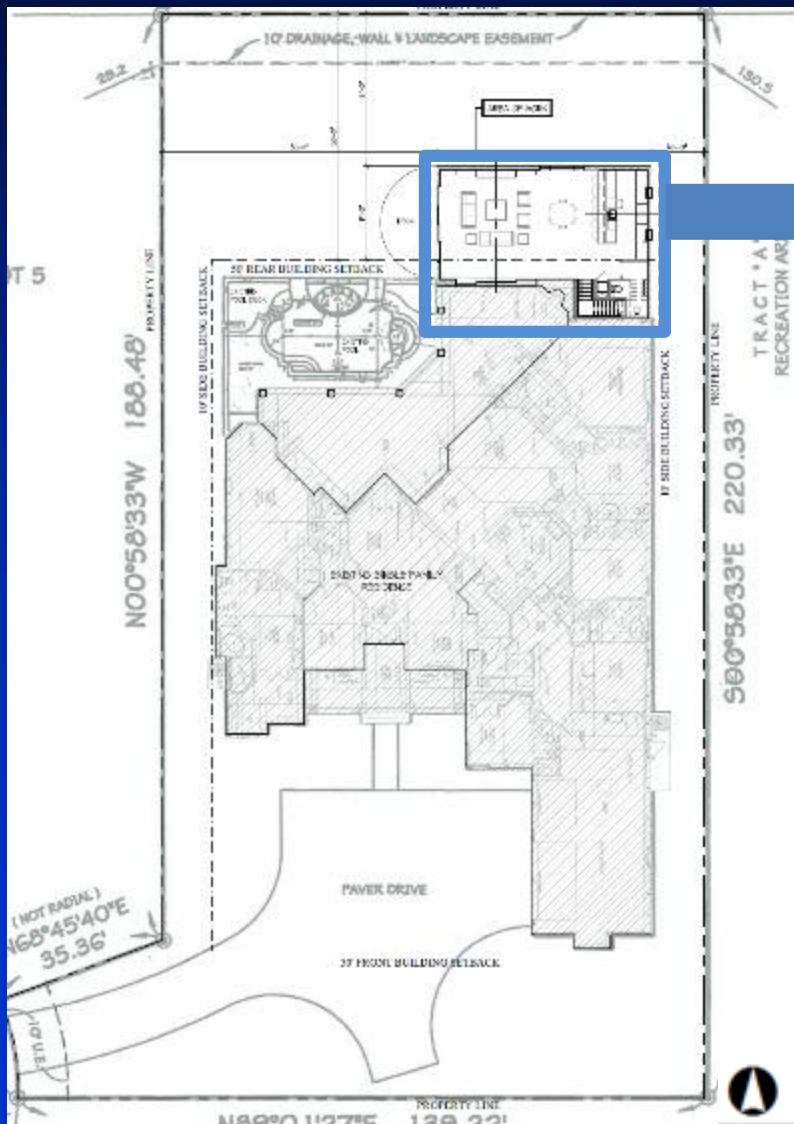


History

- **September 1994 – Property was re-zoned from R-CE to R-L-D**
- **November 1994 – Turtle Creek R-L-D Development Plan approved**
- **April 1996 – Turtle Creek PSP approved**
- **May 2004 – The applicant purchased the property**
- **May 2004 – The home and swimming pool were constructed**

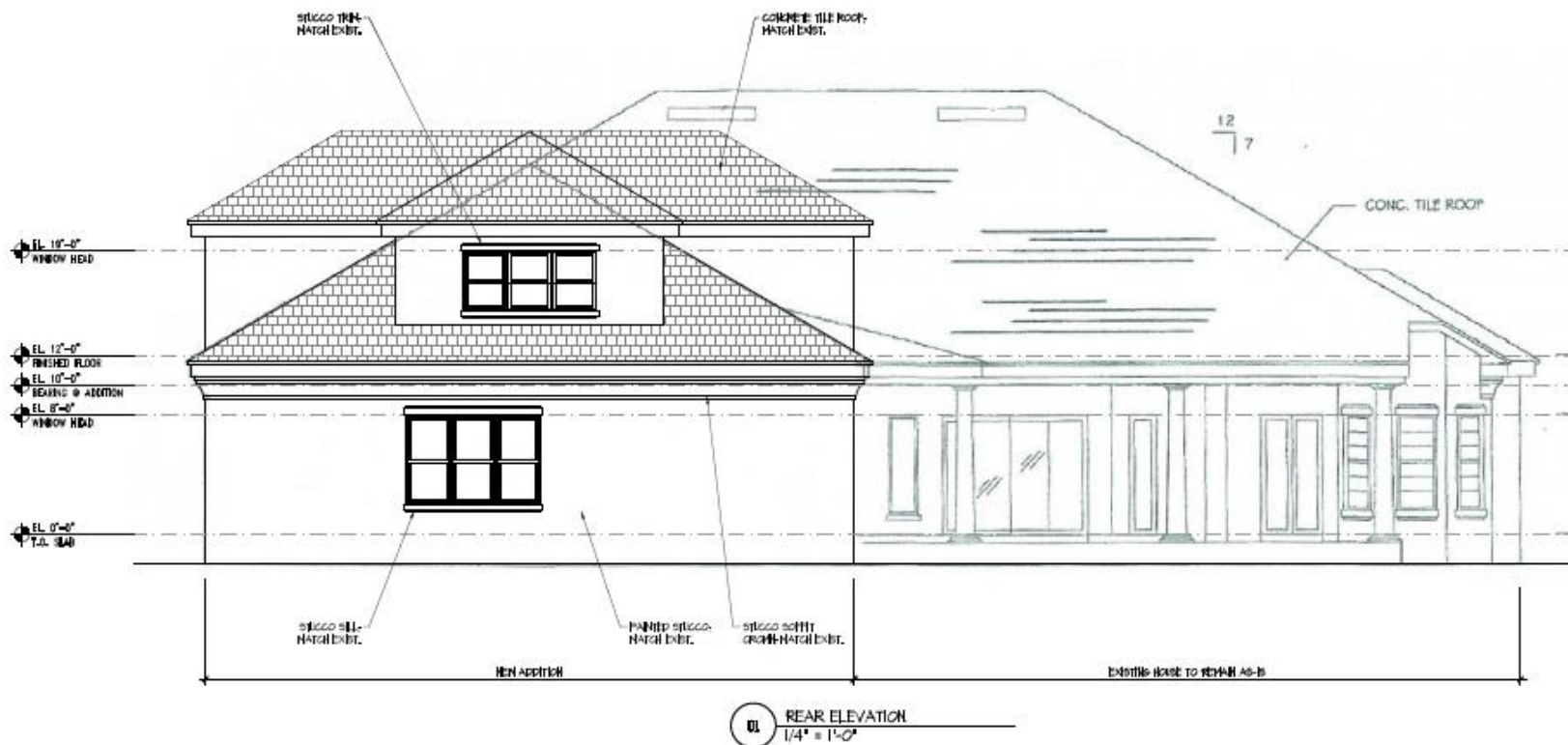


Site Plan





Building Elevations





Building Elevations





Site Photograph

Front view from Scenic Oak Ct.





Site Photograph

Rear yard looking east





Site Photograph

Rear yard





Site Photograph

Rear yard looking west





Staff Findings and Analysis

- The property is located in the R-L-D zoning district with an additional restriction to provide compatibility with the adjacent R-CE zoning district to the north.
- The lot was platted in 1996, as lot 4 in the Turtle Creek Subdivision and is considered to be a conforming lot of record.
- There is an existing 7,978 sq. ft. single family home with an attached three car garage and swimming pool on the lot, all constructed in 2004.
- The applicant is proposing to construct a 2,112 sq. ft. two story addition to the rear of the house, which will be 31 ft. from the rear property line. The existing home sits at the 50 ft. setback line.



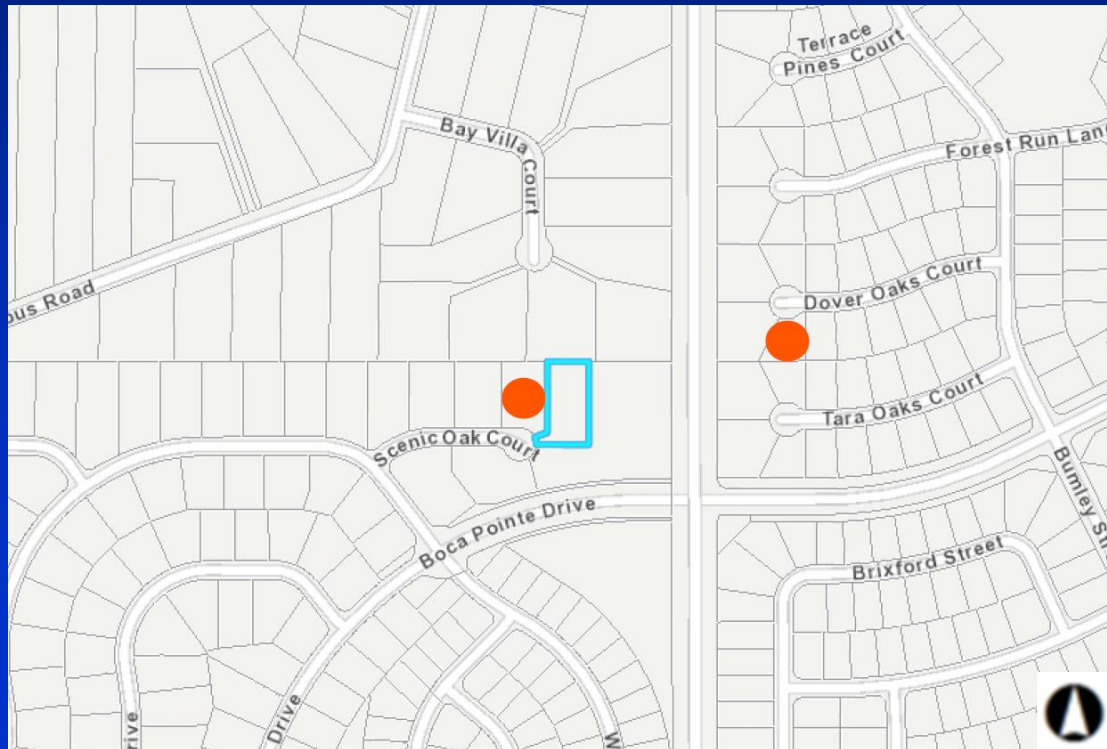
Staff Findings and Analysis

- The request constitutes a 38% deviation from code. Per code, the required rear setback for the R-L-D District is 15 ft., however in an effort to match the R-CE zoning to the north, a 50 ft. setback was required by the Planning and Zoning Commission for lots 4-21 which abut the R-CE zoning district.
- There are other options that would allow the applicant to construct an addition without the need for a variance.
- Staff recommended denial of the request as it did not meet the criteria for a variance as they were no special conditions unique to this lot, allowing the variance would confer a special privilege, the applicant would not be deprived of any rights, and the request does not meet the purpose and intent of the code.



Public Feedback

- Mailed 58 notices to property owners within 500 ft. radius of the property:
 - Staff received 0 letters in support of the request.
 - Staff received 2 letters in opposition to the request.





Variance Criteria

Section 30-43 (3), Orange County Code

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for zoning variance shall be approved unless the Board of Zoning Adjustment finds that all of the following standards are met:

1. Special Conditions and Circumstances - Special conditions and circumstances exist which are peculiar to the property and which are not applicable to other properties
2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant
3. No Special Privileges Conferred - Approval will not confer on the applicant any special privilege
4. Deprivation of Rights - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district
5. Minimum Possible Variance - The minimum variance that will make possible the reasonable use of the land, building, or structure
6. Purpose and Intent - Approval will be in harmony with the purpose and intent of this Chapter and will not be injurious to the neighborhood



BZA Findings

- The 50 ft. rear setback only applied to properties along the north perimeter of the subdivision. Interior properties in the same subdivision were not subjected to this setback.
- The property abuts recreation area/tennis courts to the east (no neighbor).
- The R-L-D zoning district encourages creative innovative design.
- BZA recommend approval of the request with a 6-1 vote.



Conditions of Approval

1. Development in accordance with the site plan and elevations dated January 16, 2019, 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 County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.



Requested Action

- Approve the applicant's request; or
- Approve the applicant's request with modifications and/or conditions; or
- Deny the applicant's request.

***Any approval is subject to standard conditions of approval.**



Previous BZA Approvals

Rear setback variance of
33 ft. in lieu of 50 ft.
(2002)

