



Interoffice Memorandum

DATE July 12, 2019

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

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

CONTACT PERSON: Jennifer Moreau, AICP, Zoning Manager, Zoning Division
407-836-5856

SUBJECT: August 6, 2019 – Board Called Public Hearing
Applicant: Greyfox Construction Corp.
BZA Case #VA-19-06-058, June 6, 2019; District 1

Board of Zoning Adjustment (BZA) Case # VA-19-06-058, located at Downs Cove Rd., in District 1, is a Board called public hearing to be heard on August 6, 2019. The applicant is requesting variances to allow the construction of a single-family home with a minimum lot width of 45 ft. in lieu of 130 ft., minimum lot size of 0.14 acres in lieu of 1 acre, front setback of 15 ft. in lieu of 35 ft., east side setback of 7 ft. in lieu of 10 ft., and rear setback of 7 ft. in lieu of 50 ft.

The subject property is located south of Downs Cove Rd., west of S. Apopka Vineland Rd.

At the June 6, 2019, BZA hearing, staff recommended approval of variances #1 and #2, and denial of variances #3, #4 and #5. The BZA stated that the lot is unbuildable due to the unique shape and size, and that the design of the home fits in with the area. The BZA approved all the requested variances with a 7-0 vote.

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

If you have any questions regarding this matter, please contact Jennifer Moreau at 407-836-5856.

ACTION REQUESTED: Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or deny the applicant's request. District 1.

**PLANNING, ENVIRONMENTAL DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
August 6, 2019**

The following is a public hearing before the Board of County Commissioners on August 6, 2019 at 2:00 p.m.

APPELLANT/APPLICANT: GREYFOX CONSTRUCTION CORP.

REQUEST: Variances in the R-CE zoning district to construct a single family home as follows:
1) To allow a minimum lot width of 45 ft. in lieu of 130 ft.
2) To allow a minimum lot size of .14 acres in lieu of 1 acre
3) To allow a front setback of 15 ft. in lieu of 35 ft.
4) To allow a side setback (east) of 7 ft. in lieu of 10 ft.
5) To allow a rear setback of 7 ft. in lieu of 50 ft.

LOCATION: Downs Cove Rd., Windermere, FL 34786, South of Downs Cove Rd., east of S. Apopka Vineland Rd.

TRACT SIZE: 45 ft. x 102 ft. (avg.) / .14 acres

ZONING: R-CE

DISTRICT: #1

PROPERTIES NOTIFIED: 36

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

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

The applicant stated that the property used to be an orange grove, then a fish camp, and now the owner wants to use it for family to stay and to store items.

A neighbor spoke in support of the case and had questions about access to the road.

The BZA agreed that the lot had a unique shape and felt that the slope of the lot was also a unique circumstance. The BZA noted that the setback requirements are extreme, so variances are needed, and they felt that it will be beneficial to have a structure on the property.

Staff received three (3) commentaries in favor of the application, and none in opposition to the application.

The BZA approved the variances.

BZA HEARING DECISION:

A motion was made by Carolyn Karraker, seconded by Wes A. Hodge and unanimously carried to APPROVE the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous):

1. Development in accordance with the site plan and elevations dated April 17, 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.
4. All unpermitted structures on the property shall be removed prior to issuance of permits.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 06, 2019**
Case #: **VA-19-06-058**

Case Planner: **Nick Balevich**
Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): GREYFOX CONSTRUCTION CORP.

OWNER(s): HOLLOWAY CHAD D.

REQUEST: Variances in the R-CE zoning district to construct a single family home as follows:

- 1) To allow a minimum lot width of 45 ft. in lieu of 130 ft.
- 2) To allow a minimum lot size of .14 acres in lieu of 1 acre
- 3) To allow a front setback of 15 ft. in lieu of 35 ft.
- 4) To allow a side setback (east) of 7 ft. in lieu of 10 ft.
- 5) To allow a rear setback of 7 ft. in lieu of 50 ft.

PROPERTY LOCATION: Downs Cove Rd., Windermere, FL 34786, south of Downs Cove Rd., east of S. Apopka Vineland Rd.

PARCEL ID: 09-23-28-2196-02-002

LOT SIZE: 45 ft. x 102 ft. (avg.) /0.14 acres

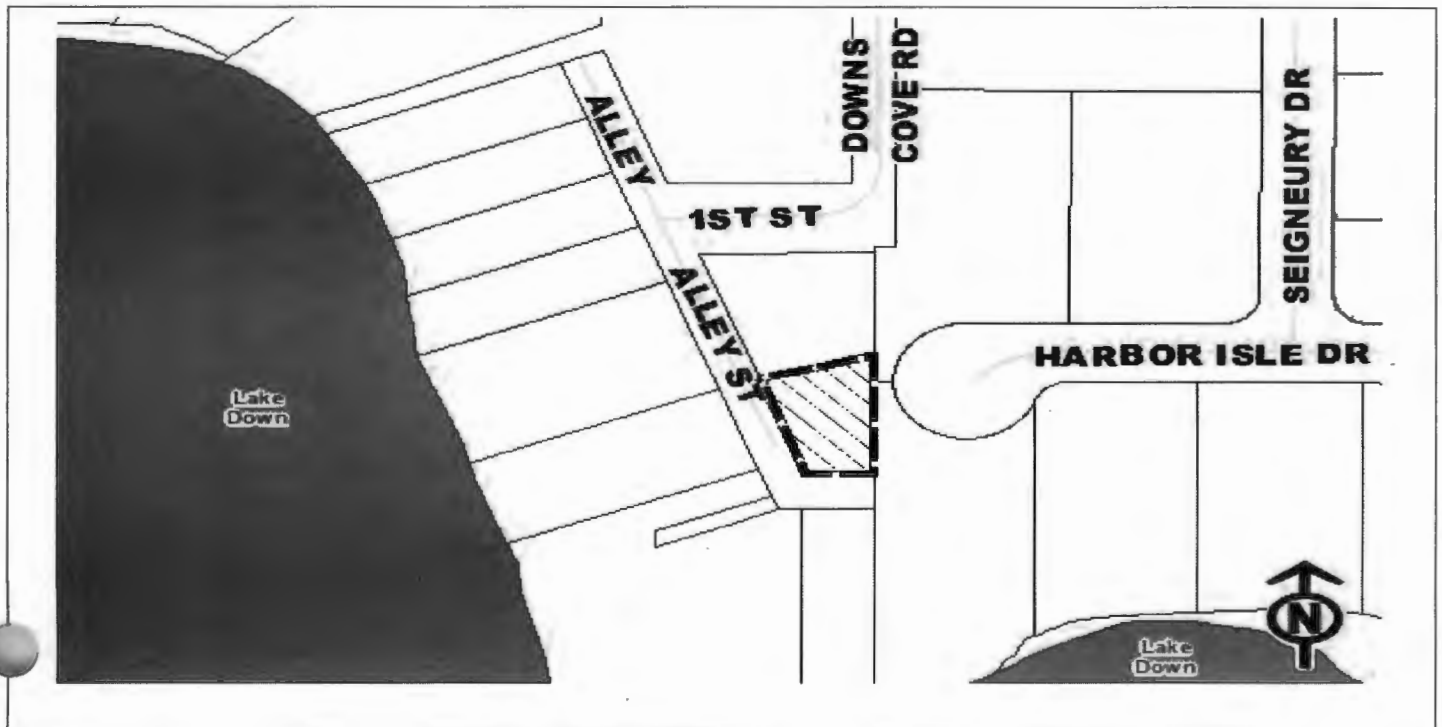
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 36

STAFF RECOMMENDATIONS

Approval of Variances #1 and #2, and denial of Variances #3, #4, and #5, however if the BZA recommends approval then staff recommends the conditions of approval found in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-CE	R-CE	R-CE	R-CE-C	R-CE
Future Land Use	RS 1/1	RS 1/1	RS 1/1	RS 1/1	RS 1/1
Current Use	Accessory buildings	Single family residence	Single family residence	Vacant	Single family residence

BACKGROUND AND ANALYSIS

Description and Context

The subject property is zoned R-CE, Country Estate, which allows for primarily single family development on one acre lots and certain rural uses.

The lot is a uniquely shaped triangular lot with frontage on a substandard alley on two sides. It was platted in 1945 as Block "B", and was subdivided without approval prior to 1996, and is thus considered to be a substandard lot (the southern portion of Block "B"). There are currently two accessory structures on the property. Staff could not locate permits for these structures, which would not be permitted prior to construction of a principal structure. The applicant is proposing to construct a 4,327 sq. ft. 2 story house with basement on the property.

The property is located in the Downs Cove Camp Sites Plat, which is comprised of single family homes.

In 1988, the BZA granted variances for the northern portion of Block "B" to allow a front setback of 25 ft. in lieu of 35 ft., and a rear setback of 30 ft. in lieu of 50 ft. This property is significantly wider and is 0.23 ac., which is almost double the size of the subject property, and the variances granted were significantly less than the current request. This site contains a 2,135 sq. ft. house (built in 1988) which is also less than the current request.

Multiple variances have been granted in the area for setbacks with less deviation than the current request.

If required setbacks were complied with, then a single story house with approximately 800 sq. ft. could be constructed on the site. The R-CE zoning requires a minimum living area of 1,500 sq. ft. This square footage could be met with a 2 story house. The current request is excessive in amounts requested and in relation to the small size of the lot.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	31 ft.
Min. Lot Width:	130 ft.	45 ft.
Min. Lot Size:	1 ac.	0.14 ac.

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	35 ft.	15 ft.
Rear:	50 ft.	7 ft.
Side:	10 ft.	7 ft.
Sidestreet:	15 ft.	20.4 ft.

STAFF FINDINGS

VARIANCE CRITERIA for Approval of Variances #1 and #2**Special Conditions and Circumstances**

The lot is a uniquely shaped triangular lot with a substandard width and size. These variances will be required to develop the lot.

Not Self-Created

The property was in this configuration when the applicant purchased it in 2013.

Deprivation of Rights

Literal interpretation of the code will deprive this applicant of the right to develop the property.

Minimum Possible Variance

These variances are necessary to allow the applicant to develop the property in the current configuration.

VARIANCE CRITERIA for Denial of Variances #3, #4, and #5**Special Conditions and Circumstances**

The lot is a uniquely shaped, however a portion of the property could be developed with a smaller 2 story house without variances.

Not Self-Created

The size and location of the proposed house causes the need for variances. If the applicant redesigned the site to maximize the 15 ft. side street setback, the site could be developed without variances or with lesser variances.

Minimum Possible Variance

These are not the minimum possible variances to allow the applicant to develop the property. Lesser variances could be requested. The applicant could build a smaller home than requested.

Purpose and Intent

Approval of this request as submitted will not be in harmony with the purpose and intent of the Zoning Regulations. The request is not consistent with other variances granted and with the pattern of development in the area.

CONDITIONS OF APPROVAL

1. Development in accordance with the site plan and elevations dated April 17, 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.
4. All unpermitted structures on the property shall be removed prior to issuance of permits.

c: GreyFox Construction Corp
1313 Green Forest Ct.
Winter Garden, FL 34787

COVER LETTER

Greyfox Construction Corp
1313 Green Forest Ct Suite 211
Winter Garden, FL 34787
(P) 407.753.4710



April 17, 2019

Orange County Zoning Division
201 South Rosalind Ave, 1st Floor
Orlando, FL 32801
407-836-3111 | BZA@ocfl.net

Subject: BZA Variance Application, Parcel ID: 09-23-28-2196-02-002

This variance request is on behalf of my client, Chad Holloway whom primary residence is across the street from the parcel identified above at 3266 Downs Cove Rd, Windermere, FL 34786. The purpose of this variance is to construct a 2-story single family residence (SFR) across the street from the owner's primary residence, made of concrete with wooden cladding and metal roofing. The proposed structure is 4,327 square feet. The proposed set backs are: Front 15-ft, Sides 5.5-ft, and Rear 5.5-ft. The overall proposed height above grade is: 31-ft.

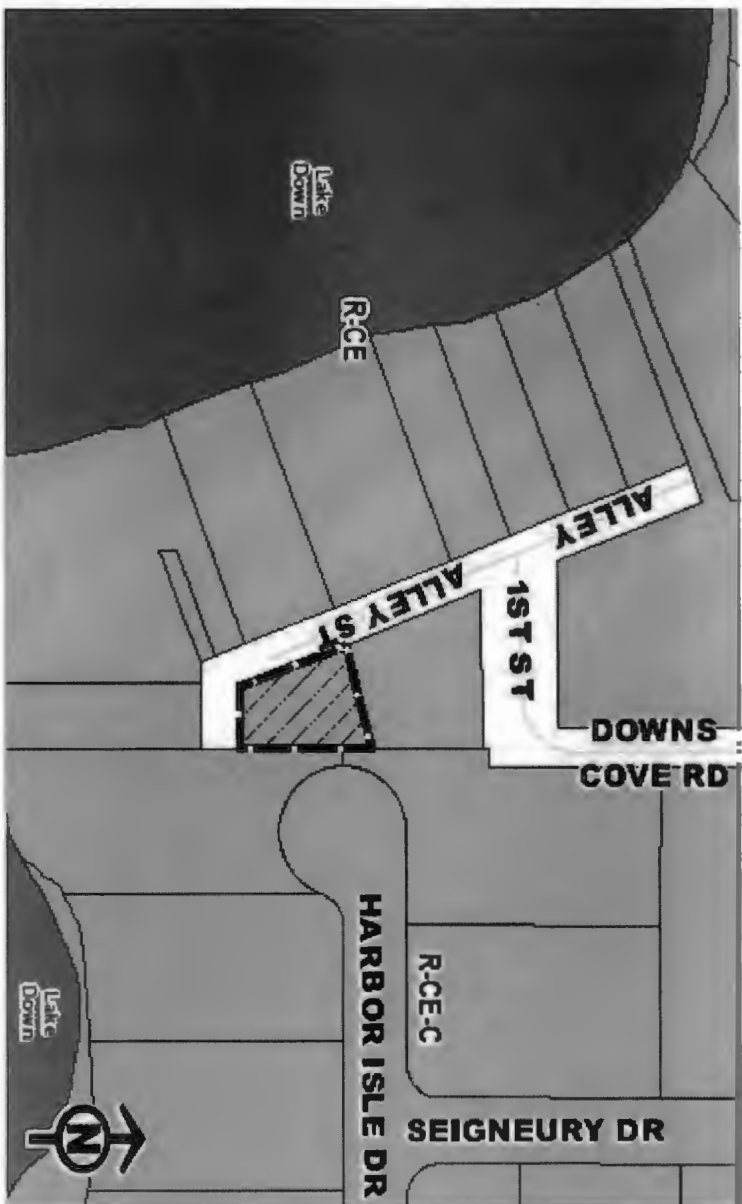
The parcel is 0.14 acres and currently zoned R-CE, with a minimum dimension and sizes of: lot area 1 acre, living area: 1,500 sq. ft., width 130-ft, front yard 35-ft, rear yard 50-ft, side yard 10-ft, max building height 35-ft.

The proposed land improvement meets the variance criteria (OCC sec 30-43 (3)), and explained in detail in the below analysis. Special Condition and Circumstance exist where the parcel is of such size and position that it is unusable in its current zoning condition. Currently the parcel contains a storage shed and well house, leaving the balance of the land vacant without purpose on an otherwise fully developed neighborhood street. The rear of the property abuts a fence that opposes a cul-de-sac in a neighboring community and not a private home. This condition is not self-created our client purchased the property its current configuration and did not split or otherwise modify the size of the parcel. This variance would not confer a special privilege to our client as there examples of similarly approved variances adjacent to this parcel, specifically the parcel to the immediate north (parcel ID: 09-23-28-2196-02-001). This variance request is within the rights of our client to us and improves their property to it fullest while conforming with the look, feel, and harmony of the community. This request is the minimum needed to make use of the property while blending with the neighboring structures, purpose and intended uses.

Sincerely,

Erich McCartney
Greyfox Construction Corp
CGC1526119

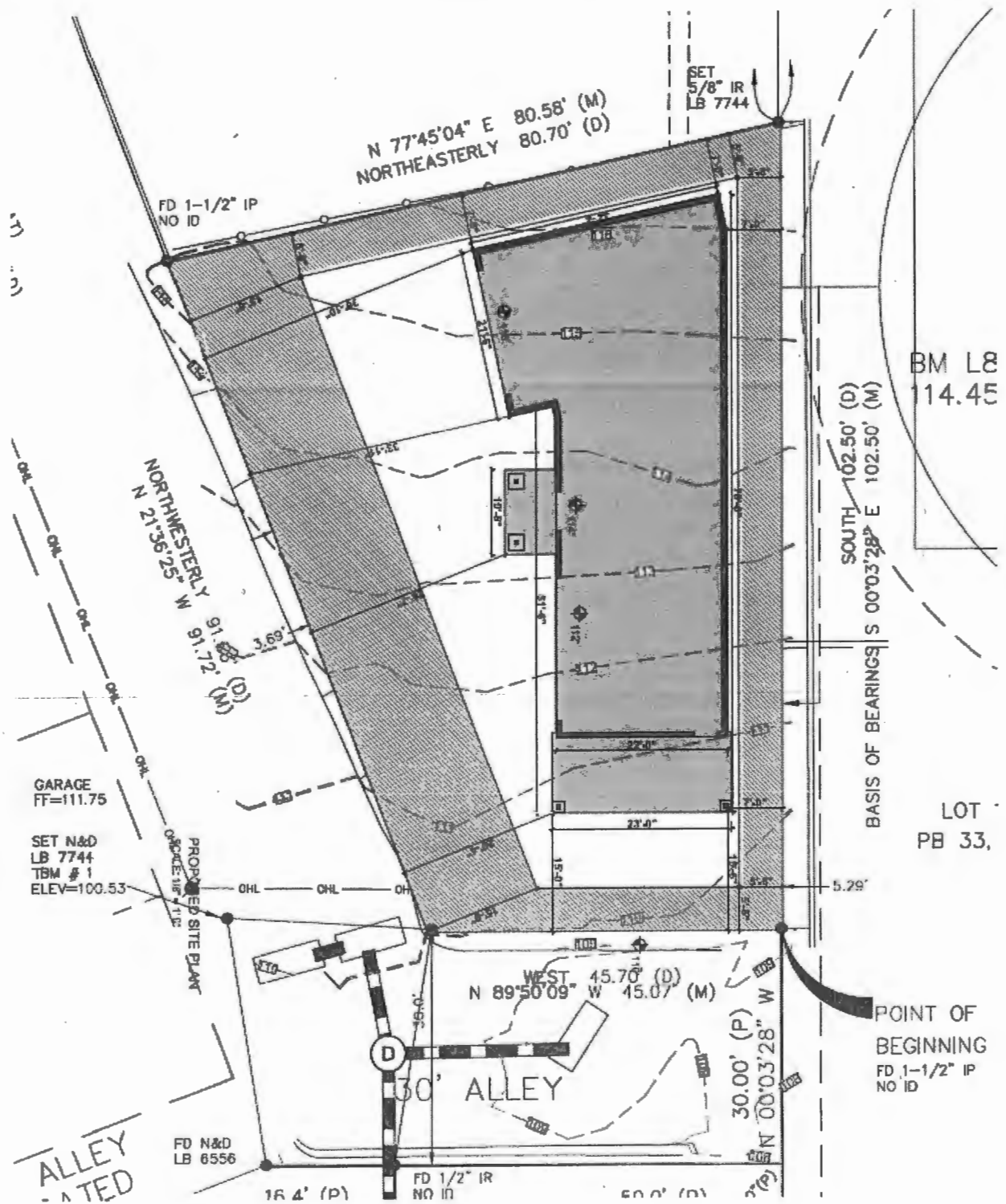
ZONING MAP

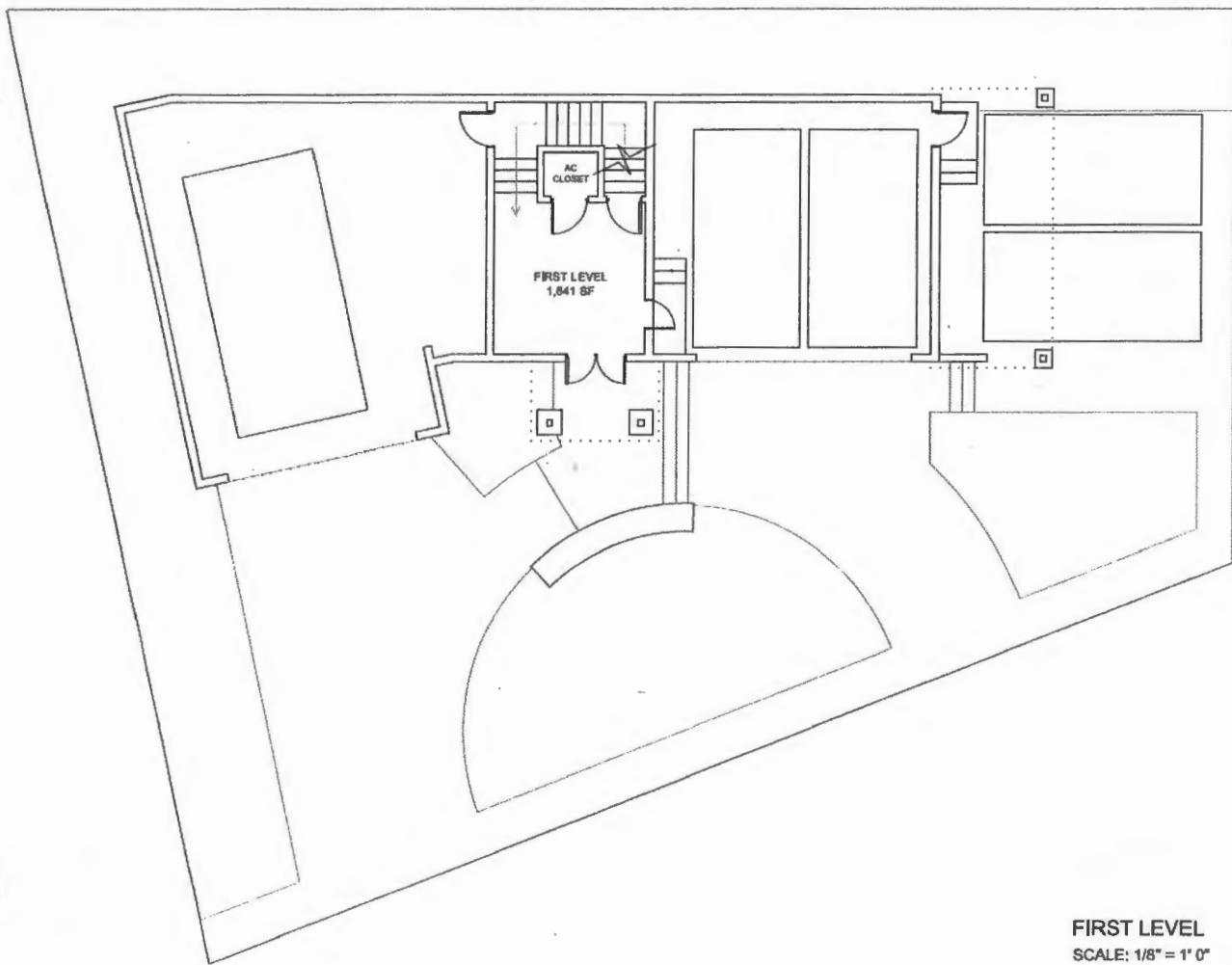


AERIAL MAP



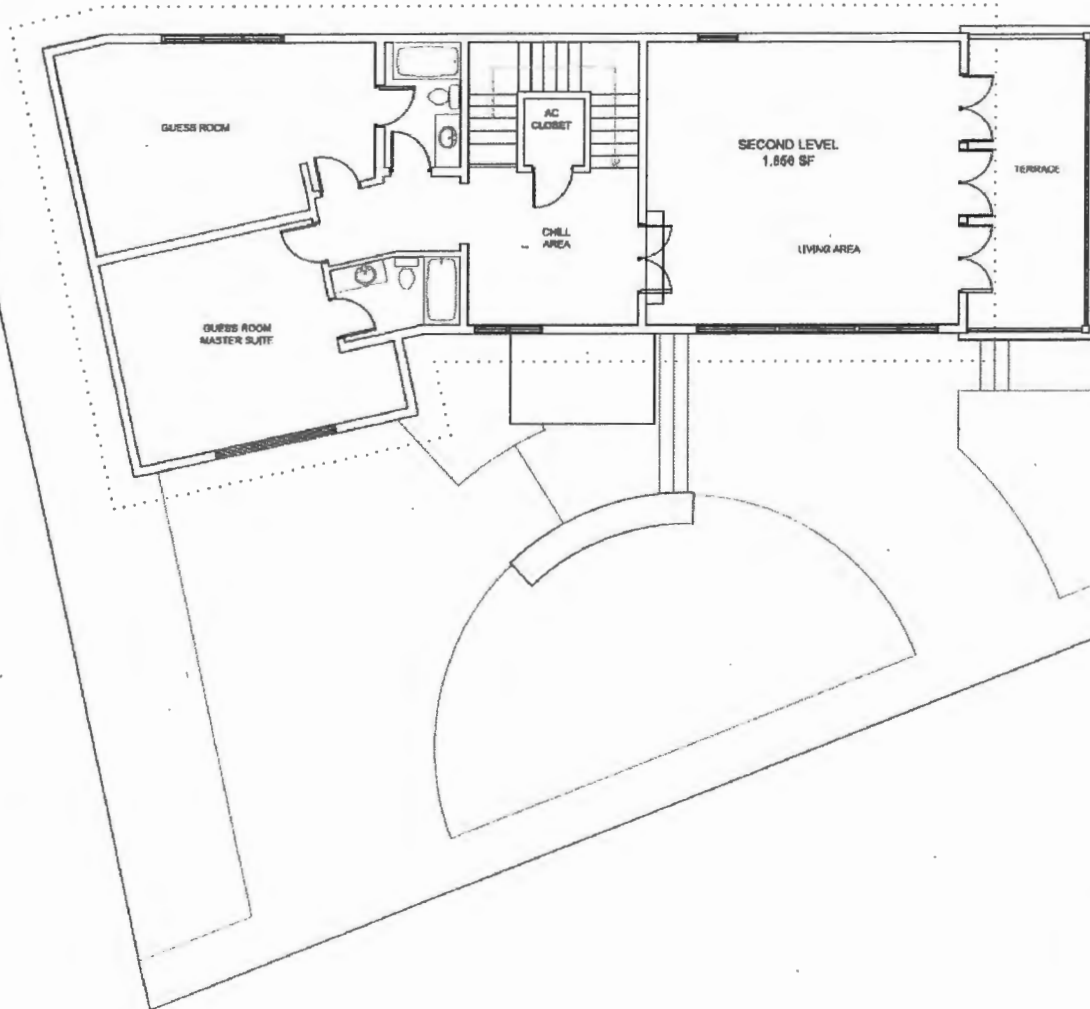
SITE PLAN / SURVEY





FIRST LEVEL
SCALE: 1/8" = 1' 0"

First Level Floor Plan



SECOND LEVEL
SCALE: 1/8" = 1' 0"

Second Level Floor Plan

31' RIDGE ROOF LEVEL

29' EAVE LEVEL

16' BEDROOM LEVEL
14' LIVING AREA LEVEL
14' BALCONY LEVEL

8' TRUCK GARAGE
4' ENTRANCE
2' TWO CAR GARAGE
4' PLOT LOWER POINT

8' UNDERGROUND LEVEL

141'

139'

138'
134' 8"
134'

119'
114'
112'
110'

102'



141' 31' RIDGE

139' 29' EAVE

138' 16' BR LVL
134' 8" 14' LVL
134' 14' BALC

119' 8' TRUCK
114' 4' ENTR
112' 2' TWO C
110' 4' PLOT

102' 8' UNDER

WEST VIEW

SCALE: 1/8" = 1' 0"

11 RIDGE ROOF LEVEL 141

25 EAVE LEVEL 138

12' BDRMS LVPF 135'

14' LIVING AREA LVL 134'

14' BAL CONY LVPF 134'

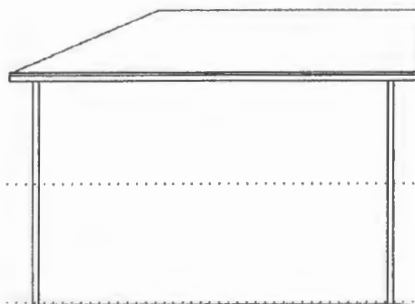
3 TRUCK GARAGE 112'

8 ENTRANCE 114'

2 TWO CAR GARAGE 112'

-0' PLOT LOWER POINT 110'

1 UNDERGROUND LEVEL 102'



NORTH VIEW

141' = 11 RIDGE ROOF LEVEL

138' = 25 EAVE LEVEL

135' = 12' BDRMS LVPF

134' = 14' LIVING AREA LVL

134' = 14' BAL CONY LVPF

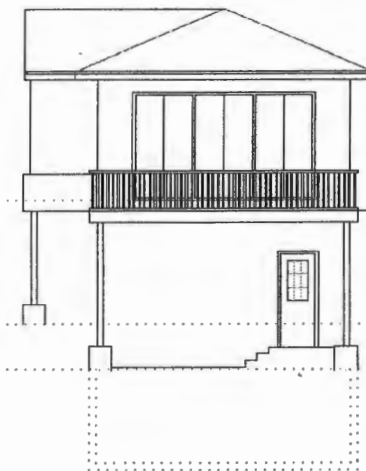
112' = 3 TRUCK GARAGE

114' = 8 ENTRANCE

112' = 2 TWO CAR GARAGE

110' = -0' PLOT LOWER POINT

102' = 1 UNDERGROUND LEVEL



SOUTH VIEW

SCALE: 1/8" = 1' 0"

SITE_PHOTOS



Side from Down's Cove Road



Front from Down's Cove Road