

*Orange County Zoning Division*

**VA-20-05-025**  
**APPLICANT:**  
**RUDY CALLAHAN**

**August 11, 2020**



# Background

**APPLICANT:** RUDY CALLAHAN

**CASE:** VA-20-05-025

**ZONING:** A-2 (Farmland Rural District)

**FUTURE LAND  
USE:** Low Density Residential (LDR)

**ADDRESS:** 1501 Oberry Hoover Rd., Orlando, FL 32825

**LOCATION:** East side of Oberry Hoover Rd., south of E. Colonial  
Drive

**TRACT SIZE:** 306 ft. x 200 ft./ 1.4 acres

**DISTRICT:** 4



# Background

## REQUEST:

**Variances in the A-2 zoning district:**

- 1) To allow a cumulative total of 5,500 sq. ft. of accessory floor area in lieu of 3,000 sq. ft.**
- 2) To allow an existing accessory structure greater than 15 ft. in height to remain 5 ft. from the side (south) property line in lieu of 10 ft.**

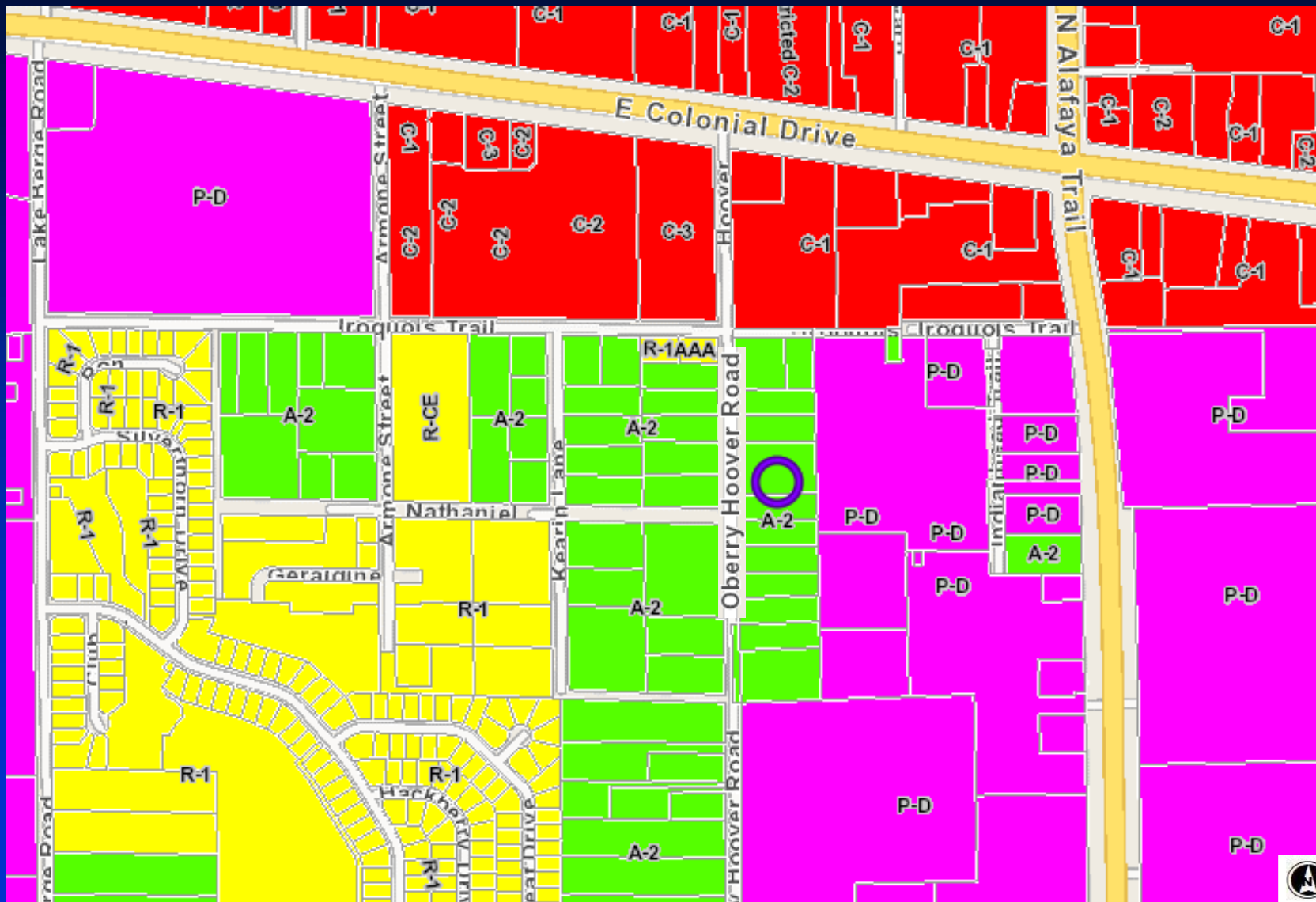
**Note: This is the result of Code Enforcement Action**



# Location Map



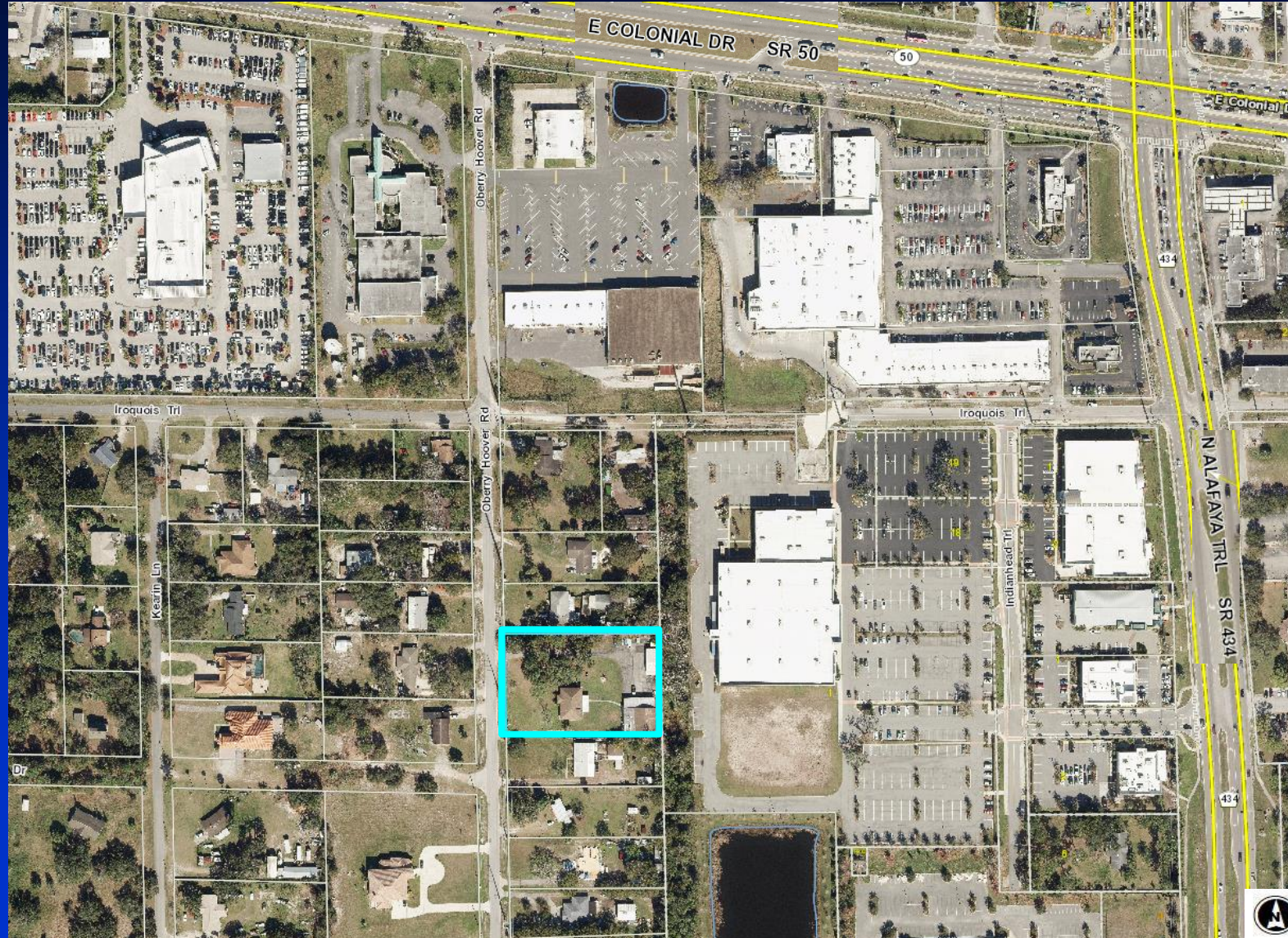
# Zoning Map







# Aerial Map







# Close-Up Aerial Map





# History

- 2004 – 2006: Accessory structure #1 (1,920 sq. ft. garage) and #2 (800 sq. ft. pole barn) constructed without permits
- 2007: Current owner purchases property
- 2007 – 2008: Accessory structure #3 (1,253 sq. ft. garage) constructed without permits
- 2008 – 2009: Western expansion of Accessory structure #1 (garage and living area – now 2,984 sq. ft.) and #2 (pole barn – now 1,256 sq. ft.)
- 2009: Owner cited by Code Enforcement for accessory buildings erected without permits, storage of commercial equipment and conducting a business in a residential district





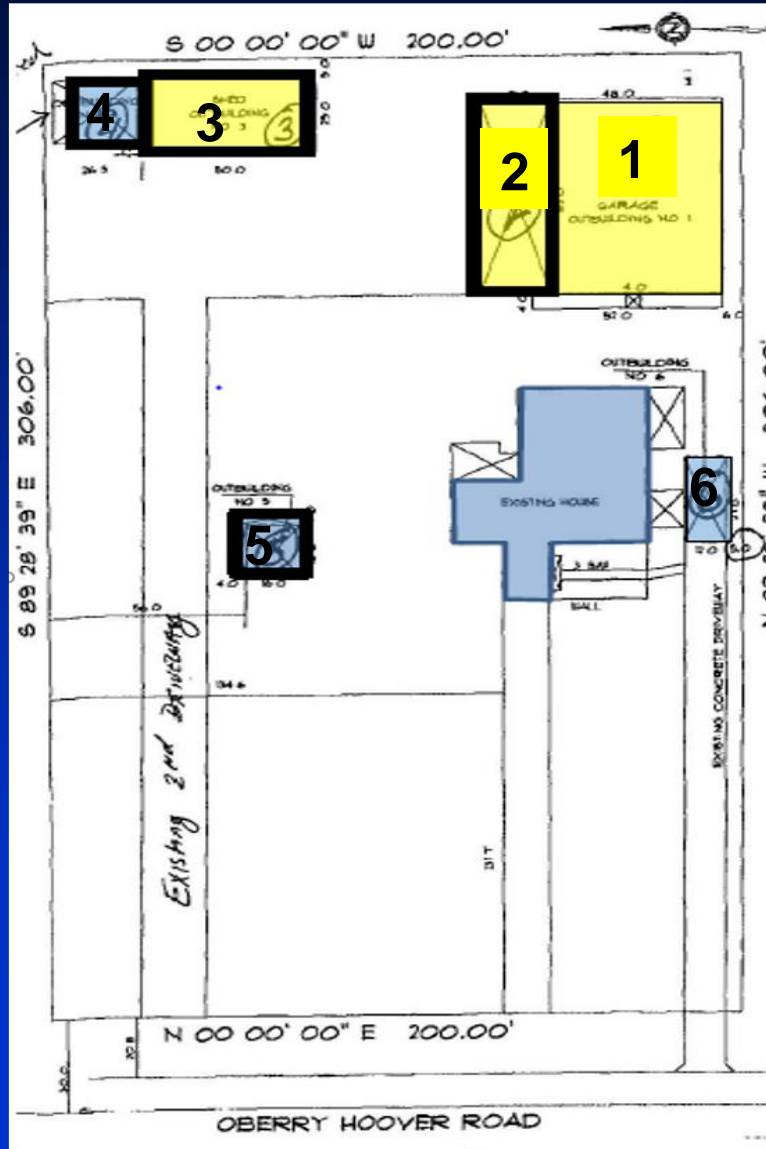
# History

- **January 2010 – Variance request (VA-10-01-002)**
  - To allow an attached carport to remain 5 ft. from south side property line in lieu of 10 ft.
  - To allow a cumulative building size for detached accessory structures of 5,930 sq. ft. in lieu of 2,000 sq. ft.
  - The BZA recommended approval of the variances with the condition that 4 of the existing accessory structures be removed, in essence approving a total of 3,330 sq. ft. of accessory structure area.
  - Condition that applicant apply for building permits within 30 days of approval
- **2010 - Original single family home destroyed by fire**
- **2011 - Current home constructed**
- **June 4, 2020 – BZA request for variances for the side setback and 5,500 sq. ft. of accessory structure floor area**
- **August 2020 - Permits have not been submitted and as of August 3, 2020, there is a lien on the property that continues to accrue.**



# Site Plans

## 2010 Variance Case



## Proposed Site Plan



- 1 – 2,984 sq. ft. garage and dwelling unit
- 2- 1,256 sq. ft. attached pole barn
- 3- 1,253 sq. ft. garage





# Site Photograph

Property facing east







# Site Photograph

Site entrance from Oberly Hoover Rd.







# Site Photograph

Accessory structure #3 facing east



08/03/2020 09:15





# Site Photograph

Accessory structures #1 and #2 facing southeast







# Site Photograph

Accessory structures #1 and #2 facing south







# Site Photograph

Rear of accessory structure #1 facing south





# Staff Findings and Analysis

- **Property is 1.4 acres and currently includes the following:**
  - 2,400 sq. ft. home built in 2011
  - 17 ft. high, 2,984 sq. ft. garage, storage and living area (Accessory Structure #1 on the site plan, requires south side setback variance)
  - 1,256 sq. ft. attached pole barn (Accessory Structure #2)
  - 1,253 sq. ft. accessory structure (Accessory Structure #3)
  - 2 additional sheds identified on the property that were not shown on the site plan and not included in the cumulative total requested





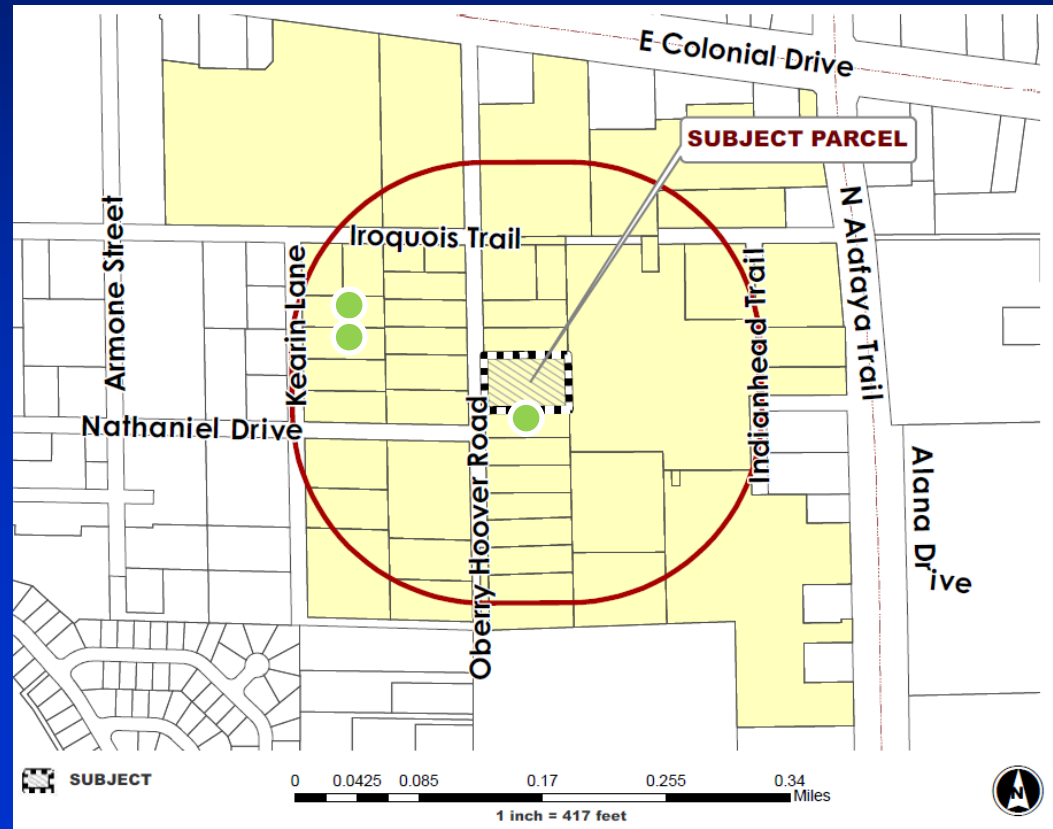
## Staff Findings and Analysis

- The west portion of Accessory Structure #1 was built as a living area. The applicant has indicated that the kitchen facilities will be removed, and the building will be used for storage.
- 2019 code amendments increased the allowable cumulative total sq. ft. on this property from 2,000 sq. ft. to 3,000 sq. ft. and increased the side setback for accessory structures over 15 ft. in height from 5 ft. to 10 ft. in the A-2 zoning district.
- Staff recommended denial of the variances, as there were no special conditions and circumstances, the need for the variances is self-created, it is not the minimum possible variance, and it does not meet the purpose and intent of the code.



# Public Feedback

- Staff mailed a total of 69 notices to adjacent property owners in a 500 ft. radius
  - Staff received three (3) correspondence in favor of this request
  - Staff has received no (0) correspondence in opposition to this 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 BZA recommended approval of the variances with a 7-0 vote subject to six (6) conditions, as amended.



# Conditions of Approval

- 1. Development in accordance with the site plan stamp-dated March 11, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall 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.**



# Conditions of Approval

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. Permits to remove the “kitchen” in Accessory Building #1 shall be obtained with the permit for the structure itself, or the applicant shall obtain the required permits to allow this structure to be used as an Accessory Dwelling Unit. “Kitchen” shall include any 220 v outlets, overhead cabinets, full size refrigerator, stove, and full size sink.
5. The applicant shall obtain a permit for all unpermitted structures within 180 days of final action on this application by Orange County, or this approval becomes null and void.
6. The Variance shall be limited to a cumulative total of 4,250 sq. ft. of accessory floor area.





## Recommended Condition of Approval #7

7. The two existing sheds on the property that were not identified on the site plan and were not included in the cumulative total sq. ft. of accessory floor area shall be removed prior to issuance of any new permits for the property.



## 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.**