



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

April 1, 2021

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)

ORANGE COUNTY GOVERNMENT

<u>Board Member</u>	<u>District</u>
Thomas Moses	1
John Drago	2
Juan Velez	3
Deborah Moskowitz (Chair)	4
Wes A. Hodge (Vice Chair)	5
Charles J. Hawkins, II	6
Roberta Walton	At Large

BZA Staff

Ted Kozak, AICP	Chief Planner
Nick Balevich	Planner II
David Nearing, AICP	Planner II

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
APRIL 1, 2021**

<u>PUBLIC HEARING</u>	<u>APPLICANT</u>	<u>DISTRICT</u>	<u>BZA RECOMMENDATIONS</u>	<u>PAGE #</u>
VA-21-04-015	Poulos & Bennett, LLC (Kathy Hattaway)	5	Continued to May 6, 2021	1
VA-21-04-014	Jason Tisdell	5	Approved w/Conditions	2
VA-21-04-020	Green Apple Architecture (John Drake)	5	Approved w/Conditions	13
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VA-21-04-013	Avcon, Inc. (Rick Baldocchi)	3	Continued to May 6, 2021	43
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ORANGE COUNTY ZONING DISTRICTS

Agricultural Districts

- A-1** Citrus Rural
- A-2** Farmland Rural
- A-R** Agricultural-Residential District

Residential Districts

- R-CE** Country Estate District
- R-CE-2** Rural Residential District
- R-CE-5** Rural Country Estate Residential District
- R-1, R-1A & R-1AA** Single-Family Dwelling District
- R-1AAA & R-1AAAA** Residential Urban Districts
 - R-2** Residential District
 - R-3** Multiple-Family Dwelling District
 - X-C** Cluster Districts (where X is the base zoning district)
 - R-T** Mobile Home Park District
 - R-T-1** Mobile Home Subdivision District
 - R-T-2** Combination Mobile Home and Single-Family Dwelling District
 - R-L-D** Residential -Low-Density District
 - N-R** Neighborhood Residential

Non-Residential Districts

- P-O** Professional Office District
- C-1** Retail Commercial District
- C-2** General Commercial District
- C-3** Wholesale Commercial District
- I-1A** Restricted Industrial District
- I-1/I-5** Restricted Industrial District
- I-2/I-3** Industrial Park District
- I-4** Industrial District

Other District

- P-D** Planned Development District
- U-V** Urban Village District
- N-C** Neighborhood Center
- N-A-C** Neighborhood Activity Center

SITE & BUILDING REQUIREMENTS

Orange County Code Section 38-1501. Basic Requirements

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
A-1	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-2	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-R	108,900 (2½ acres)	1,000	270	35	50	25	35	<i>a</i>
R-CE	43,560 (1 acre)	1,500	130	35	50	10	35	<i>a</i>
R-CE-2	2 acres	1,200	250	45	50	30	35	<i>a</i>
R-CE-5	5 acres	1,200	185	50	50	45	35	<i>a</i>
R-1AAAA	21,780 (1/2 acre)	1,500	110	30	35	10	35	<i>a</i>
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	35	<i>a</i>
R-1AA	10,000	1,200	85	25 <i>h</i>	30 <i>h</i>	7.5	35	<i>a</i>
R-1A	7,500	1,200	75	20 <i>h</i>	25 <i>h</i>	7.5	35	<i>a</i>
R-1	5,000	1,000	50	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
R-2	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Two dwelling units (DUs), 8,000/9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	30	5 <i>h</i>	35	<i>a</i>
	Three DUs, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-3	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5	35	<i>a</i>
	Two DUs, 8,000/ 9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Three dwelling units, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10	35	<i>a</i>
R-T	7 spaces per gross acre	Park size min. 5 acres	Min. mobile home size 8 ft. x 35 ft.	7.5	7.5	7.5	35	<i>a</i>
R-T-1								
SFR	4,500 <i>c</i>	1,000	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
Mobile home	4,500 <i>c</i>	Min. mobile home size 8 ft. x 35 ft.	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
R-T-2	6,000	SFR 500	60	25	25	6	35	<i>a</i>
(prior to 1/29/73)		Min. mobile home size 8 ft. x 35 ft.						
R-T-2 (after 1/29/73)	21,780 ½ acre	SFR 600	100	35	50	10	35	<i>a</i>
		Min. mobile home size 8 ft. x 35 ft.						

<i>District</i>	<i>Min. lot area (sq. ft.)^m</i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.)^a</i>	<i>Min. rear yard (ft.)^a</i>	<i>Min. side yard (ft.)</i>	<i>Max. building height (ft.)</i>	<i>Lake setback (ft.)</i>
NR	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80/90 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50/4 stories <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NAC	Non-residential and mixed use development, 6,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	50 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 11,250	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50 feet/4 stories, 65 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NC	Non-residential and mixed use development, 8,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	65 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	65 feet, 80 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 for each add. story	35	<i>a</i>
C-1	6,000	500	80 on major streets (see Art. XV); 60 for all other streets <i>e</i> ; 100 ft. for corner lots on major streets (see Art. XV)	25	20	0; or 15 ft. when abutting residential district; side street, 15 ft.	50; or 35 within 100 ft. of all residential districts	<i>a</i>

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
C-2	8,000	500	100 on major streets (see Art. XV); 80 for all other streets <i>f</i>	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	50; or 35 within 100 feet of all residential districts	<i>a</i>
C-3	12,000	500	125 on major streets (see Art. XV); 100 for all other streets <i>g</i>	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	75; or 35 within 100 feet of all residential districts	<i>a</i>

District	Min. front yard (feet)	Min. rear yard (feet)	Min. side yard (feet)	Max. building height (feet)
I-1A	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-1 / I-5	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-2 / I-3	25	10	15	50, or 35 within 100 ft. of any residential use or district
I-4	35	10	25	50, or 35 within 100 ft. of any residential use or district

NOTE: These requirements pertain to zoning regulations only. The lot areas and lot widths noted are based on connection to central water and wastewater. If septic tanks and/or wells are used, greater lot areas may be required. Contact the Health Department at 407-836-2600 for lot size and area requirements for use of septic tanks and/or wells.

FOOTNOTES

<i>a</i>	Setbacks shall be a minimum of 50 feet from the normal high water elevation contour on any adjacent natural surface water body and any natural or artificial extension of such water body, for any building or other principal structure. Subject to the lakeshore protection ordinance and the conservation ordinance, the minimum setbacks from the normal high water elevation contour on any adjacent natural surface water body, and any natural or artificial extension of such water body, for an accessory building, a swimming pool, swimming pool deck, a covered patio, a wood deck attached to the principal structure or accessory structure, a parking lot, or any other accessory use, shall be the same distance as the setbacks which are used per the respective zoning district requirements as measured from the normal high water elevation contour.
<i>b</i>	Side setback is 30 feet where adjacent to single-family district.
<i>c</i>	For lots platted between 4/27/93 and 3/3/97 that are less than 45 feet wide or contain less than 4,500 sq. ft. of lot area, or contain less than 1,000 square feet of living area shall be vested pursuant to Article III of this chapter and shall be considered to be conforming lots for width and/or size and/or living area.
<i>d</i>	For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet and the duplex lot size is 8,000 square feet. For detached units the minimum duplex lot width is 90 feet and the duplex lot size is 9,000 square feet with a minimum separation between units of 10 feet. Fee simple interest in each half of a duplex lot may be sold, devised or transferred independently from the other half. For duplex lots that: <ul style="list-style-type: none"> (i) are either platted or lots of record existing prior to 3/3/97, and (ii) are 75 feet in width or greater, but are less than 90 feet, and (iii) have a lot size of 7,500 square feet or greater, but less than 9,000 square feet are deemed to be vested and shall be considered as conforming lots for width and/or size.
<i>e</i>	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
<i>f</i>	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
<i>g</i>	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
<i>h</i>	For lots platted on or after 3/3/97, or unplatted parcels. For lots platted prior to 3/3/97, the following setbacks shall apply: R-1AA, 30 feet, front, 35 feet rear, R-1A, 25 feet, front, 30 feet rear, R-1, 25 feet, front, 25 feet rear, 6 feet side; R-2, 25 feet, front, 25 feet rear, 6 feet side for one (1) and two (2) dwelling units; R-3, 25 feet, front, 25 feet, rear, 6 feet side for two (2) dwelling units. Setbacks not listed in this footnote shall apply as listed in the main text of this section.
<i>j</i>	Attached units only. If units are detached, each unit shall be placed on the equivalent of a lot 45 feet in width and each unit must contain at least 1,000 square feet of living area. Each detached unit must have a separation from any other unit on site of at least 10 feet.
<i>k</i>	Maximum impervious surface ratio shall be 70%, except for townhouses, nonresidential, and mixed use development, which shall have a maximum impervious surface ratio of 80%.
<i>m</i>	Based on gross square feet.

These requirements are intended for reference only; actual requirements should be verified in the Zoning Division prior to design or construction.

VARIANCE CRITERIA:

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for a 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 land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed zoning variance.
2. **Not Self-Created** – The special conditions and circumstances do not result from the actions of the applicant. A self-created hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.
3. **No Special Privilege Conferred** – Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by the Chapter to other lands, buildings, or structures in the same zoning district.
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 under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of the property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval.
5. **Minimum Possible Variance** – The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. **Purpose and Intent** – Approval of the zoning variance will be in harmony with the purpose and intent of this Chapter and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

SPECIAL EXCEPTION CRITERIA:

Subject to Section 38-78, in reviewing any request for a Special Exception, the following criteria shall be met:

1. The use shall be consistent with the Comprehensive Policy Plan.
2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.
3. The use shall not act as a detrimental intrusion into a surrounding area.
4. The use shall meet the performance standards of the district in which the use is permitted.
5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.
6. Landscape buffer yards shall be in accordance with Section 24-5, Orange County Code. Buffer yard types shall track the district in which the use is permitted.

In addition to demonstrating compliance with the above criteria, any applicable conditions set forth in Section 38-79 shall be met.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 01, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-04-015**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): **POULOS & BENNETT, LLC (KATHY HATTAWAY)**

OWNER(s): **RONALD REINHOLD, TERRY BRINKOETTER**

REQUEST: **Variances in the R-1AA zoning district as follows:**

- 1) To allow a front setback for an existing residence of 19 ft. in lieu of 30 ft.
- 2) To allow a front setback for an attached garage of 8 ft. in lieu of 30 ft.
- 3) To allow a rear setback for an existing residence of 16 ft. in lieu of 35 ft.
- 4) To allow a rear setback for an existing raised deck of 1 ft. in lieu of 35 ft.
- 5) To allow a rear setback for a second story addition of 16 ft. in lieu of 35 ft.
- 6) To allow a front setback for a second story addition of 14 ft. in lieu of 30 ft.
- 7) To allow a rear setback of 24 ft. for a new deck in lieu of 35 ft.

PROPERTY LOCATION: **2427 Lake Sue Dr., Orlando, Florida, 32803, northeast side of Lake Sue Dr., north of Corrine Dr. and west of East Winter Park Rd.**

PARCEL ID: **18-22-30-0568-00-290**

LOT SIZE: **+/- 0.33 acres (+/- 14,506 sq. ft.)**

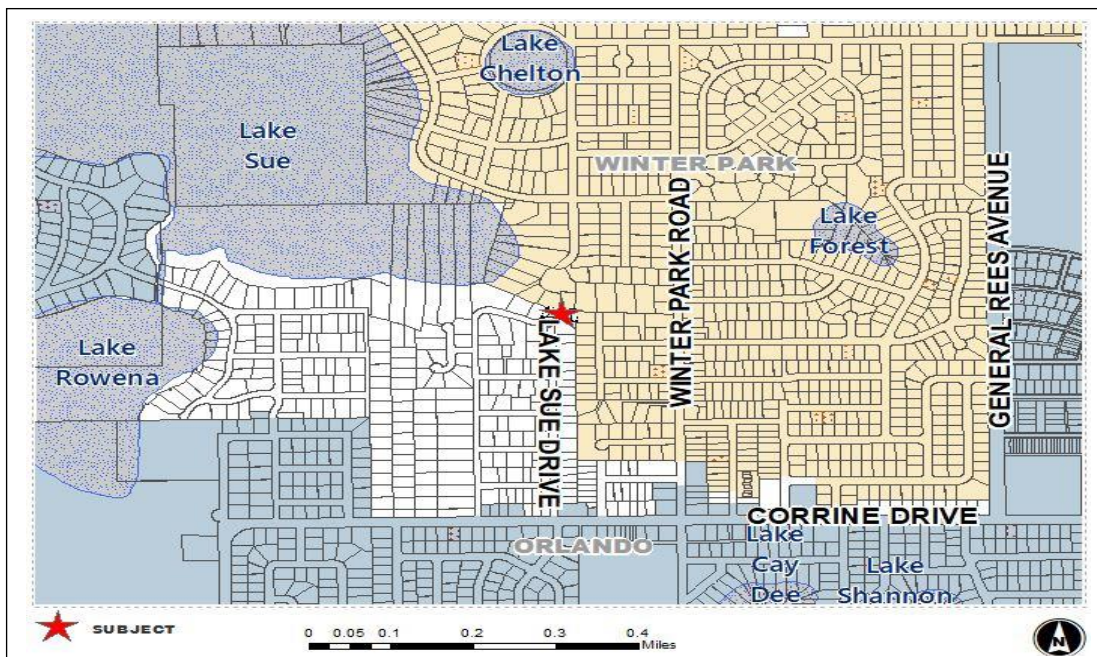
NOTICE AREA: **500 ft.**

NUMBER OF NOTICES: **83**

STAFF RECOMMENDATIONS

A CONTINUANCE WAS REQUESTED TO MAY 6, 2021

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 01, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-04-014**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): JASON TISDELL

OWNER(s): CARRI TISDELL, JASON TISDELL

REQUEST: Variance in the R-1AA zoning district to allow a pool and deck with a 20 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 30 ft.

PROPERTY LOCATION: 33 Eastwind Lane, Maitland, Florida, 32751, north side of Eastwind Ln., south of Howell Branch Rd.

PARCEL ID: 31-21-30-0000-00-065

LOT SIZE: +/- 99 ft. x 142 ft./0.32 acres (14,058 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 73

DECISION: Recommended **APPROVAL** of 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; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan dated February 10, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. A permit shall be obtained within 2 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies

Orange County from any damages caused by flooding and shall inform all interested parties that the pool and associated deck is no closer than 20 feet from the normal high water elevation of the Howell Branch Creek.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial of the variance since there are alternate locations to locate the pool which would meet the Normal High Water Elevation (NHWE) setback. Staff noted that three (3) comments were received in support and none were received in opposition.

The applicant indicated that he discussed alternate locations for a pool with a contractor, but all other options would instead require a variance for a side setback. He contended that for visibility and safety, the proposed location was the only option. Further, he also discussed homes along the creek with a pool in a comparable location as the proposed request.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the special conditions and circumstances due to the proximity of the house to the front property line, the lot depth and the comparative location of pools within the neighborhood including the other granted NHWE setback variances. The BZA unanimously recommended approval of the variance by a 6-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA finds that the applicant has satisfied the criteria necessary to grant the variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1AA	R-1AA	R-1AA	R-1AA	R-1AA
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residence	Single-family residence	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1AA, Single-Family Dwelling district, which allows single-family homes and associated accessory structures on lots a minimum of 10,000 sq. ft. or greater.

The subject property is a 0.32 acre unplatted parcel of land. The property contains a 1,642 sq. ft. home constructed in 1976, which has an attached two-car garage and a screen covered patio. There is also a covered boat dock (B19019630) constructed in 2019, shortly after the applicants purchased the property. The property abuts the Howell Branch Creek, a natural body of water which is an extension of Lake Maitland, which requires a Normal High Water Elevation (NHWE) setback. Most of the existing residence is over 50 ft. from the NHWE, with the exception of a 12 ft. x 20 ft. screened patio which is 40 ft. from the NHWE, which meets the 30 ft. minimum NHWE setback requirement for accessory structures and covered patios.

The owner proposes to install a 13 ft. x 25 ft. pool with a deck, with a 20 ft. Normal High Water Elevation setback in lieu of 30 ft. required for a pool and deck in the R-1AA district.

There is space in the rear yard to relocate the proposed pool and deck out of the NHWE setback. There is significant area on either side of the covered patio to install the pool/deck in conformance with the setback requirements.

Letters of support have been provided from five (5) property owners, including the two (2) most impacted adjacent property owners to the east and west.

The County’s Environmental Planning Division did not provide any comments regarding this application.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	15 ft. (Residence)
Min. Lot Width:	85 ft.	99 ft.
Min. Lot Size:	10,000 sq. ft.	14,058 sq. ft.

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

	Code Requirement	Proposed
Front:	35 ft.	48 ft. (South)
Rear:	30 ft. House & pool/deck	20 ft. Pool & Deck (North)
Side:	7.5 ft. House 5 ft. pool/deck	39 ft. Pool deck (East) 19 ft. Pool (West)
NHWE:	30 ft. pool/deck	20 ft. Pool & Deck (North)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Since there are alternatives which will either reduce or eliminate the need for the variance, there are no special conditions or circumstances particular to the subject property.

Not Self-Created

Since there are alternatives to the installation of the pool and deck on the property as proposed, the requested variance is considered self-created.

No Special Privilege Conferred

Allowing the location in the NHWE setback would be conferring a special privilege denied to others since there are other options to relocate or modify the proposal.

Deprivation of Rights

Since there are alternatives which will either reduce or eliminate the need for the variance, denying the variance will not deprive the applicants of the right to install a pool with deck.

Minimum Possible Variance

Since there are alternatives to installing the pool and deck, this variance would not be the minimum possible.

Purpose and Intent

The purpose of the NHWE setback is to provide for lakeshore protection and conservation of the watershed. Approval of the variance allowing the improvements to not meet the setback requirements will not be in character with nearby properties, which is contrary to the purpose and intent of the code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated February 10, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. A permit shall be obtained within 2 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the pool and associated deck is no closer than 20 feet from the normal high water elevation of the Howell Branch Creek.

C: Jason Tisdell
33 Eastwind Ln.
Maitland, FL 32751

COVER LETTER

Cover LETTER

Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor
Orlando Florida 32801
407-836-3111
Re: Variance Cover Letter

To: Orange County Zoning Division,

My wife, two children and I live at 33 Eastwind lane, Maitland Florida 32751. We are writing this letter for a variance because we would like to install a concrete swimming pool in our back yard. The reason for our request is that currently we have a 30 foot rear setback from the normal high water table on our lot and our existing home is approximately 10 foot away from this line. In order to construct a pool the contractor needs to be a minimum of 5 feet away from the existing home due to the footer depths and the existing home structure being compromised. At these existing setbacks we would only be able to construct a maximum 4 foot usable pool area that would be very dangerous and would not be very practical or cost effective for my family swimming pool.

We are requesting a 10 foot reduction in setback from the 30 foot setback to a new 20 foot setback from the normal high for the swimming pool permit and construction. This would allow us to build a small but reasonable 13' x 25' swimming pool, spa and deck to walk around in our yard and still remain 20 feet away from the canal with the pool and deck area.

We have reviewed our friends and neighbors homes around us that have pools and have the following homes on our canal that are also in Unincorporated Orange County and have pools in their back yards that are within the 30 foot setback for the pool and deck area setback. The following address on our canal and neighbors and show the existing distance from the normal high water level to their pool and deck. We also have letters of no objection included in our package from our adjacent neighbors.

1. 1032 Howell Branch Road, Winter park Florida. - Pool distance to canal- 12 feet
2. 1040 Howell Branch Road, Winter park Florida. - Pool distance to canal- 14.5 feet
3. 1048 Howell Branch Road, Winter park Florida. - Pool distance to canal- 24.2 feet
4. 1064 Howell Branch Road, Winter park Florida. - Pool distance to canal- 26 feet
5. 1080 Howell Branch Road, Winter Park Florida. - Pool distance to canal- 12.1 feet

In closing we would like to thank you for the time and consideration for our request of this swimming pool variance. We would greatly appreciate the approval of this variance for our swimming pool and spa. If you have any questions please feel free to contact me via email or cell phone below.

Best Regards,


Jason Tisdell
407-947-9353 or Jason@cardellconstructionllc.com

ADDENDUM 1 TO VARIANCE COVER SHEET

Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor
Orlando Florida 32801
407-836-3111
Re: Variance Cover Letter Addendum

To: Orange County Zoning Division,

This addendum to our cover letter is addressing how our pool variance meets the six criteria to obtain the variance.

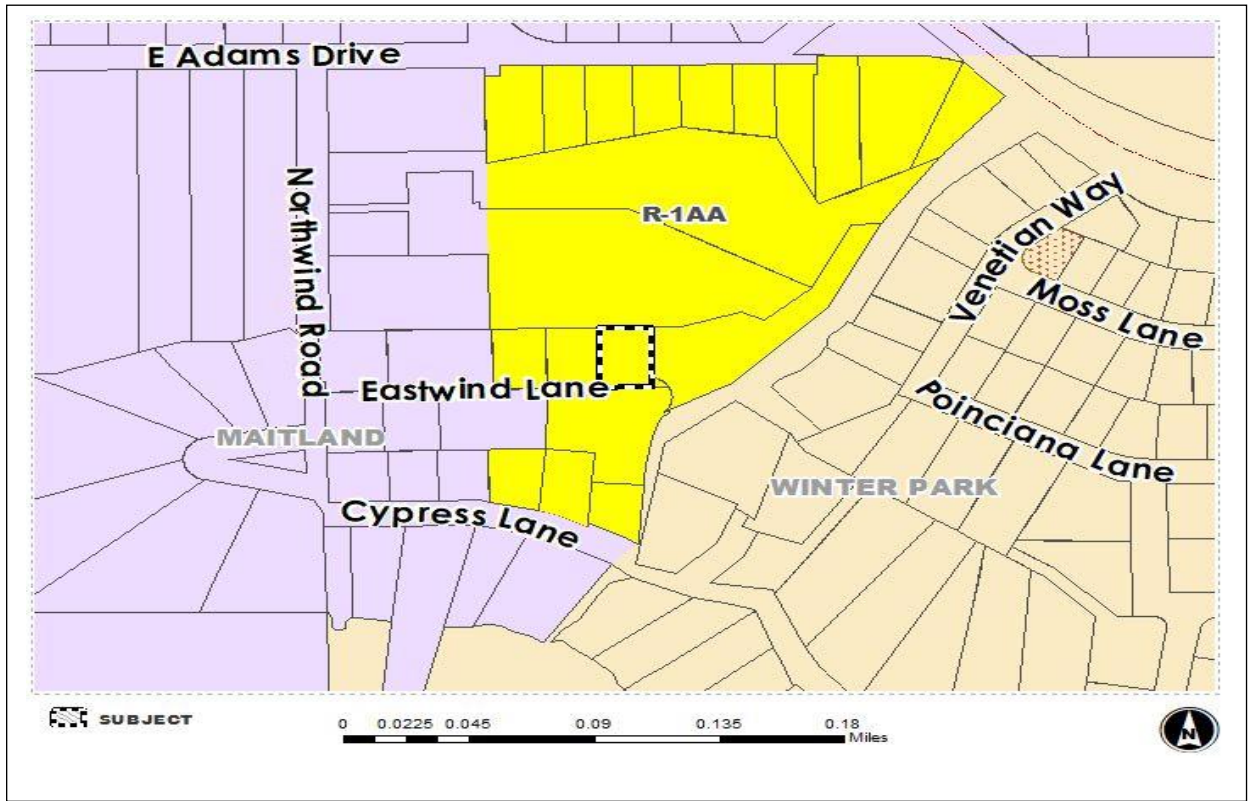
1. **Special Conditions and Circumstances** –Our special condition and circumstance is that our existing home currently sits only a few feet away from the rear setback. Without a variance we are not able to install a swimming pool. We are not able to move the house forward to achieve the pool construction and thus require the variance.
2. **Not Self-Created** – We have not created this circumstance. We purchased the house and lot with the existing footprint and setbacks. Thus requiring a variance for the pool.
3. **No Special Privilege Conferred** – There is no special privilege conferred to my family’s home as this has been approved on other land, properties and neighbors surrounding us.
4. **Deprivation of Rights** – This approval of similar pool variances have been approved and pools have been constructed with less setbacks with the same situations in Orange County. It would deprive our rights if this variance were not to be approved as others have enjoyed the benefit of the County reducing the rear setback for a single family pool in Orange County.
5. **Minimum Possible Variance** - This zoning variance approval is the minimum variance that will make it possible for the reasonable use of the land, building or structure for the construction of our pool on our lot.
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. We will not impact any of the surrounding areas or neighbors. We currently have all of our surrounding neighbors Letters of no objection for our approval of our swimming pool variance.

If you have any questions please feel free to contact me via email or cell phone below.

Best Regards,

Jason Tisdell
407-947-9353 or Jason@cardellconstructionllc.com

ZONING MAP



AERIAL MAP

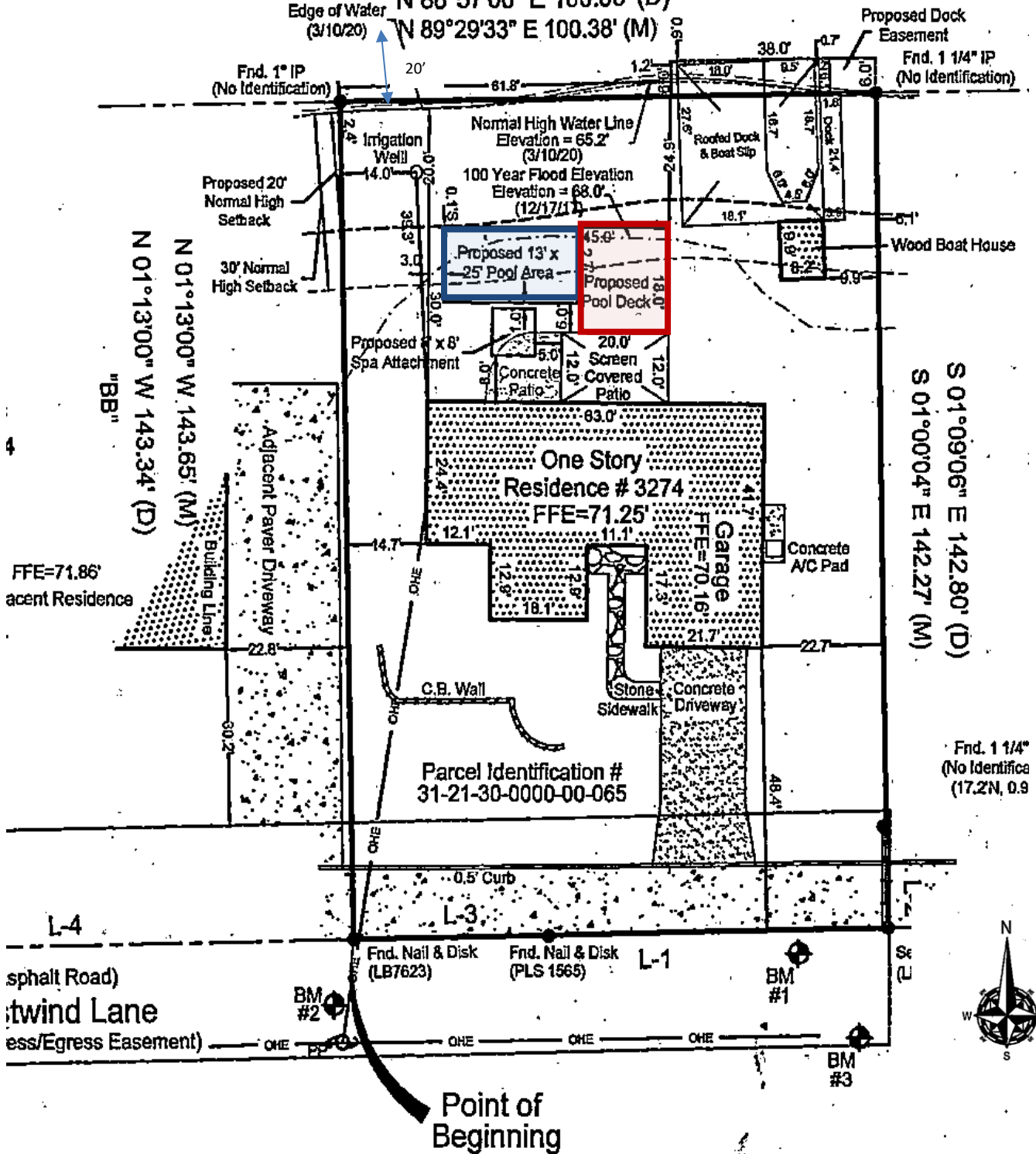


SITE PLAN

Howell Branch Creek

Elevation = 64.88'
(03/25/20)

Edge of Water (3/10/20)
N 88°57'00" E 100.00' (D)
N 89°29'33" E 100.38' (M)



SITE PHOTOS



Subject property looking north



Boathouse looking north

SITE PHOTOS



Proposed location of pool, looking west



Alternative location of pool, looking southwest

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 01, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-04-020**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): GREEN APPLE ARCHITECTURE (JOHN DRAKE)

OWNER(s): NAZILA TALEBLY EKBATANI

REQUEST: Variances in the R-1A zoning district as follows:

- 1) To allow the construction of a +/- 4,363 sq. ft. residence to be located 10 ft. from the west side street setback line in lieu of 15 ft.
- 2) To allow a pool to be located 38 ft. from the Normal High Water Elevation (NHWE) in lieu of 50 ft.

PROPERTY LOCATION: 1795 Killarney Dr., Winter Park, Florida, 32789, northeast corner of Killarney Dr. and Clay St., north of W. Fairbanks Ave., on the south side of Lake Killarney

PARCEL ID: 12-22-29-2722-03-180

LOT SIZE: +/- 0.73 acres (+/- 32,186 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 211

DECISION: Recommended **APPROVAL** of the Variance requests 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; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated February 10, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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 shall be obtained within 2 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the Pool is no closer than 38 feet from the normal high water elevation of Lake Killarney.

SYNOPSIS: Staff described the proposal, including the location of the property, the history of the site, the existing residence and garage proposed to be demolished, the site plan, elevations and floor plans of the proposed new residence, and photos of the site. Staff provided an analysis of each of the six (6) Variance criteria and the reasons for a recommendation for denial of the Variance since the house and pool could be reduced in size or reconfigured to meet setback requirements. Staff noted that two (2) correspondences were received in support and one correspondence was received in opposition.

The applicant noted that the footprint of the new home will be smaller with a reduction of the current encroachments. He also noted that the location of the new house will provide improved visibility at the intersection of Killarney Dr. and Clay St.

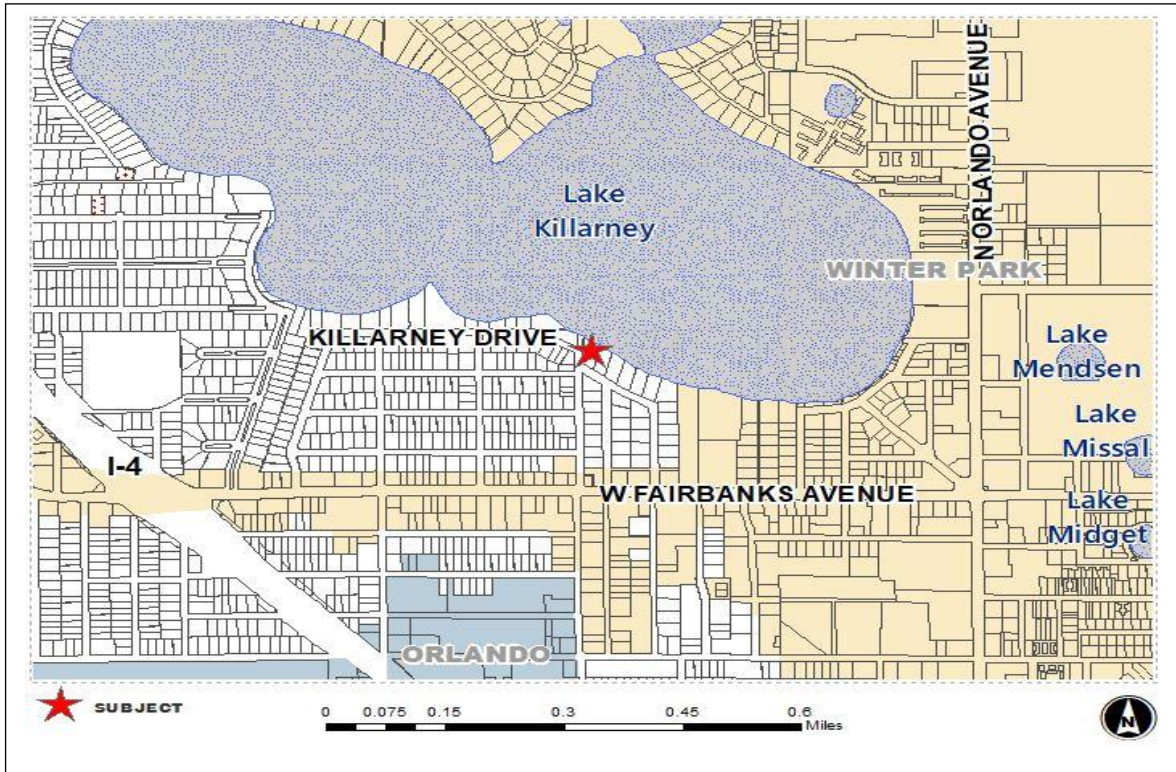
There was no one in attendance to speak in favor and there was one in attendance to speak in opposition to the request.

The Board concluded that the proposed variances will result in less encroachment than the existing structures since the new footprint will be smaller and the new proposed design with a greater street side setback than the existing structure will be an improvement to public safety, and the new construction will be an improvement to the area. The BZA unanimously recommended approval of the variance by a 6-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA finds that the owner has satisfied the criteria necessary to grant the variance, staff recommends the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	WB	LDR	LDR	LDR
Current Use	Single-family Residence	Lake Killarney	Single-family Residence	Single-family Residence	Single-family Residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures on lots a minimum of 7,500 sq. ft. or greater.

The subject property consists of an irregularly shaped lot created through the Flamingo Shores Plat, which was recorded in 1953. The property is located on Lake Killarney, and the 32,186 sq. ft. lot includes approximately 10,890 sq. ft. of wetland or submerged lands. It is considered a corner lot, with the front yard on Killarney Dr., and the side street yard on Clay St.

According to the Property Appraiser's data, the property is currently developed with a 4,002 sq. ft. residence, including an attached one-car carport, and a detached 768 sq. ft. two-car garage built in 1955. There is also an existing dock and boathouse.

In 2007, variances were granted to allow an addition to the northeast corner of the house to be located six (6) ft. from the east side property line in lieu of 7.5 ft. and 28 ft. from the NHWE in lieu of 50 ft. This addition was never constructed. In 2009, the owners obtained variances to enclose the existing carport and convert it to a garage. The variances allowed the structure to remain 15 ft. from the south front property line in lieu of 25 ft., and five (5) ft. from the west side street property line in lieu of 15 ft. This conversion was never completed.

The new owner, who purchased the property in early 2021, plans to demolish the existing structures to construct a two-story residence with 4,363 sq. ft. of living area and a total of 5,679 gross sq. ft. of floor area, with an attached two-car garage. The dock and boathouse are proposed to remain. The proposed home will be 10 ft. from the west side street setback in lieu of 15 ft., requiring Variance #1. A new pool is also proposed with a 38 ft. NHWE setback in lieu of 50 ft., requiring Variance #2.

The irregular shape of the southwest property line is the result of the offset intersection of Killarney Dr. and Clay St.

Although the proposed side street setback for the new residence will be greater than the setbacks of the existing house and detached garage that will be demolished, the size and scale of the proposed home is significantly greater than the existing and the footprint could be modified to meet code requirements. Similarly, the pool configuration could be modified to meet the NHWE requirements.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	24 ft.
Min. Lot Width:	75 ft.	90 ft.
Min. Lot Size:	7,500 sq. ft.	32,186 sq. ft.

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

	Code Requirement	Proposed
Front (Killarney Dr.):	25 ft.	25 ft. (South)
Rear:	30 ft.	165 ft. (North)
Side:	7.5 ft.	7.5 ft. (East)
Side street (Clay St.):	15 ft.	10 ft. (West- Variance #1))
NHWE:	50 ft.	50 ft. House (North) 38 ft. Pool (North - Variance #2)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Although the property is considerably encumbered by an irregular size and surface water, there are alternatives which could reduce or eliminate the variances needed, including developing with a smaller footprint.

Not Self-Created

Although the current owner is not responsible for the configuration of the lot, the request for the variances are self-created since the owner has the option to redesign the house and pool to meet or increase setbacks.

No Special Privilege Conferred

Granting of the variance will not establish special privileges since the setbacks as proposed are compatible with nearby properties with regard to the side street setback and NHWE setback. Based on aerial photos, the residences located directly across the street to the west and to the south appear to have street side setbacks of less than 5 ft.

Deprivation of Rights

Deprivation of rights is not a consideration since there are options to redesign, including the reduction of the footprint of the house and pool.

Minimum Possible Variance

Given that this is new construction, there are options to reduce or eliminate the variances requested, therefore these are not the minimum.

Purpose and Intent

Variance #1

Approval of the variance will be in harmony with the purpose and intent of the zoning requirements, and will not be injurious to the neighbors or otherwise detrimental to public welfare since the setbacks as proposed will be greater than existing and will be consistent with the character of other properties in the neighborhood.

Variance #2

Approval of the variance will not be in harmony with the purpose and intent of the County code to provide separation from the NHWE contour on any surface water body and contour.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated February 10, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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 owner 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 owner 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 owner 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. Permits shall be obtained within 2 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the Pool is no closer than 38 feet from the normal high water elevation of Lake Killarney.

C: John Drake
174 W Comstock Ave., Suite 208
Winter Park, FL 32789



**1795 Killarney Drive
Winter Park, Florida 32789
12-22-29-2722-030180**

Herewith: application & payment.
Drawings submitted via Email

The application is for two variance requests.

1. The street side yard setback reduced from 15' to 10' along Clay street.

The original house was built in 1955 and is at the end of its usable life span. The lot is an irregular lot shape with Clay Street wrapping the lot partially down the side of the lot. The street side setback of the original house is +/-7.5' and the detached garage +/-5' from the property line.

The proposed new design is increasing the house setback from the street side yard to 10' improving the current as-built conditions. Also, the proposed design orients the garage toward the interior of the lot hiding the garage door from view and allowing for cars to turn around on property and not back into traffic on Clay Street.

The size and massing of the house proposed is constant with the new construction built upon Lake Killarney over the past few years and the surrounding neighborhood.

2. The pool encroachment at rear yard lake setback reduced from 50' to 38'.

Due to the existing irregular lot shapes and depths of the lots on this portion of the lake pools in this area are set within the rear lake setback. The applicant is not requesting any special privilege as already conferred to the adjacent neighbors. Other jurisdictions such as, City of Orlando have a primary structure (house) setback of 50' from normal high-water and secondary structure (pool) setback of 25' from normal high-water. The client is requesting only a reduction of the secondary structure (pool) to 38' from the normal high-water.

John Drake, Architect
Green Apple Architecture
407.432.0795

174 W Comstock Avenue
Suite 208
Winter Park, FL.



**1795 Killarney Drive
Winter Park, Florida 32789
12-22-29-2722-030180
VA-21-04-020**

1. Special Conditions and Circumstances -Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

The existing irregular lot shape and 1/2 street wrapping down the side of the lot is challenging to meet the street side yard setback requirement. The lot depth would be adequate to construct a house and pool if the lake setback for the pool was not the same as the house. Due to the shallow depth of the lots on this street all the pools on the adjacent properties of similar lot sizes have their pools constructed within the 50' setback.

2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

The lot was platted prior to 1955 and the current zoning setbacks were implemented after.

3. No Special Privilege Conferred - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

The surrounding as-built residences have been built and the pools constructed meeting the reduced setbacks the client is asking for.

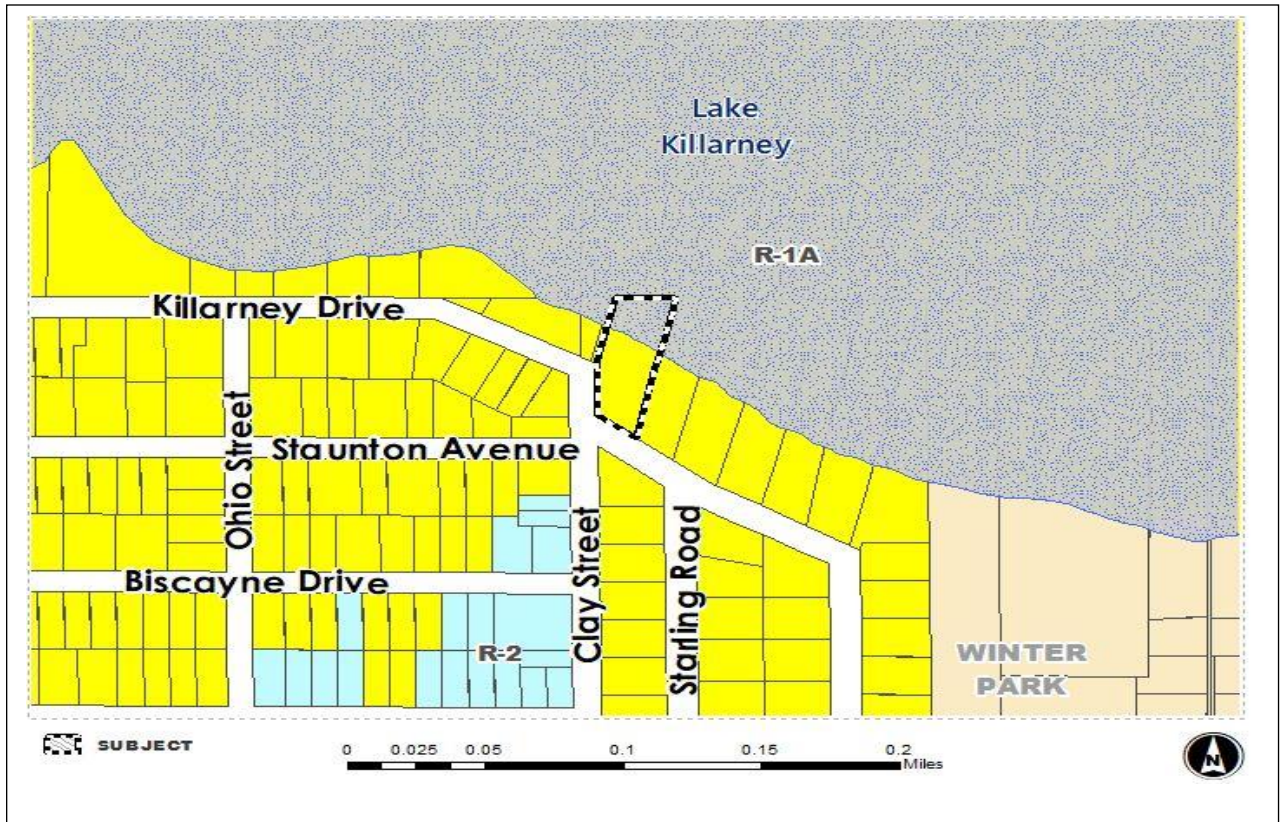
4. Deprivation of Rights - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection!

The client is asking for their residence and pool to have similar setbacks to the surrounding residences.

PO Box 1401 ● Winter Park, Florida 32790 ● p407 432 0795

5. Minimum Possible Variance - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building or structure.
The variance request is asking for the minimum requirements to build a residence of similar scope and situation on the lot as the adjacent houses. If the client just renovated the existing structure they would be closer to the road as the existing house sits. Also, a pool variance with the existing house would place the pool closer to the lake similarly to the adjacent residences.
6. Purpose and Intent - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
Approval will have the residence fit within the existing community fabric. As stated above the design meets the setbacks of the surrounding residences and would move the house further from the side street than it currently sits.

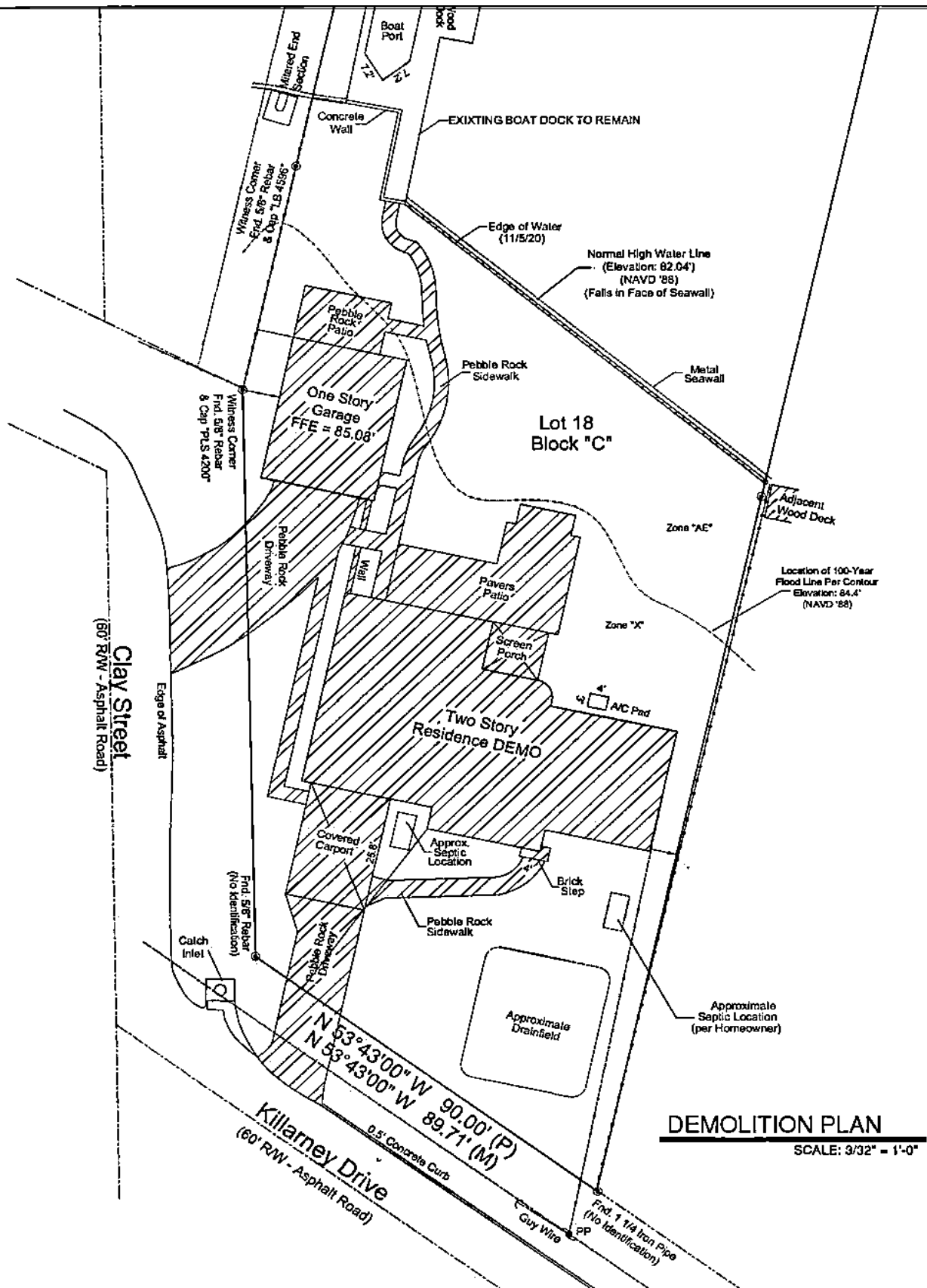
ZONING MAP



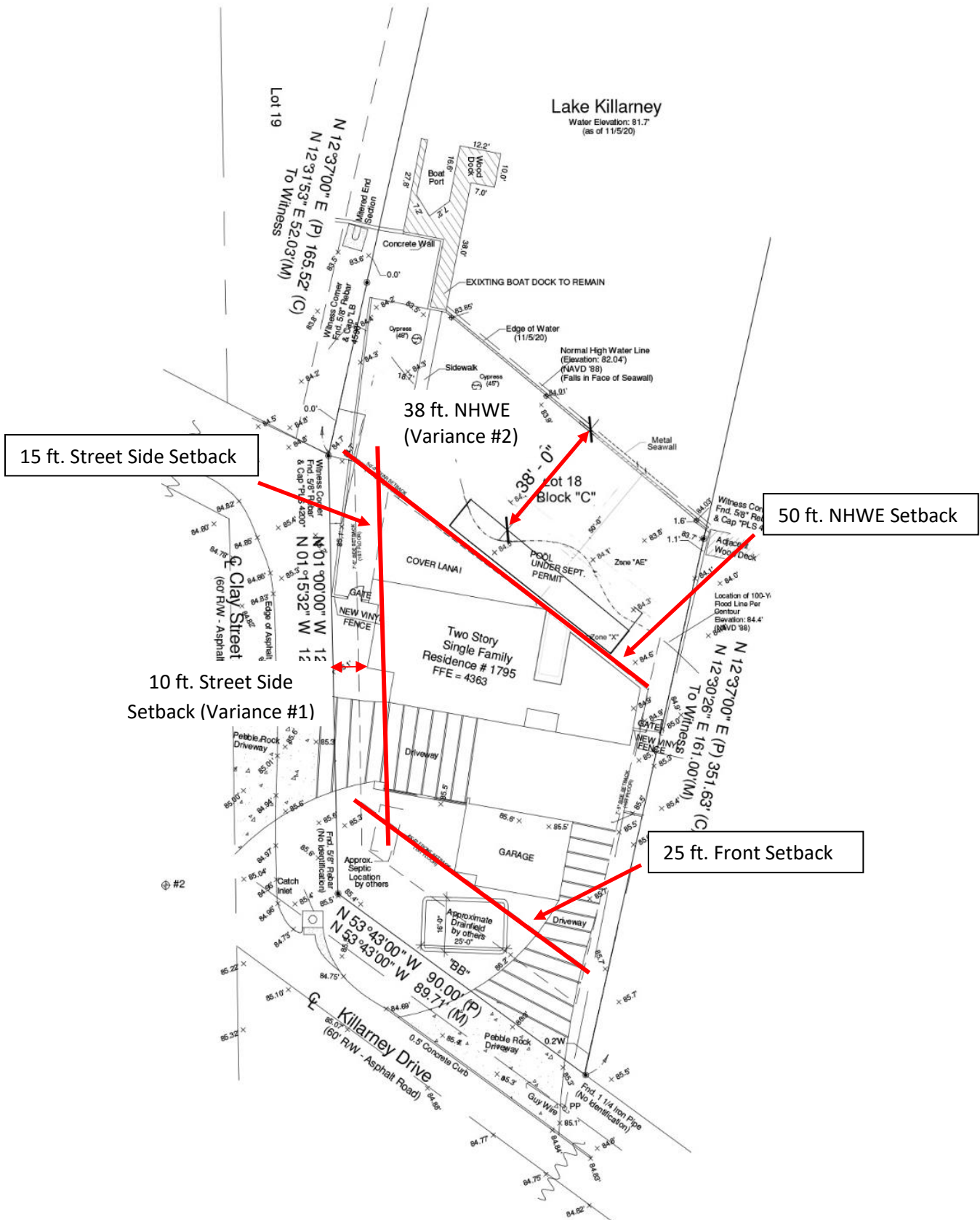
AERIAL MAP



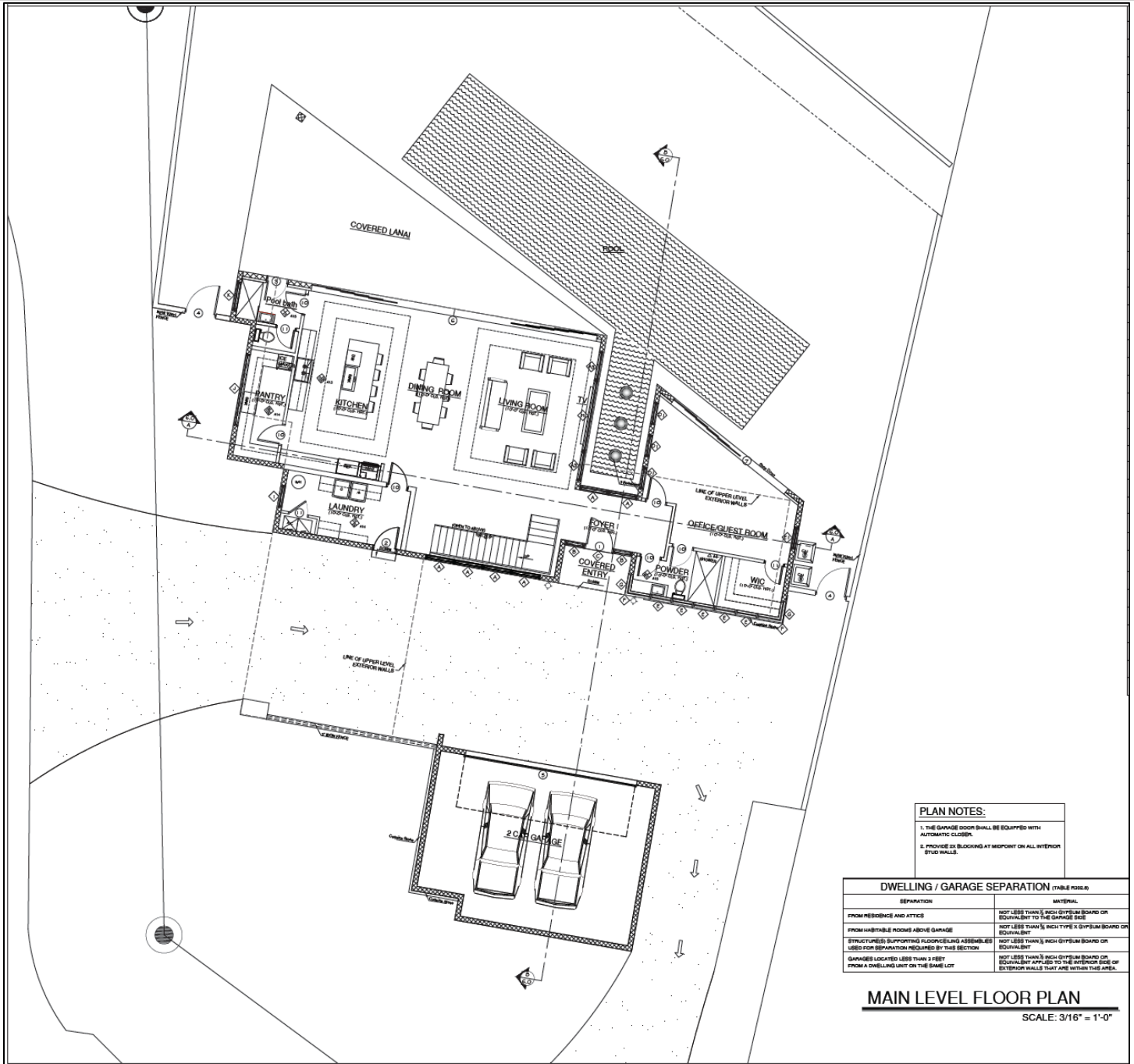
DEMOLITION PLAN



SITE PLAN



1ST FLOOR PLAN



PLAN NOTES:

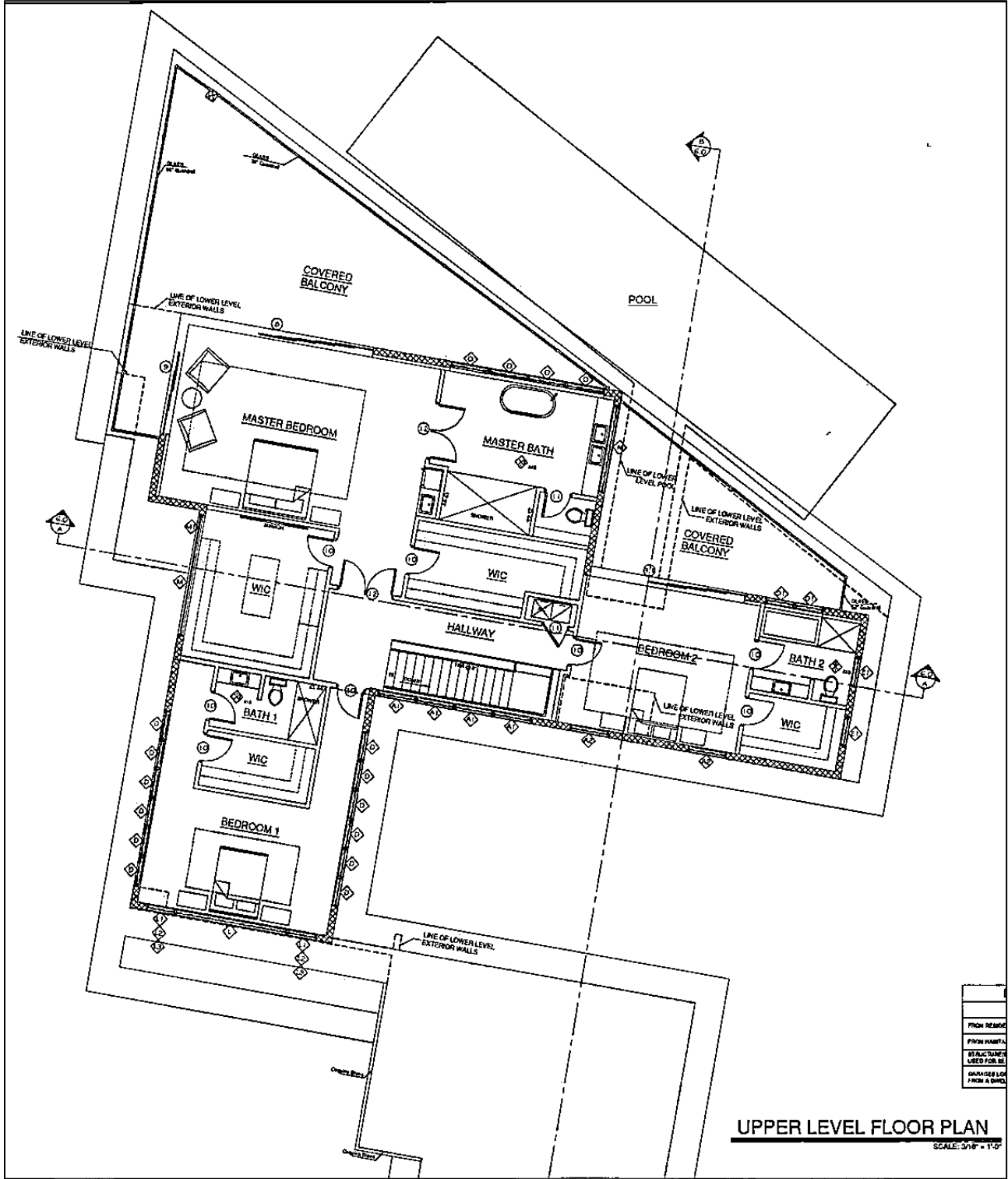
1. THE GARAGE DOOR SHALL BE EQUIPPED WITH AUTOMATIC CLOSER.
2. PROVIDE OR BLOCKING AT MIDPOINT ON ALL INTERIOR STUD WALLS.

DWELLING / GARAGE SEPARATION (TABLE R202.6)	
SEPARATION	MATERIAL
FROM RESIDENCE AND ATTICS	NOT LESS THAN 1/2 INCH GYPSUM BOARD OR EQUIVALENT TO THE GARAGE SIDE
FROM HABITABLE ROOMS ABOVE GARAGE	NOT LESS THAN 1/2 INCH TYPE X GYPSUM BOARD OR EQUIVALENT
STRUCTURES SUPPORTING FLOOR/CEILING ASSEMBLIES USED FOR SEPARATION REQUIRED BY THIS SECTION	NOT LESS THAN 1/2 INCH GYPSUM BOARD OR EQUIVALENT
GARAGES LOCATED LESS THAN 3 FEET FROM A DWELLING UNIT ON THE SAME LOT	NOT LESS THAN 1/2 INCH GYPSUM BOARD OR EQUIVALENT AFFIXED TO THE INTERIOR SIDE OF EXTERIOR WALLS THAT ARE WITHIN THE AREA.

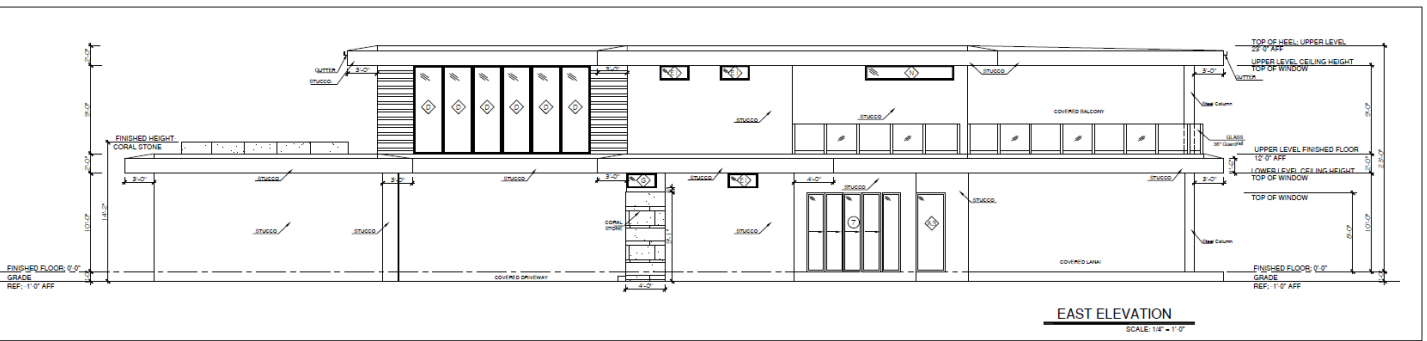
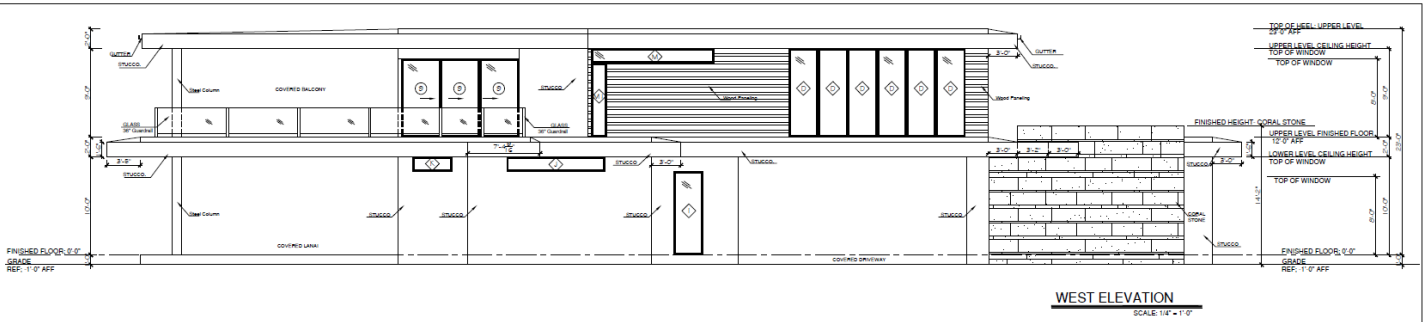
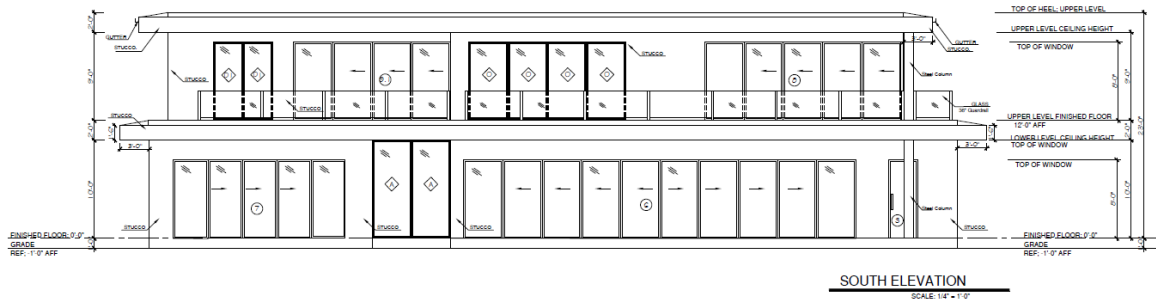
MAIN LEVEL FLOOR PLAN

SCALE: 3/16" = 1'-0"

2ND FLOOR PLAN



ELEVATIONS



SITE PHOTOS



Subject property looking north to be demolished



Approximate location of pool, looking north

SITE PHOTOS



Approximate location of pool looking northeast



Approximate location of side street setback variance

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 01, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-04-021**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): FLORIDA POOL ENCLOSURES (DOUGLAS JOHNSON)

OWNER(s): ALFRED PENKACIK, ANJALIQUE PENKACIK

REQUEST: Variances in the PD zoning district as follows:

- 1) To allow an existing residence to remain with a 9 ft. west side setback in lieu of 10 ft.
- 2) To allow a screen enclosure 21.5 ft. from the Normal High Water Elevation (NHWE) in lieu of 25 ft.

PROPERTY LOCATION: 11408 Buckley Wood Ln., Windermere, Florida, 34786, south side of Buckley Wood Ln., south of Chase Rd., east of Winter Garden Vineland Rd.

PARCEL ID: 30-23-28-4081-08-760

LOT SIZE: 100 ft. x 152 ft. (+/- 0.35 acres, +/- 15,292 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 65

DECISION: Recommended **APPROVAL** of the Variance requests 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; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated February 10, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. A permit shall be obtained within 2 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the-patio/lanai enclosure is no closer than 21.5 feet from the Normal High Water Elevation of Lake Burden.

SYNOPSIS: Staff explained the proposal, including the location of the site, the history of the property, noting the reduced Normal High Water Elevation (NHWE) setback, the site plan, elevations and plans of the proposed screen enclosure, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial since the project could be redesigned to comply with the required setback. Staff noted that two (2) correspondences were received in support, including one (1) from the homeowner's association, and no correspondences were received in opposition.

The applicant provided reasons for the request and the design of the proposed enclosure. He also noted that the HOA was in support of the proposal.

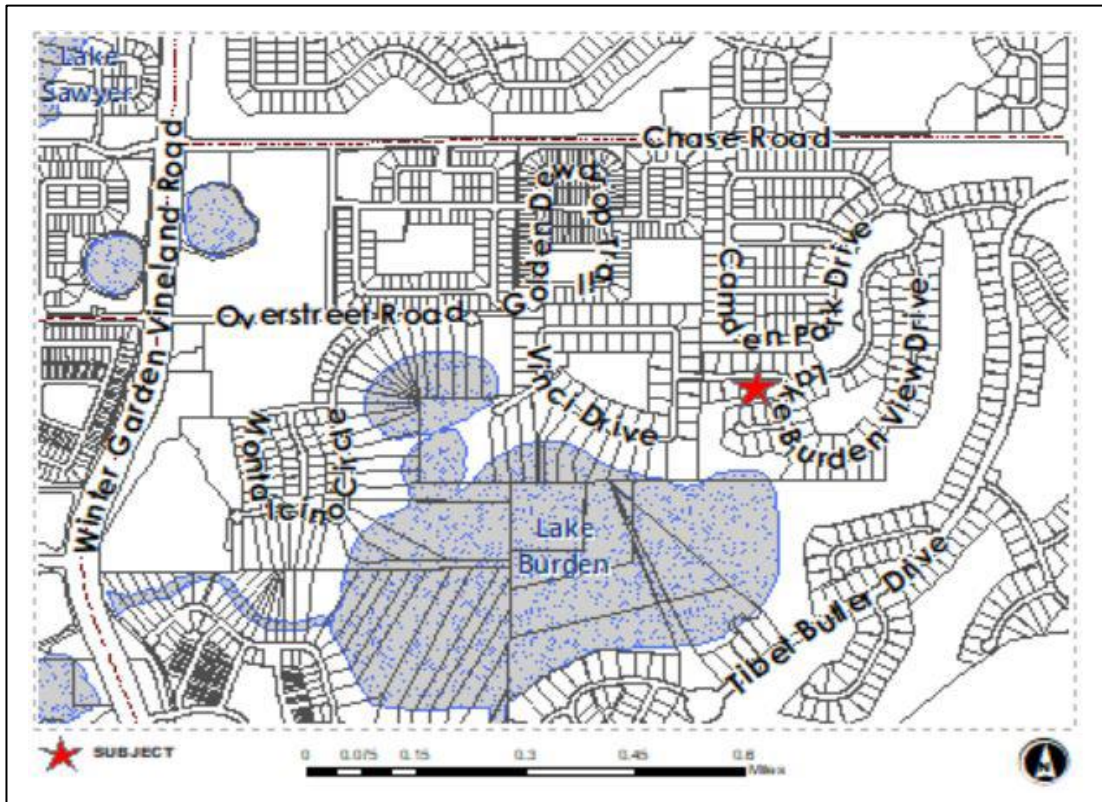
There was no one in attendance to speak in favor or in opposition to the request.

The BZA concluded that the proposed screen enclosure would not be detrimental to the surrounding properties and would be compatible with the development of the area. Further, the existing location of the summer kitchen presents a design challenge for the proper installation of a screen enclosure. The BZA unanimously recommended approval of the variances by a 6-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval of Variance #1 and denial of Variance #2. However, if the BZA finds that the owner has satisfied the criteria for granting both variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	Keene's Point PD	Keene's Point PD	Keene's Point PD	Keene's Point PD	Keene's Point PD
Future Land Use	V	V	V & WB	V	V
Current Use	Single-family residence	Single-family residence	Lake Burden & Single-family residences	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the Keene's Point Planned Development district. This PD allows for single-family homes with flexible design standards.

The subject property consists of a 100 ft. x 152 ft. lot as part of the Keene's Point Unit 8 Plat, recorded in 2004, and is a conforming lot of record.

In August 2005, the developer, Brentwood Custom Homes, received approval of an amendment to the PD to grant a waiver to the Normal High Water Elevation (NHWE) setback to allow for 25 ft. in lieu of 50 ft. for the lots

that front on Buckley Wood Ln. which back up the man-made cove connected to Lake Burden. This reduced setback applies to the subject site.

The site is developed with a 6,451 sq. ft. one-story single family residence with an attached two-car garage (B05011007) completed in 2006. There is also a boat dock installed in 2007 (B07000579).

In 2006, the developer of the subject property requested a variance to allow a pool and screen enclosure to be built 10 ft. from the NHWE in lieu of 25 ft. (VA-06-01-006). The BZA recommended denial, which was upheld by the BCC, due to the excessive nature of the request. The plan was modified to meet the requirements of code (B06007532).

Subsequently, the applicant is now requesting to install a screen enclosure attached to a three (3) ft. high wall across the entire patio/lanai 21.5 ft. from the NHWE in lieu of 25 ft. requiring Variance #2. This will also place the stairs from the rear yard to the elevated patio/lanai within the enclosure.

Alternatively, the enclosure could be shifted and installed along the edge of the patio/lanai without the need to encroach into the required NHWE setback.

Variance #1 is a staff initiated variance resulting from a review of the site plan submitted for the screen enclosure. It was found that the home's southwest corner encroaches one (1) foot into the required 10 ft. side yard.

The applicant has provided a letter of support from the community's HOA. No other commentary has been received as of the date of writing of this report.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	16.5 ft. (Screen enclosure)
Min. Lot Width:	70 ft.	100 ft.
Min. Lot Size:	11,200 Sq. ft.	15,200 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft.	27 ft. (North)
Rear:	25 ft.	25 ft. Residence (South) 21.5 Screen enclosure (South)
Side:	10 ft.	9 ft. Residence (West - Variance #1) 33 ft. Screen enclosure (West - Variance #2) 10 ft. Residence (East) 12 ft. Screen enclosure (East - Variance #2)
NHWE:	25 ft. (Per previously granted waiver)	25 ft. Residence (South) 21.5 ft. Screen enclosure (South - Variance #2)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1

Special Conditions regarding Variance #1, is the fact that the home was not properly sited when the foundation was laid. Major structural modifications from the grade to the roofline would be needed to correct the situation.

Variance #2

There are no special conditions or circumstances. The owner can place the enclosure within the patio/lanai without encroaching into the required setback.

Not Self-Created

Variance #1

The current owners were not responsible for the improper siting of the home. The need for this variance is not self-created.

Variance #2

The owner has an alternative to encroaching into the required setback. The need for the variance is self-created.

No Special Privilege Conferred

Variance #1

Granting this variance will not be conferring any special privilege on the owners. It will be correcting an error which could have resulted from any number of causes.

Variance #2

Granting the variance would confer a special privilege not afforded others in the same community. Staff did not observe any similar enclosures to that being proposed.

Deprivation of Rights

Variance #1

Without the variance, the owners will continue to have a nonconforming structure due to the existing setback.

Variance #2

Since there is an alternative to the proposal, the owner is not being deprived the right to have a screened patio/lanai.

Minimum Possible Variance

Variance #1

Since the variance is to correct an existing situation, this variance is the minimum possible variance.

Variance #2

Since there is an alternative to encroaching into the required setback, this is not the minimum possible variance. Furthermore, the requirement was already reduced by 25 ft. with the waiver in 2005.

Purpose and Intent

Variance #1

Granting this variance will correct an existing situation, is very minimal, and meets the purpose and intent of the code.

Variance #2

The proposed variance does not meet the purpose and intent of the code, as the restrictions have already been reduced by half.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated February 10, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. A permit shall be obtained within 2 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the-patio/lanai enclosure is no closer than 21.5 feet from the Normal High Water Elevation of Lake Burden.

C: Douglas Johnson
1400 S. Ronald Reagan Blvd.
Longwood, FL 32750

COVER LETTER

Feb. 10, 2021

Orange Co Board of Adjustments

Variance Application

11408 Buckley Wood Ln.

Windermere, Fl. 34786

Asking to put pool enclosure on existing deck 3.5 feet into a 25 ft rear setback.

1. Special C&C

Existing pool deck has been in place for years prior to applicants purchasing property.

2. Not self created

Home was purchased from previous owners that built home, pool and deck.

Current owners need to screen in existing area.

3. No special privilege

Other homeowners have been granted such a variance with like conditions.

4. Deprivation of rights

Applicants would really like to be able to use their pool area without them as well as their children being bitten by insects or snakes.

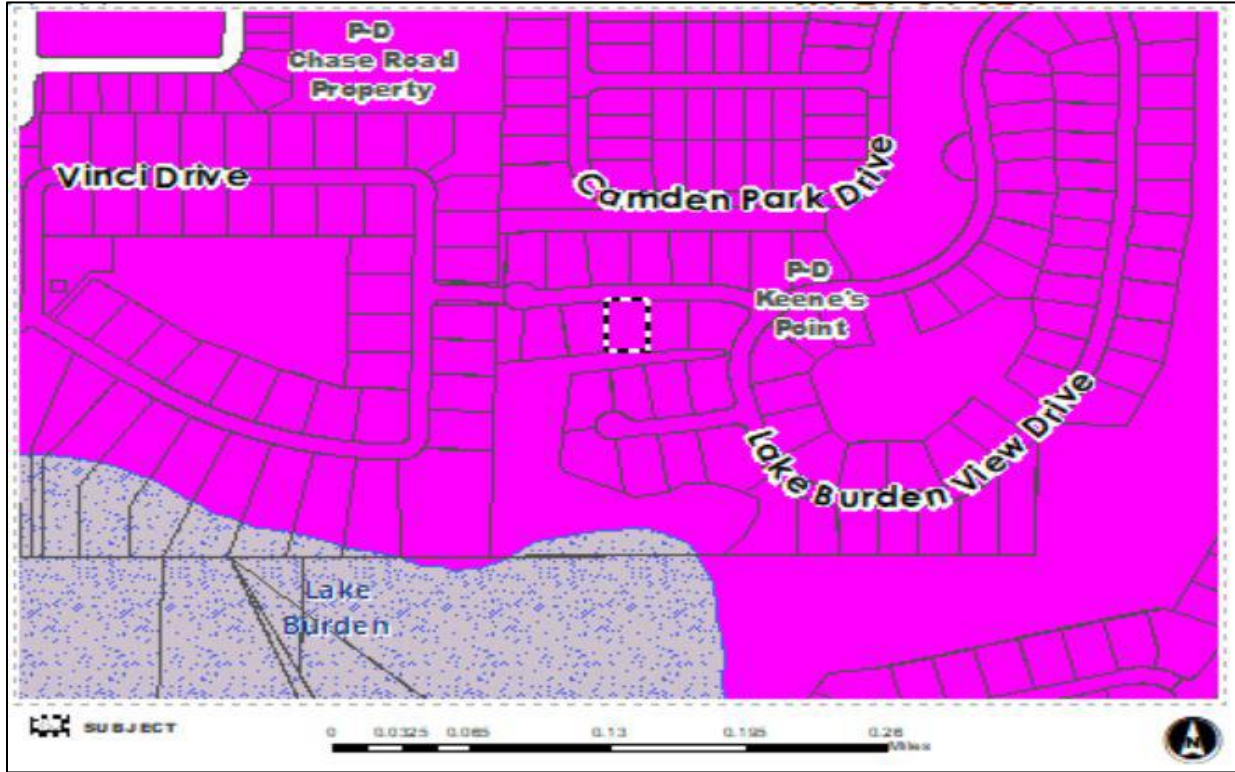
5. Minimum Possible Variance.

Applicants just asking for enough room to be able to get around pool for a safety issue.

6. Purpose and intent

Affected neighbor is ok with proposed 3.5 ft encroachment

ZONING MAP



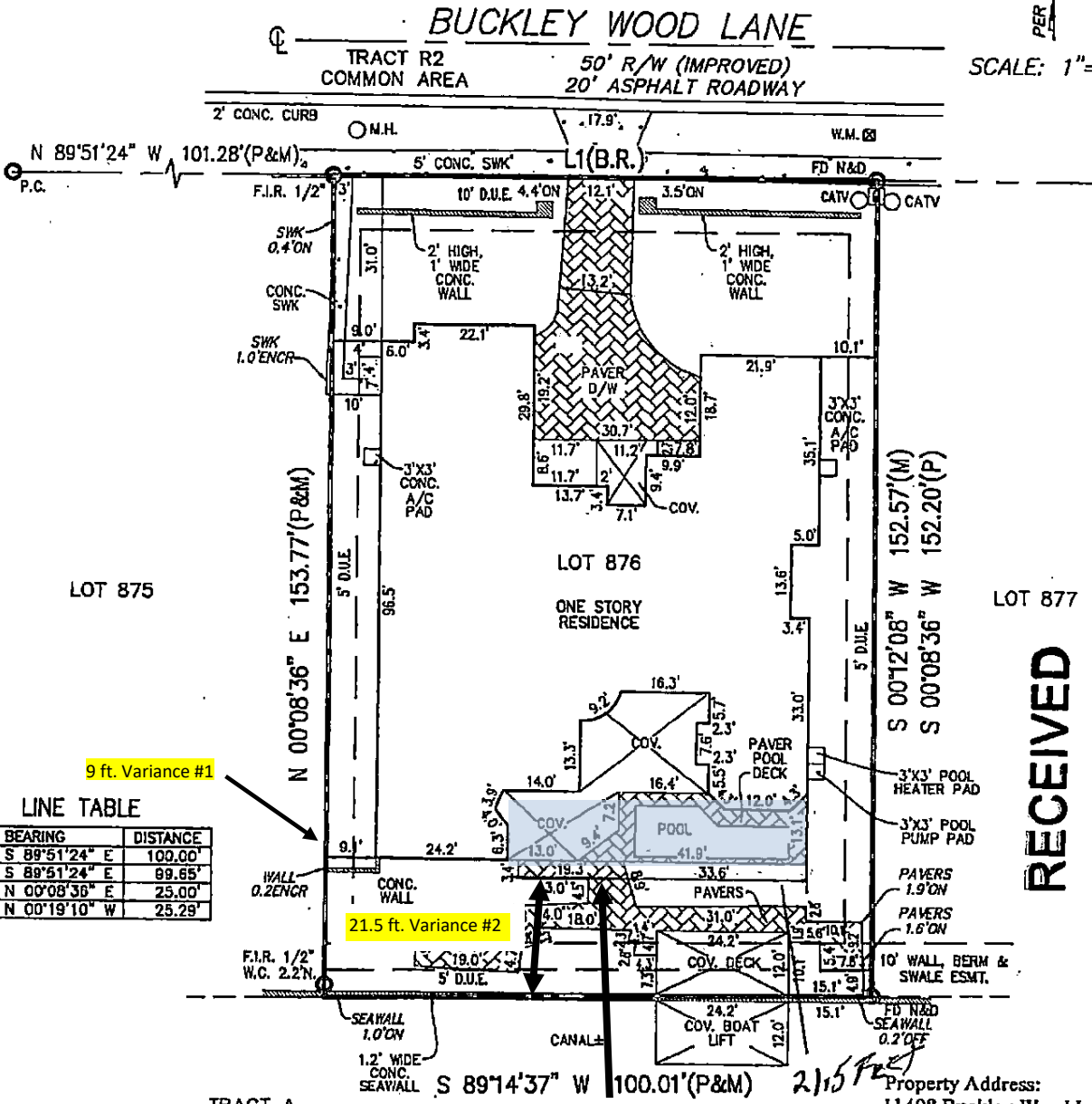
AERIAL MAP



SITE PLAN



SCALE: 1"=30'



LINE TABLE

LINE	BEARING	DISTANCE
L1(P)	S 89°51'24" E	100.00'
L1(M)	S 89°51'24" E	99.65'
L2(P)	N 00°08'36" E	25.00'
L2(M)	N 00°19'10" W	25.29'

9 ft. Variance #1

21.5 ft. Variance #2

TRACT A
(CONSERVATION AREA)
(CONSERVATION ESMT.)
(O.R.B. 7717, PG 1736)

Screen
Enclosure

PAGE 2 OF 2
NOT VALID WITHOUT PAGE 1)

Property Address:
11408 Buckley Wood Lane
Windermere, FL 34786

Survey number: PS 22994

RECEIVED
FEB 10 2021
ORANGE COUNTY

SITE PHOTOS



Subject property looking south from Buckley Wood Ln.

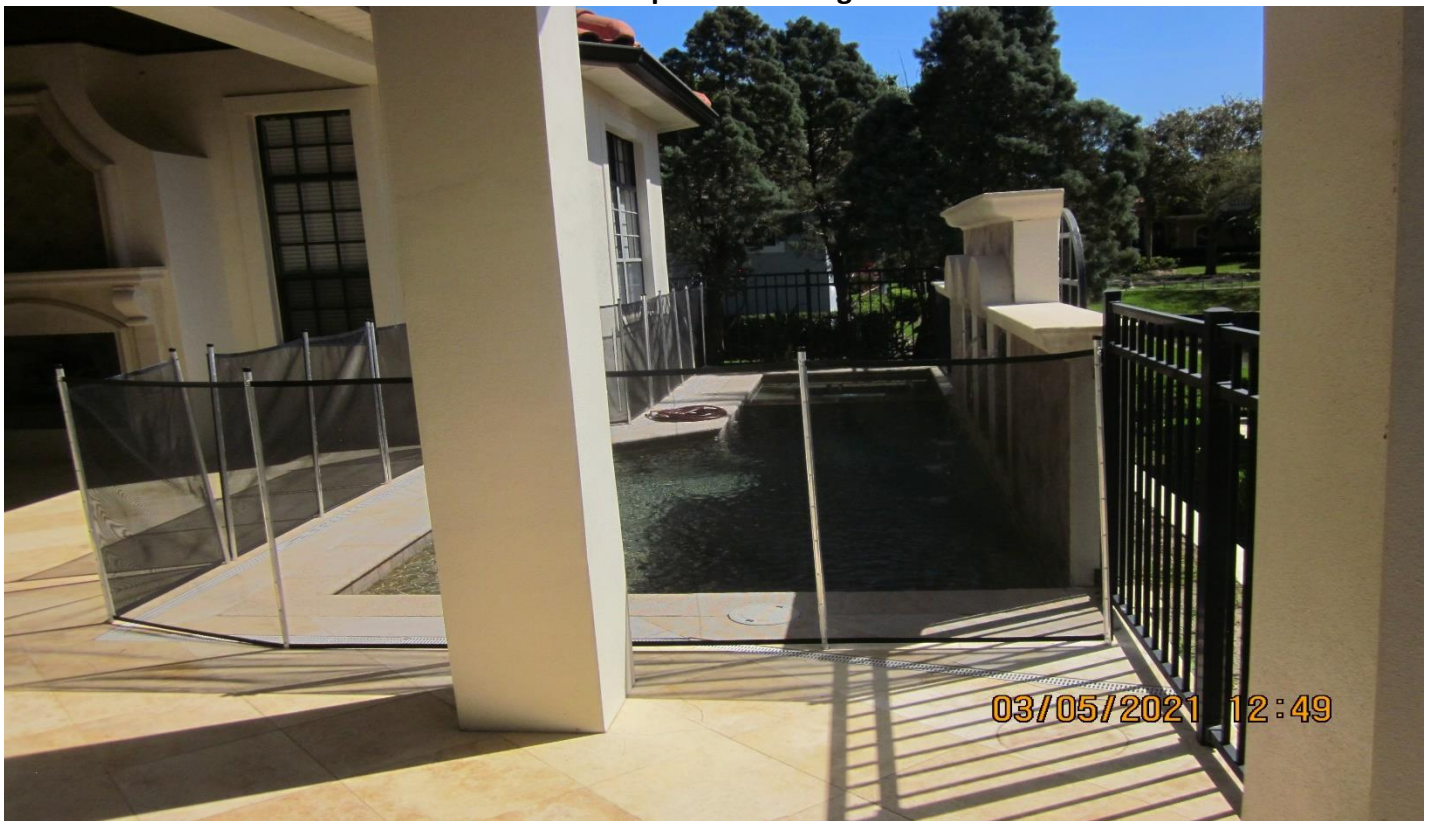


Rear yard looking east

SITE PHOTOS



Stairs and planter looking east



Pool on patio/lanai, looking east toward proposed enclosure location

SITE PHOTOS



Planter and patio/lanai looking east



Planter and patio/lanai looking northwest

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 01, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-04-013**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): AVCON, INC. (RICK BALDOCCHI)

OWNER(s): THOMAS HEWITT

REQUEST: Variance in the R-3 zoning district for multi-family development to allow 118 parking spaces in lieu of 153.

PROPERTY LOCATION: Lake Jessamine Dr., Orlando, Fl. 32839, west side of Lake Jessamine Dr., east of S. Orange Blossom Trl., and south of Holden Ave.

PARCEL ID: 14-23-29-0000-00-003 and 15-23-29-0000-00-020

LOT SIZE: +/- 20.8 acres

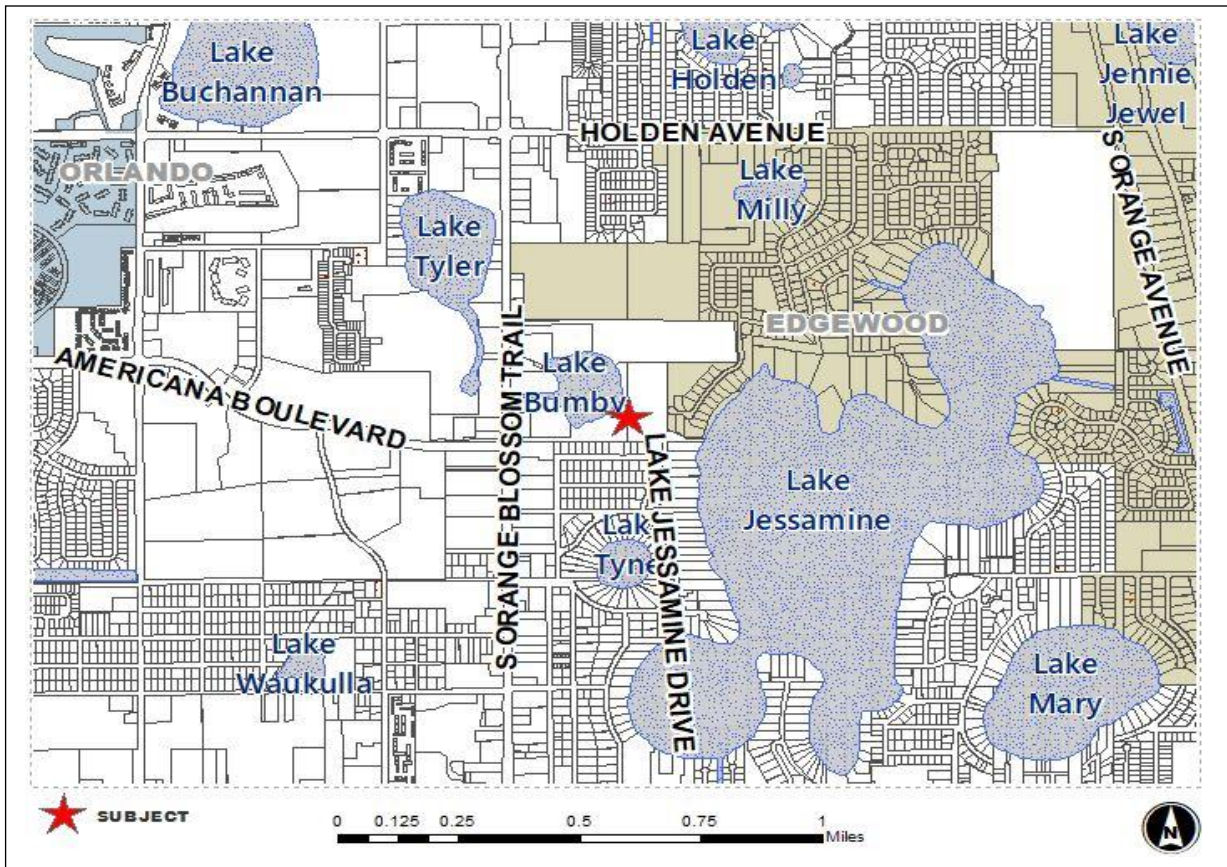
NOTICE AREA: 600 ft.

NUMBER OF NOTICES: 157

STAFF RECOMMENDATIONS

A CONTINUANCE WAS REQUESTED TO MAY 6, 2021

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 01, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-05-022**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): FRANCES BERNI, JOSEPH KRYSZTOFORSKI

OWNER(s): FRANCES BERNI, JOSEPH KRYSZTOFORSKI

REQUEST: Variance in the P-D zoning district to allow a generator 1 ft. from the east side property line in lieu of 10 ft.

PROPERTY LOCATION: 13525 Gorgona Isle Dr., Windermere, Florida, 34786, north side of Gorgona Isle Dr., south of Reams Rd.

PARCEL ID: 34-23-27-9175-00-150

LOT SIZE: 60 ft. x 140 ft./ +/- 0.19 acres (+/- 8,400 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 91

DECISION: Recommended **APPROVAL** of 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; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan dated February 25, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. A permit shall be obtained for the generator within 180 days of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

- Existing shrubs screening the A/C equipment shall be relocated to screen the generator from the street, or two additional fast growing shrubs shall be planted at a minimum height of 30 inches to screen the generator from the street.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that three (3) comments were received in support and no comments were received in opposition.

The applicant noted that the location was selected due to the location of the natural gas line at the east side of the house and described the need for the generator.

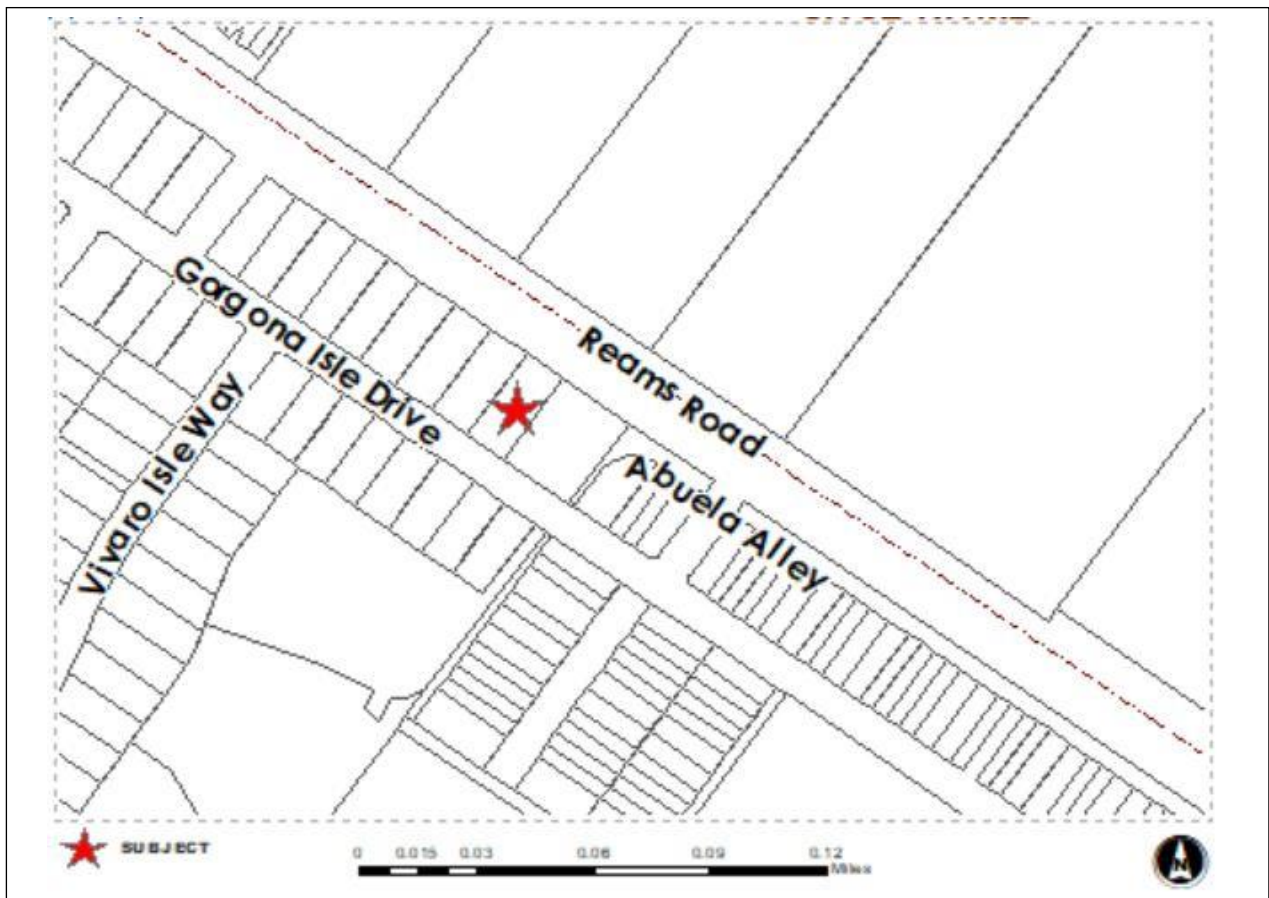
There was no one in attendance to speak in favor or in opposition to the request.

The BZA noted that there are no other alternatives to install a generator on the property, observed that there is no neighbor to the east and stated that the open space lot to the east cannot be developed. The BZA recommended approval of the variance by a 6-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	The Preserve at Lakeside PD	RCE-2	The Preserve at Lakeside PD	The Preserve at Lakeside PD	The Preserve at Lakeside PD
Future Land Use	V	V	V	V	V
Current Use	Single-family residence	Vacant	Single-family residence	Open Space tract	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Preserve at Lakeside Village PD. This PD allows single-family and multi-family uses.

The neighborhood is comprised of single-family homes and townhomes. The subject property is an approximately 0.19 acre lot, located in the Windermere Isle Plat, recorded in 2017, and is considered to be a conforming lot of record. It is developed with a 4,502 sq. ft. single family home that was completed in March 2018. The applicant purchased the property in May 2018.

The applicant is proposing to install a 62 inch x 30 inch generator 1 ft. from the east side property line, adjacent to the existing house, where a 10 ft. setback is required by County Code Sec. 38-79(16) for the generator. The generator will operate normally at 70 decibels (Db) noise level from a distance of 23 ft. The generator can be set to self-test every other week at 61 Db. Normal conversation is 50 Db. When the unit is operating at full power during a power outage, it operates at a level of approximately 70 Db, which is between the sound of conversation in a restaurant and a vacuum cleaner, or an a/c compressor.

The applicant is proposing to install the generator on the same side (east) of the property that the A/C equipment is located. Since the rear of the property is encumbered by a 20 ft. landscape and wall easement, and since the house is built to within 5 ft. of the side property lines, there is no other location on the property that a generator can be installed without a variance. Furthermore, the proposed location abuts an open space tract to the east; thus, no adjacent neighbor will be directly impacted.

The applicant has submitted a letter from the HOA approving the location for the generator. The adjacent neighbor to the west and the neighbor across the street to the southeast (who will have a view of the generator) have submitted letters of no objection to the request.

District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	50 ft.	60 ft.

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

	Code Requirement	Proposed
Front:	15 ft.	15.5 ft. (South)
Rear:	20 ft.	54.5 ft. (North)
Side:	5 ft. House 10 ft. Generator when adjacent to house, 5 ft. other sides and rear for generator	5 ft. House (East and West), 1 ft. Generator (East-Variance)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to this property are the result of the house being built to within 5 ft. of the side property lines, a swimming pool/screen enclosure proposed to be built within 5 ft. of the side property lines, and the presence of a 20 ft. landscape and wall easement along the rear property line. Therefore, any proposed generator location will require a variance.

Not Self-Created

The applicant is not responsible for the configuration of the lot, the setbacks, and the location of the house.

No Special Privilege Conferred

The existing setbacks and house and proposed pool enclosure location, and rear landscape and wall easement render the installation of a generator impossible without a variance.

Deprivation of Rights

Without the requested variance, the applicant will not be able to place a permanent generator on their property.

Minimum Possible Variance

Due to the setbacks, the location of improvements and constrained lot, the requested variance is the minimum possible.

Purpose and Intent

Approval of this request will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the neighborhood. The proposed location abuts an open space tract to the east, which will avoid any potential adverse impacts of being so close to the property line.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated February 25, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. A permit shall be obtained for the generator within 180 days of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Existing shrubs screening the A/C equipment shall be relocated to screen the generator from the street, or two additional fast growing shrubs shall be planted at a minimum height of 30 inches to screen the generator from the street.

C: Frances Berni, Joseph Krysztoforski
13525 Gorgona Isle Dr.
Windermere, FL 34786

Frances Berni
Joseph Krysztoforski
13525 Gorgona Isle Dr.
Windermere, FL 34786

February 9, 2021

Board of Zoning Adjustment
Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor
Orlando, FL 32801

Dear BZA Members:

We are writing this letter requesting a variance for the installation of residential stand-by emergency generator at 13525 Gorgona Isle Drive in Windermere Isle, Plat 91/137 Lot 15 – which is located in a Planned Development Zoning District. The lot which is 60' x 140', .19 acres, 8,400 square feet is located in District 1. The request is for a variance to allow a generator to be located 12" from the south side of the property line in lieu of the code required ten feet.

The neighborhood is comprised of 117 single family homes. The lot is developed with a 4,502 square foot family home purchased in June of 2018. We are proposing to install a Protector QS Series Generac generator measuring 62" x 30" adjacent to the house which will operate when in test mode, twice monthly, at 61 dB(A) from a distance of 23 feet. When operating at full power during outages the generator will operate at 70 dB(A) at 23 ft (7 m) which is between the sound of conversation in a restaurant and a vacuum cleaner, or an AC compressor.

The variance we are requesting the BZA to consider, will place the generator on the South side of the property (see photographs, charts and lot survey) adjacent to a landscaped Open Space (Windermere Isle Plat 91/137 OS-4). The developer located the natural gas stub and electrical chase on the South side of the home. This tract of land, owned by the Windermere Isle HOA, will not be built upon, it is Category A Open Space Landscaped area. The purposed location of the generator does not encroach on neighboring residential properties.

This variance to current Orange County zoning requirement is being made for health and medical reasons, which require the temperature and humidity in the home to remain in a narrow range throughout the year. Due to our lot size, 140' deep by 60' wide and the existing 20' Landscape and Wall easement, placing the generator in the back yard is not an alternative as this placement renders the yard unusable, prohibits the installation of the planned pool/hot tub, which will provide hydro therapy for the medical condition.

The standby generator will provide power to run HVAC equipment and mitigate the consequences of power outages caused by man-made or natural disasters, such as hurricanes, tornados and other weather-related events. Without the variance we will not be able to place the generator on our property.

The property located in the same community, Plat 91/135 Lot 37 - 8361 Torcello Isle Drive, Windermere Florida filed VA-18-10-135 requesting a variance to install a Generac residential stand-by generator, measuring 48" x 29", within 19" from the property line. During the November 2018 BZA meeting the board was deadlocked and referred the variance to the BCC. The BCC heard the case and approved the variance on January 29, 2019. The contractor filed a Notice of Commencement with Orange County in

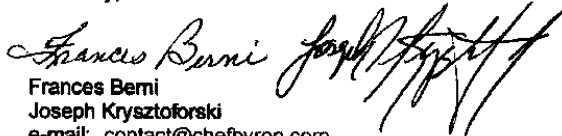
COVER LETTER PAGE 2

February of 2019. The generator installation on the side of the home, nineteen inches from the property line, was completed between March and April of 2019.

We have attached for your review Variance Criteria Section 30-43(3) Orange County Code, the approval letter received from the Windermere Isle HOA for the installation of the stand-by generator on the South side of our property. Also attached to this Variance request are copies of letters from residents on the north side and west side of our property supporting the installation of the generator. There are no residential properties on the South and East side of our property.

We respectfully request the BZA grant a variance for the installation of the residential stand-by emergency generator and patiently await your reply.

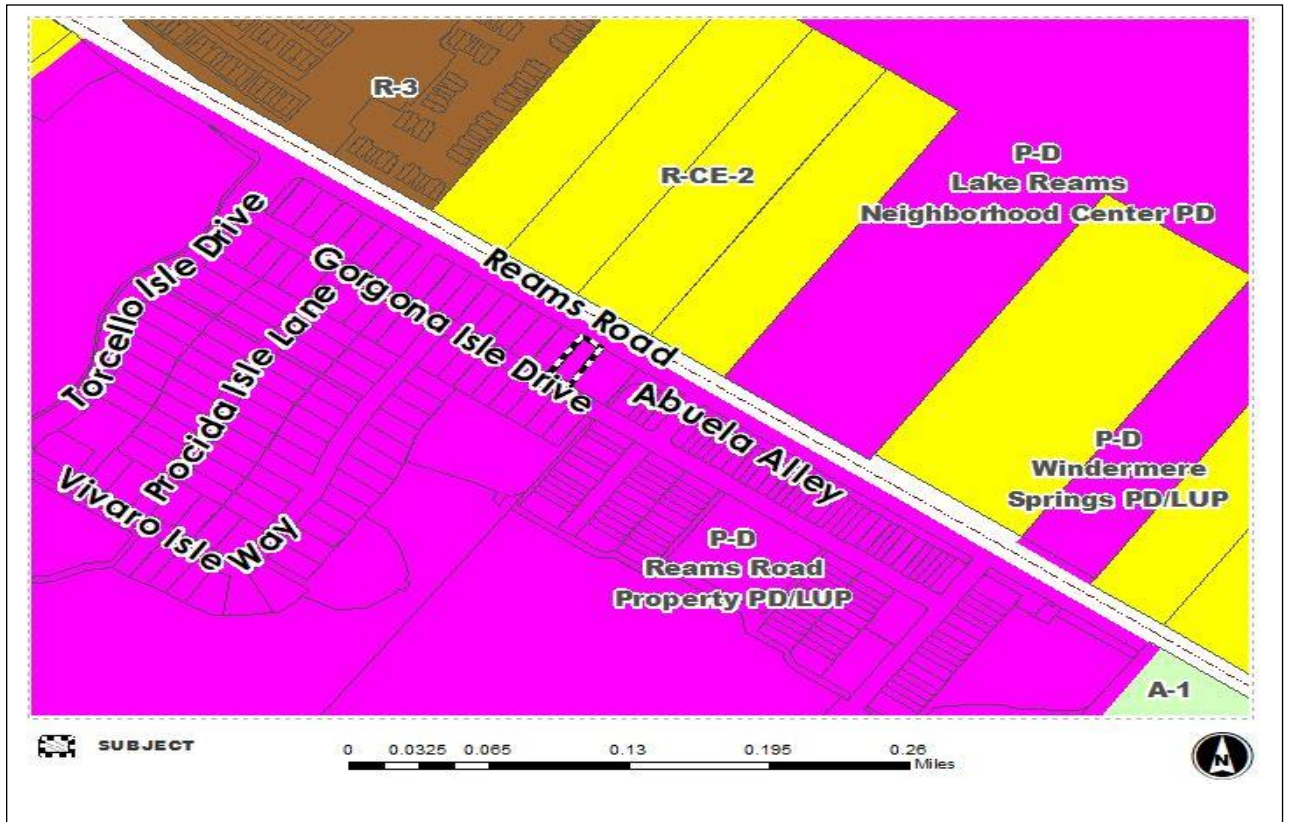
Sincerely,


Frances Berni
Joseph Krysztoforski
e-mail: contact@chefbyron.com
cell: 410-960-9814

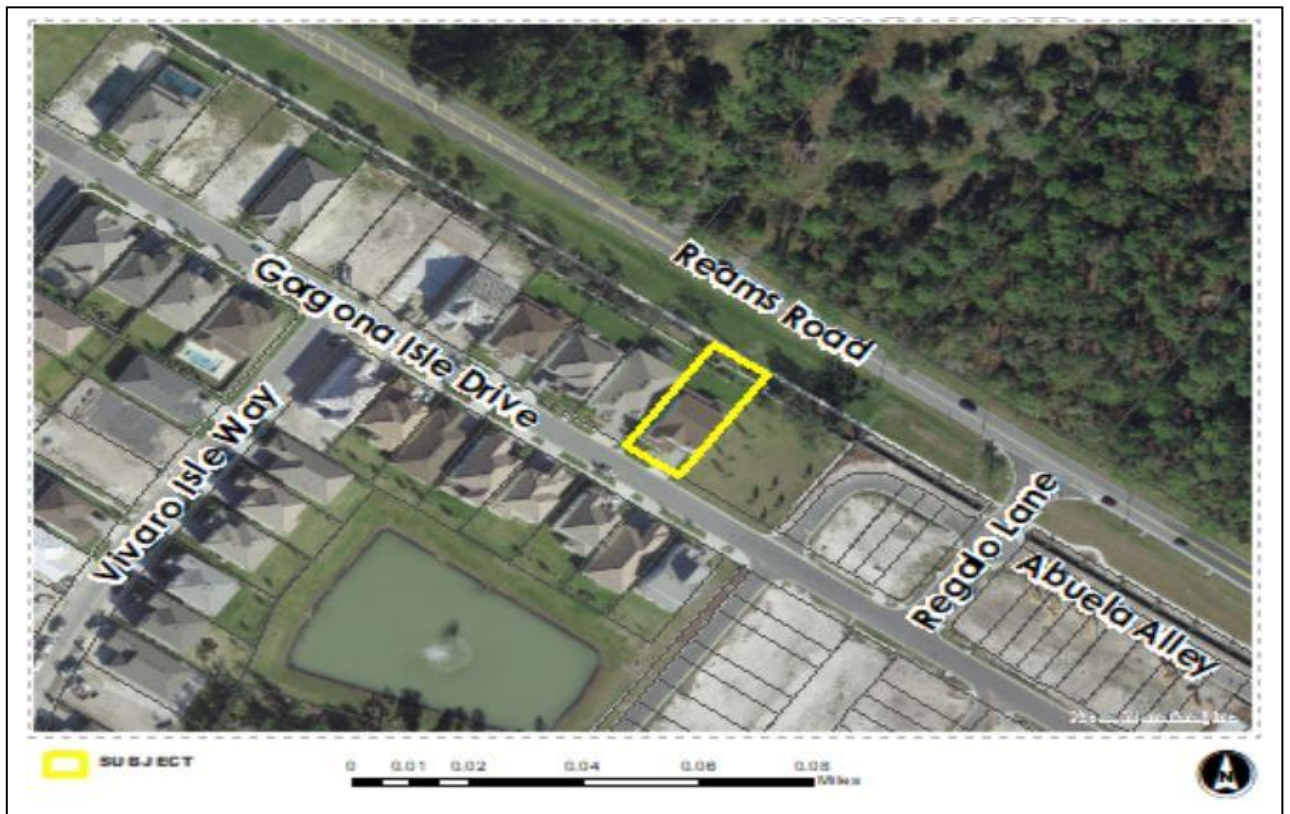
Variance Criteria Section 30-43(3) for VA-21-05-022

1. **Special Conditions and Circumstances** – The special Conditions and circumstances particular to this property are the result positioning of the home on the lot, planned swimming pool/screen enclosure layout, and existing 6' concrete wall in the yard which extends along the east side of the property and neighboring properties. Therefore, any proposed generator on this property will require a variance regardless of location.
2. **Not Self-Created** – The applicant is not responsible for the configuration of the lot, the setbacks, any easements or the location where the developer located the natural gas stub and electrical chase.
3. **No Special Privileges Conferred** – The existing setbacks, 6' concrete wall, house and planned pool/hot tub location render the installation of a generator impossible for without a variance since locations for the generator are limited.
4. **Deprivation of Rights** – Without the requested variance, the applicant will not be able to place a permanent generator on their property to maintain in home temperature and humidity levels during power outages, for health and medical reasons, or place the planned pool/hot tub in their yard for hydro therapy.
5. **Minimum Possible Variance** – The requested variance is the minimum possible for the location of the generator due to the constrained lot size, 140' deep by 60' wide, existing setbacks and easements.
6. **Purpose and Intent** – Approval of this request will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the neighborhood. There are no neighboring residences adjacent to the generator's proposed location, avoiding any adverse impacts to the quiet enjoyment of a residential neighborhood.

ZONING MAP



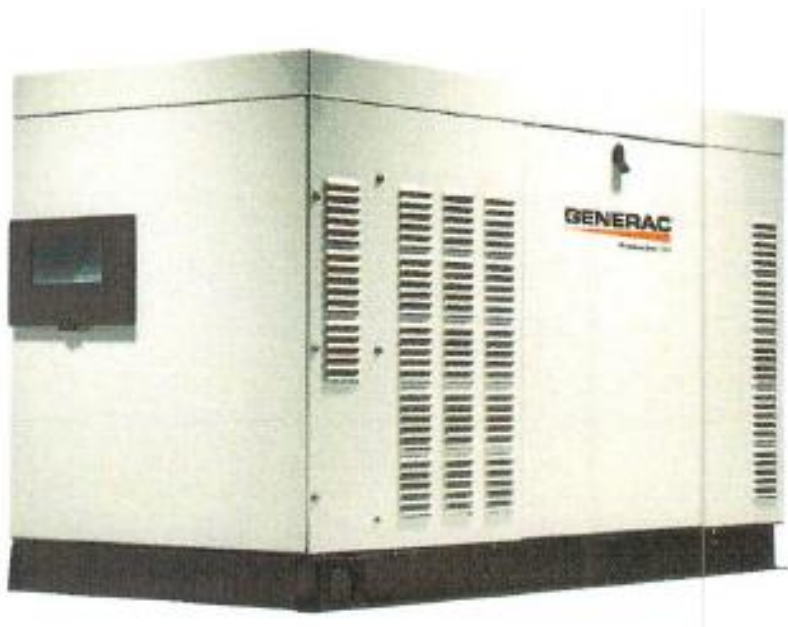
AERIAL MAP



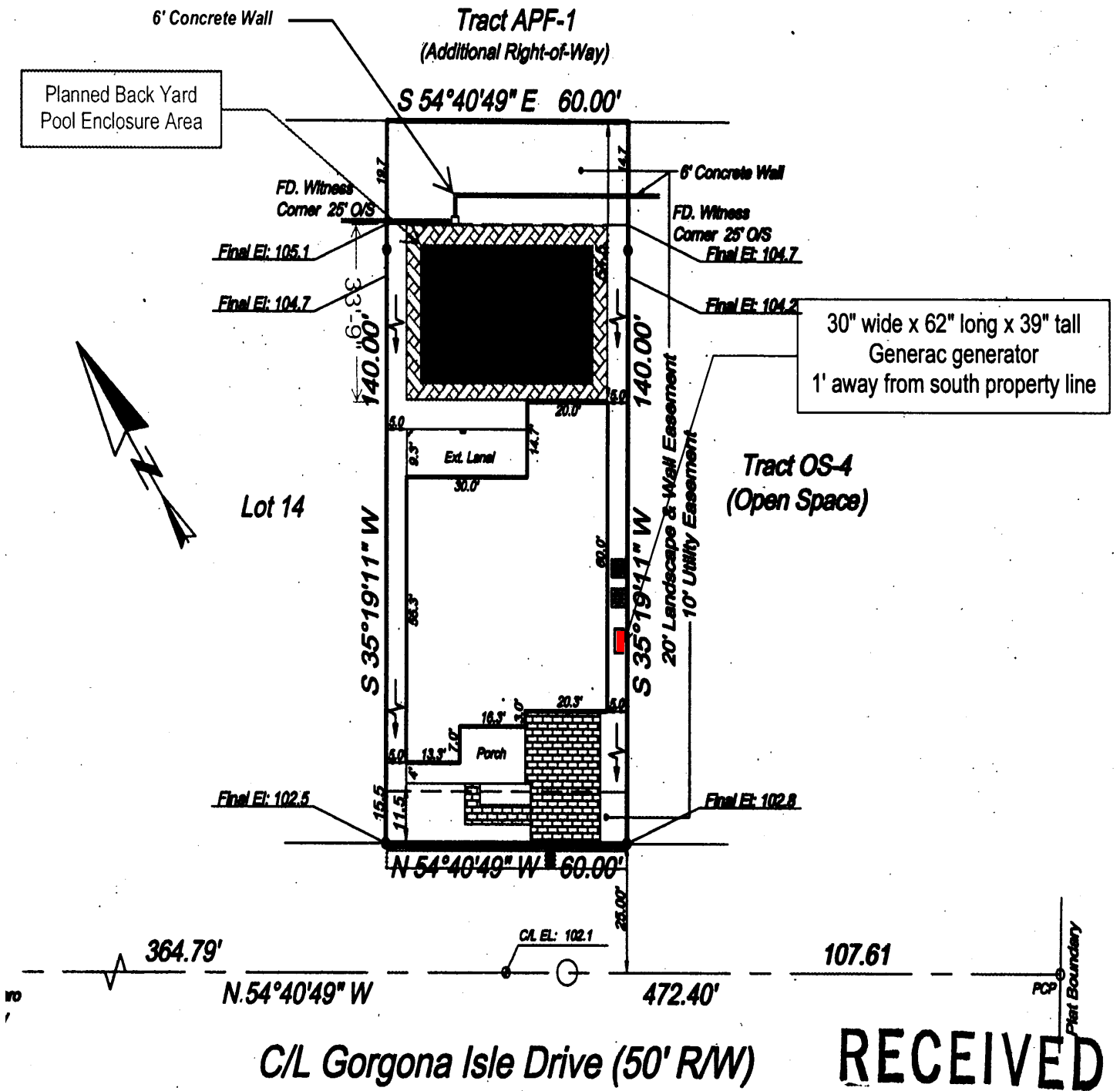
CLOSE UP AERIAL MAP



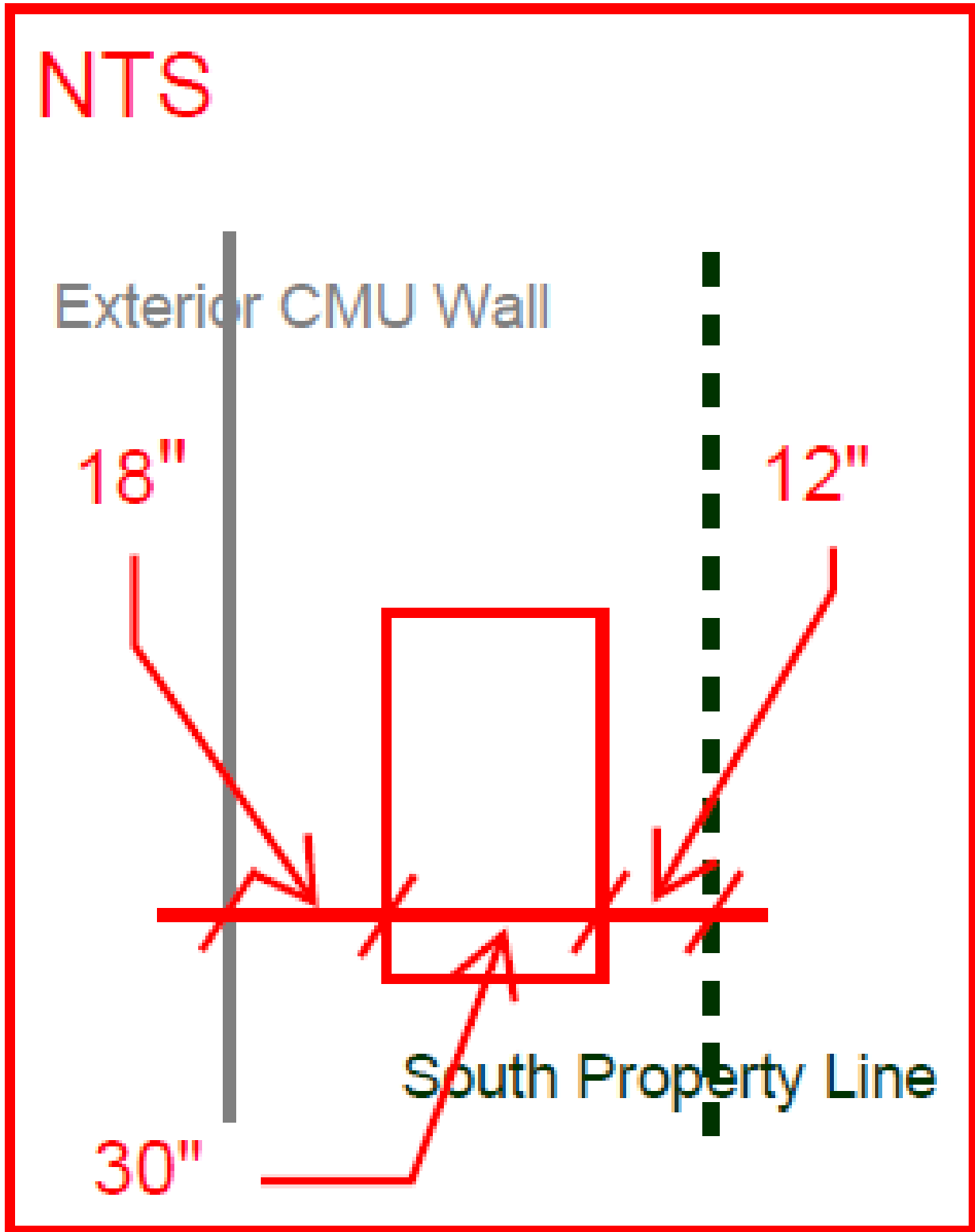
PROPOSED GENERATOR



SITE PLAN / SURVEY



RECEIVED



SITE PHOTOS



Front from Gorgona Isle Dr. facing north



East side-proposed generator location facing west

SITE PHOTOS



East side-proposed generator location

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 01, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-05-018**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): CODY JARRETT

OWNER(s): KARYN JARRETT

REQUEST: Variance in the PD zoning district to allow a 324 sq. ft. addition to a residence (covered porch) with a south rear setback of 2 ft. in lieu of 20 ft.

PROPERTY LOCATION: 7345 Spring Villas Cir., Orlando, Florida, 32819, south side of Spring Villas Cir., north of Spring Lake, south of Wallace Rd., west of Turkey Lake Rd.

PARCEL ID: 26-23-28-8257-00-300

LOT SIZE: 53 ft. x 100 ft./ +/- 0.12 acres (+/- 5,300 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 151

DECISION: Recommended **APPROVAL** of 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; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated February 15, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. The exterior of the addition shall match the exterior of the existing house, including roof materials and color.

5. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial since the owner has other options to modify the proposed addition. Staff noted that six (6) comments were received in support and no comments were received in opposition.

The applicant stated that the rear yard faces south and expressed the need for sun protection and to maximize useable area, as well as the need to maintain useable green space in the rear side yards.

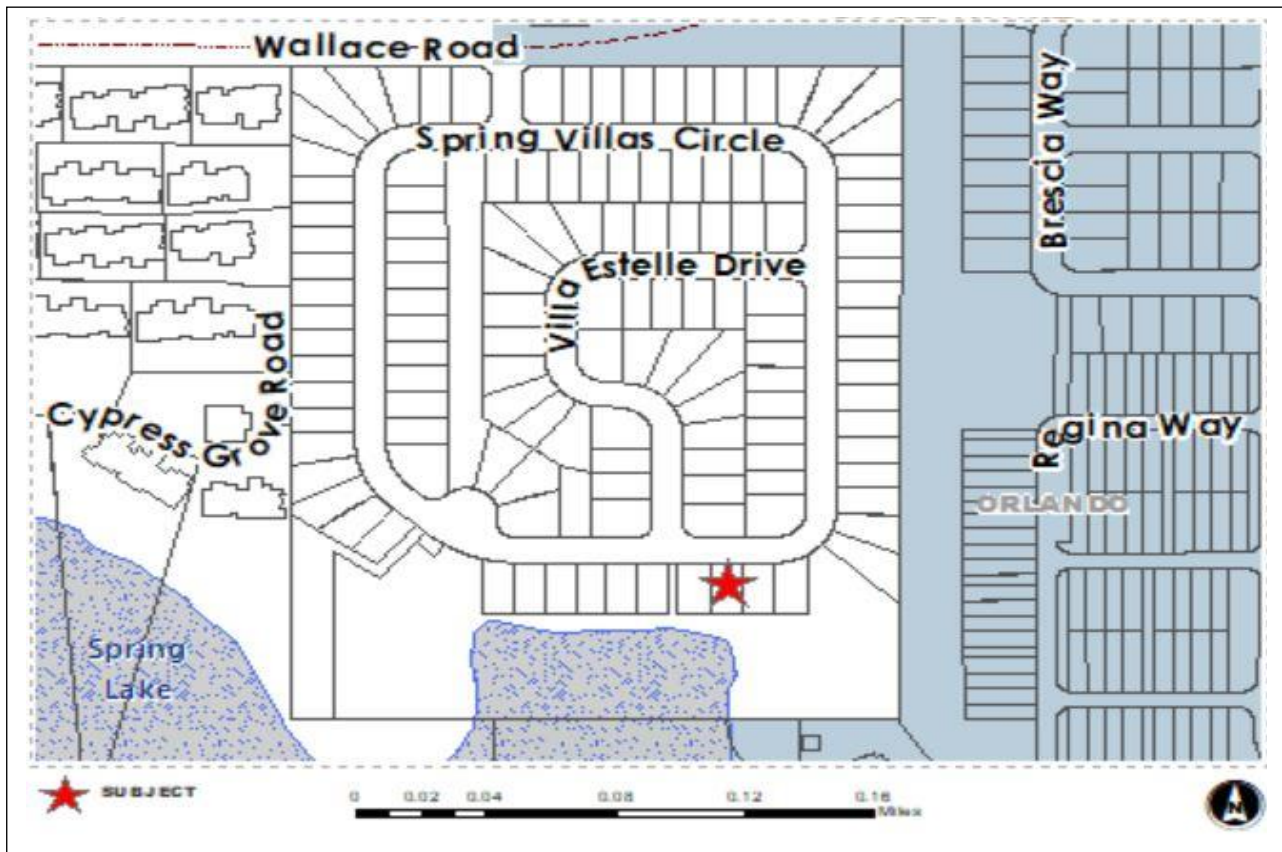
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the location of the residence further back than other houses on the same street, the maximization of useable covered space for his family, and noted the open space at the rear with no neighbors. The BZA recommended approval of the variance by a 6-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However if the BZA should find that the applicant has satisfied the criteria for the granting of a variance, staff recommends the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	Lakeway PD	Lakeway PD	Lakeway PD	Lakeway PD	Lakeway PD
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Single-family residence	Single-family residence	Stormwater/Retention Pond	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Lakeway PD which allows single-family residences.

The neighborhood consists of single-family homes. The subject property is approximately 0.12 acres in size, located in the Spring Lake Villas Plat, recorded in 1984, and is considered to be a conforming lot of record. It is developed with a 1,632 sq. ft. single family home constructed in 1987. The applicant purchased the property in 2014.

The applicant is proposing to add an 18 ft. x 18 ft., 324 sq. ft. covered porch with a south rear setback of 2 ft. in lieu of 20 ft. The applicant has indicated they would like the option to enclose the porch in the future. Any changes to the proposal would require an additional variance.

The applicant submitted a letter of support from the HOA, and the most impacted property owner to the west, and a neighbor to the east of the subject property.

District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	50 ft.	53 ft.

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

	Code Requirement	Proposed
Front:	20 ft.	20 ft. (North)
Rear:	20 ft.	2 ft. Addition (South-Variance)
Side:	0 ft. (West), 10 ft. (East)	10 ft. House and Addition (East), 2.9 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances particular to this property. The request could be modified to reduce the size in a manner to lessen the amount of variance requested.

Not Self-Created

The request for the variance is self-created and is a self-imposed hardship. There are other options in order to lessen the variance.

No Special Privilege Conferred

Granting the variance as requested will confer special privilege that is denied to other properties in the area, since the owner has other options to modify the proposed addition.

Deprivation of Rights

Deprivation of rights is not a consideration since the owner will continue to be able to utilize the property as a single-family residence without the addition as proposed.

Minimum Possible Variance

The request is not the minimum, since there are other alternatives to building an addition.

Purpose and Intent

Approval of the variance will be in harmony with the purpose and intent of the zoning regulations, as the addition abuts a large open space tract, and is an open porch, not an enclosed space.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated February 15, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. The exterior of the addition shall match the exterior of the existing house, including roof materials and color.
5. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Cody Jarrett
7345 Spring Villas Cir.
Orlando, FL 32819

**Letter of Intent
In Support of Request of Variance
7345 Spring Villas Circle, Orlando, FL, 32819**

This letter is seeking approval from the Board of Zoning to approve a covered porch addition to the back of our residential property at 7345 Spring Villas Circle. My wife and I have lived in our home for 7 years and plan to raise our family here. We recently had our first born child and would like to increase the amount of usable outdoor space in our backyard while investing in the overall value of our home and our community. Unfortunately, our home is situated further back on our property than our neighbors and therefore we are severely limited by the current 25ft setback. Below is how our proposed home addition meets the criteria for a variance.

1. **Special Conditions and Circumstances** – Our home is built much closer to the rear of our lot line compared to our neighbors. This makes the impact of the 25ft rear setback much more restrictive in our case compared to those homes built closer to the front of their respective lot. Additionally, our lot has open space to the rear and no rear neighbor. The proposed covered patio would not encroach on the land of any other residential property. Please see attached photos.
2. **Not Self-Created** - The orientation of our home leads to significant exposure from the weather and deprives us of reasonable use of the property. The rear of the property is south facing which leads to extreme sun exposure on this side of our house at all times of the day and during all seasons. This orientation inhibits our ability to utilize our limited outdoor space without risk of excessive sun exposure or heat fatigue. Given the current setback we have very little space to add a covered patio to provide shelter and protect from the weather.
3. **No Special Privilege Conferred** - The approval of the variance would not confer any special privilege as several other properties within the same zoning have built additional structures in the rear of their homes. These homes are situated closer to the street which allows a covered patio without needing a variance for the rear setback. Please see attached photos.
4. **Deprivation of Rights** – We believe the denial of the variance would result in undue hardship as it will limit the functional use of our property. There are numerous properties in the immediate area who have added covered structures to the side or the rear of their homes to protect against the sun. We are asking for the same opportunity.
5. **Minimum Possible Variance** – We believe we are seeking the minimum variance possible to allow for a functional covered patio. The current setback would only allow a small structure that would not provide shade or shelter from the weather. We have requested the variance in order to have a structure that allows our family adequate use of the area.
6. **Purpose and Intent** – Approval of the zoning variance will not have any negative impact on the immediate neighbors or the surrounding neighborhood. The adjacent property owners are in favor of the variance. Please see the attached letters of approval from our neighbors and the homeowners' association. Granting the variance would not be detrimental to the public welfare.

**Letter of Intent
In Support of Request of Variance
7345 Spring Villas Circle, Orlando, FL, 32819**

Our property at 7345 Spring Villas Circle is currently zoned for a 25ft setback. Unfortunately, our home was built much closer to the rear property line compared to our neighbors. This has led to significant restrictions when considering adding a covered patio to our home. We are requesting a variance due to the location of our property on the lot and the need for a covered space to allow use of our backyard.

The proposed covered patio would put the rear of the addition 2.1ft from the rear property line. Our property has open space to the rear with no neighbors behind us. A 2.9ft space will remain on the west property line of our house.

The addition will be an open air patio with a shingle roof that matches the existing shingle roof on our home. We would like to reserve the option to add screens to or enclose the structure in the future. It will have no/limited visibility from the front of our property and will not rise above the existing roof line.

We have obtained approval for this project from the Spring Lake Villas HOA. Our affected neighbors have provided a letter in support of this addition. We own the property immediately on the side of our home to the east.

The proposed project would be a significant financial investment in our home and result in an overall increase in property value and improvement to our neighborhood while allowing for our growing family to utilize our outdoor space.

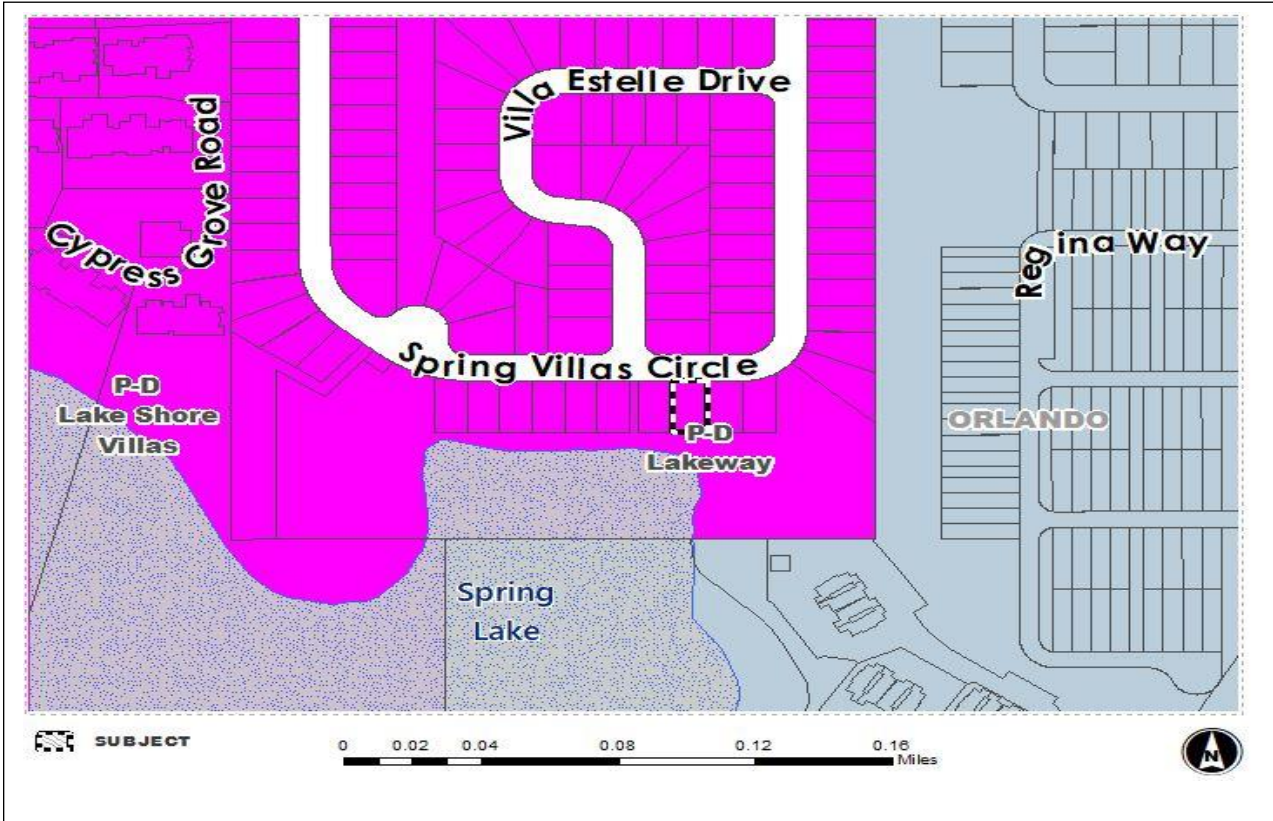
Thank you for your consideration.

Respectfully submitted,



Cody Jarrett

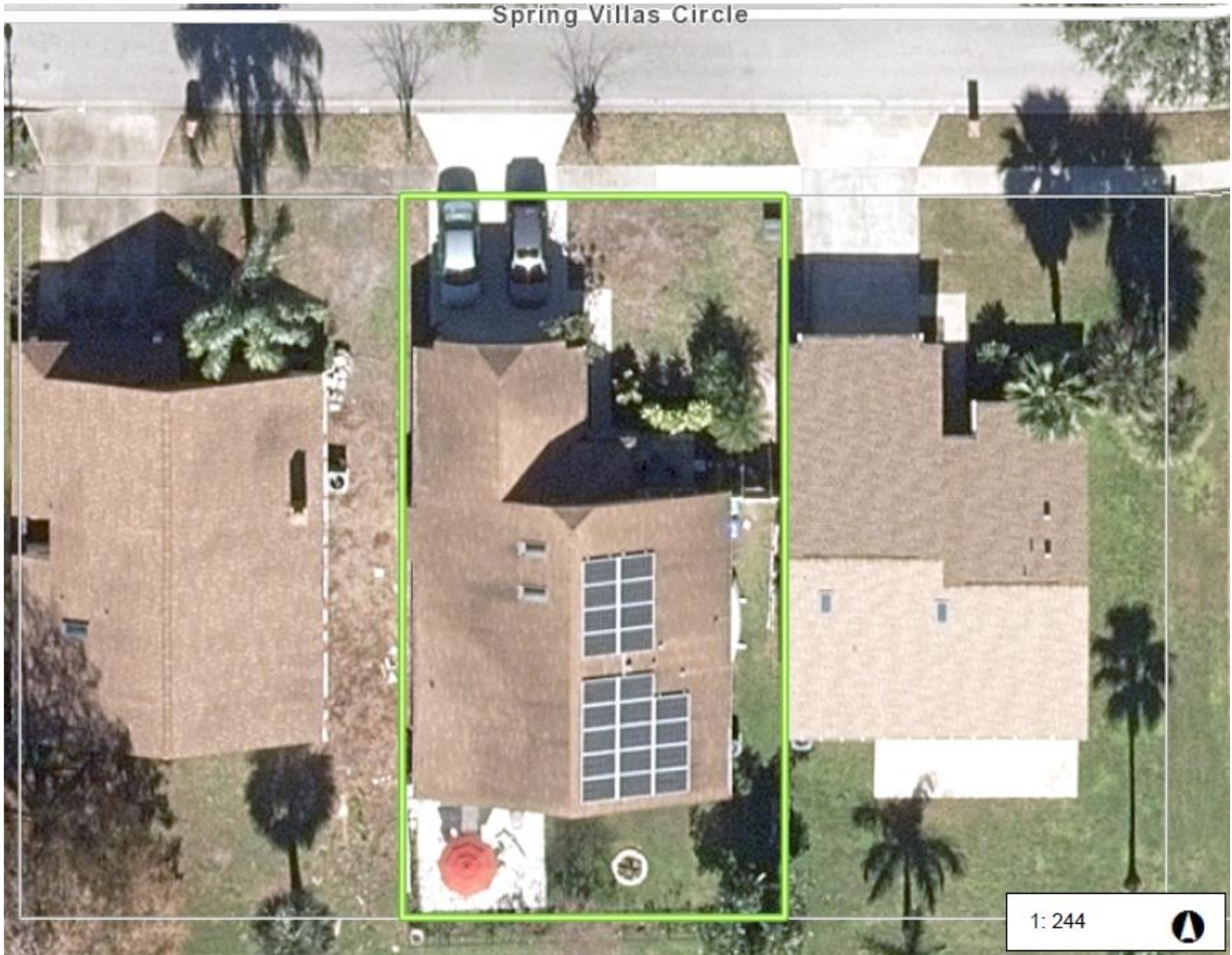
ZONING MAP



AERIAL MAP

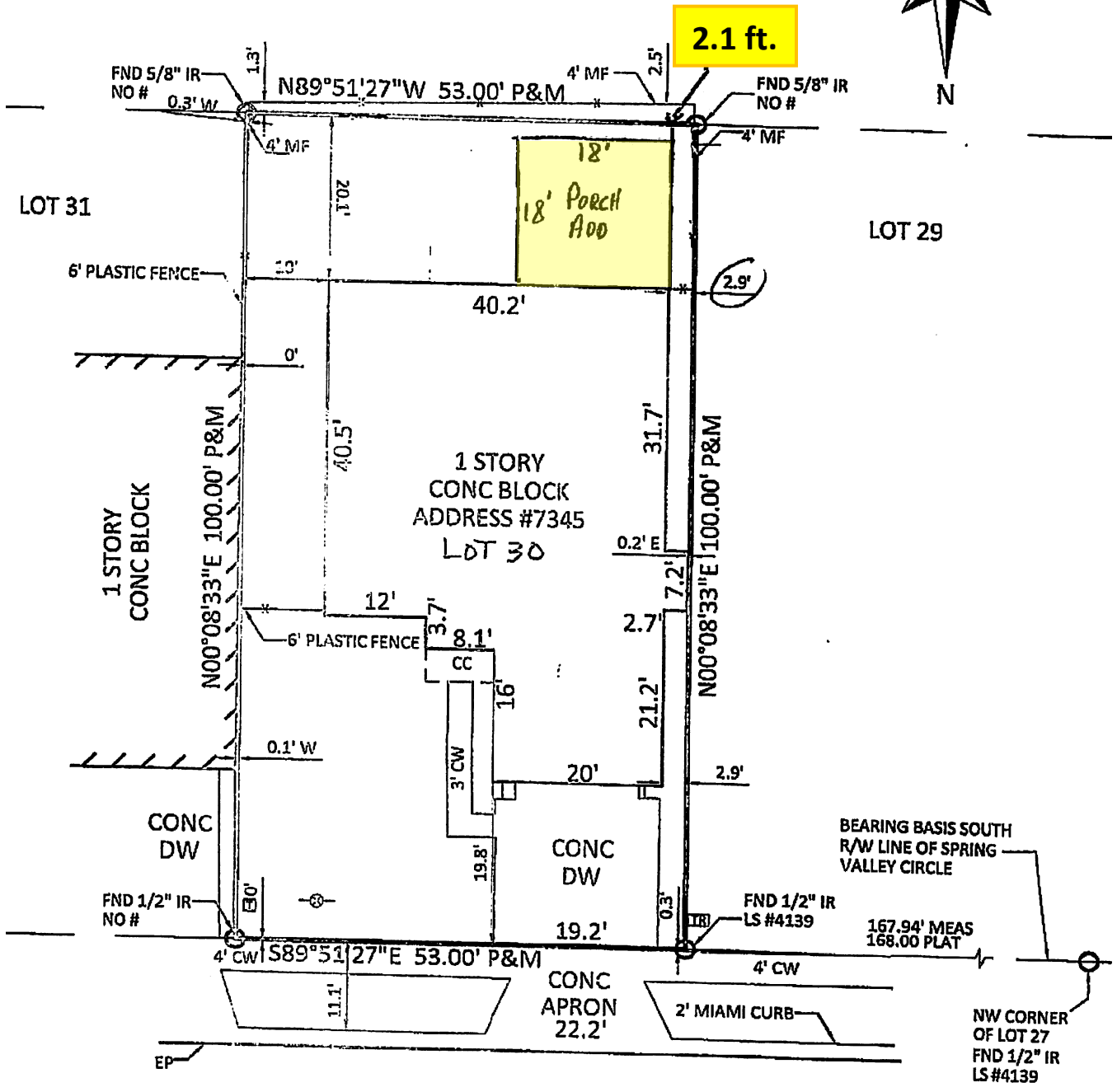
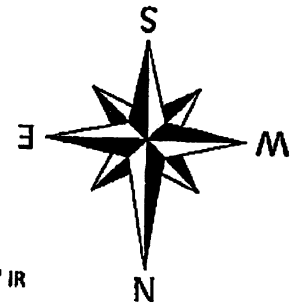


CLOSE UP AERIAL MAP



SURVEY

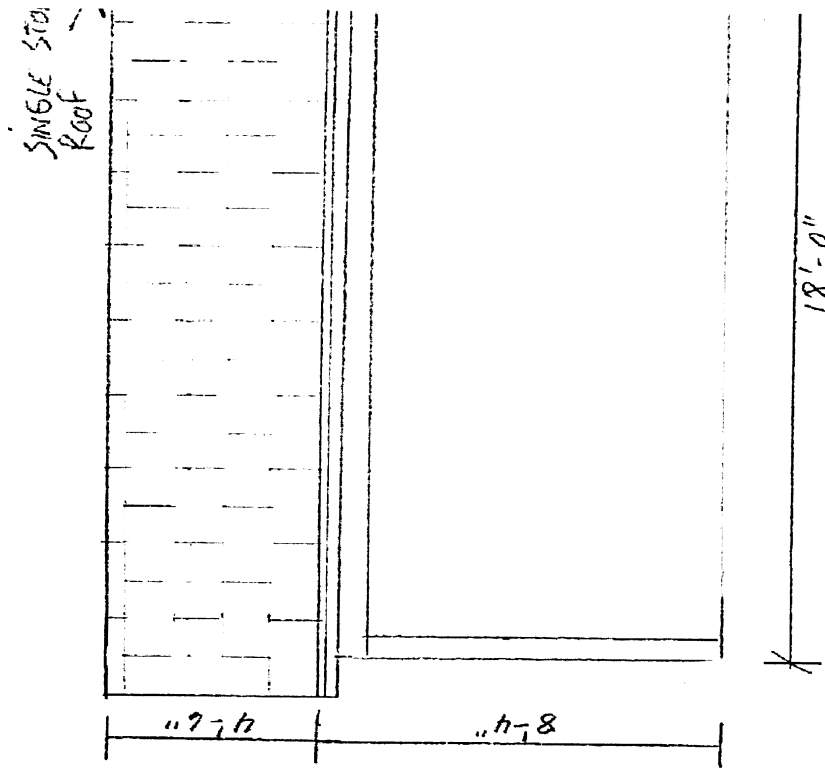
TRACT "A"
RETENTION AREA



SPRING VALLEY CIRCLE
50' PUBLIC R/W

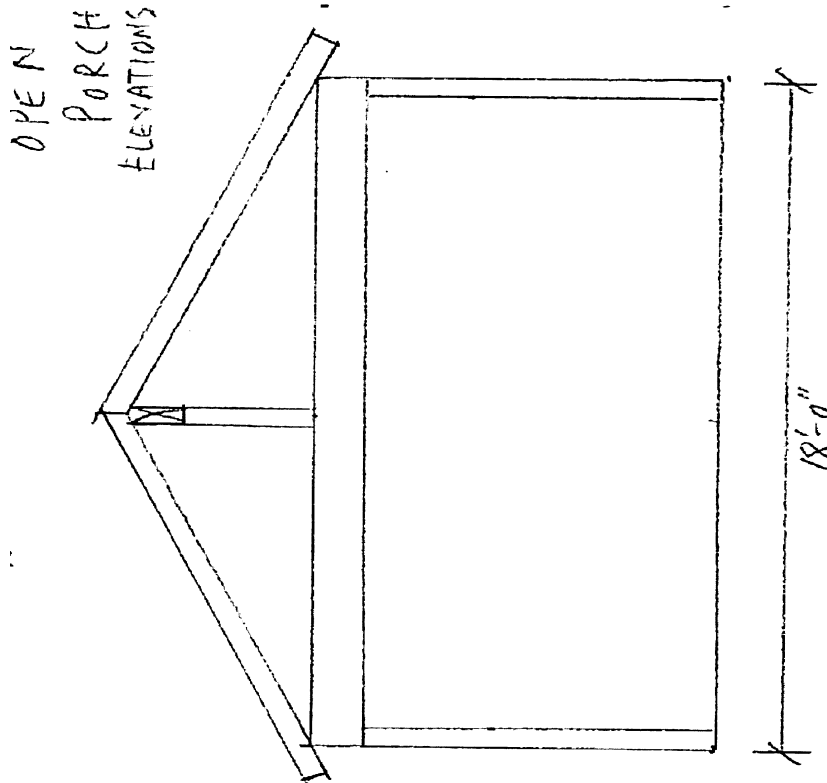
RECEIVED

ELEVATIONS



RIGHT SIDE ELEV.

SCALE 1/4" = 1'-0"



PORCH

REAR ELEV.

SITE PHOTOS



Front of property from Spring Valley Circle facing south



Location of proposed addition facing west

SITE PHOTOS



Location of proposed addition facing southwest showing rear property line

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 01, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-05-019**

Commission District: **#6**

GENERAL INFORMATION

APPLICANT(s): RTG CONSTRUCTION (RACHQUEL T. GIPSON)

OWNER(s): CARISS LAWRENCE, BRUCE LAWRENCE

REQUEST: Variance in the R-1 zoning district to allow a 276 sq. ft. addition to a residence with a west rear setback of 20 ft. in lieu of 25 ft.

PROPERTY LOCATION: 6810 Mandarin Dr., Orlando, Florida, 32819, west side of Mandarin Dr., south of Vanguard St., east of S. Kirkman Rd.

PARCEL ID: 30-23-29-8557-09-060

LOT SIZE: 60 ft. x 105 ft./ +/- 0.14 acres (6,305 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 88

DECISION: Recommended **APPROVAL** of 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; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated February 15, 2021, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. The exterior of the addition shall match the exterior of the existing house, including roof materials and color.

5. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that no comments were received in support and one (1) comment was received in opposition.

The applicant discussed the need for the additional floor area and noted that the slab in its current location was existing. There was no one in attendance to speak in favor or in opposition to the request.

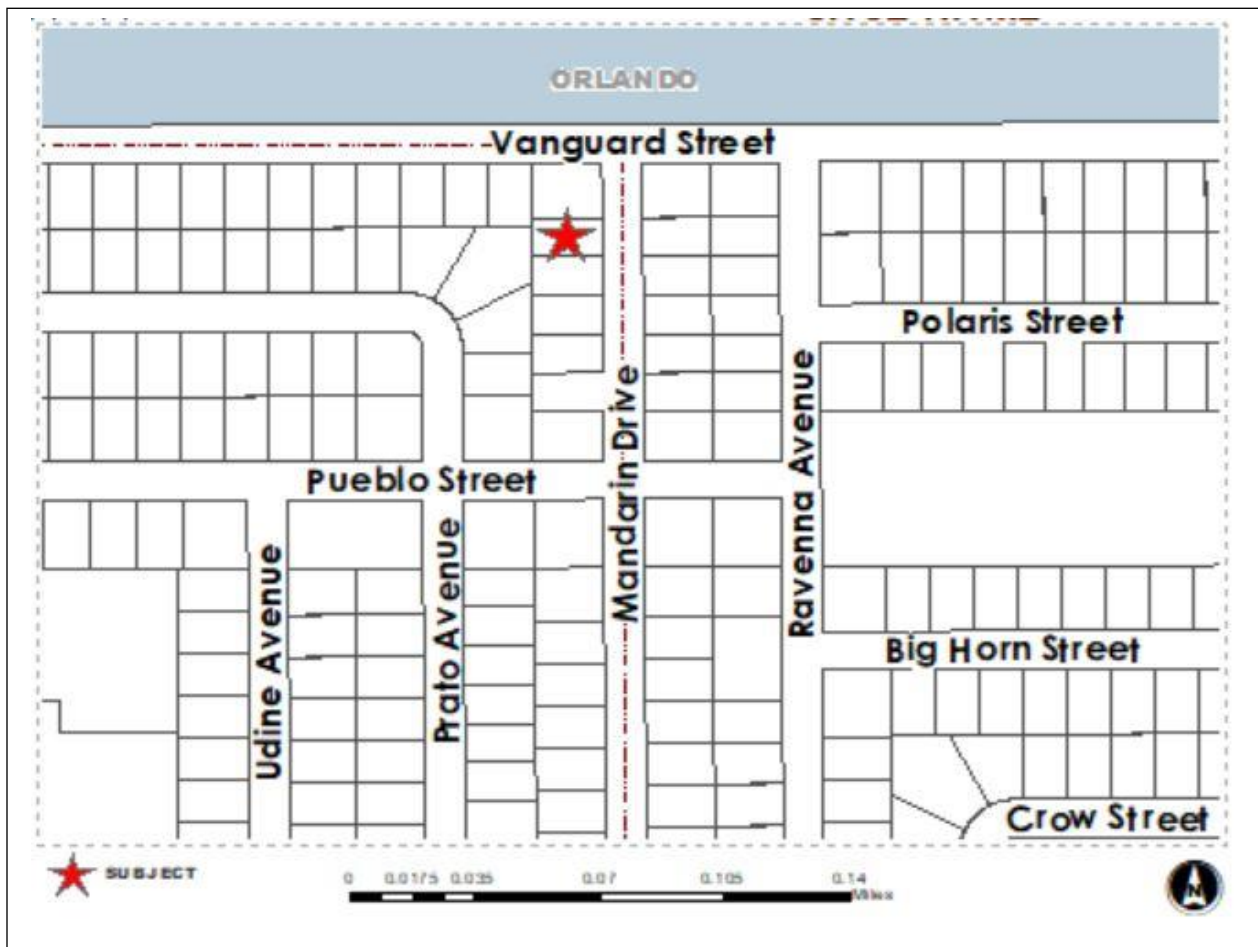
The BZA discussed the age of the community, noted the small size of the house, and pointed out the difference of rear setback requirements depending on the timing of the plat.

The BZA recommended approval of the variance by a 6-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However if the BZA should find that the applicant has satisfied the criteria for the granting of a variance, staff recommends the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1	R-1	R-1	R-1	R-1
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residence	Single-family residence	Single-family residence	Single-family residence	Single-family residence

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1, Single-family Dwelling district, which allows single-family homes and associated accessory structures on lots a minimum of 5,000 sq. ft. or greater.

The area around the subject site consists of single-family homes. The subject property is a 0.14 acre lot, developed with a 1,000 sq. ft. single family home constructed in 1961. The property was created through the Tangelo Park Section Five Plat, which was recorded in 1960, and is considered to be a conforming lot of record. The applicant purchased the property in 2002.

The owners now are proposing to add onto the rear southwest portion of the home, for a 16.7 ft. x 17 ft., 276 sq. ft. family room with a rear setback of 20 ft. in lieu of 25 ft., requiring a variance.

A permit (B20024495) has been submitted for the proposed addition, but is currently on hold pending the outcome of the rear setback variance request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	8 ft.
Min. Lot Width:	50 ft.	60 ft.
Min. Lot Size:	5,000 sq. ft.	6,305 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft.	26 ft. (East)
Rear:	25 ft.	20 ft. (West-Variance)
Side:	6 ft.	9.2 ft. (North), 10.9 ft. (South)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances particular to this property. The request could be modified to shift the proposed addition, or reduce the size in a manner to lessen the amount of variance requested, or eliminate the need for the variance.

Not Self-Created

The request for the variance is self-created and is a self-imposed hardship. There are other options in order to lessen or negate the need for the variance.

No Special Privilege Conferred

Granting the variance as requested will confer special privilege that is denied to other properties in the area, since the owners have other options to relocate or modify the proposed addition.

Deprivation of Rights

The owners are not being deprived of the right to add onto the home as they could build an addition that meets the setback requirements.

Minimum Possible Variance

The request is not the minimum, since there are other alternatives to building the addition as proposed.

Purpose and Intent

Approval of the variance will be in harmony with the purpose and intent of the zoning regulations, due to the distance from the nearest residences, including the neighboring residence to the rear, and considering that if the property had been platted after March 3, 1997, then the rear setback requirement would be 20 ft. Approval of the request will not be detrimental to the adjacent properties or the overall area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated February 15, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. The exterior of the addition shall match the exterior of the existing house, including roof materials and color.
5. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Rachquel T. Gipson
20 N. College Ave., Suite D
Eatonville, FL 32751

c:

COVER LETTER



February 4, 2021

The request is to build a 276 sq. ft. concrete block addition to the existing structure located at 6810 Mandrin Drive, Orlando, Florida 32819. The proposed dimension is 17'-0" x 16'-8". The proposed construction will be 20' from the rear property line and 10' from the side property line. The proposed height is 8'. The code allows for 25' we are requesting to extend an additional 5' in the rear.

VARIANCE CRITERIA

Section 30-

43 (3) of the Orange County Code stipulates specific standards for the approval of variances. No application for a zoning variance will be approved unless the Board of Zoning Adjustment finds that the following standards are met:

1. **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

The lot is 6305 sq. ft. The home was constructed in 1961. The property has not been updated since 1961. The family likes the area and would simple like to add 276 sq. ft. which would be in keeping with the surrounding properties. We are asking for a release from the 25' for 5' to the rear setback to accommodate our needs.

2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

— When the home was purchased we were not aware of the district restrictive rear yard setback. However home was purchased in the current state. We are simple asking for a 5' release so we can improve the property and better accommodate the family.



3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

The home is older and we would like to invest in the property. The 25' would not give the sq. ft. needed to improve based on the narrow lot. They are forced to go back.

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 under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Without the additional 5' we cannot increase the sq. ft. to accommodate our grandchildren, who in light of Covid are being forced to stay home. We are simple asking for 5'.

5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

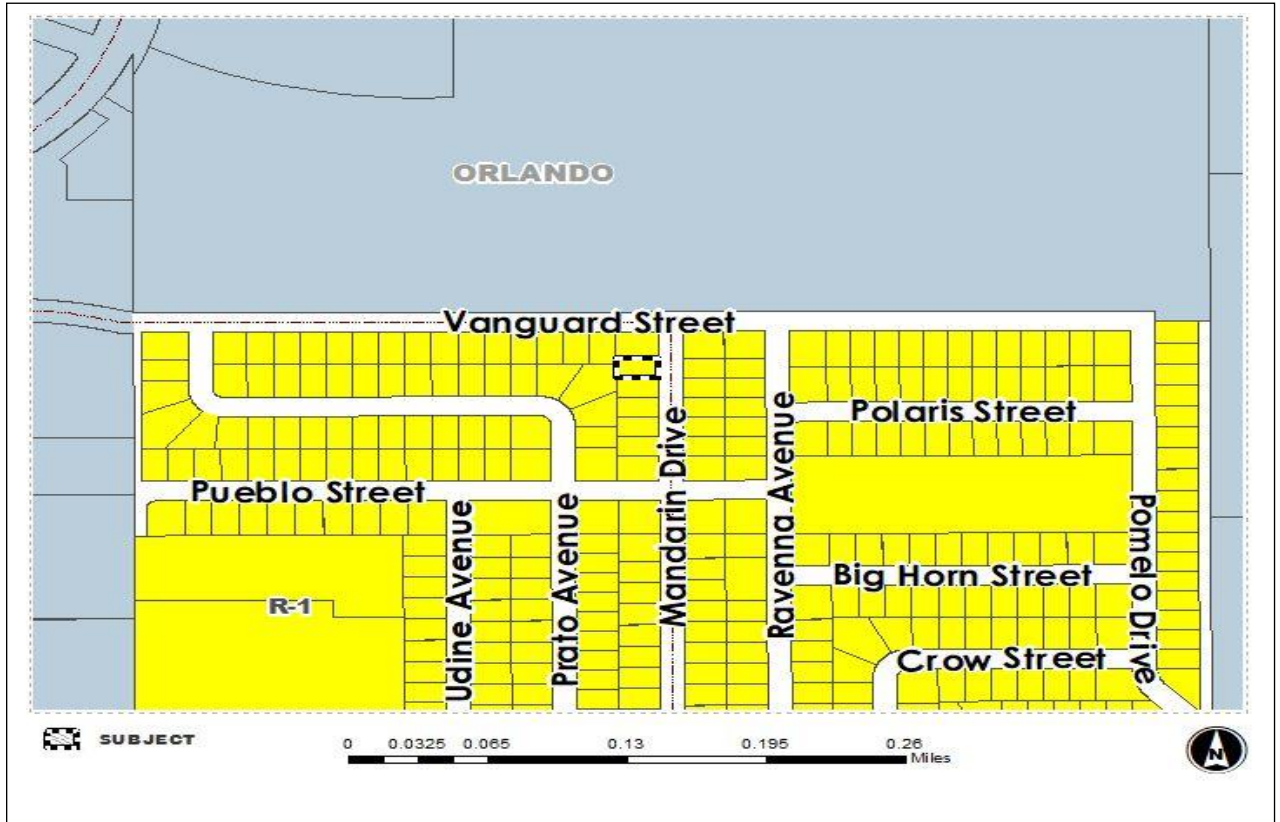
We are only asking for 5'. We looked at other designs. This design is least intrusive into the rear yard to accommodate the needs based on the property square footage.

6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

We are requesting a release of the 25' setback for 5' to accommodate our needs.

Contact Name: Rachquel Gipson
Contact Number: 407-257-0317
Email Address: rtgipson@outlook.com

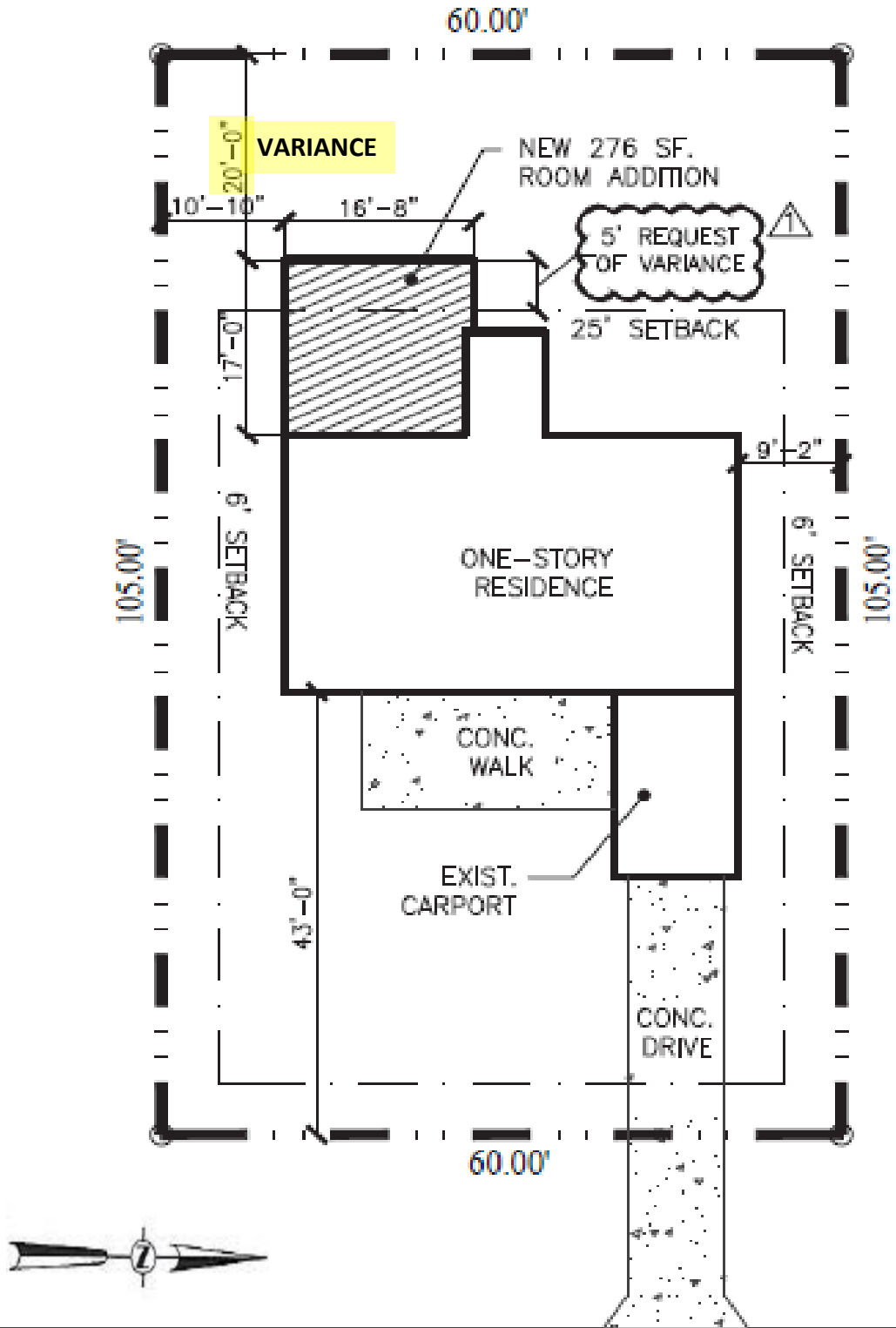
ZONING MAP



AERIAL MAP

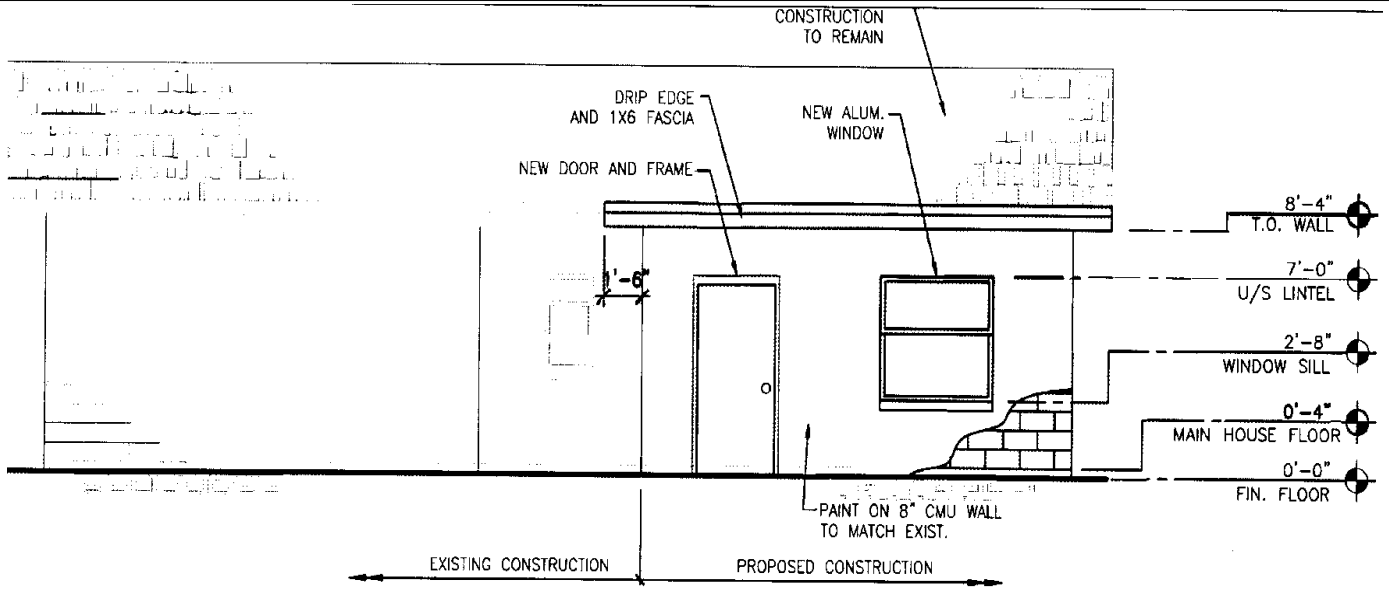


SITE PLAN



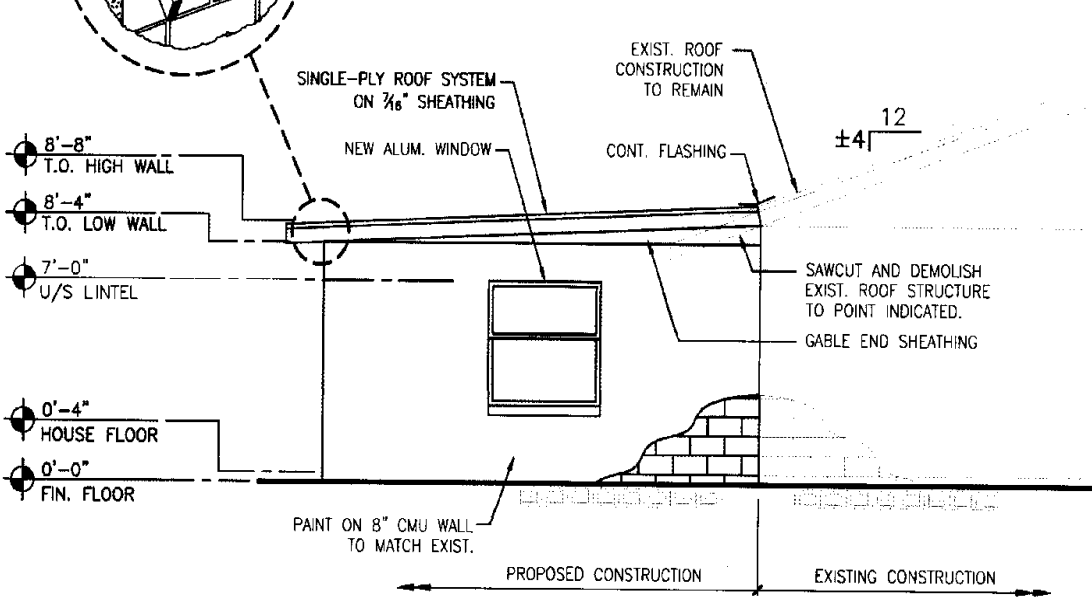
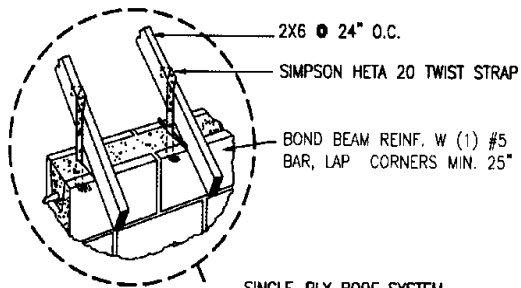
MANDARINE DR.

ELEVATIONS



WEST ELEVATION

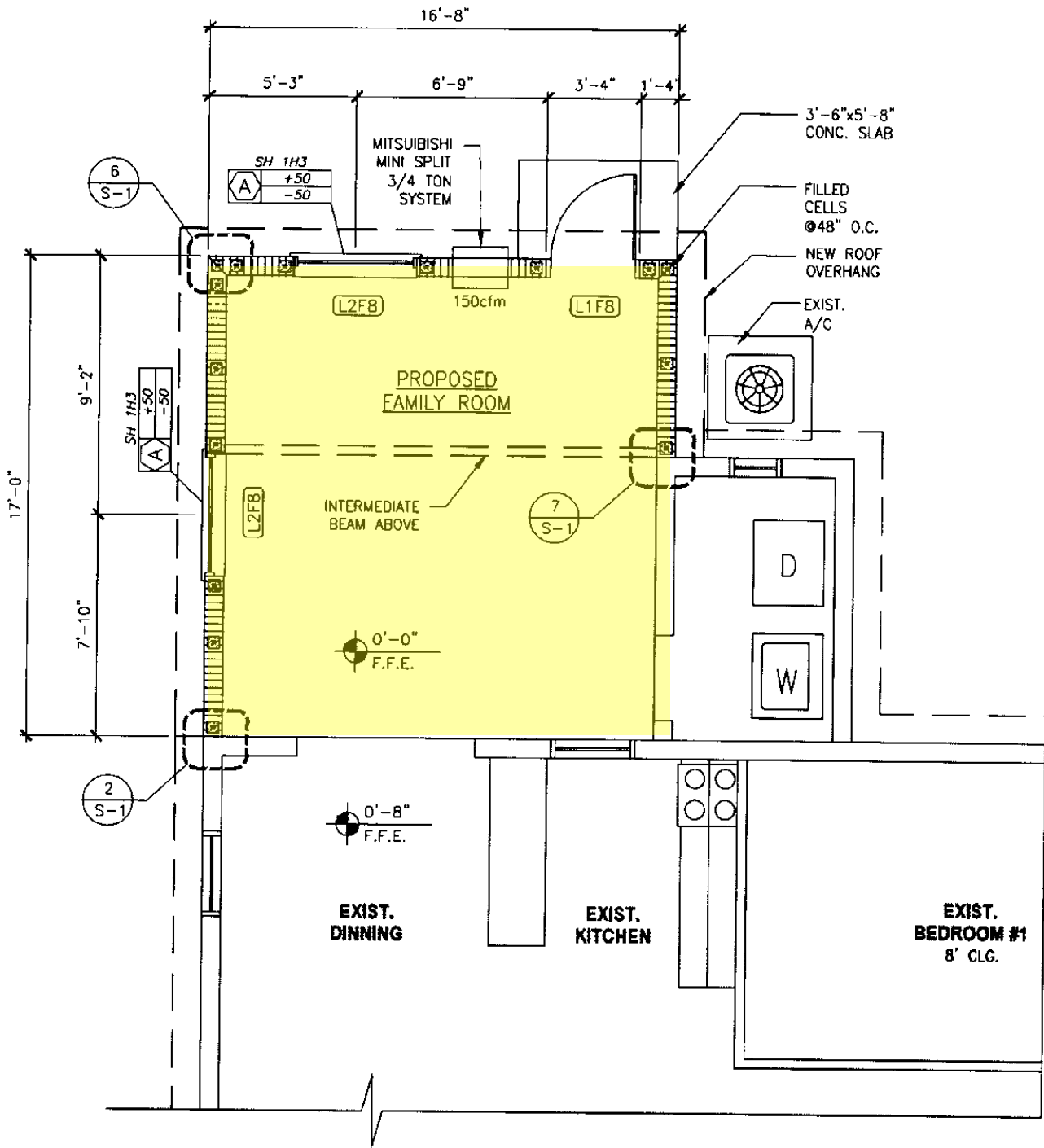
SCALE: 3/16" = 1'-0"



SOUTH ELEVATION

SCALE: 3/16" = 1'-0"

FLOOR PLAN



PROPOSED FLOOR PLAN

SCALE: 3/16" = 1'-0"

SITE PHOTOS



Front from Mandarin Dr. facing west



Location of addition facing north

SITE PHOTOS



Location of addition facing east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 01, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-05-017**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): LOWNDES, DROSDICK (JONATHAN HUELS)

OWNER(s): STRATIS GLAFKOS

REQUEST: Variance in the A-2 zoning district to allow a lot width of 89 ft. in lieu of 100 ft.

PROPERTY LOCATION: Ralston St., Orlando, Florida, 32833, south side of Ralston St., east of Bancroft Blvd., north of S.R. 528.

PARCEL ID: 24-23-32-9628-01-220

LOT SIZE: +/- 1.3 acres

NOTICE AREA: 1000 ft.

NUMBER OF NOTICES: 35

DECISION: Recommended **DENIAL** of 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 in favor, 0 opposed and 1 absent).

SYNOPSIS: Staff described the proposal, including the location of the property, the history of the Wedgefield area, the survey, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial due to inconsistency with County Wedgefield policies and code requirements pertaining to lot width. Staff confirmed that there were no other similar variances in the area for lot width. Staff noted that no comments were received in support and three (3) comments were received in opposition.

The applicant discussed the timeline of events pertaining to the property, including the year the Rocket City Unit 3A Plat was recorded; the history of the recordation of deeds; the year the owner purchased the property; and when the owner was cited for lot clearing and conservation area impacts by Orange County Environmental Protection Division (EPD).

The applicant stated that the proposal complies with the Comprehensive Plan, and will utilize an alternative septic system. The applicant further stated that the property was uniquely configured and could not be combined with surrounding parcels.

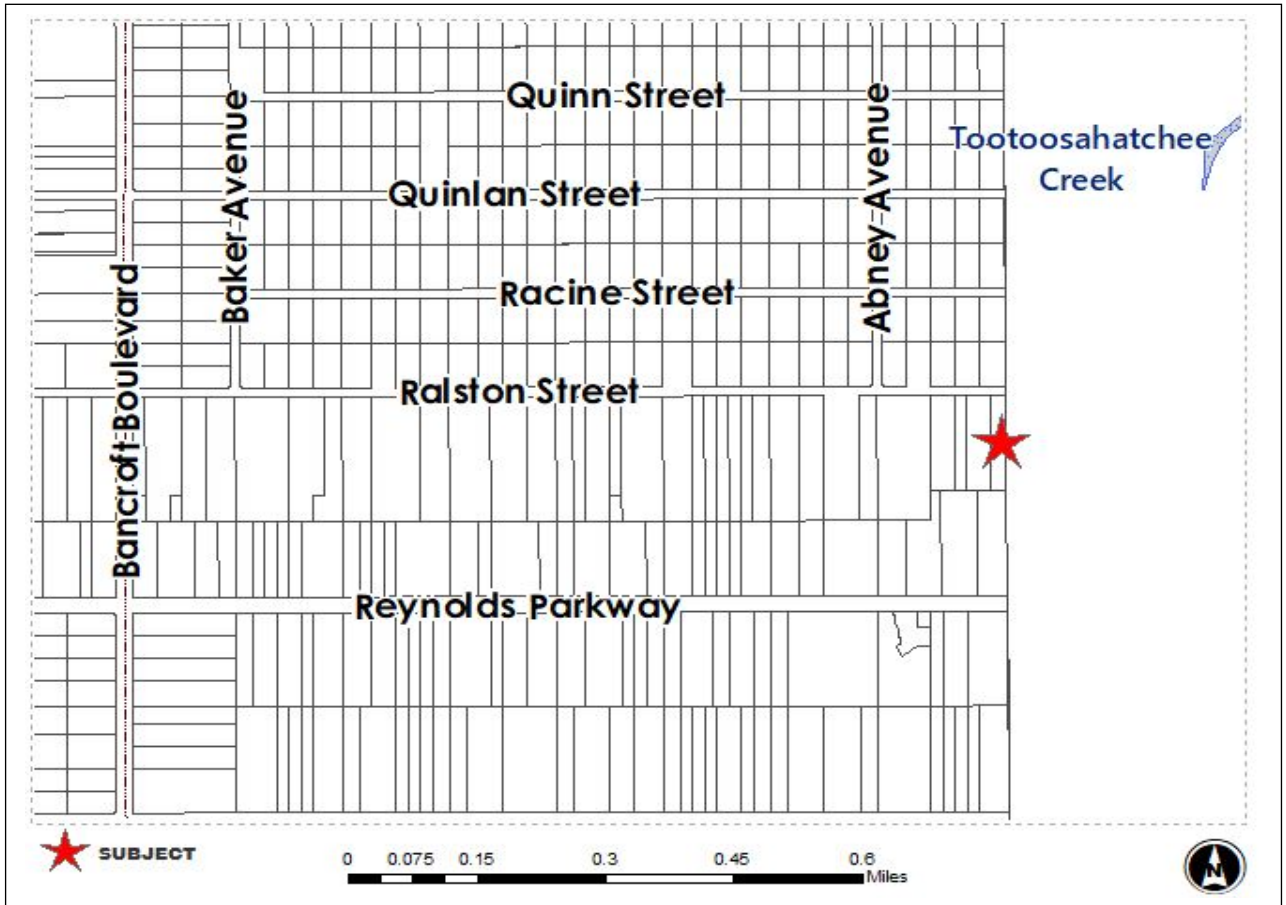
There was no one in attendance to speak in favor or in opposition to the request.

The BZA noted that the lot was not recognized through the lot split process, and discussed the wetlands on the property. The BZA discussed the Comprehensive Plan policy pertaining to Wedgefield, noted the history of policy in Wedgefield and expressed concerns about deviating from the policy and the County Code. The BZA recommended denial of the variance by a 6-0 vote.

STAFF RECOMMENDATIONS

Denial. However if the BZA should find that the applicant has satisfied the criteria for the granting of a variance, staff recommends the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-2	A-2	A-2	A-2	A-2
Future Land Use	R	R	R	R	R
Current Use	Vacant	Vacant	Vacant	Vacant	Vacant

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-2 Farmland Rural zoning district, which allows agricultural uses, mobile homes, and single-family homes with accessory structures on larger lots.

The subject site is located in an area known as Wedgefield. The area around the subject site is comprised of single-family homes to the south and northwest, vacant lots to the north and west, and a 5,000 + acre agricultural pastureland tract to the east. The subject property is 1.3 acres, and consists of the eastern 89 feet of Tract 122. Tract 122, was originally platted in 1964 as a 463 ft. x 660 ft. (6.7 acre) tract as part of the Rocket City Unit 3A Plat. The current subject site was created through an unrecognized lot split in 1972, when it was conveyed by deed in the current configuration. However, in 1978, the property was conveyed by deed again as a 242 ft. wide, 3.5 acre parcel which conforms to the minimum lot size requirements. On January 28, 1991, the property was conveyed by deed again in its current nonconforming configuration. From 1991, to the time the current owner purchased the property on February 22, 2019, the property has been conveyed multiple times by deed in the current configuration.

The Wedgefield area has a history of unrecognized lot splits. Based on Zoning Division records, including correspondence occurring generally between 1992-1994 between Orange County Staff and Wedgefield residents and developers, Wedgefield has an extensive history regarding the creation of non-conforming lots via deed. The correspondence primarily focused on the 75' wide lots in the rural areas of Wedgefield which had been subdivided without County approval (essentially creating unrecognized non-conforming lots). While the correspondence discusses the 75' lots, any lot width less than the required 100 ft. is considered non-conforming. These records also reference two meetings hosted by Orange County Staff, one in 1992 and one in 1993, which was attended by the developers and property owners of the Wedgefield subdivision to discuss and create a development policy for that area. A general summary of those letters and memos is that it was agreed that 75 ft. lots would have to be combined with an adjacent lot in order to obtain a building permit, and that 105 ft. lots could be developed with a septic tank variance and if a lot spit was approved. It is unclear why the 105 ft. lot width was referenced as the minimum zoning requirements were and still are 100 ft. However, what is clear from the correspondence is that the County worked with the residents and developers at that time to ensure that they understood that the minimum lot widths would need to be met.

This property is located within the Rural Service Area and the Future Land Use designation is Rural, which allows a maximum density of 1 dwelling unit per 10 acres. However, Comprehensive Plan Policy FLU6.3.14 applies to Wedgefield and states that the portion of Wedgefield located within the Rural Service Area but outside of the

Rural Settlement “is unique and distinguishable from other areas in the Rural Service Area. Since 1992, Orange County has had a policy regarding development in this area.” The following policies apply to those properties within the Wedgefield Rural Service Area:

FLU6.3.14

- A. These policies shall apply only to those properties platted as Rocket City or Cape Orlando Estates and located within the Ranger Drainage District within the Rural Service Area of Orange County.
- B. Permitted density shall be one (1) unit per two (2) acres. Density refers to the total number of units divided by developable land, i.e., Natural Lakes and designated Conservation Areas are excluded from the gross land area.
- C. Lots utilizing elevated septic tanks shall only be permitted on lots having a minimum of 110 feet of street frontage (lot width).
- D. Lots of less than two (2) acres may be permitted for a single family residence, if documentation is provided to Orange County that shows the property was deeded as a separate parcel of record prior to July 1, 1991.

Based on staff research and the information submitted by the applicant, all of the policies stated above will be met. In regards to Policy FLU6.3.14 C., the health department has indicated that a treatment system that provides an alternative to an elevated septic tank appears to be a viable option for the subject site, although the permit has not yet been submitted, reviewed or approved. The applicant is aware that in the event that an alternative treatment system is not approved, the provisions of the Comprehensive Plan will be required to be met even if the variance is obtained for the lot width.

The subject site was conveyed by deed in the current configuration on January 28, 1991. As a result, less than a 2 acre lot is permitted per FLU6.3.14 D. However, because the lot was not created through the formal subdivision determination process, the lot is not exempt from compliance with zoning regulations, including lot width, requiring a variance to allow a lot width 89 ft. in lieu of 100 ft. Since no new homes are permitted in Wedgefield on non-conforming lots, staff recommends a condition requiring a lot split within one year of the final decision, if the variance request is subsequently approved.

The property is located within the Ranger Drainage District (RDD), which is an independent special district created under the provisions of Chapter 298 Florida Statutes. The Orange County Building Division is responsible for ensuring that approval by the RDD is provided prior to issuance of any building permit.

The Orange County Environmental Protection Division (EPD) cited the owner in February of 2020, for clearing wetlands without a permit and issued a Notice of Violation for unauthorized impacts to a conservation area (Incident Number 20-563228). The owner was ordered to obtain a Conservation Area Determination, which was issued in August of 2020 (CAD-20-04-075). The owner then applied for a Conservation Area Impact (CAI) permit in September of 2020 (CAI-20-09-060). EPD has stated they do not object to the variance request subject to completion of the Conservation Area Impact (CAI) permit.

District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	100 ft.	89 ft. (Variance)
Min. Lot Size:	0.5 acres	1.3 acres

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances, as the property in its current configuration was created by an unrecognized lot split. The property was platted as a conforming tract, and was a conforming property as recently as 1991.

Not Self-Created

The owner is not responsible for the configuration of the lot. The substandard aspects of the lot are not self-created, as they came into existence prior to the purchase. The owner has indicated that it is not possible to obtain additional property from the adjacent neighbor to the west, and the property to the east is a 5,000 + acre agricultural pastureland tract.

No Special Privilege Conferred

Approval of the variance will confer special privilege that is denied to other properties in the area that have and will have to comply with zoning regulations.

Deprivation of Rights

Without the requested variance, it will not be possible to develop the property in the current configuration.

Minimum Possible Variance

Granting the variance is not the minimum possible variance, as the property was created by an unrecognized lot split, and had been previously combined with a property to the west to create a conforming lot in 1978.

Purpose and Intent

Approval of the variance will not be in harmony with the purpose and intent of the Zoning Regulations and will be injurious to the neighborhood or otherwise detrimental to the public welfare. While there are other lots in the area similar to the size and character of the subject site, there is a long history in this area of unrecognized lot splits, so it is likely that those lots are also not permitted since no new residences are allowed on non-conforming lots.

CONDITIONS OF APPROVAL

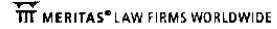
1. Development shall be in accordance with the survey, dated February 15, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will 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.
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. Issuance of a Conservation Area Impact (CAI) permit is required. Approval of the variance does not imply or otherwise approve the site plan. The applicant shall work with EPD to reduce or eliminate the proposed conservation area impacts in order to obtain approval of the CAI.
5. A lot split shall be completed within one (1) year of final action by Orange County on this application, or the approval shall be null and void. The Zoning Manager may extend the time limit if proper justification is given for such as extension.

C: Jonathan P. Huels
215 N. Eola Dr.
Orlando, FL 32801



JONATHAN P. HUELS

jonathan.huels@lowndes-law.com
215 North Eola Drive, Orlando, Florida 32801-2028
T: 407-418-6483 | F: 407-843-4444
MAIN NUMBER: 407-843-4600



February 10, 2021

Jennifer Moreau
Orange County Zoning Division
201 S. Rosalind Avenue
Orlando, Florida 32802

Re: Application for Variance; Tax Parcel ID # 24-23-32-9628-01-220 (the "Property")

Dear Ms. Moreau:

This law firm represents Glafkos Stratis, the owner of the above-referenced Property, with respect to the application for a variance from Orange County Code, Section 38-1501, which requires properties zoned A-2 to have a minimum lot width of 100 feet¹. The Property has a Comprehensive Plan Future Land Use designation of Rural and is located within the Wedgefield Rural Settlement ("Wedgefield"). Consistent with this designation, the Property is zoned A-2 (Agricultural). The Property is 1.3 acres and is currently undeveloped. The current configuration of the Property was created via deed in 1972 (the "1972 Deed"), a copy of which is attached as Exhibit "A."² In its current configuration, the Property's northern boundary is 89.17 feet and the southern boundary is 92 feet. Mr. Stratis is seeking a variance from Code's minimum lot width requirements to allow for the construction of Mr. Stratis' homestead on the Property in its current configuration, as shown in Exhibit "B."

Orange County Code, Section 30-43(3), details the specific criteria that must be met for all variance requests. In this case, all of the criteria have been met, as is discussed in more detail below.

¹ Since the proposed homestead will utilize an aerobic treatment system to treat wastewater, the requested variance is consistent with Orange County Comprehensive Plan, including Policy FLU6.3.14(C), which requires a minimum lot width of 110 feet in the Wedgefield community for "lots utilizing elevated septic tanks".

² The 1972 Deed was recorded in the public records of Orange County, Book 02237, Page 0917, on June 1, 1972. As such, the proposed use of the Property as a homestead is consistent with the Orange County Comprehensive Plan, including Policy FLU6.3.14(D), which allows lots less than 2 acres in Wedgefield when the property was deeded as a separate parcel of record prior to July 1, 1991.



Jennifer Moreau
February 10, 2021
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(1) Special Condition and Circumstances.

Special conditions and circumstances exist which are peculiar to the Property which are not applicable to other lands in the same zoning district. Before moving from Arizona to Florida, Mr. Stratis purchased the Property in 2019 with the intent of building his homestead on the Property where he could reside during his retirement. Unbeknownst to Mr. Stratis, the Property's configuration at the time of his purchase did not meet the minimum lot width requirements under Orange County Code. The current configuration of the Property was created in 1972 through the recording of the 1972 Deed. As a result of the 1972 Deed, the Property has a lot configuration distinct from any other lot within Wedgefield – with a north border width of approximately 92 feet and a south border width of approximately 89.17 feet. The Property was identified as a distinct tax parcel of record at the time of Mr. Stratis' purchase and has been reflected as such since at least 2006, based on available tax collector and property appraiser records. Mr. Stratis recently became aware of the lot width issue when County Staff informed him that the Property did not meet the County's minimum lot width requirements during the course of the County's review of a Conservation Area Impact Application submitted by Mr. Stratis. Despite repeated attempts, Mr. Stratis has been unable to make contact with the owner of the 2.17-acre parcel to the west of the Property to discuss the potential purchase of a portion of the neighboring property to meet minimum lot width. Likewise, the parcel to the east of the Property is a 5,718.4 acre ranch under unified ownership that could not feasibly be combined with the Property. Accordingly, as a result of the historic configuration created by the 1972 Deed and the inability to acquire sufficient additional property to meet the minimum lot width, special conditions and circumstances exist which are peculiar to the Property which are not applicable to other lands in the same zoning district.

(2) Not Self-Created.

The special conditions and circumstances do not result from the actions of Mr. Stratis. As discussed above, the current configuration of the Property was created in 1972, nearly fifty (50) years before Mr. Stratis purchased the Property. Accordingly, the special conditions and circumstances that created the current configuration of the lot were not the result of the actions of Mr. Stratis.

(3) No Special Privilege Conferred.

Approval of the zoning variance requested will not confer on Mr. Stratis any special privilege. As discussed above, the 1972 Deed resulted in the Property having a peculiar lot configuration different than any other lot within Wedgefield. While all other substandard lots within Wedgefield are 75 feet wide or less, the Property is 92 feet wide at its north border and 89.17 feet wide at its south border. Thus, while all other substandard lots within Wedgefield would require a variance of at least twenty-five (25) feet to meet the minimum lot width, the Property is the only lot within Wedgefield that could meet

Jennifer Moreau
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Code with a lot width variance of less than ten (10) feet. Accordingly, given the unique configuration of the Property, allowing Mr. Stratis to build his homestead on the Property would not confer any special privilege.

(4) Deprivation of Rights.

Literal interpretation of the Code would deprive Mr. Stratis of rights commonly enjoyed by other nearby properties in the same zoning district and would work unnecessary and undue hardship on Mr. Stratis. Given the Property's dimensions and the unavailability of land that could be combined with the Property to bring it into compliance with Code, literal interpretation of the Code would dictate that the Property could not be developed in any manner. Accordingly, Mr. Stratis' private property rights would be unlawfully impeded if he is unable to utilize the Property as his homestead.

(5) Minimum Possible Variance.

The zoning variances requested are the minimum variances that will make possible the reasonable use of the land. No other variances or waivers are being sought from any other applicable performance standards. Mr. Stratis intends to develop the Property in the configuration that has existed since 1972. Mr. Stratis does not intend to increase the degree of the Property's nonconformity in any way. If the requested variance is not granted, the Property will be rendered unusable. Accordingly, the requested variance is the minimum that will make possible the reasonable use of the Property as Mr. Stratis' homestead.

(6) Purpose and Intent.

Approval of the zoning variances will be in harmony with the purpose and intent of the County's Comprehensive Plan and Code. The proposed zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The purpose of County Code will be advanced by allowing Mr. Stratis reasonable use of the Property to construct his homestead. Moreover, approval of the variance will advance the goals stated in Orange County's Housing for All Action Plan, which encourages "flexible lot configurations."

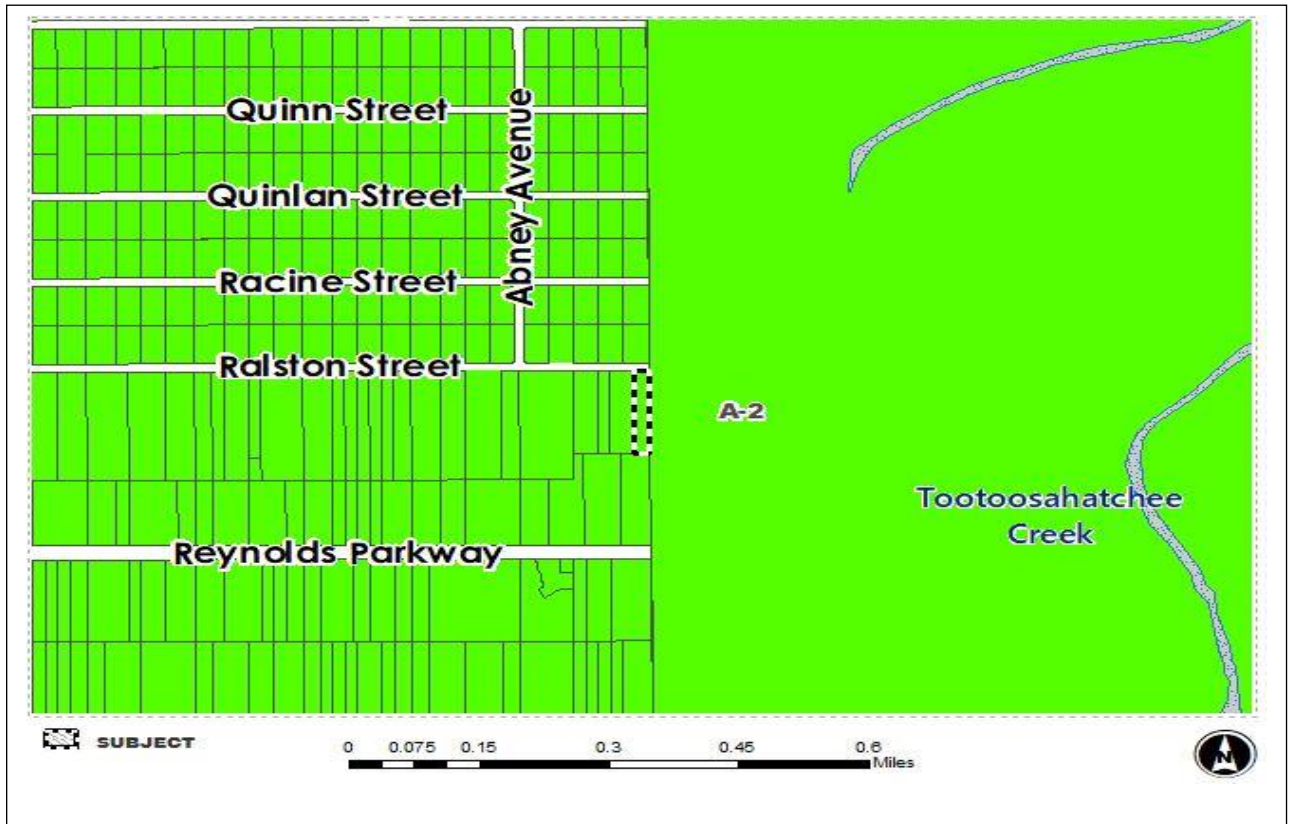
Sincerely,



Jonathan P. Huels

JPH/MTL
enclosures

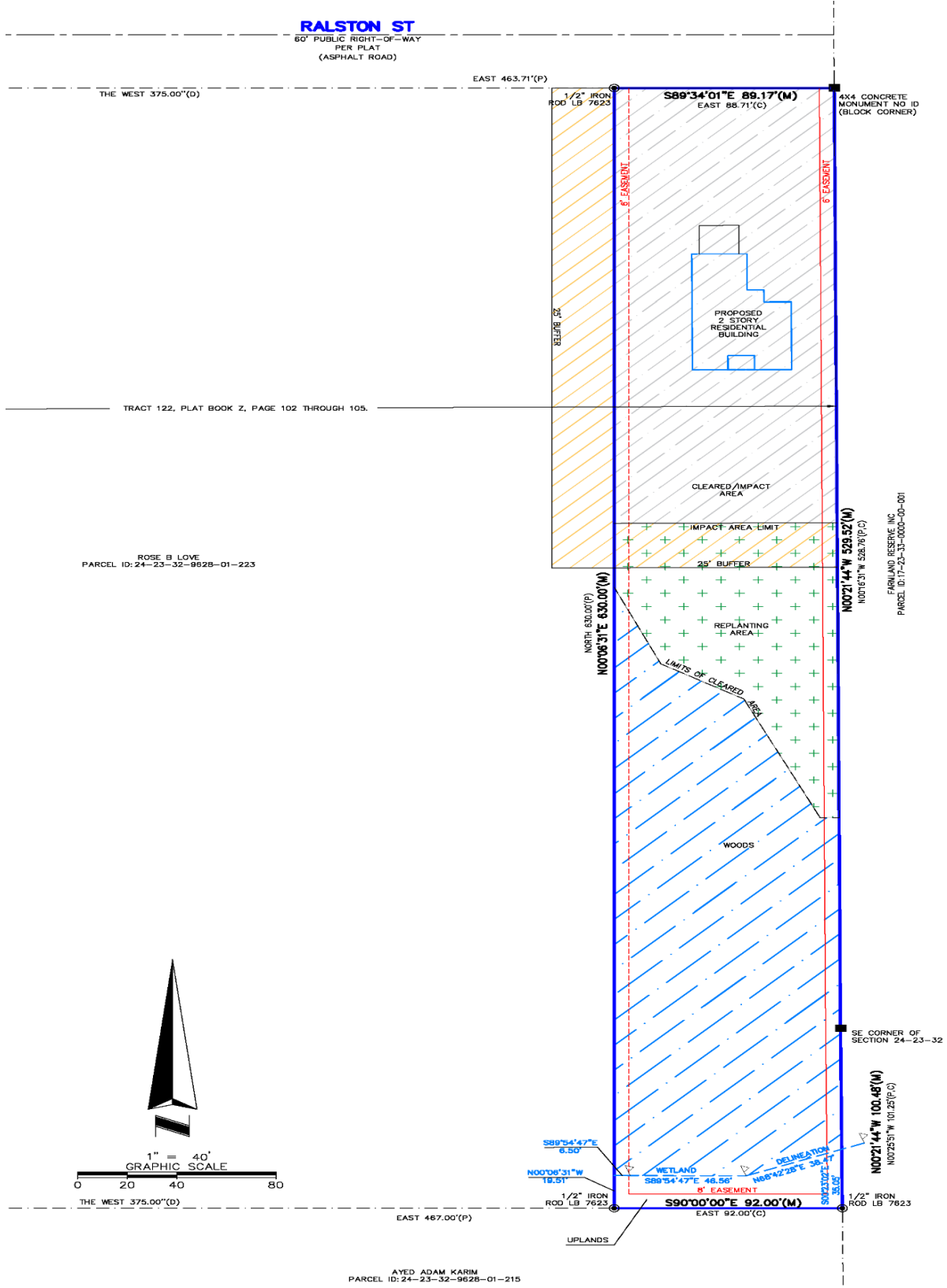
ZONING MAP



AERIAL MAP



SURVEY WITH POTENTIAL HOUSE LOCATION



SITE PHOTOS



Front of site from Ralston St. looking south



Front of site from Ralston St. looking east

SITE PHOTOS



Front of site from Ralston St. looking southwest



BOARD OF ZONING ADJUSTMENT