ORANGE COUNTY GOVERNMENT
FLORIDA

Planning, Environmental & Development Services Department

Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

October 7, 2021

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)

ORANGE COUNTY GOVERNMENT

Board Member	District
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John Drago	2
Juan Velez	3
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Roberta Walton Johnson	At Large

BZA Staff

Ted Kozak, AICP	Chief Planner
Nick Balevich	Planner II
Laekin O'Hara	Planner I
Michael Rosso	Planner I

ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
OCTOBER 7, 2021

PUBLIC HEARING	APPLICANT	DISTRICT	BZA RECOMMENDATIONS	PAGE #
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VA-21-10-090	Guimer Bernal	2	Variance #1, Approved w/Conditions Variances #2 and #3, Denied	23
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Please note that approvals granted by the BZA are not final unless no appeals are filed within 15 calendar days of the BZA's recommendation and until the Board of County Commissioner (BCC) confirms the recommendation of the BZA on October 26, 2021.

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

District	*Min. lot area (sq. ft.) m*	*Min. living area (sq. ft.)*	*Min. lot width (ft.)*	*Min. front yard (ft.) a*	*Min. rear yard (ft.) a*	*Min. side yard (ft.)*	*Max. building height (ft.)*	*Lake setback (ft.)*
NR	One-family dwelling, 4,500	1,000	45 *c*	20	20	5	35/3 stories *k*	*a*
	Two DUs, 8,000	500 per DU	80/90 *d*	20	20	5	35/3 stories *k*	*a*
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories *k*	*a*
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50/4 stories *k*	*a*
	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 *k*	*a*
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 *k*	*a*
	One-family dwelling, 4,500	1,000	45 *c*	20	20	5	35/3 stories *k*	*a*
	Two DUs, 11,250	500 per DU	80 *d*	20	20	5	35/3 stories *k*	*a*
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories *k*	*a*
	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 *k*	*a*
	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 *k*	*a*
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 *k*	*a*
	One-family dwelling, 4,500	1,000	45 *c*	20	20	5	35/3 stories *k*	*a*
	Two DUs, 8,000	500 per DU	80 *d*	20	20	5	35/3 stories *k*	*a*
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories *k*	*a*
	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 *k*	*a*
	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 *k*	*a*
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 for each add. story	35	*a*
C-1	6,000	500	80 on major streets (see Art. XV); 60 for all other streets *e*; 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	*a*

District	*Min. lot area (sq. ft.)* [m]	*Min. living area (sq. ft.)*	*Min. lot width (ft.)*	*Min. front yard (ft.)* [a]	*Min. rear yard (ft.)* [a]	*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 *f*	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	*a*
C-3	12,000	500	125 on major streets (see Art. XV); 100 for all other streets *g*	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	*a*

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

a	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.
b	Side setback is 30 feet where adjacent to single-family district.
c	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.
d	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: (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.
e	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
f	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
g	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
h	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.
j	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.
k	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%.
m	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:	**OCT 07, 2021**	Commission District:	**#3**
Case #:	**VA-21-11-102**	Case Planner:	**Michael Rosso (407) 836-5592 Michael.Rosso@ocfl.net**

GENERAL INFORMATION

APPLICANT(s): NICOLE MOITOZA

OWNER(s): NICOLE MOITOZA, BRUCE MOITOZA

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

1) To allow an existing two-story detached accessory structure with a 5.2 ft. north rear setback in lieu of 10 ft.

2) To allow an existing two-story detached accessory structure with a 7.1 ft. west side setback in lieu of 7.5 ft.

3) To allow the construction of a second floor balcony to a two-story detached accessory structure with a 5.2 ft. north rear setback in lieu of 10 ft.

4) To allow 1,548 sq. ft. of cumulative detached accessory structure area in lieu of a maximum of 924 sq. ft.

5) To allow an existing detached accessory structure (shed) with a 0.8 ft. north rear setback in lieu of 5 ft.

PROPERTY LOCATION: 1513 Overlake Ave., Orlando, FL 32806, north side of Overlake Ave., east of S. Fern Creek Ave., north of Gatlin Ave.

PARCEL ID: 07-23-30-6844-02-130

LOT SIZE: 77 ft. x 120 ft.; +/- 0.21 acres (9,244 sq. ft.)

NOTICE AREA: 500

NUMBER OF NOTICES: 119

DECISION: Recommended **APPROVAL** of the Variance requests **#1**, **#2**, **#4**, and **#5**, 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 as amended; and, **DENIAL** of the Variance request **#3**, 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):

1. Development shall be in accordance with the site plan dated March 4, 2021, as amended to require compliance with the north rear setback of the new Building #1 deck, and with the elevations received September 14, 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 proposed balcony addition within 2 years of final action on this application by Orange County or the approval of Variance #3 is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. A visual buffer shall be added to substantially block the view of the deck from adjacent properties.

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 criteria and the reasons for a recommendation for denial of Variances #3 and #5, and the reasons for a recommendation for approval of Variances #1, #2, and #4.

Staff noted that two comments were received in support and three comments were received in opposition.

The owners discussed the project, including the potential impacts to surrounding property owners. They also discussed a willingness to mitigate those impacts by moving the balcony further south, eliminating the need for Variance #3, and by providing additional screening on the balcony.

There was one person present to speak in opposition to the request noting privacy concerns regarding the proposed balcony. No one was present to speak in favor of the request.

The BZA discussed that moving the balcony would lessen the impact on surrounding properties and discussed the impact of the balcony on surrounding properties.

The BZA recommended approval of Variances #1, #2, #4 and #5, and denial of Variance #3 by a 6-0 vote, subject to the four (4) conditions in the staff report, and an amended Condition #1, which states "Development shall be in accordance with the site plan dated March 4, 2021, as amended to require compliance with the north rear setback of the new Building #1 deck, and with the elevations received September 14, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations..." and a new Condition #5, which states "A visual buffer shall be added to substantially block the view of the deck from adjacent properties."

STAFF RECOMMENDATIONS

Approval of Variance #1, #2 and #4, and denial of Variance #3 and #5, subject to the conditions in this report. However, if the BZA should find that the applicant has satisfied the criteria for the granting of all the Variances, staff recommends that the approval be subject to the conditions found 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	LDR	LDR	LDR	LDR
Current Use	Single-Family Residential	Single-Family Residential	Single-Family Residential	Single-Family Residential	Single-Family Residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the R-1A, Single-Family Dwelling District, which allows single-family homes and associated accessory structures with a minimum lot size of 7,500 sq. ft.

The subject property is 0.21 acres, or 9,244 sq. ft., in size, was platted in 1958 as Lot 13 in Block B of the Pershing Terrace plat, and is a conforming lot of record. The property is currently developed with a 1-story, 1,440 sq. ft. single-family home, a 2-story, 1,152 sq. ft. detached accessory structure (Building #1 on the site plan), and a 1-story, 100 sq. ft. shed (Building #2 on the site plan). From aerial photos, it would appear that Building #1 and Building #2 have both existed on the property since at least the 1980's. Orange County does not have any historic permits for either Building #1 or #2 on this property. However, County historic permitting records are only available back to 1972, and since the primary structure (home) was built in 1959, it is possible that Building #1 and #2 were also built with permits since they were built between 1959 and 1972.

The proposal is for a 12.3 ft. x 24 ft. (295.2 sq. ft.) second-floor balcony addition to Building #1, with a 5.2 ft. north rear setback. Per Code Sec. 38-1426(a)(3)(b)(2), the required rear setback for a detached accessory structure over 15 ft. high is 10 ft., necessitating Variance #3. Additionally, the existing Building #1 has a 5.2 ft. rear setback in lieu of the required 10 ft., and a 7.1 ft. side setback in lieu of the required 7.5 ft., necessitating Variance #1 and #3 respectively. Variance #4 is necessitated by Code Sec. 38-1426(a)(3)(b)(6) which states that the cumulative square feet of all detached accessory structures shall be limited to 10 percent of the net land area, or 500 square feet, whichever is greater, and in no case shall the cumulative total exceed 3,000

square feet. This variance for cumulative detached accessory structure area would be required even if Variance #3 is denied; but instead of being for 1,548 sq. ft. of cumulative detached accessory structure area, it would be reduced to 1,253 sq. ft. in lieu of 924 sq. ft. of cumulative detached accessory structure area. Variance #5 is required for the existing shed (Building #2), which is located 0.8 ft. from the rear property line, in lieu of the required 5 ft. for detached accessory structures less than 15 ft. high.

A permit (B20023305) has been submitted for the construction of the second-floor balcony which is on hold pending the outcome of this variance request.

Staff has received signatures of support from the two property owners directly bordering the subject property to the east and west, and one in opposition from the property owner directly to the northwest.

District Development Standards

	Code Requirement	Proposed
Max Height:	2-story/25 ft. (detached accessory structure)	2-story/20 ft. (Bldg #1)
Min. Lot Width:	75 ft.	76.9 ft.
Min. Lot Size:	7,500 sq. ft.	9,244 sq. ft.

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

	Code Requirement	Proposed
Front (south):	20 ft.	25 ft.
Rear (north):	10 ft. (>15 ft. high detached accessory structure)	5.2 ft. (Variance #1 & #3) (Building #1)
Rear (north):	5 ft. (<15 ft. high detached accessory structure)	0.8 ft. (Variance #5) (Building #2)
Side (west):	7.5 ft. (>15 ft. high detached accessory structure)	7.1 ft. (Variance #2) (Building #1)
Side (east):	5 ft. (<15 ft. high detached accessory structure)	11 ft. (Building #2)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1, #2, #4 & #5: Building #1 and Building #2, which have existed prior to the current owners purchasing the property, would not be able to be relocated, but would have to be demolished and then reconstructed in new locations in order to meet the required setbacks. Additionally, the variance for the additional cumulative detached accessory structure area would still be necessary for the existing detached accessory structures. The proposed balcony is less than 20 percent of the overall accessory structure area.

Variance #3: There are no special conditions related to the proposed balcony, as it could be modified to meet the required rear setback by shifting the stairs leading up to the balcony to the south, eliminating the proposed pergola or extending it out further to the east, and shifting the rest of the balcony south 5 feet.

Not Self-Created

Variance #1, #2, #4 & #5: The requested variances are not self-created as Building #1 and #2 have existed since at least the 1980's and prior to the current owners purchasing the property. Additionally, no changes in location or size are proposed for the existing buildings, other than a relatively small increase in size to Building #1 for the proposed balcony. Further, the need for a variance to the cumulative detached accessory structure area is not self-created as it would be necessary regardless of the balcony, just for slightly less square footage.

Variance #3: The requested variance is self-created since the proposed balcony could be modified to meet the required rear setback.

No Special Privilege Conferred

Variance #1, #2, #4 & #5: Granting the variances as requested would not confer special privilege as the properties directly to the north, west, and northwest, as well as several more properties in the larger surrounding neighborhood, all have detached accessory structures that are located quite close to their respective property lines and appear to be non-conforming.

Variance #3: Granting this variance would confer special privilege as it does not appear that any other properties in the surrounding area have second-floor balcony/deck that encroach into required setbacks.

Deprivation of Rights

Variance #1, #2, #4 & #5: Denial of these variances would deprive the owners of the right to utilize and enjoy the existing structures on the property that have existed in their current locations for at least the past two decades, and prior to the current owners purchasing the property.

Variance #3: Denial of this variance would not deprive the owners of any rights as a balcony could be added to Building #1 which complies with code.

Minimum Possible Variance

Variance #1, #2, #4 & #5: These are the minimum possible variances as Building #1 and #2 are existing in their current locations, and have been since at least the 1980's. Further, the cumulative detached accessory structure area is the minimum possible to accommodate the existing Building #1 and #2, as well as the proposed balcony.

Variance #3: There is no minimum variance as a code compliant balcony addition could be constructed.

Purpose and Intent

Variance #1, #2, #4: Approval of the requested variances would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that detached accessory structures have on surrounding properties. However, as previously discussed, other properties in the surrounding area have detached accessory structures that have similar setbacks.

Variance #3: This does not meet the purpose and intent of the code as the fact that the balcony would be unenclosed could amplify the impact on surrounding properties, especially in regard to noise and the straight lines of view that individuals on the balcony would have to surrounding properties.

Variance #5: This does not meet the purpose and intent of the code as the required setbacks are intended to prevent structures from being built very close to property lines. This shed (Building #2) is less than a foot from the property line.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated March 4, 2021, and with the elevations received September 14, 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 proposed balcony addition within 2 years of final action on this application by Orange County or the approval of Variance #3 is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Nicole Moitoza
1513 Overlake Ave.
Orlando, FL 32806

COVER LETTER

August 10, 2021
BZA Zoning Variance

To Whom It May Concern:

In November of 2020 my husband and I applied for a permit to have a balcony entrance added onto an existing structure. In order to receive clearance, the following deficiencies need to be met:

Back building

As per the deficiencies on the permit we are requesting

1. A setback of 5.3" feet in the rear, where the required setback is 10 feet. Which is a variance of 4'9"feet for the back building. Along the side of the building we are requesting 7'1" setback where the required setback is 10 feet. Which is a variance of 2'11". For the side of the back building that is located off the concrete pad.

Shed
We need a variance for this structure and setbacks for location.

As per the deficiencies on the permit we requesting

2. A setback of .8" in the rear, where the required setback is 5 feet. Which is a variance of 4'4"feet for the back building. This structure is solid concrete with a poured base and was built when the back building was created.

We are requesting

3. A variance for the square footage of this building, 99.91. The deck balcony puts us at a maximum square footage allotment for our backyard structures. Having to tear down this structure would force us to incur additional costs. This was an existing structure.

Please advise as to how to continue.

Sincerely,
Nicole Moitoza

COVERLETTER
March 7, 2021

Purpose: Applying for variance for the **Back building** structure
Variance: #1. Setback variance of 5.42ft vs 10 ft for a structure larger than 15 feet

Addition of a second story deck structure:
Building Material: Wood
Sq feet Proposed: 248

To Whom It May Concern:

The current structure is located directly behind the main house. The structure was approved around the time of 1986 if using the existing variance for the permissible square footage. The building is solid concrete block on a poured slab. It is an open floor plan which allows for a family game/entertainment room. The upstairs has potential to be an additional living space for our family. Currently, the only entry we have to access the upstairs is a set of pull down stairs that you would find in a garage or hallway to access an attic space. This is not a safe entrance and we do not want to infringe on the downstairs space by creating interior stairs that would eat up square footage. Eventually, the bottom will be used as a mother-in-law suite for our aging parents, and we do not want to have to disturb anyone to gain access to the upstairs.

Sincerely,

Nicole Moitoza
1513 Overlake Ave
Orlando, FL 32806
407/616-4889

COVERLETTER
Purpose: Shed

Purpose: Applying for a variance for the shed structure
Variance: #1. Setback variance of .67ft vs 5 ft for a structure larger than 10 feet or under.

No Building or Structure Changes:

To Whom It May Concern:

The current structure is located directly behind the main house in the North East corner of the property. The structure is located adject to the well on the property used for landscaping. The structure is solid concrete block on a poured slab and measures 8x10 and is 8 feet tall. The current use of this back building is storage for yard and gardening equipment. This structure is listed as part of the property for over 20 years. Due to the low profile and the location, it is almost not visible.

When applying for a permit to build the exterior entrance to the second story it was brought to our attention that this structure was out of compliance and we would need a setback variance approval or remove it before the final inspection of our project. I believe that due to the square footage of our structure that we may also need a variance for exceeding maximum square footage of structures on our property. The Backyard Building footprint is 576 sq ft if measuring the interior walls with the exterior deck which is 236.4 sq ft. gives the Back building structure a total of 813.4 sq feet. With the addition of the shed at 89.10 our total of all the structures square footage in our back yard totals 903.20 (We purposely changed the deck plans to allow for this). If my math is wrong, we will need a variance to allow the additional square footage.

I am asking for a hardship consideration for this structure. The cost of tearing down and rebuilding this shed a few more feet away from the property line would be substantial and far more than the structure is worth. Our Neighborhood is filled with backyard buildings that were built to close to the property lines.

Variance Criteria

Special Conditions

The use of the structure is for personal use. Our vision is to one day convert the downstairs at a to a mother-in-law suite when elder parents move in. The bottom level has no stairs or ledges (unlike the house which has very narrow hallways and three steps to enter the house and another step to enter in the back. (My mother is currently in a wheelchair and would have difficulty navigating my house without assistance). The 2nd floor deck & stairs would allow for a private entrance to the upstairs studio / loft.

Not Self-Created

The back building was the main interest behind why we moved into this house. This structure will be used consistent with the house. The additional structure accommodates our family's hobbies and interests. I am an artist and husband and son play music. The balcony entrance allows for safe entrance to the upstairs. Currently there is only a set of pulldown attic stairs for the family to access the upstairs. By creating an outside entrance we are able to close the hole in the floor and not disturb the open floor plan of the first story. Currently The upstairs will be used for family hobbies and interests. By creating a safe entrance, we will be able to separate the space and spread out more as a family.

No Special Privilege Conferred

No Special Privilege exists that we are aware of. There are many similar sheds in our neighborhood that were created by the same individual who built our backyard buildings. Please see included Project Scope

Deprivation of Rights

There will be no intrusion on the surrounding area, we are only looking to add on a minimal deck structure to gain a safe entrance to the top floor.

1) The second story deck entrance will be built by a contractor and meet permitting standards and inspections. Currently waiting for the variance hearing determination to proceed with permit #B20023305
2) The use will be in line with what is already existing in the district.
3) Landscape buffer will be in accordance 24.4 of Orange County Code, will add plants or trees to the back side of deck to create a visual barrier between our house and back neighbor

Minimum Possible Variance

The structures being reviewed were existing on the property before we bought the property. We have made necessary architectural changes to the deck to align with the maximum square footage allowed for the main back building. The additional shed cannot be moved or altered due to the solid construction. According to permitting correspondence, the deck will be allowable with the removal or a variance for the shed. If the variance for the setback on the main building is approved.

Purpose and Intent

When we purchased the house in September of 2019 we fell in love with the back building and additional storage shed on the property. Both were listed on the survey and included with the

property listing. **After doing research and applying for a permit it has been brought to our attention that both of these buildings require variances. Eventually the back building will be used for aging parents to retire and be in our care.**

Both buildings were established and have been part of the property for well over 20 years.

Variance #1. The back building was built in 1986

1. We are applying for a **variance for a setback** on the main back building on our property. The structure was built in 1986. The structure is 23 feet tall and currently 5'42" away from the property line. We need a variance to allow for this setback. Anything over 15 feet should have a 10-foot setback in the rear and 7.5 setback on the sides

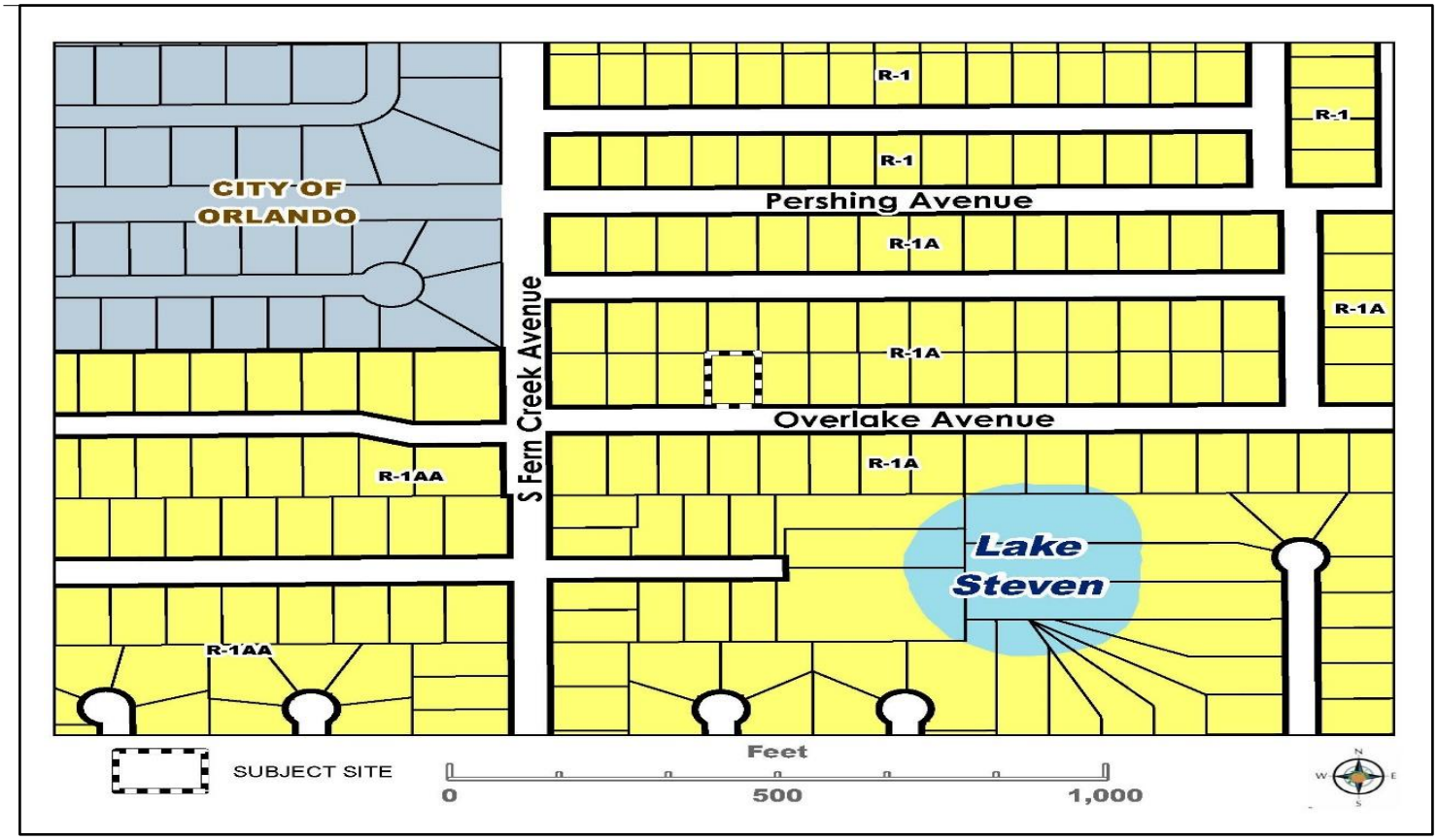
1a. **Variance for size allowance?** We have altered the deck to account for square Footage. At that time the owner/contractor acquired a variance for the footprint of 576 Sq ft. We are in the permitting process to add a second story entrance to this building. The architect has revised our original plans to accommodate for the 924 sq ft maximum allowance. The deck was shortened 48 sq feet to allow for this difference. However, if you are now counting the second story as part of the square footage, we will need a variance to allow for the entire second story. If you are only using the footprint (ground floor square footage 576+236.4= (812.4)) and the deck we have met the allowable size criteria.

Variance #2. Small Shed

In the North East area of the survey, we have solid cinderblock shed on a cement slab. This structure was built before we purchased the property and is included with the survey.

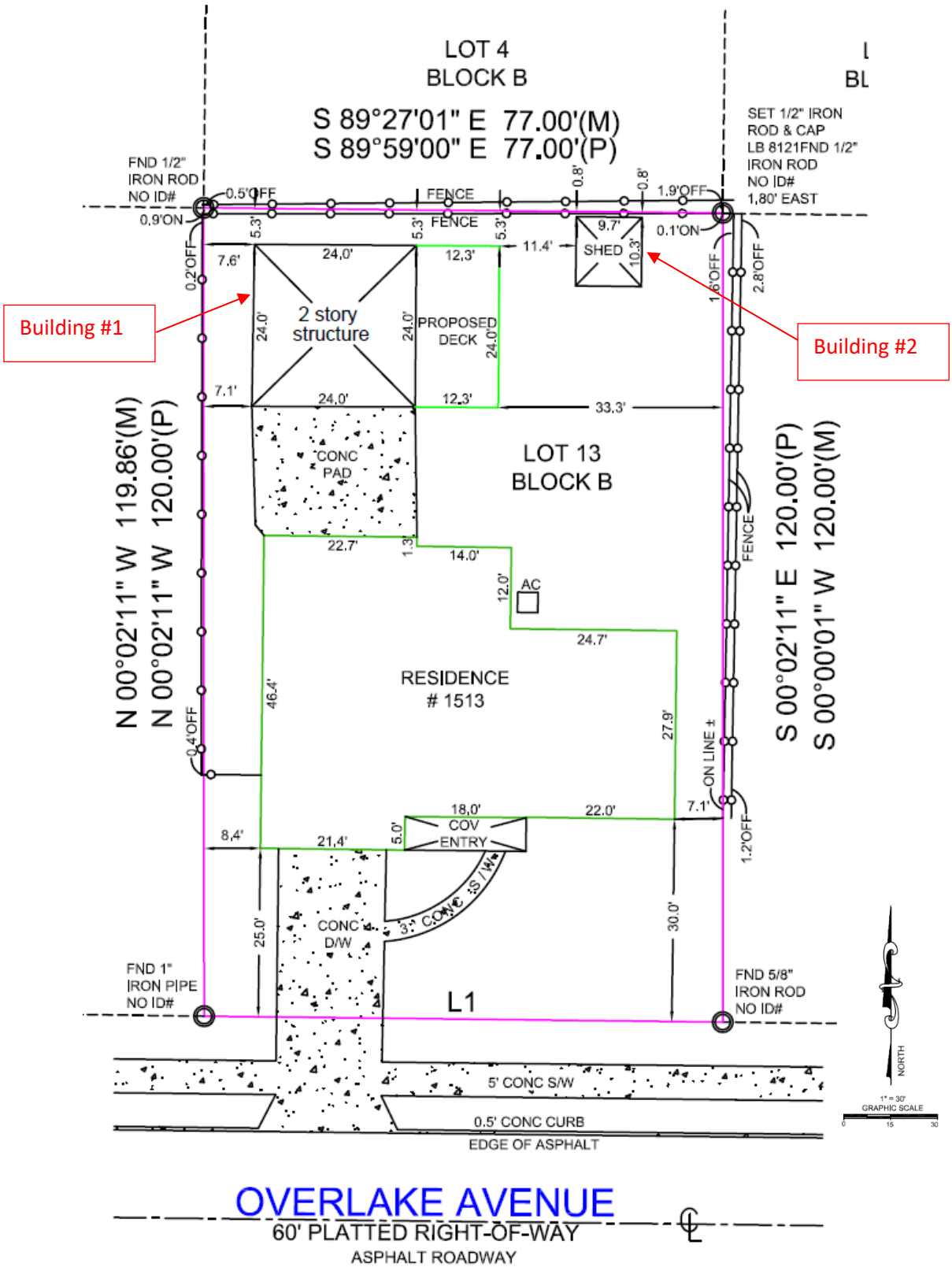
1. We need to apply for a set-back variance on this structure. This structure was built in the early 2000's and has been on the property for over 20 years existing .67 from the property line and fence. It is a small building that does not impose on any of the neighbors. The given variance for structures 15 feet and below is 5 feet.

ZONING MAP

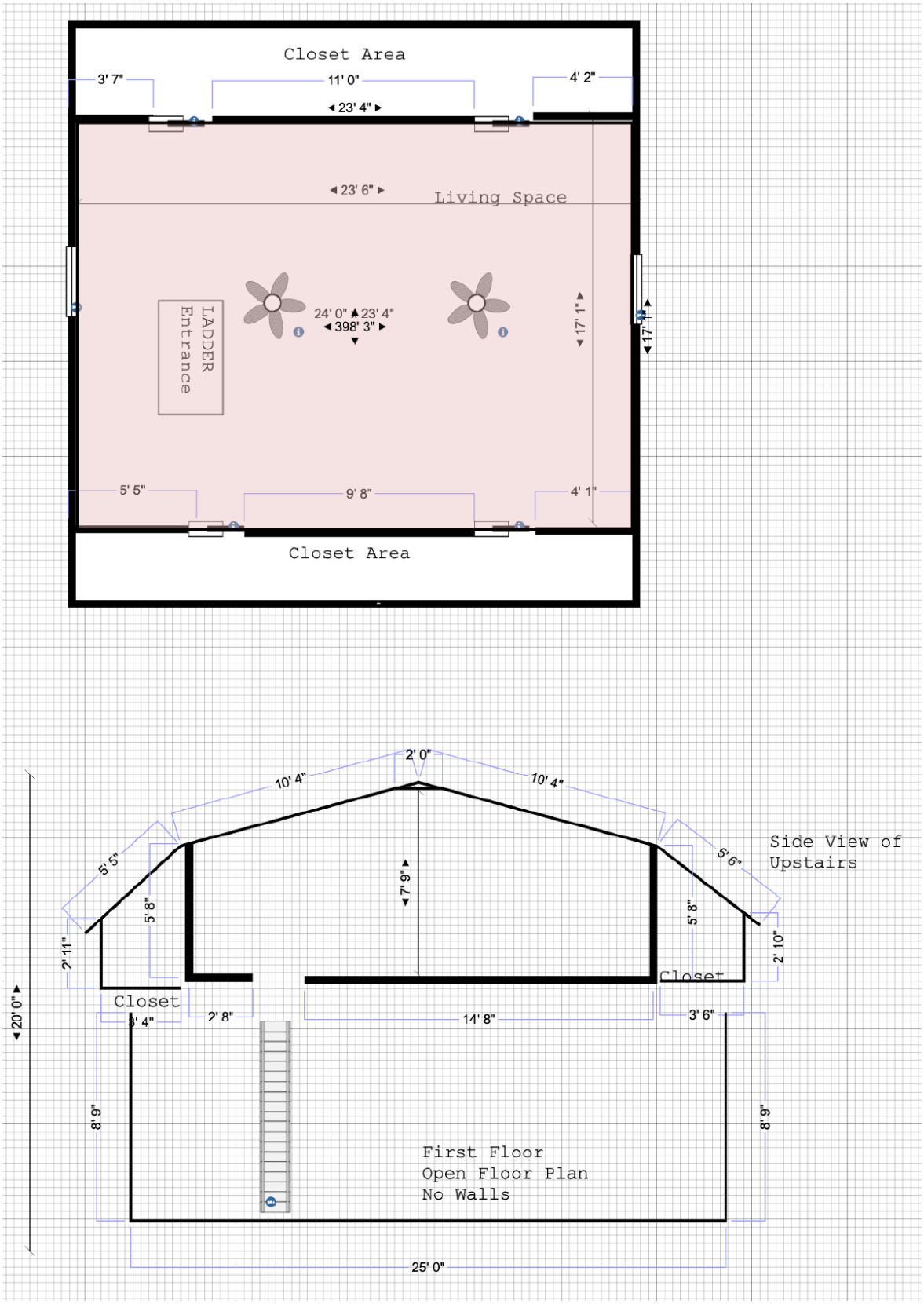


AERIAL MAP

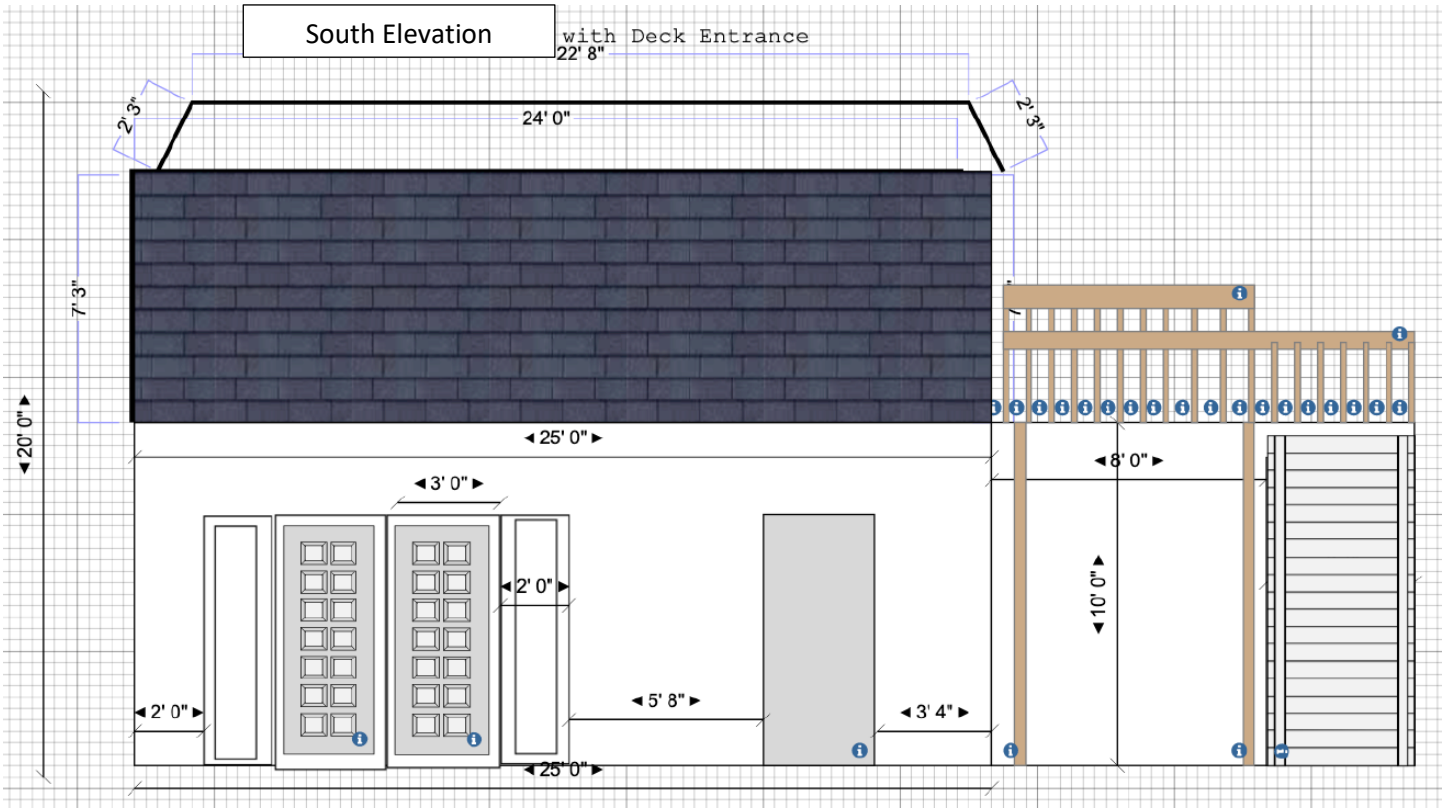
SITE PLAN

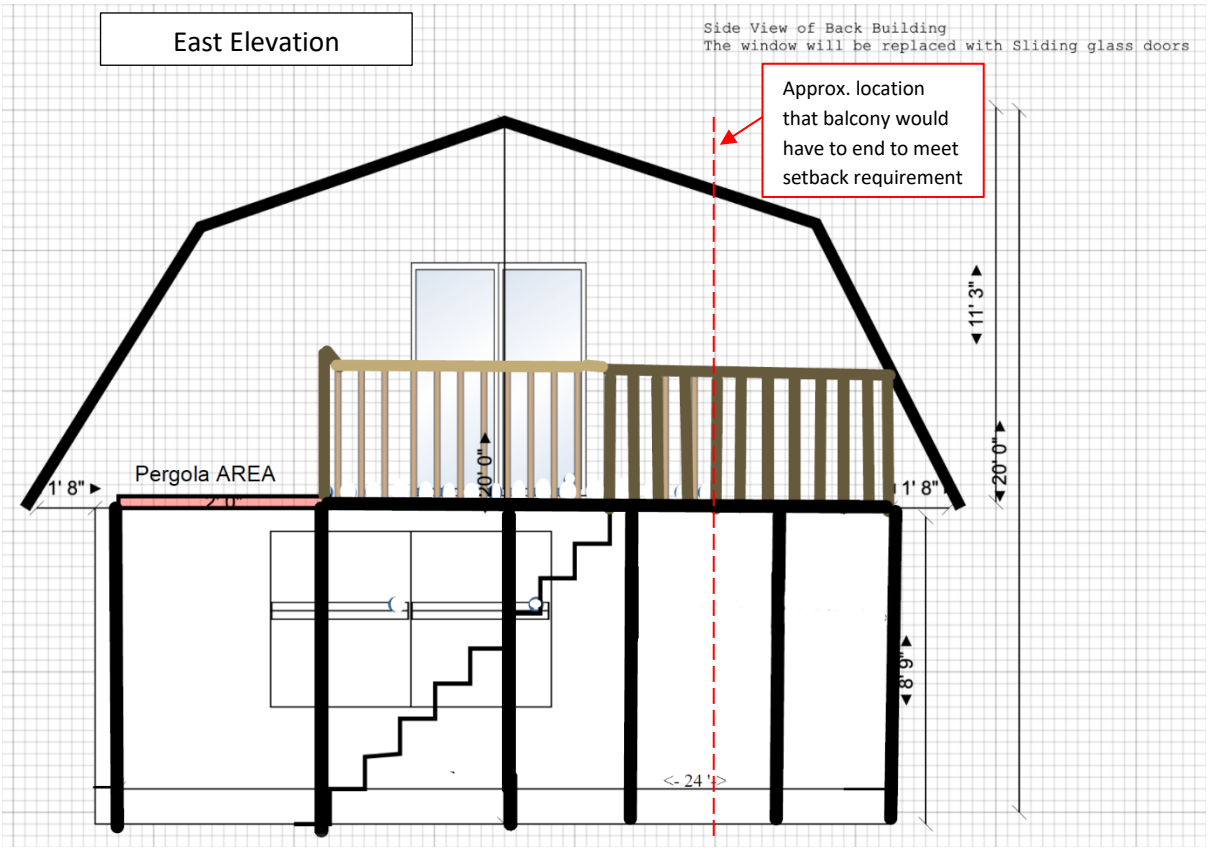

LOT 4
BLOCK B
S 89°27'01" E 77.00'(M)
S 89°59'00" E 77.00'(P)
FND 1/2" IRON ROD NO ID#
SET 1/2" IRON ROD & CAP LB 8121FND 1/2" IRON ROD NO ID# 1.80' EAST
0.5'OFF
0.9'ON
FENCE
0.8'
1.9'OFF
0.1'ON
SHED
9.7'
10.3'
11.4'
0.2'OFF
1.6'OFF
2.8'OFF
Building #1
Building #2
2 story structure
PROPOSED DECK
24.0'
7.6'
24,0'
12,3'
7.1'
33.3'
CONC PAD
LOT 13
BLOCK B
22.7'
14.0'
AC
12.0'
24.7'
RESIDENCE
1513
N 00°02'11" W 119.86'(M)
N 00°02'11" W 120.00'(P)
S 00°02'11" E 120.00'(P)
S 00°00'01" W 120.00'(M)
FENCE
0.4'OFF
46.4'
27.9'
ON LINE ±
18,0'
COV ENTRY
22.0'
8,4'
21,4'
5.0'
CONC D/W
25.0'
30.0'
1.2'OFF
FND 1" IRON PIPE NO ID#
L1
FND 5/8" IRON ROD NO ID#
5' CONC S/W
0.5' CONC CURB
EDGE OF ASPHALT
OVERLAKE AVENUE
60' PLATTED RIGHT-OF-WAY
ASPHALT ROADWAY
NORTH
1" = 30'
GRAPHIC SCALE

2nd FLOOR PLAN & CROSS-SECTION OF BUILDING #1

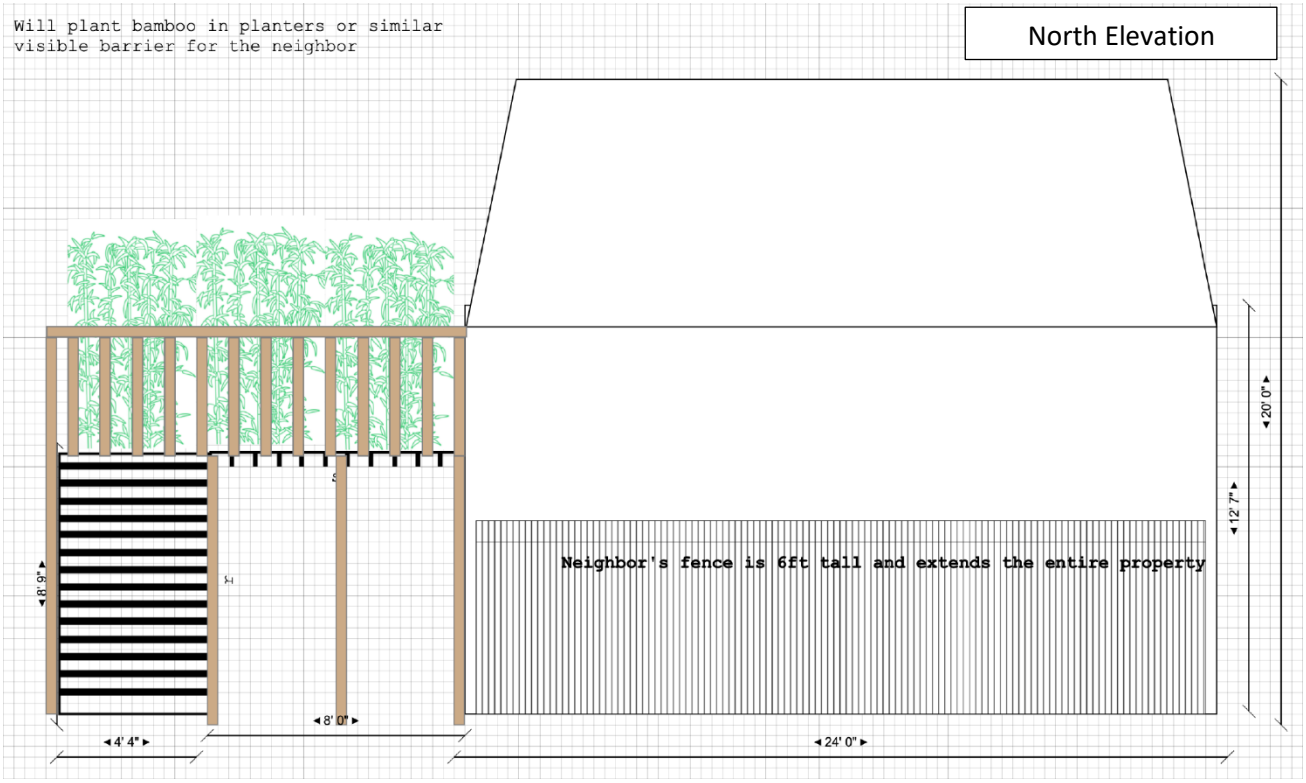


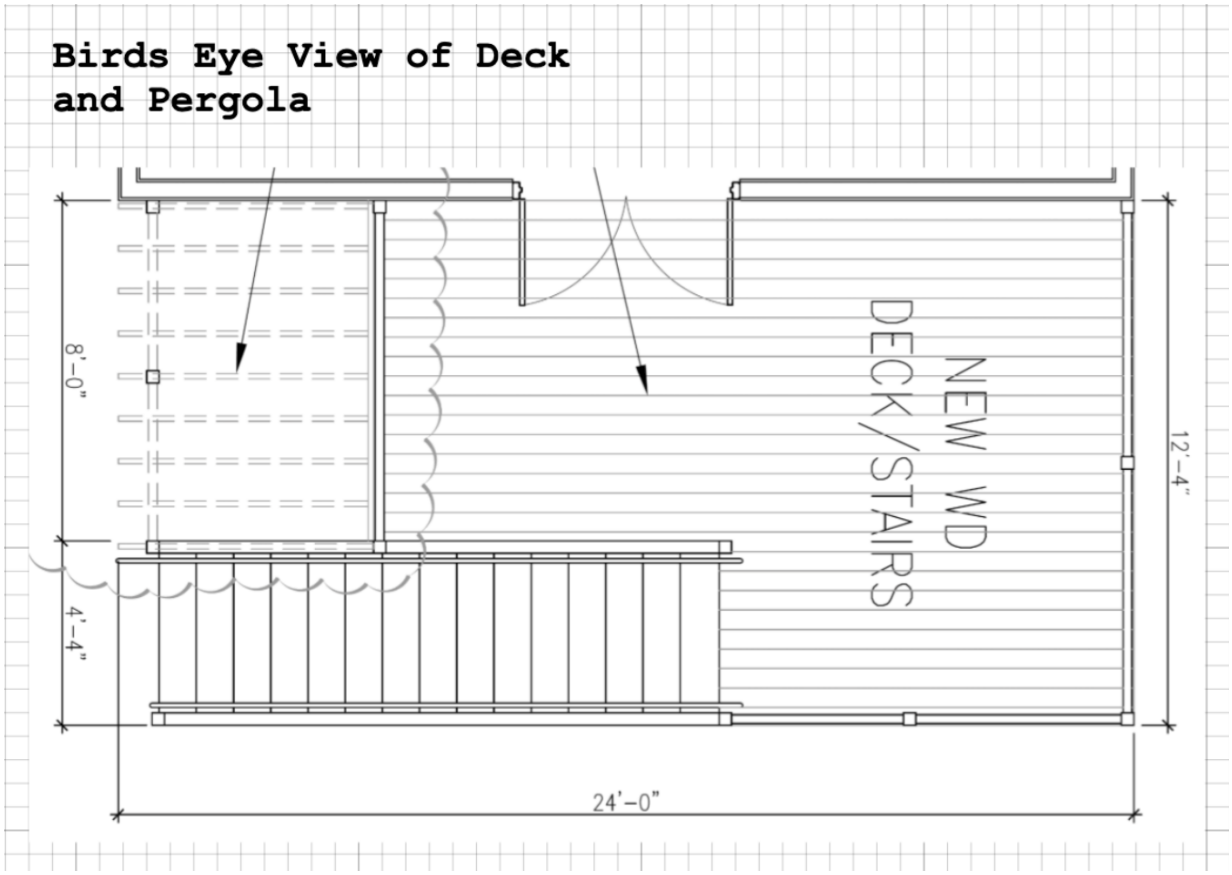
ELEVATIONS (PROPOSED BALCONY)





ELEVATION (PROPOSED BALCONY)





SITE PHOTOS

Facing north at front of subject property

Facing north towards rear of subject property

SITE PHOTOS

Facing northwest towards rear of subject property (Building #1 on left and Building #2 on right)

Facing west towards side of subject property (Building #1)

SITE PHOTOS

Facing northwest in rear of subject property (Building #2)

Facing east towards side of subject property (Building #2)

SITE PHOTOS

Facing northeast towards rear of subject property (Building #1)

Facing west towards side of subject property (Building #1 on right)

SITE PHOTOS

Existing rear yard setback behind Building #1

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date:	**OCT 07, 2021**	Commission District:	**#2**
Case #:	**VA-21-10-090**	Case Planner:	**Laekin O'Hara (407) 836-5943** **Laekin.O'Hara@ocfl.net**

GENERAL INFORMATION

APPLICANT(s): GUIMER BERNAL

OWNER(s): GARCIA YULIETT, GUIMER BERNAL

REQUEST: Variances in the R-2 zoning district as follows:
1) To allow a 1,088 sq. ft. detached Accessory Dwelling Unit (ADU) in lieu of a maximum of 626 sq. ft.
2) To allow an ADU with 3 bedrooms in lieu of a maximum of 2.
3) To allow an ADU that is not designed to be similar and compatible with the primary dwelling unit, with the same exterior finish material and similar architectural details.
This is the result of Code Enforcement action.

PROPERTY LOCATION: 1104 E. 1st St., Apopka, FL 32703, southeast corner of E. 1st St. and Illinois Ave., north of E. Semoran Blvd. and west of S. Thompson Rd.

PARCEL ID: 11-21-28-3800-01-430

LOT SIZE: +/- 0.34 acres (15,006 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 149

DECISION: Recommended **APPROVAL** of the Variance request **#1**, 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 as amended; and, **DENIAL** of the Variance requests **#2** and **#3**, 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) (5 in favor, 1 opposed, and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated August 26, 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 ADU and the addition to the building 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. Parking shall be on an improved surface in accordance with County Code 38-1479.

6. The closet shall be removed from the office (bedroom) on the floor plan.

7. The exterior of the ADU shall match the exterior of the principal structure with a stucco finish.

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 one (1) comment was received in support and two (2) comments were received in opposition.

The owner discussed the need for the request, the sequence of construction and the omission of obtaining permits.

The BZA discussed life safety concerns of the unpermitted structure, the exterior materials of the ADU and the principal structure, and the excessive size of the ADU.

The applicant offered to remove the walk-in closet from the office to eliminate the need for Variance #2 and offered to stucco the entire structure and primary dwelling unit for exterior consistency to eliminate the need for Variance #3.

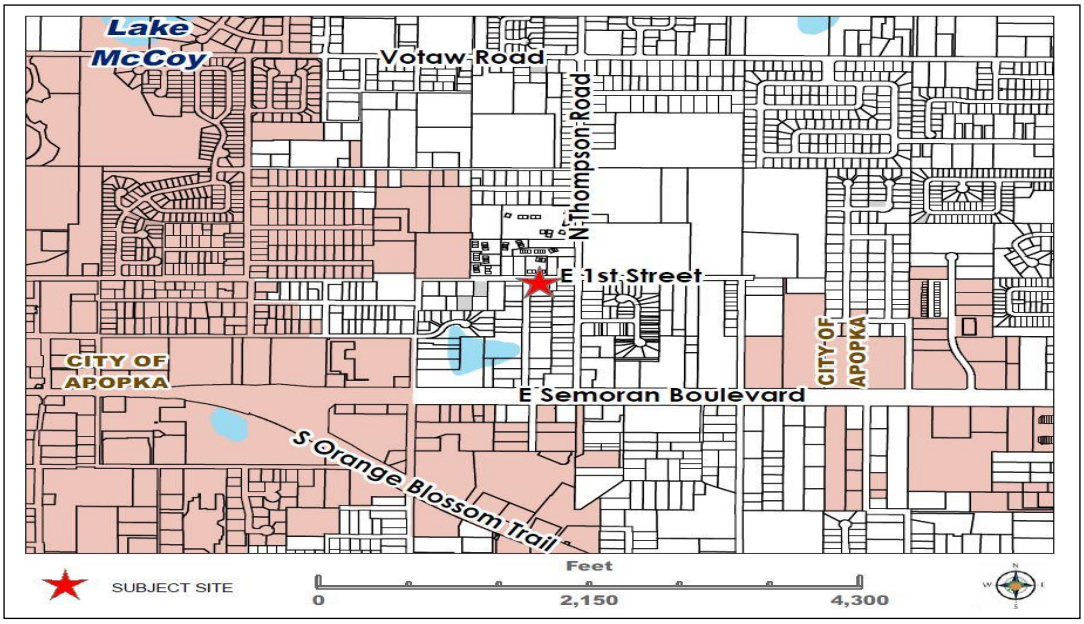
There was no one in attendance to speak in favor or in opposition to the request.

The BZA recommended approval of Variance #1 and recommended denial of Variances #2 and #3 by a 5-1 vote, subject to the five (5) conditions in the staff report and the addition of Condition #6, which states "The closet shall be removed from the office (bedroom) on the floor plan." and the addition of Condition #7, which states "The exterior of the ADU shall match the exterior of the principal structure with a stucco finish."

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-2	R-2	R-2	R-2	R-2
Future Land Use	Low Medium Density Residential	Low Medium Density Residential	Low Medium Density Residential	Low Medium Density Residential	Low Medium Density Residential
Current Use	Single-Family	Vacant	Single-Family	Single-Family	Single-Family

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-2, Residential Dwelling district, which allows single-family detached and attached dwelling units and associated accessory structures.

The area around the subject site consists of single-family homes and vacant lots. The subject property was platted in 1946 as lots 43 and 44 of the Hunts Park subdivision, and is +/- 0.34 acres. The subject property is a corner lot, with frontage on both Illinois Avenue and E. 1st Street. The code determines that for residential properties, the narrow width of a lot abutting a street right-of-way shall be the front, which is Illinois Avenue for this property. The site is developed with a 1,253 sq. ft. single-family home, which was constructed in 1964, and a detached garage, which has been converted into an accessory dwelling unit (ADU) without obtaining the required approvals and permits. The owner purchased the property in 2007.

The applicant is requesting approval of the conversion from the detached garage to an ADU after the fact. The ADU contains 1,088 sq. ft. of living area where a maximum of 626 sq. ft. is allowed (variance # 1). The code bases

the allowable size of an ADU on the size of the primary dwelling unit, and allows for the ADU to be a maximum of 50 percent of the primary dwelling unit living area, or 1,000 sq. ft., whichever is less. The ADU also requires variance #2 as it has 3 bedrooms in lieu of a maximum of 2; and requires variance # 3 as the design is not similar and compatible with the primary dwelling unit with the same exterior finish. The primary structure is finished with wood siding, whereas the ADU is stucco. A 2003 survey shows that the detached garage previously had a dimension of 25 ft. by 32.1 ft., for a total of 802 sq. ft. Based on aerials, it appears an addition was constructed in 2020 without a permit, which increased the size of the detached structure to 1,088 sq. ft. The property was issued a code violation on March 2, 2020, (CE 583261) for the ADU, and improvements without a permit.

The intent and purpose of the ADU code is to allow for the development of ADUs to support greater infill development and affordable housing opportunities, while maintaining the character of existing neighborhoods. As such, accessory dwelling units do not count towards the maximum density and are charged impact fees at a lower rate than 2 single-family homes, and are therefore intentionally meant to be subordinate in relation to the primary home and property, thus the limitation on maximum square footage and number of bedrooms.

The applicant submitted letters of no objection from three (3) neighbors located to the west, south, and northeast.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	12 ft.
Min. Lot Width:	45 ft.	150 ft.
Min. Lot Size:	4,500 sq. ft.	0.34 acres (15,006 sq. ft.)

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

	Code Requirement	Proposed
Front:	25 ft. (Illinois Ave)	35.3 ft. (west)
Rear:	25 ft. Residence / 5 ft. ADU	60.3 ft. (east)
Side:	6 ft.	6.1 ft. (south)
Side Street:	15 ft. (E. 1st St)	61.65 ft. (north)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances, as an ADU could have been constructed in a conforming size, interior configuration, and materials, and the applicant would have been aware of these requirements if a permit was obtained prior to the conversion of the garage.

Not Self-Created

The request for the variances is self-created, as the requested variances could be reduced or eliminated. Further, the ADU could have been designed in a way that would be compatible with the primary structure, including exterior finishes.

No Special Privilege Conferred

Granting the variances as requested will confer special privilege that is denied to other properties in the area.

Deprivation of Rights

The owners are not being deprived of the right to have an ADU on the property, as they could build a size and in materials that meets code requirements.

Minimum Possible Variance

These requests are not the minimum, since there are other alternatives, including the reduction of the size.

Purpose and Intent

Approval of these requests will not be in harmony with the purpose and intent of the Code, which is to allow an ADU to be secondary and accessory to the house, in size, scale, and materials.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated August 26, 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 ADU and the addition to the building 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. Parking shall be on an improved surface in accordance with County Code 38-1479.

C: Guimer Bernal
1104 1st St.
Orlando, FL 32703

COVER LETTER

Guimer Bernal
1104 East 1st St
Apopka, Fl 32703
(407)520-7613

August 11, 2021

Re: Parcel ID# 11-21-28-3800-01-430

To whom it may concern:

This letter is to state that I, Guimer Bernal, am submitting a variance application on the above referenced Parcel ID#, 11-21-28-3800-01-430. In accordance with the application variance request, I am submitting the special expectation variance application. On page 11, there are items that are requested to meet the requirements for this type of request. Please see below for the details requested:

-1. (A) This request is for an existing structure that was purchased in 2007, for an ADU. This structure is made from concrete, wood, and steel.

Variance Criteria:
-1. Special Conditions and Circumstances: The house was sold to me back in 2007 including the detached garage addition, which was already established as a living area. I have submitted the property survey back from 2007 of the housing structure that includes this already in the property. I have researched through the Orange County Property Appraisers website, that back in 2006, the photo on that site showed the additional living space. This is prior to my purchase in 2007.

-2. Not Self -Created: As mentioned in item 1, according to the Orange County Property Appraisers website, back in 2006, the property shows the additional living space. I am submitting proof of this research, for your convenience, in this special variance request. This is prior to my purchase in 2007.

-3. No Special Privilege Conferred: I am not requesting additional privileges on this property, as it was a structure that was sold to me.

-4. Deprivation of Rights: Neither my neighbors or myself will be impacted in any way from this special variance request. I am enclosing 3 neighbor letters to provide as proof that the structure is not having a negative impact on the neighbors, any public access points, any public lands, or impacting any privately owned territory.

-5. Minimum Possible Variance: The structure has the following footage, as disclosed on the property survey: On the south side of the property line, there is 6.1 foot distance from the neighboring property. On the North side of the property line, there is 2.7 foot distance from the

main residencial structure. As well as an additional 54 feet from the property line on the north side. On the east side, 60.3 feet of distance from the property line. On the west, 35.3 feet distance from the property line. The entire property coordinates are: 100 feet by 150 feet. This translates that the property structure is within the property coordinates and is 15,000 square feet.

-6. Purpose and Intent: The intent of this special variance application is to continue maintain the initial purchase agreement back in 2007. This agreement for me came with the intention of having my elderly parents reside close to me for their care, which will accommodate my lifestyle. This intent and purpose will not impact the neighboring properties, as this is a residential neighborhood and zone. Additionally, this property is coded for a duplex.

As mentioned on page 12:

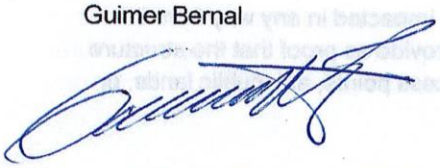
2. (A) The property will not have any signage as this is a residential structure.
2. (B) Property survey has been submitted on the Orange County Fast Track under the permission # B21010632. Also, the engineering plans and surveys have been submitted.
2. (C) This property will not have any signage. It is residential, not commercial.

3. Appeal of the zoning manager's determination:
   (A) Zoning Manager's letter enclosed.
   (B) This special variance request cover letter is disputing the Zoning Manager's letter.
   (C) Submitted on the Orange County Fast Track permission # B21010632. This will also be included in this request for your convenience.
   (D) Original survey will be provided in this request to show the dimensions on all sides of the property.

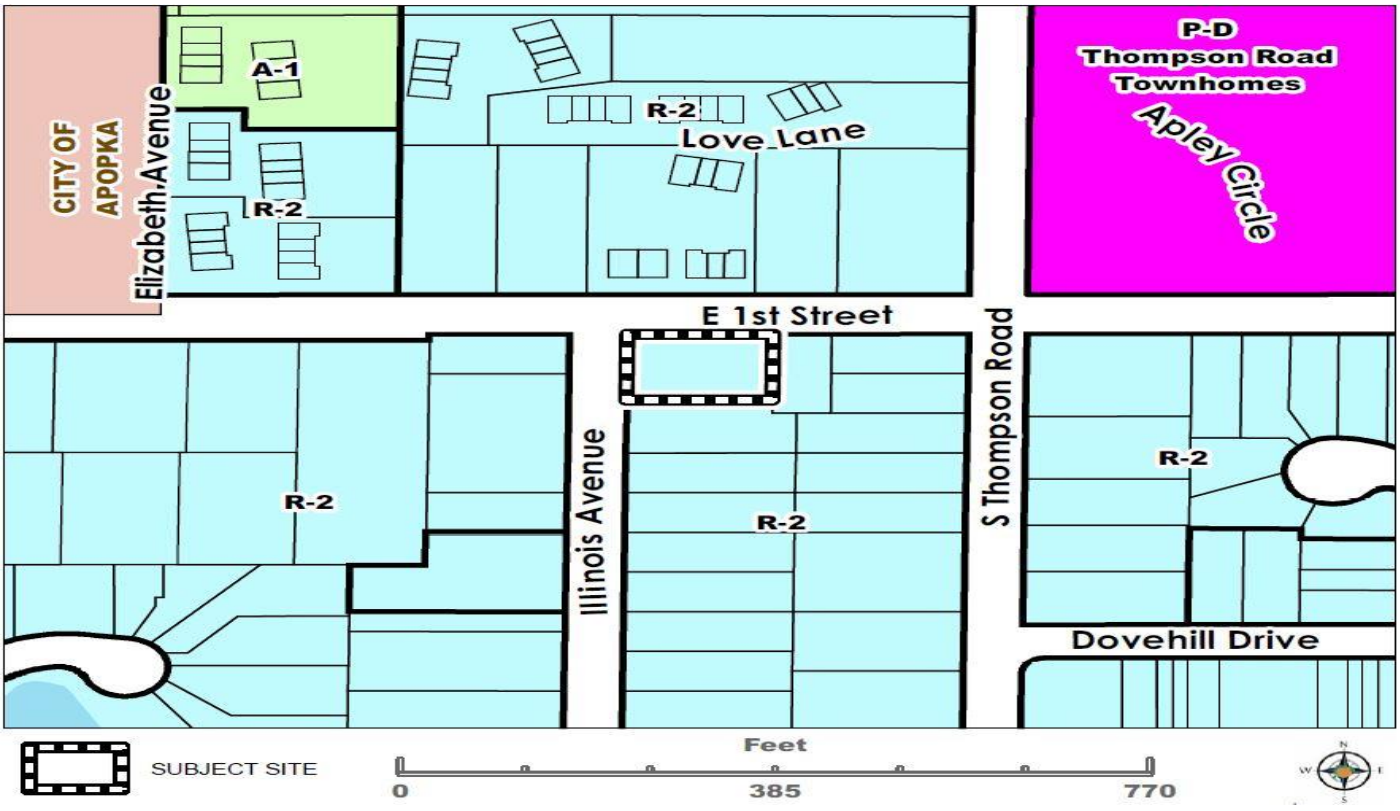
If you have any questions or concerns, please contact me directly at phone number (407)520-7613. I appreciate your assistance regarding this matter.

Sincerely,

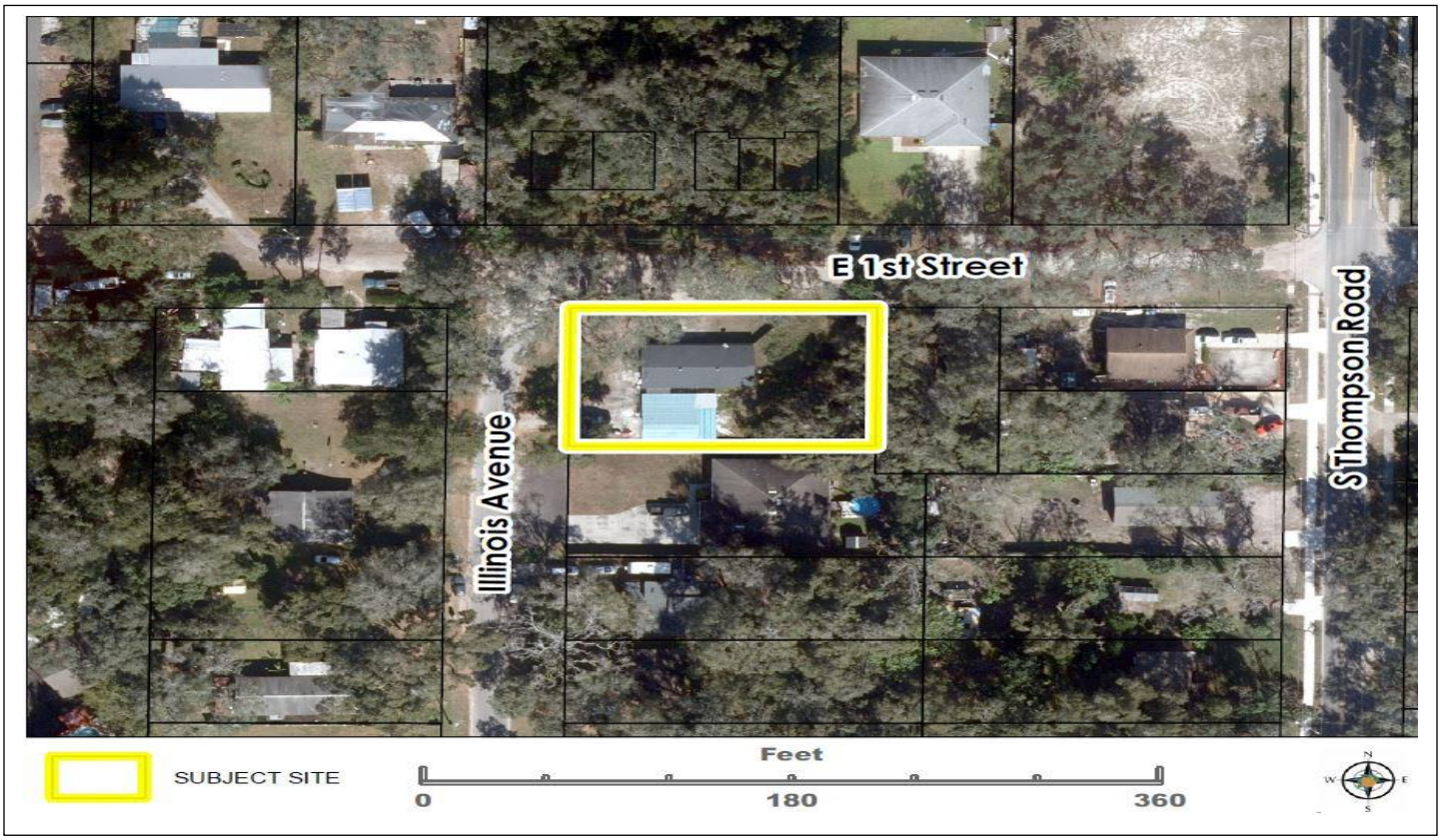
Guimer Bernal



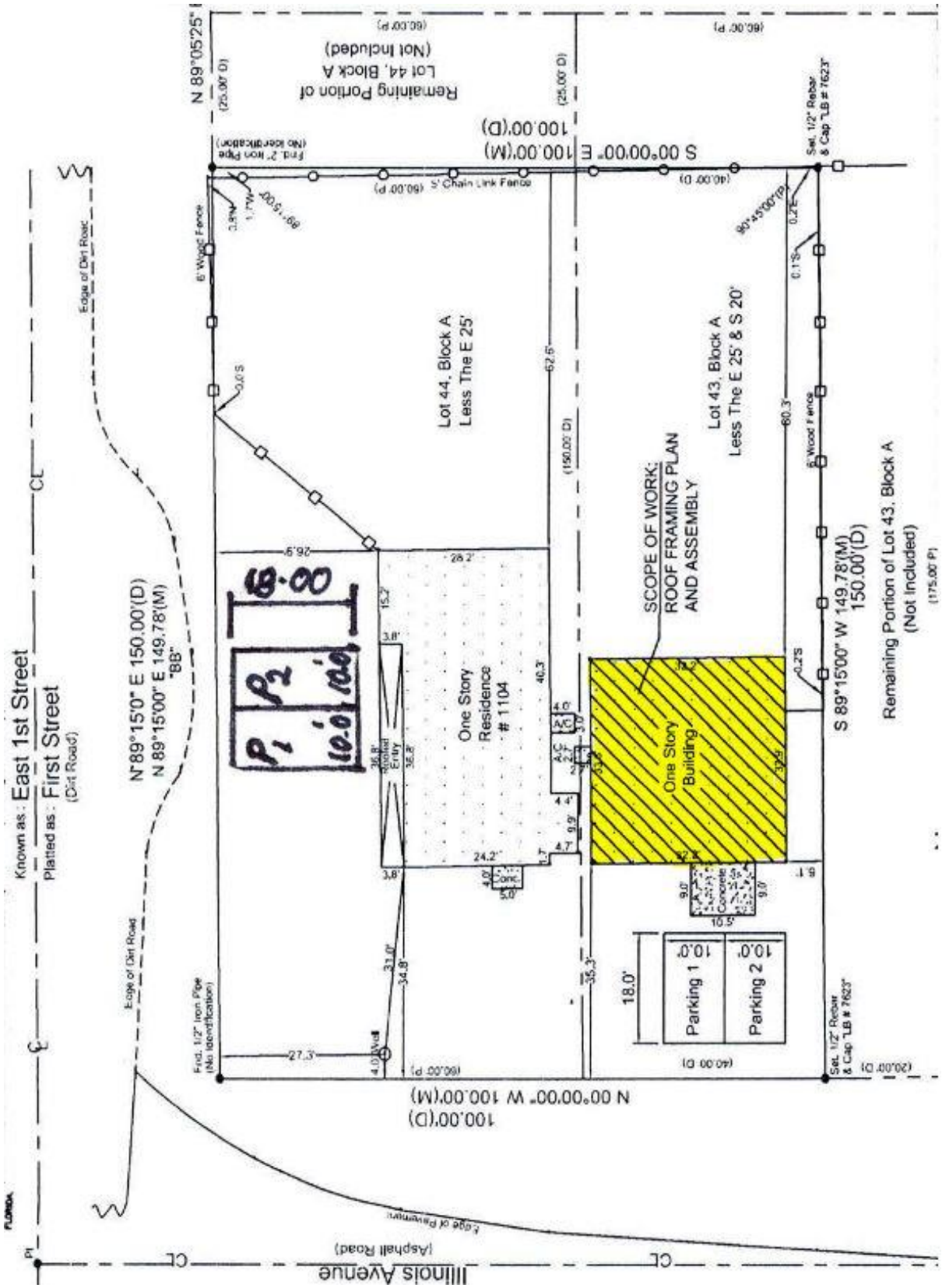
ZONING MAP



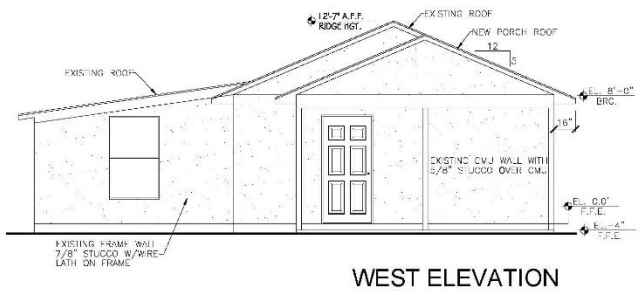
AERIAL MAP



SITE PLAN

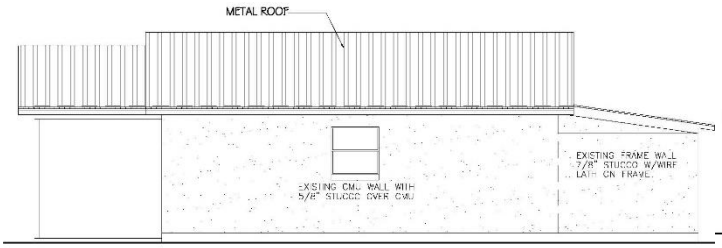

Known as : East 1st Street
Platted as : First Street
(Dirt Road)
N 89°15'0" E 150.00'(D)
N 89°15'00" E 149.78'(M)
"BB"
Edge of Dirt Road
Lot 44, Block A
Less The E 25'
Lot 43, Block A
Less The E 25' & S 20'
SCOPE OF WORK:
ROOF FRAMING PLAN
AND ASSEMBLY
One Story
Residence
1104
One Story
Building
Parking 1
Parking 2
10.0'
18.0'
S 89°15'00" W 149.78'(M)
150.00'(D)
Remaining Portion of Lot 43, Block A
(Not Included)
Remaining Portion of
Lot 44, Block A
(Not Included)
N 89°05'25"
S 00°00'00" E 100.00'(M)
100.00'(D)
N 00°00'00" W 100.00'(M)
100.00'(D)
6' Wood Fence
5' Chain Link Fence
Fnd. 2" Iron Pipe
(No Identification)
Set. 1/2" Rebar
& Cap "LB # 7623"
Fnd. 1/2" Iron Pipe
(No Identification)
Edge of Dirt Road
Edge of Pavement
Illinois Avenue
(Asphalt Road)
FLORIDA

ELEVATIONS & FLOOR PLAN

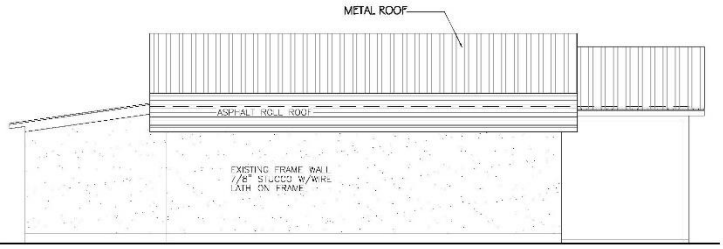


WEST ELEVATION
3/16"=1'-0"

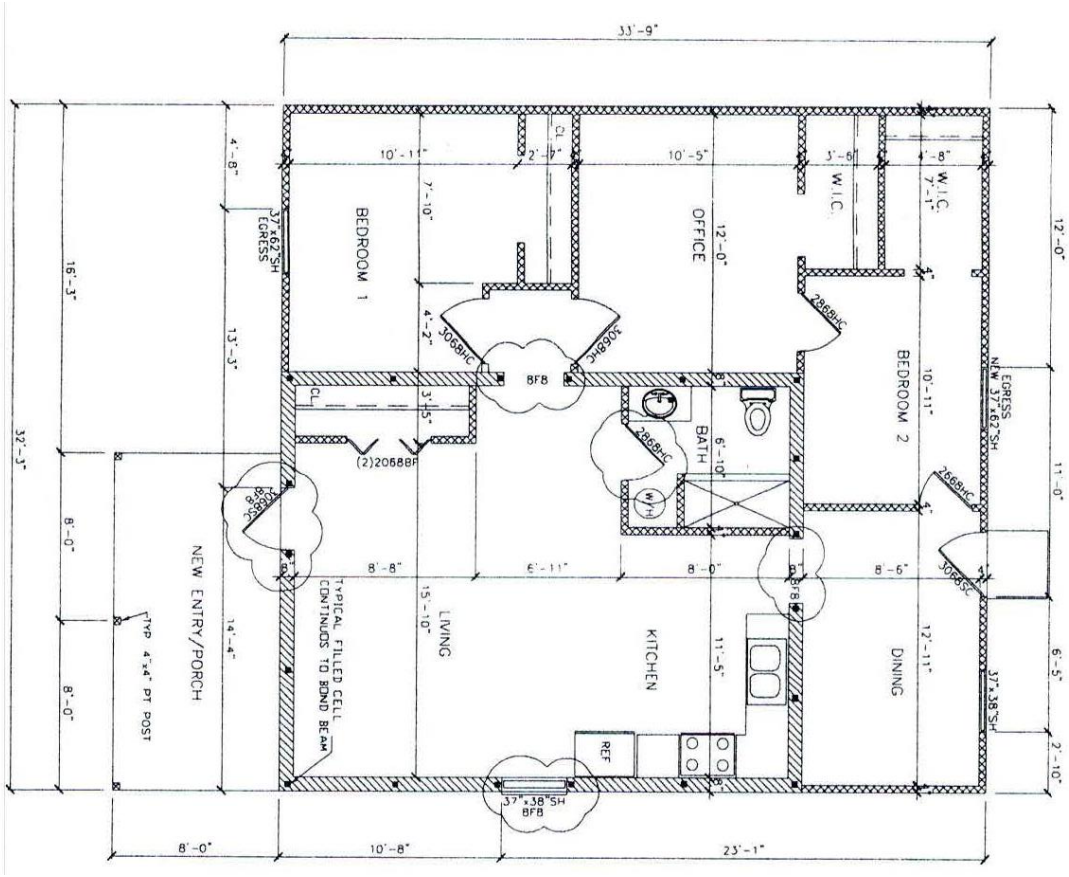
EAST ELEVATION
3/16"=1'-0"



SOUTH ELEVATION
3/16"=1'-0"



NORTH ELEVATION
3/16"=1'-0"



SITE PHOTOS

Front facing property from Illinois Ave, ADU is to the right

View from on the property facing south

SITE PHOTOS

View from the intersection of Illinois Ave and 1st Street

Rear of the ADU facing east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date:	**OCT 07, 2021**	Commission District:	**#6**
Case #:	**VA-21-10-091**	Case Planner:	**Laekin O'Hara (407) 836-5943** **Laekin.O'Hara@ocfl.net**

GENERAL INFORMATION

APPLICANT(s):	ALTAGRACIA VILLALONA
OWNER(s):	CARMEN VILLALONA
REQUEST:	Variance in the R-1A zoning district to allow a 4 ft. high vinyl picket fence with 4 ft. high vinyl gates within the clear view triangle. This is a result of Code Enforcement action.
PROPERTY LOCATION:	1034 26th St., south side of 26th St., east of S. Orange Blossom Trl., north of W. Michigan St.
PARCEL ID:	03-23-29-0180-52-090
LOT SIZE:	50 ft. x 135 ft.; +/- 0.15 acres (6,746 sq. ft.)
NOTICE AREA:	500 ft.
NUMBER OF NOTICES:	102

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 as amended (unanimous; 6 in favor, 0 opposed):

1. Development shall be in accordance with the site plan dated August 23, 2021 and fence specifications, 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 for the fence and gates 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. 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 and holds harmless Orange County from any claims, lawsuits, and any other damage caused by the locating of the fence in the clear view triangles adjacent to 26th Street as requested by the property owner, and shall inform all interested parties, including any future purchasers of the property, that the fence is located within the clear view triangles and that the property owner, and the property owner's heirs, successors, and assigns shall be responsible for any claims, lawsuits, and other damage caused by installing the fence in that location.

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 no comments were received in support and no comments were received in opposition.

The applicant agreed with the staff presentation, noted the subject fence and gates was a replacement of an existing unpermitted fence in the same location, and stated that there are no visibility issues.

Code Enforcement staff discussed history of the citation.

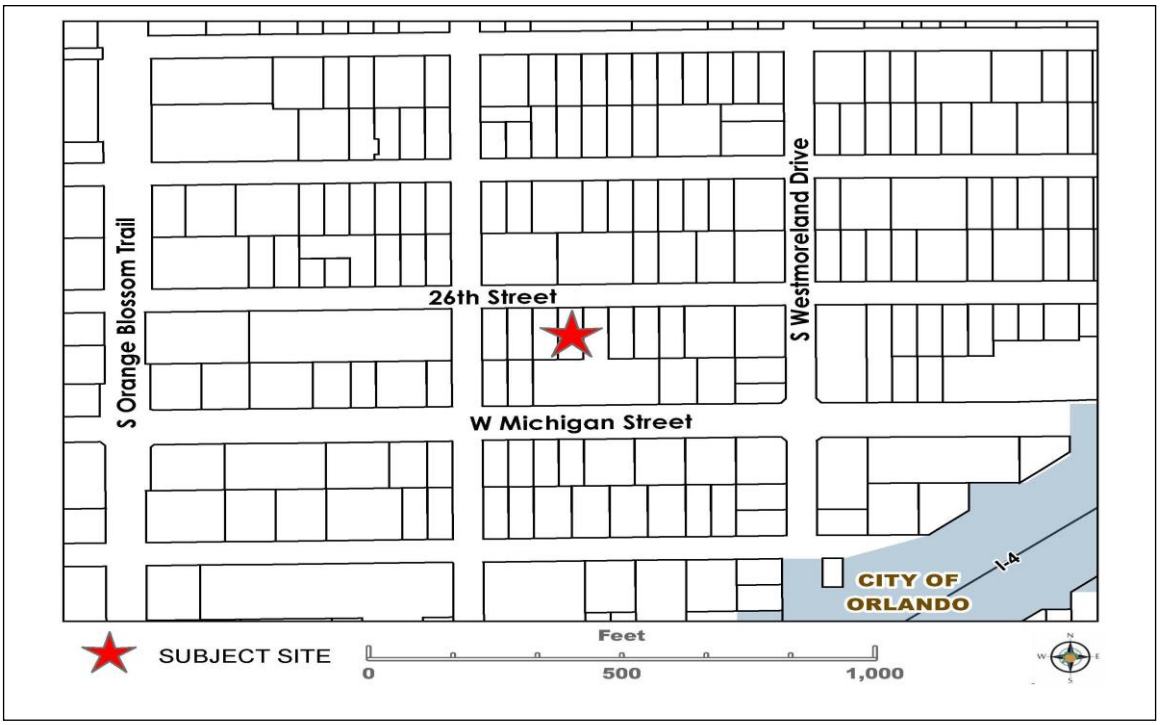
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the variance by a 6-0 vote subject to the conditions in the staff report, and the addition of Condition #4, which states "Permits shall be obtained for the fence and gates 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." and the addition of Condition #5, which states "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 and holds harmless Orange County from any claims, lawsuits, and any other damage caused by the locating of the fence in the clear view triangles adjacent to 26th Street as requested by the property owner, and shall inform all interested parties, including any future purchasers of the property, that the fence is located within the clear view triangles and that the property owner, and the property owner's heirs, successors, and assigns shall be responsible for any claims, lawsuits, and other damage caused by installing the fence in that location."

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	C-2	R-1A	R-1A
Future Land Use	Low Medium Density Residential	Low Medium Density Residential	Neighborhood Activity Center	Neighborhood Activity Center	Low Medium Density Residential
Current Use	Single-Family	Single-Family	Office	Vacant Residential	Single-Family

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the R-1A Single-Family Dwelling zoning district, which allows single-family residences with associated accessory structures.

The area around the subject site consists of single-family homes and commercial to the south. The subject property is a +/- 0.15 acre lot that was platted in 1923 as block 52, lot 9 of the Angebilt Addition subdivision, and is a substandard lot of record. The site is developed with a 1,747 sq. ft. single-family home, which was constructed in 2011. The owner purchased the property in May, 1991.

The property was previously improved with a 4 ft. high chain link fence, that was replaced by a 4 ft. high vinyl picket fence with gates in 2013, without a permit. The owner was cited by code enforcement on March 2, 2020

(CE 566000) for installing a fence without permits that does not meet code. A permit was submitted on July 8, 2020 for a 4 ft. high fence (F20012998), which required corrections. Subsequently, another permit was submitted on July 21, 2020 (F20014172) also requiring corrections. Both permits were voided due to no activity within 6 months.

The applicant requests a 4 ft. high 50% opaque vinyl picket fence within the clear view triangle. Per code, "a fence of any style or material shall maintain a clear view triangle from the right-of-way line for visibility from driveways on the lot or on an adjacent lot. The clear view triangle area for a driveway is formed on each side of a driveway by measuring a distance of fifteen (15) feet along the right-of-way and fifteen (15) feet along the edge of the driveway." The proposed fence and gates are within the clear view triangle, requiring a variance. Approximately 8 ft. of grass ROW is located between the property line and sidewalk, with approximately 16 ft. of Right of Way (ROW) between the property line and the edge of pavement for 26th St. The property to the west has a nearly identical fence, however the fence was permitted prior to the 2016 amendment to the county code which added the visibility triangle requirement. Upon visiting the site, staff observed a 6 ft. high privacy fence to the east of the property. However, it appears this fence is not on the subject property.

District Development Standards

	Code Requirement	Proposed
Max Height:	8 ft. for fence in the side and rear yards, 4 ft. for fence located within the required front yard setback	4 ft. high 50% opaque fence along property line, including the visibility triangle (Variance)
Min. Lot Width:	75 ft.	50 ft.
Min. Lot Size:	7,500 sq. ft.	6,746 sq. ft.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to the property include existing site conditions. Due to the location of the driveway on site, and the adjacent neighbor's driveway, two visibility triangles exist on site. The visibility triangles take up a large portion of the front yard of this site, limiting code compliant fencing opportunities. The property line is set back from the sidewalk and street and that, in combination with the limited height and partially transparent fence allows for visibility for pedestrian and vehicular traffic.

Not Self-Created

The need for the variance results from the location of the driveway on this property, and the location of the driveway on the neighbor's property, which was determined at the time of construction of the property.

No Special Privilege Conferred

Granting the variance as requested will not confer special privilege that is denied to other properties in the same area and zoning district, as fencing would be allowed, but the location of the existing onsite and offsite driveways makes it difficult to meet code requirements.

Deprivation of Rights
Without the requested variance, the applicant would be very limited in their ability to install a fence within the front yard.

Minimum Possible Variance
Given the configuration and location of improvements on the property, the requested variance is the minimum possible.

Purpose and Intent
Approval of the requested variance will allow improvements in an appropriate location which is in harmony with the purpose and intent of the Zoning Regulations. As proposed, the request would not be detrimental to the surrounding area since the fence and gates will still allow visibility as the vinyl picket is 4 ft. high and approximately 50% transparent, and there is approximately 8 ft. between the fence and the sidewalk location.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated August 23, 2021 and fence specifications 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.

C: Altagracia Villalona
560 N Hart Blvd.
Orlando, FL 32818

7/27/202

Cover Letter

To the Orange County Board of Zoning Administration,

This request is for permitting a 4 ft. tall x 50 ft. long vinyl white picket fence which sits on the front property line of the property located at 1034 26th Street, Orlando, FL 32805. The reason for this application is due to a violation for code "38..3,38-74,38-77,38-1408 Fence erected without permit and or does not meet development standards". The current zoning code states a 15' x 15' visibility triangle is required on each side of the driveway. The property does not have a paved driveway. There is only a grass lot from the front of the house to the front property line. I'm specifically requesting that the BZA allows for this fence to be permitted and issue an exception to the 15' x 15' visibility triangle provision.

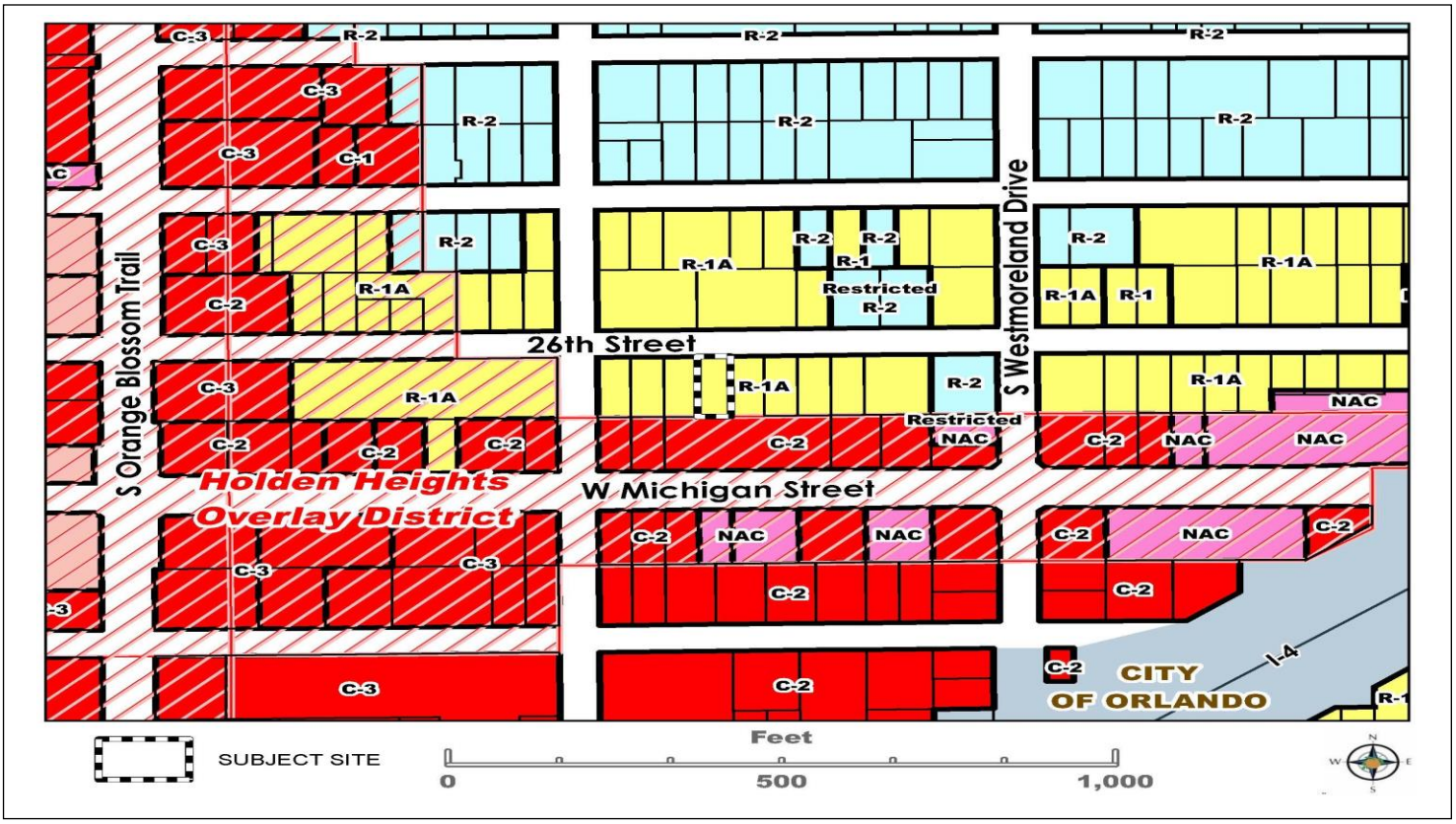
The following are justifications for how this proposal will meet the 6 standards for variance approval.

1. Special Conditions and Circumstances: There is no paved driveway on the property. There is only a grass lot. As the provisions are described in the current zoning code, it is impossible to have a 15' x15' visibility triangle. The entrance to my property is less than 10' from the adjacent neighbor's home located at 1044 26th St.
2. Not self-created: This special condition does not result from my actions. The house originally had a chain link as seen on the copy of the original survey. The existing fence replaced the original chain link fence. This is a matter of the specific provisions of the code making it impossible for any fence on the property to be in compliance.
3. No Special Privilege Conferred: Approval of this variance will not confer any special privilege on I, the applicant, because the current fence is situated on the front property line where the original chain link fence was erected. I am not gaining any special privilege from being approved in this case. Approving this variance will not force me to remove the fence completely and to keep my fence where it is.
4. Deprivation of Rights: The provisions of the code deprive do not allow for any erected fence to be compliant on this property. A 15' x 15' visibility triangle is not feasible due to the fact that the front property line is only 50' long and the entrance to property is situated less than 10' from the neighboring property line on the left side (1044 26th St.). Please see detailed survey.
5. Minimum Possible Variance: The use of the land is a single family residence with an additional detached guesthouse unit. Approval of the variance and exception to the 15' x15' visibility triangle will be a minimum variance that will allow me to have a fence.
6. Purpose and Intent: Approval of this zoning variance will allow for the fence to remain in its place and increase the value of the property. It would also improve the aesthetic appeal of the neighborhood as a whole.

Sincerely,

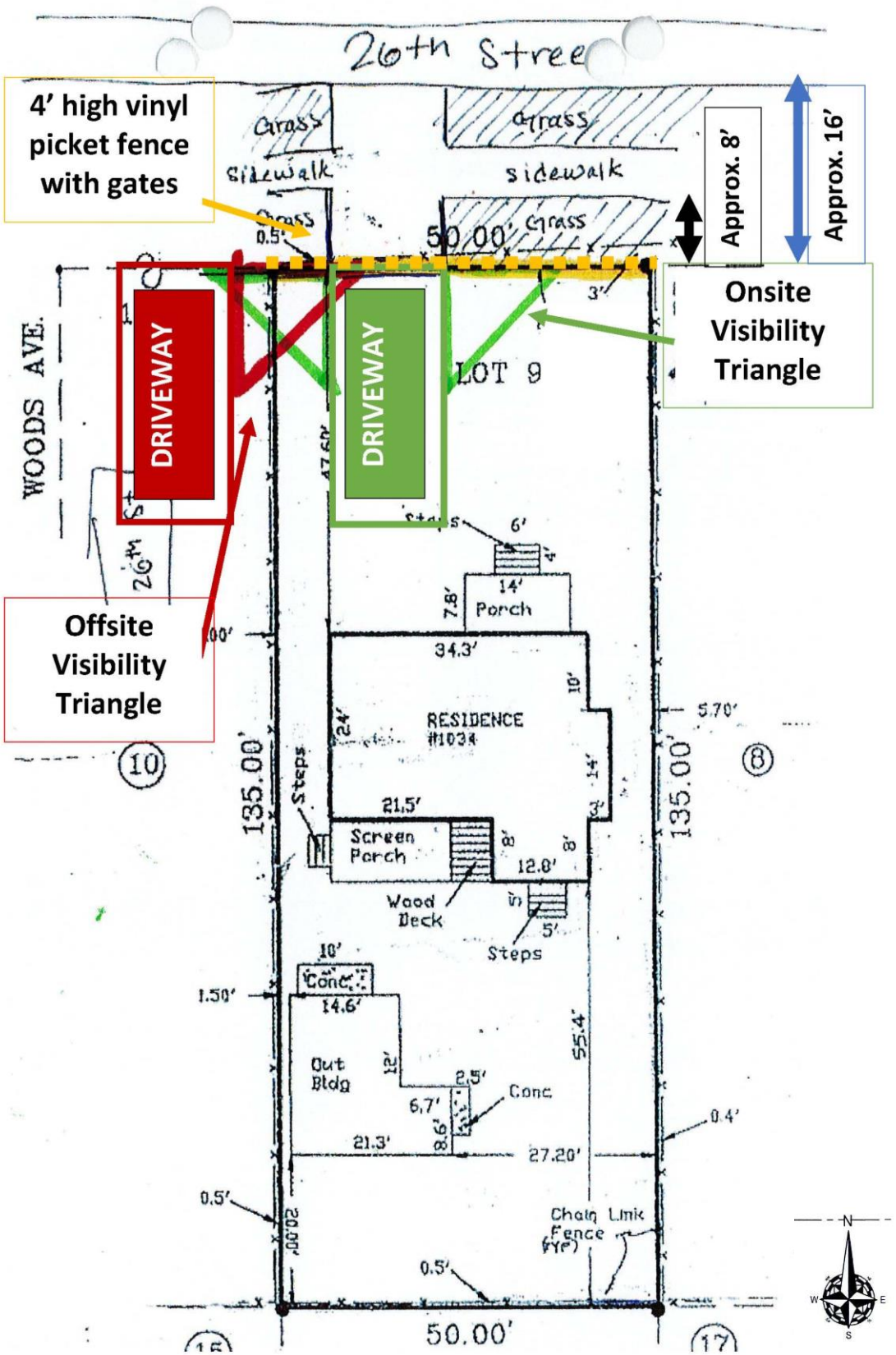
Altagracia Villalona

ZONING MAP



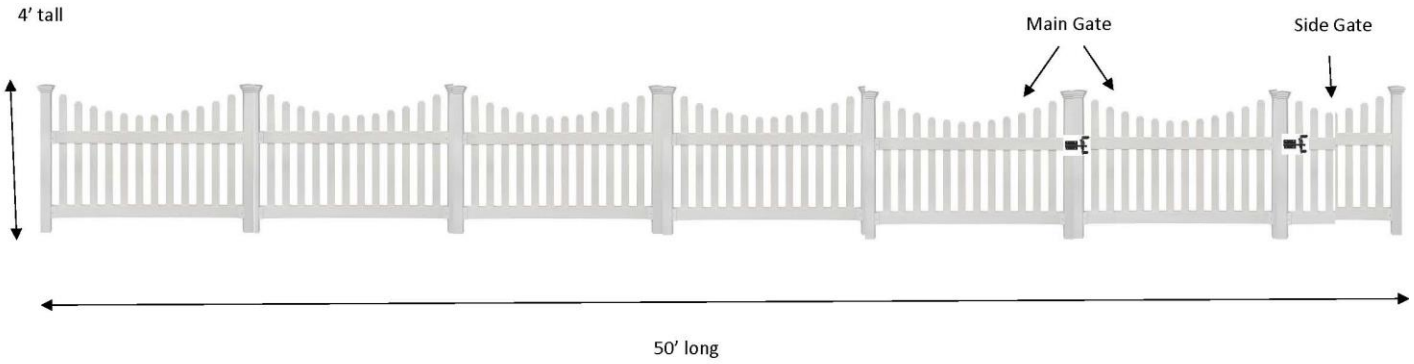
AERIAL MAP

SITE PLAN


26th Street
4' high vinyl picket fence with gates
Grass
Sidewalk
Grass
Sidewalk
Grass
50.00'
Approx. 8'
Approx. 16'
Onsite Visibility Triangle
WOODS AVE.
DRIVEWAY
DRIVEWAY
LOT 9
Offsite Visibility Triangle
26th
6'
14'
Porch
7.8'
34.3'
RESIDENCE
#1034
10'
5.70'
24'
14'
135.00'
135.00'
Steps
21.5'
Screen Porch
8'
8'
12.8'
Wood Deck
5'
Steps
10'
Conc.
1.50'
14.6'
55.4'
Out Bldg
12'
2.5'
Conc
6.7'
8.6'
0.4'
21.3'
27.20'
0.5'
20.00'
Chain Link Fence (TYP.)
0.5'
50.00'
10
8
15
17
N
W
E
S

FENCE, COLUMN, & GATE DETAIL

Architectural Design – 4’ tall x 50’ long vinyl white picket fence for 1034 26th St, Orlando, FL 32805



SITE PHOTOS

View of the property from the sidewalk along 26th Street facing east

View of the property from 26th Street

SITE PHOTOS

View of the fence from the sidewalk facing west

View of the property from across 26th Street

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date:	**OCT 07, 2021**	Commission District:	**#1**
Case #:	**VA-21-06-037**	Case Planner:	**Nick Balevich (407) 836-0092** **Nick.Balevich@ocfl.net**

GENERAL INFORMATION

APPLICANT(s): YELLOW BRICK CONSTRUCTION (SUZANNE MIX)

OWNER(s): JESSE J BATEMAN

REQUEST: Variances in the A-2 zoning district to allow a new residence as follows:

1) A south setback of 34.5 ft. from the Normal High Water Elevation (NHWE) in lieu of 50 ft.

2) A south rear setback of 34.5 ft. in lieu of 50 ft.

PROPERTY LOCATION: Arrowhead Boulevard, Winter Garden, Florida, 34787, south side of Arrowhead Blvd., east of Avalon Rd., north of Irlo Bronson Memorial Highway (S.R. 192); north side of Osage Lake.

PARCEL ID: 31-24-27-0306-04-291

LOT SIZE: 3.44 acres (0.58 acres, upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 31

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 dated and elevations dated September 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 3 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 house is located no closer than 34.5 feet from the Normal High Water Elevation (NHWE) of Osage Lake.

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 no comments were received in support or in opposition.

The applicant agreed with the staff presentation and had nothing to add.

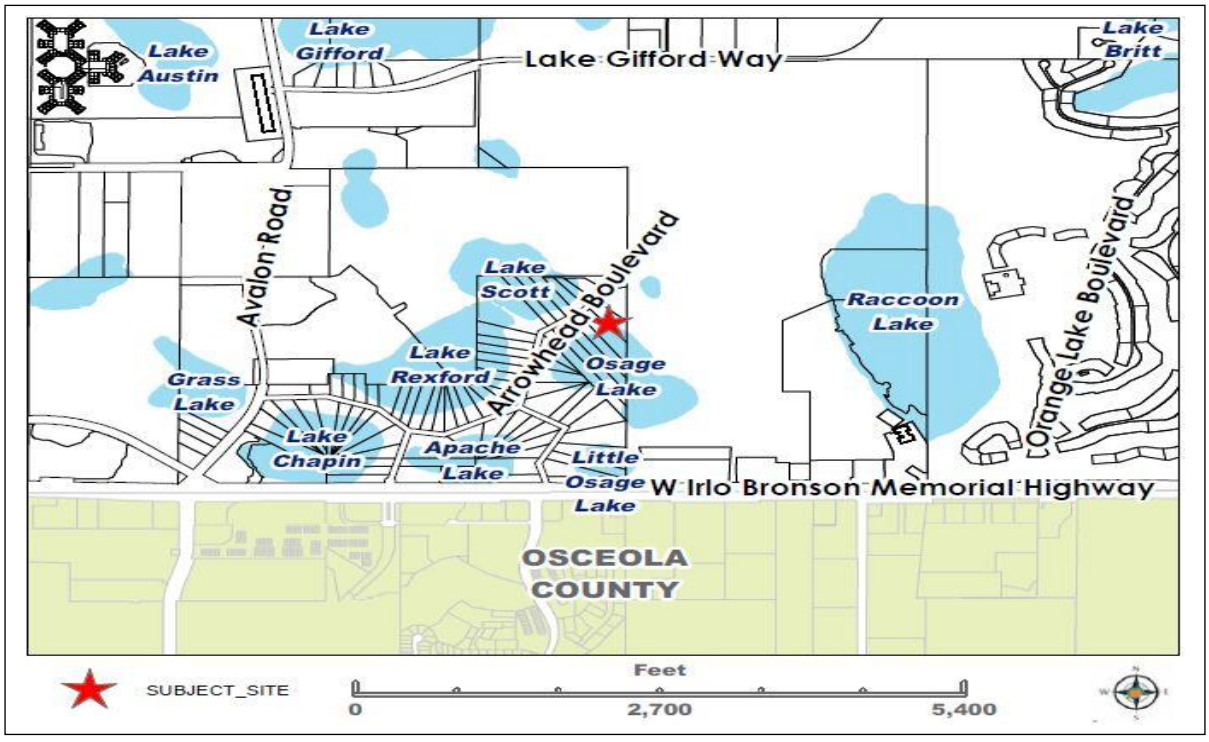
There was no one in attendance to speak in favor or in opposition to the request.

The BZA noted the similar variance on the same street that was approved recently and unanimously 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	A-2	A-2	Osage Lake	A-2	A-2
Future Land Use	LDR	LDR	Osage Lake	LDR	LDR
Current Use	Vacant	Single-family residence	Osage Lake	Vacant	Single-family residence

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 area around the subject site consists of single-family homes, most of which are lakefront. The subject property is lot 29 of the Arrowhead Lakes Plat, recorded in 1959, and is +/- 3.44 acres gross (0.58 acre upland). It is an undeveloped, conforming lot. The property backs up to Osage Lake, and there is a Normal High Water Elevation (NHWE) line along the rear property line. The owner purchased the property in 2020 as 2 separate parcels, but has recently consolidated them into a single parcel.

The applicant is proposing to construct a three story 2,155 gross sq. ft. house, with an attached 1 car garage. The upland buildable portion of the lot is uniquely configured in a "C" shape wrapping around Osage Lake. After accounting for the 35 ft. front setback and the 50 ft. rear setback from the NHWE line, only an approximate triangular 40 ft. x 40 ft. x 55 ft. is left for buildable lot area. In order to construct the residence, the owner is requesting a rear setback of 34.5 ft. and a 34.5 ft. setback from the NHWE both in lieu of 50 ft., requiring variances #1, and #2. For comparison purposes, other variances have been approved in the immediate area for lots with similar constraints due to reduced useable upland area for construction for reduced setbacks to the NHWE as low as 24 ft.

The Orange County Environmental Protection Division (EPD) required the applicant to complete a Conservation Area Determination (CAD-21-04-091) which was completed on August 26, 2021. EPD has approved the CAD and has no objection to the requests.

As of the date of this report, no comments have been received in favor of or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	35 ft.
Min. Lot Width:	100 ft.	235 ft.
Min. Lot Size:	1/2 ac.	3.44 acres (gross) 0.58 acre (upland)

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

	Code Requirement	Proposed
Front:	35 ft.	35 ft. (North)
Rear:	50 ft.	34.5 ft. (South - Variance #2)
Side:	10 ft.	10 ft. (West), 200 ft. (East)
NHWE:	50 ft.	34.5 ft. (South - Variance #1)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to the subject property are its depth and allowable buildable area, which renders development difficult without variances.

Not Self-Created

The request is not self-created since the owners are not responsible for the configuration of the lot and location of the NHWE line, making any development of a reasonable sized residence difficult without the requested variances.

No Special Privilege Conferred

Due to the configuration of the lot, and the setback to the NHWE, granting the requested variances will not confer any special privilege conferred to others under the same circumstances.

Deprivation of Rights

Without the requested variances, the owners will not be able to construct a house on the property since the buildable area is too small to construct a useable residence.

Minimum Possible Variance

Given the configuration of the property, and location of the NHWE line, the requested variances are the minimum possible. The footprint of the house and therefore the impact has been reduced significantly by proposing a 3-story structure.

Purpose and Intent

Approval of the requested variances will allow the site to be developed with a residence, which will be in harmony with the purpose and intent of the Zoning Regulations, will not be detrimental to adjacent properties and will maintain the character of the neighborhood.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated September 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 3 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 house is located no closer than 34.5 feet from the Normal High Water Elevation (NHWE) of Osage Lake.

C: Suzanne Mix
6965 Piazza Grande Ave. Unit 414
Orlando, FL 32835

16826 ARROWHEAD BLVD

RE: 16826 Arrowhead Blvd

Winter Garden, FL 34787

April 1, 2021

To the Board of Zoning Adjustment and all interested parties,

The purpose of this letter is to request a variance to build a single family residential house 34.5 feet from the Normal High Water Elevation in lieu of the required setback of 50 feet. I agree to approve and execute a Hold Harmless and Indemnification Agreement between myself and Orange County, FL in order to build said residence.

The property is located in the southwest most corner of Orange County, Arrowhead Lakes Subdivision, bordering Avalon Rd. and Hwy. 192. The lot is zoned A-2.

While not a concern or a condition of the BZA in regards to approval of a variance, I understand there have been vocal concerns that neighbors have brought up in regards to a septic system/leach field fitting into the small amount of upland property. The answer to that is that there won't be a traditional septic system. A self-contained aerobic wastewater treatment system near the front of the property will be installed and maintained a safe and permitted distance away from the lake water line.

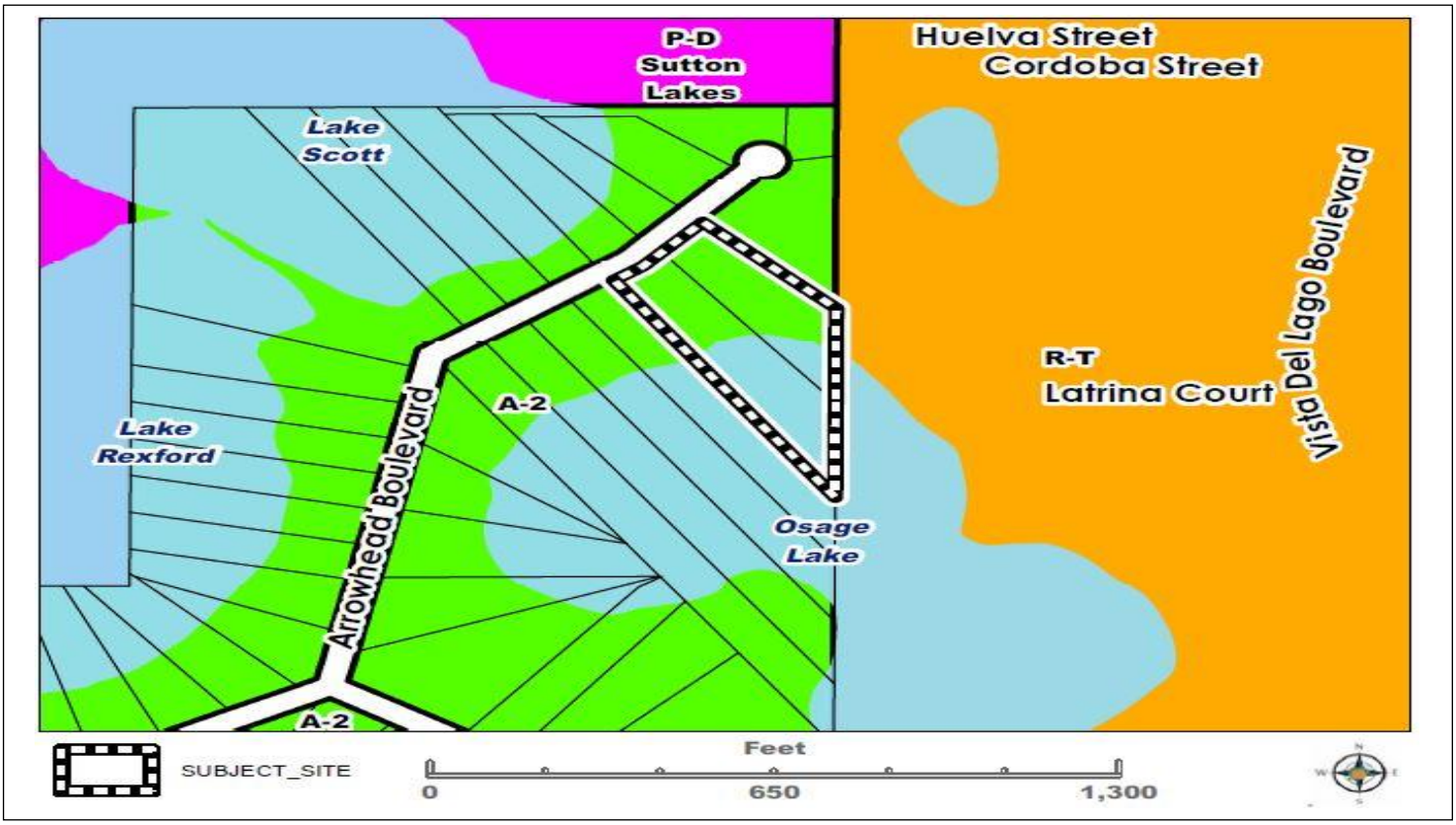
Variance Criteria: Section 30-43 (3) of the Orange County Code stipulates specific standards for the approval of variances. The following is a statement of case that I believe fulfills the requirements and specific standards of variance approval:

1. **Special Conditions and Circumstances.** Due to the nature of Lake Osage carving into a majority of the property, the lot leaves very little room to build anything bigger than what we've presented in plans and elevation. Such characteristics are not applicable to other lands in the same zoning district.
2. **Not Self-Created.** The hardship is neither self imposed nor self created, but is the result of the nature of the lot characteristics outlined in bullet 1.
3. **No Special Privilege Conferred.** No special privilege nor entitlement is being requested, I am only asking for my right to build a residence that conforms to county code, save its distance from the water line, not be denied.
4. **Deprivation of Rights.** As per the description, literal interpretation of the provisions contained in this Chapter would deprive [me] 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.
5. **Minimum Possible Variance.** With a very minimal house footprint & nearby wildlife conservation in mind, we've created a residence that doesn't encroach on the nearby flora and gives more than adequate distanced to the normal high water mark.
6. **Purpose and Intent.** Upon variance approval, this residence will be built by high quality craftspeople with high end finishings which will serve to contribute to the increase of the value of neighboring homes. Its exterior style finishings will conform and keep similar characteristics to the neighborhood (albeit a bit more narrow of a residence than others due to the nature of the lot). And finally it will be a place where I can raise a family, and grow old (hence the wheelchair lift, for life's unforeseen events).

Thank you for your diligent consideration,

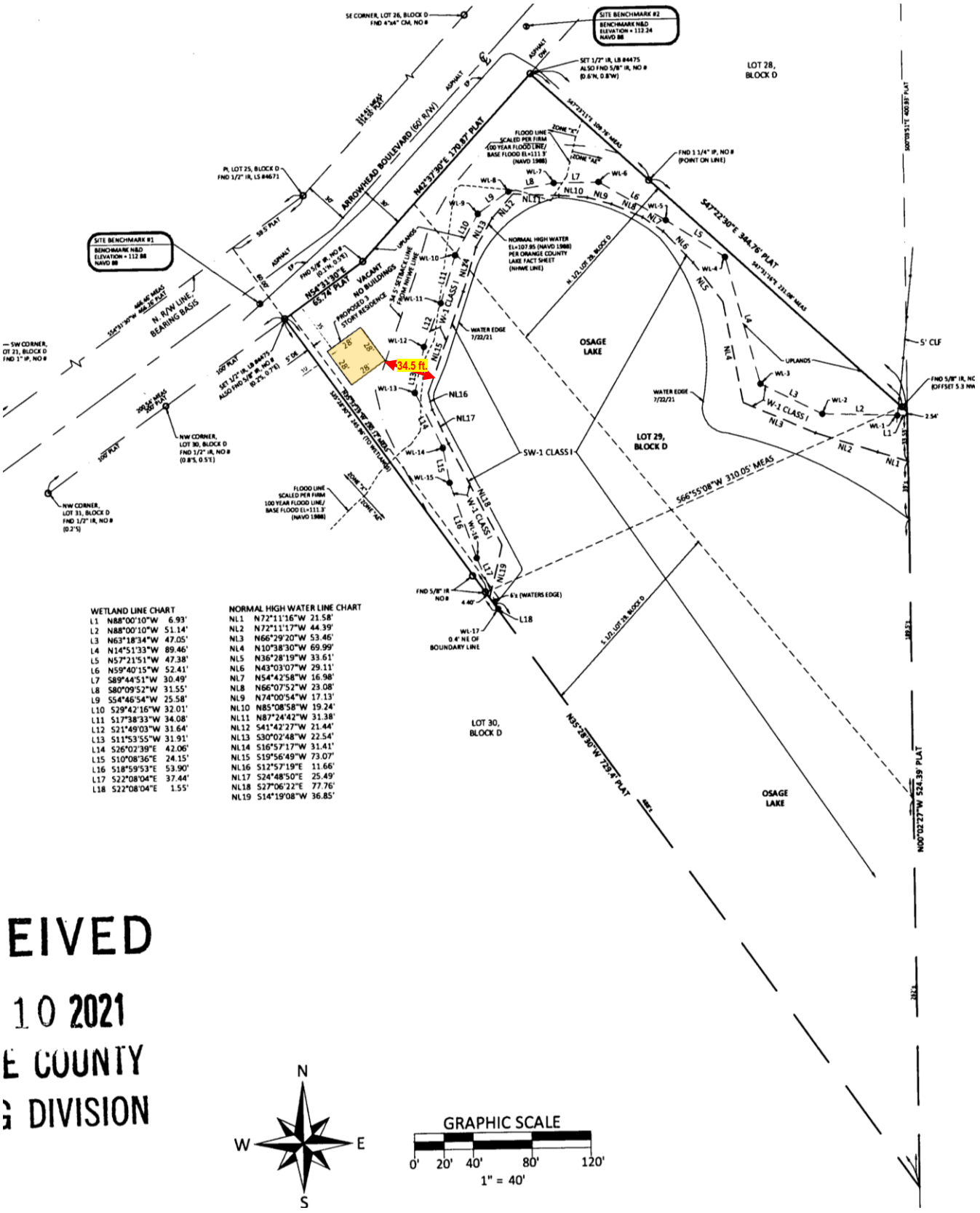
Jesse J Bateman

ZONING MAP



AERIAL MAP

SITE PLAN



WETLAND LINE CHART

L1	N88°00'10"W	6.93'
L2	N88°00'10"W	51.14'
L3	N63°18'34"W	47.05'
L4	N14°51'33"W	89.46'
L5	N57°21'51"W	47.38'
L6	N59°40'15"W	52.41'
L7	S89°44'51"W	30.49'
L8	S80°09'52"W	31.55'
L9	S54°46'54"W	25.58'
L10	S29°42'16"W	32.01'
L11	S17°38'33"W	34.08'
L12	S21°49'03"W	31.64'
L13	S11°53'55"W	31.91'
L14	S26°02'39"E	42.06'
L15	S10°08'36"E	24.15'
L16	S18°59'53"E	53.90'
L17	S22°08'04"E	37.44'
L18	S22°08'04"E	1.55'

NORMAL HIGH WATER LINE CHART

NL1	N72°11'16"W	21.58'
NL2	N72°11'17"W	44.39'
NL3	N66°29'20"W	53.46'
NL4	N10°38'30"W	69.99'
NL5	N36°28'19"W	33.61'
NL6	N43°03'07"W	29.11'
NL7	N54°42'58"W	16.98'
NL8	N66°07'52"W	23.08'
NL9	N74°00'54"W	17.13'
NL10	N85°08'58"W	19.24'
NL11	N87°24'42"W	31.38'
NL12	S41°42'27"W	21.44'
NL13	S30°02'48"W	22.54'
NL14	S16°57'17"W	31.41'
NL15	S19°56'49"W	73.07'
NL16	S12°57'19"E	11.66'
NL17	S24°48'50"E	25.49'
NL18	S27°06'22"E	77.76'
NL19	S14°19'08"W	36.85'

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10 2021

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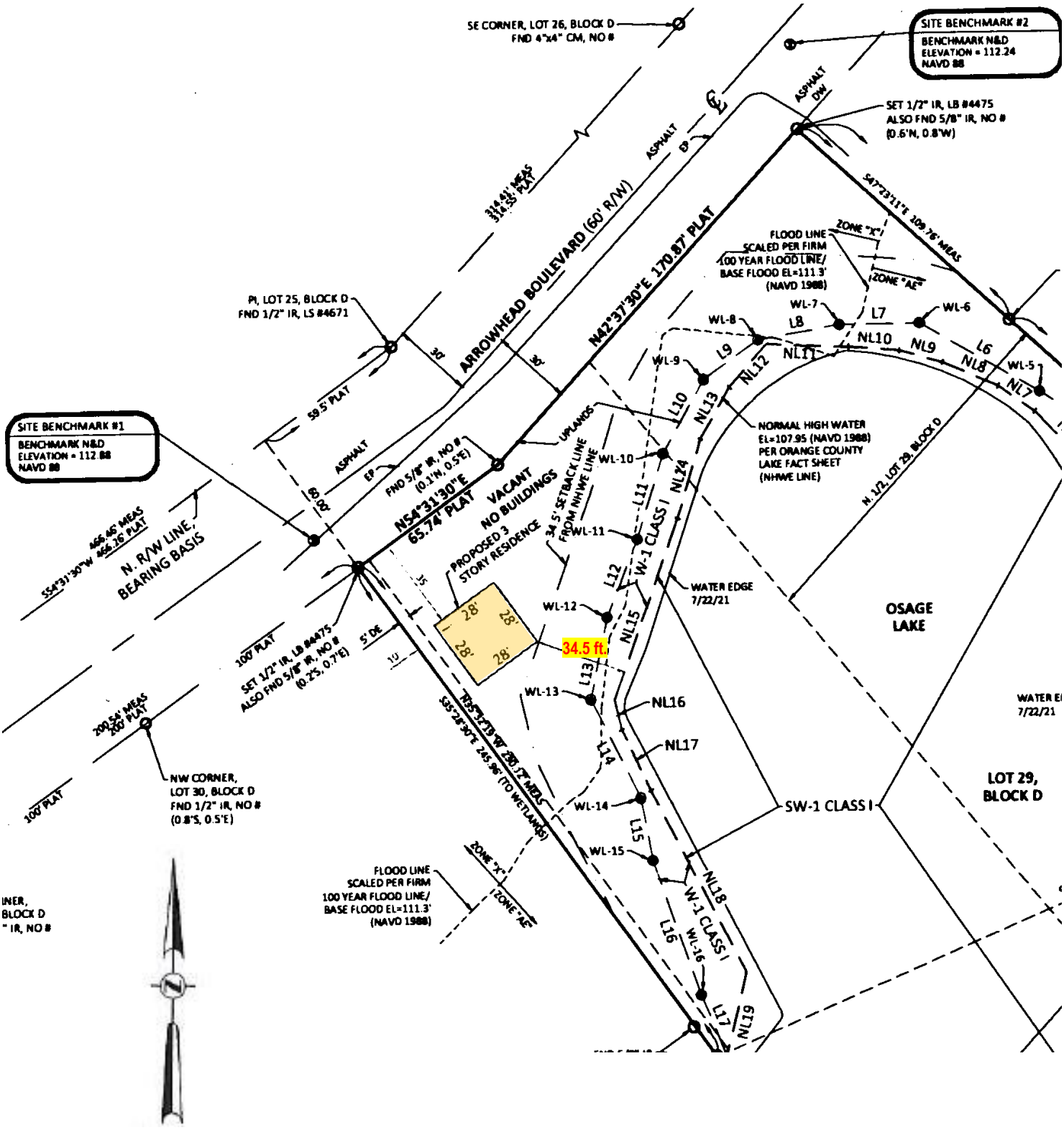
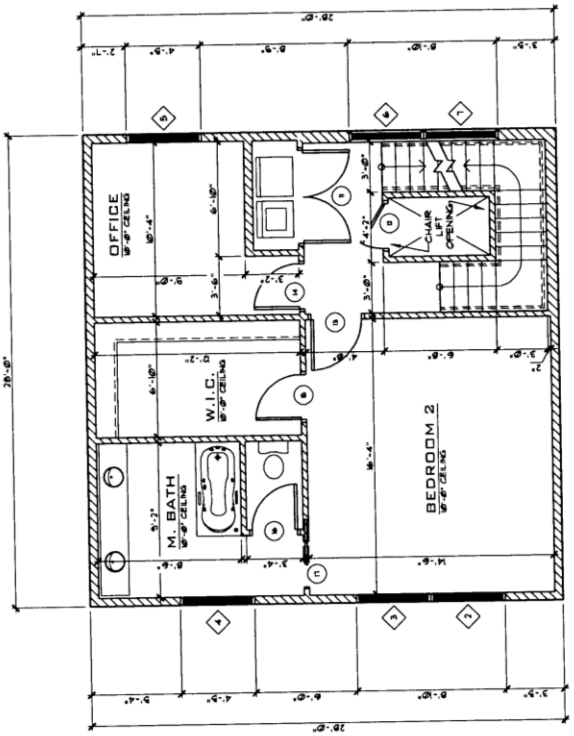
G DIVISION

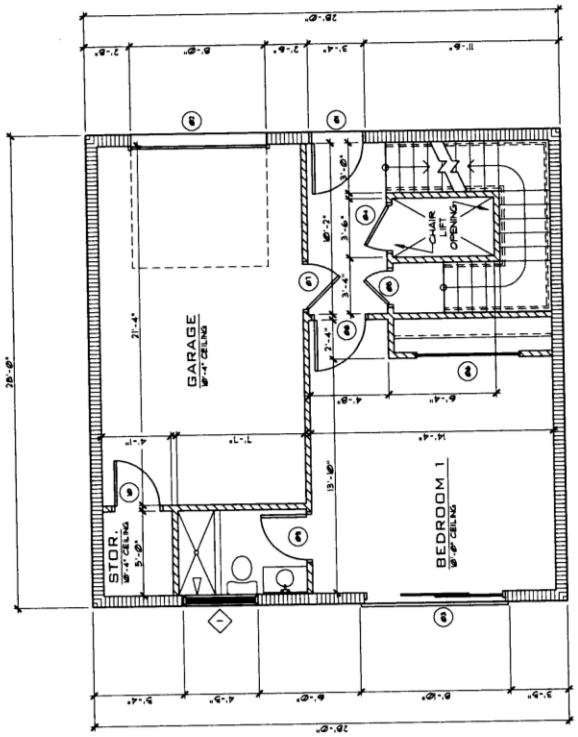
SITE PLAN CLOSE UP



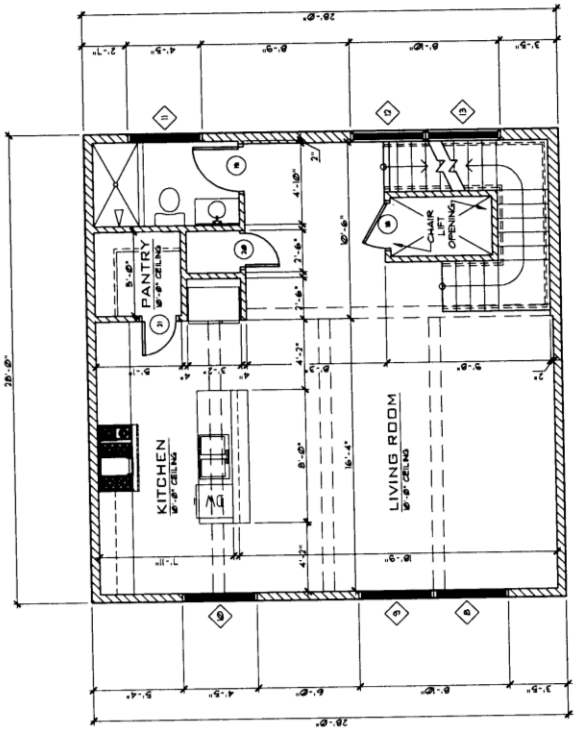
FLOOR PLANS



SECOND FLOOR PLAN

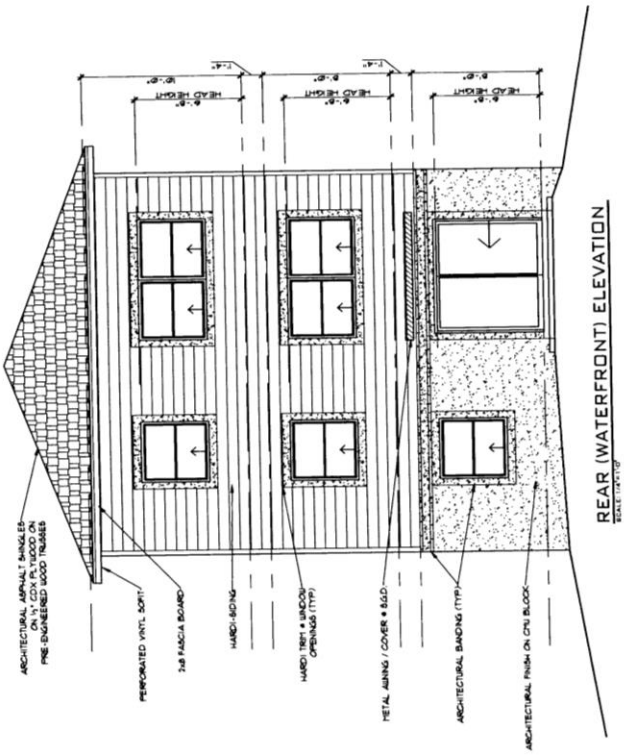


FIRST FLOOR PLAN

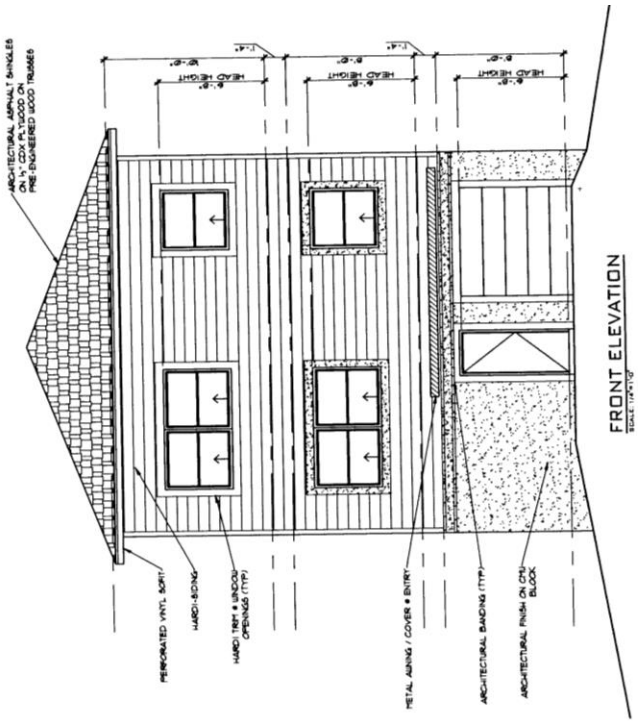


THIRD FLOOR PLAN

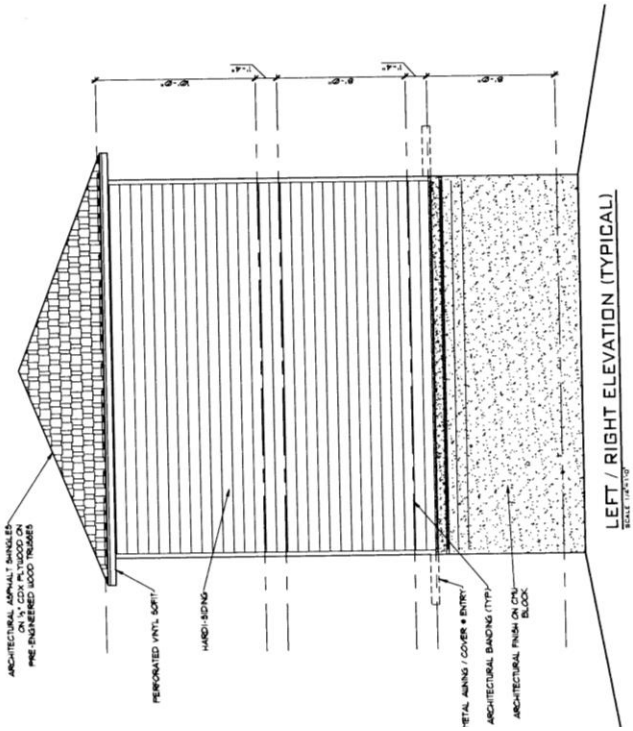
ELEVATIONS



REAR (WATERFRONT) ELEVATION



FRONT ELEVATION



LEFT / RIGHT ELEVATION (TYPICAL)

SITE PHOTOS

Arrowhead Blvd. facing west towards property

Proposed house location from Arrowhead Blvd. facing south towards property

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date:	**OCT 07, 2021**	Commission District:	**#6**
Case #:	**VA-21-09-083**	Case Planner:	**Nick Balevich (407) 836-0092** **Nick.Balevich@ocfl.net**

GENERAL INFORMATION

APPLICANT(s): BENJAMIN VAZQUEZ

OWNER(s): BENJAMIN VAZQUEZ

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

1) To allow a screen room conversion to living area with an east side setback of 4.7 ft. in lieu of 7.5 ft.
2) To allow an existing house to remain with an east side setback of 4.7 ft. in lieu of 7.5 ft.
3) To allow an existing house to remain with a west side setback of 5.7 ft. in lieu of 7.5 ft.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 1507 38th St., Orlando, Florida, 32839, north side of 38th St., east of S. Rio Grande Ave., south of Interstate 4 (I-4), north of Holden Ave.

PARCEL ID: 03-23-29-0183-11-150

LOT SIZE: 50 ft. x 135 ft./+/- 0.15 acres (6,749 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 147

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 dated and elevations dated July 1, 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 materials and color.

5. A permit shall be obtained 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.

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 no comments were received in support or in opposition.

The applicant was not present.

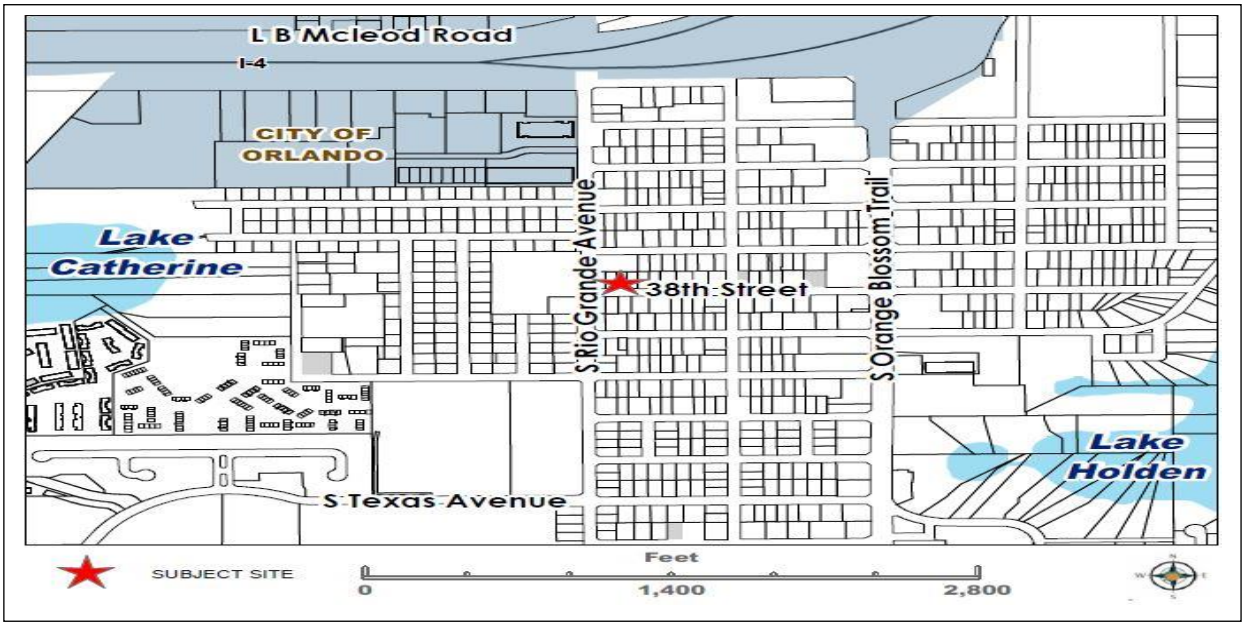
Code Enforcement staff noted the history of the citation.

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

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-2	R-1A	R-1A	R-1A
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-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 area around the subject site consists of single-family homes. The subject property is an approximately 0.15 acre lot, located in the Angebilt Addition No. 2 Plat, recorded in 1924, and is considered to be an existing developed non-conforming lot of record due to the width and size. It is developed with a 1,216 gross sq. ft. single-family home constructed in 1954. No variances are necessary for lot width and size since the property is developed. The applicant purchased the property in 2020.

As originally constructed, the single-family residence contained an 8 ft. x 7.3 ft. covered screened porch with a 4.7 ft. east side setback. The applicant replaced the screen porch with living space in the same location, requiring variance #1 for the 4.7 ft. setback in lieu of 7.5 ft. Although the residence was constructed about 3 years prior to the implementation of the zoning code in 1957, the improvements are required to meet current code requirements. Variances #2 and #3 are required to recognize the existing east and west side setbacks. The conversion of the covered screened porch to living space brings the house closer to the minimum 1,200 sq. ft. living area required for the R-1A district.

Code Enforcement cited the owner in July of 2020 for enclosing the porch without a permit (Incident 574122). A building permit (B21003985) was subsequently submitted which is on hold pending the outcome of this request. The owner was also cited for a 6 ft. high fence in the front, which has been removed/corrected.

As of the date of this report, no correspondence has been received in favor of or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	8.3 ft.
Min. Lot Width:	75 ft.	50 ft.
Min. Lot Size:	7,500 sq. ft.	6,749 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft.	26.7 ft. (South)
Rear:	30 ft.	59.8 ft. (North)
Side:	7.5 ft.	4.7 ft. (East - Variances #1 and #2} 5.7 ft. (West - Variance #3)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special condition and circumstance particular to the subject property is the age of the existing residence, built in 1954, and the front porch was enclosed in generally the same location as the original screened porch.

Not Self-Created

The request is not self-created since the owners are not responsible for the existing location of the house and porch since the house was built in 1954, long before current code requirements were implemented.

No Special Privilege Conferred

Due to the orientation of the house on the lot, and the year the house was built, granting the requested variances will not confer any special privilege conferred to others under the same circumstances.

Deprivation of Rights

Without the requested variances, the existing enclosed porch would not be allowed to remain as currently constructed and would require conversion back to a screened porch.

Minimum Possible Variance

Given the year the house was built and the orientation of the house on the property, the requested variances are the minimum possible.

Purpose and Intent

Approval of the requested variances will allow the existing house and enclosed porch to remain as constructed, which will be in harmony with the purpose and intent of the Zoning Regulations, and will not be detrimental to adjacent properties and will maintain the character of the neighborhood since other residences built within the same era have similar side setbacks. Also, the addition brings the house closer to the minimum 1,200 sq. ft. living area required for the R-1A zoning district.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated July 1, 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 materials and color.
5. A permit shall be obtained 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.

C: Benjamin Vazquez
1501 38th St.
Orlando, FL 32839

July 27,2021

Orange county zoning division board of Zoning adjustment
201 south Rosalind Avenue, First Floor
Orlando Fl 32801

cover letter

Applicant name: Benjamin Vazquez

Address: 1507 38th St Orlando FL 32839

Parcel ID 03-23-29-0183-11-150

I'm respectfully request a zoning variance for allowance to enclose the front porch to extended the living room

The purpose of this request: I'm enclosing the screened existing front porch for additional space to extend the living room for extra space

The type of construction proposed: enclosed porch with a wood frame under existing structure, installation of Tyvek wrap, stucco lath and stucco to match existing and relocate entry door to the new addition

Square footage. proposed dimensions and height.
enclosed porch7x8 square feet
8.2 H from the finish interior slab

How far away from property lines: the distance from property lines remains the same 5.8 from north and 4.8 from south

Current setbacks and variance request: the current set backs per zoning are 7 ft on each side of the property

1. **Special conditions and circumstances:** this house was built in 1954 before the zoning rules were established. the existing structure will remain the same as the enclosed porch is under existing roof and attached to the existing structure wall line.
2. **Not Self Created:** our actions did not create any special circumstances or conditions, as when this house was built the zoning rules where different than now, as we enclosing and not extending the structure
3. **Not special privilege conferred:** approval of the zoning variance request will not confer any privilege to us.
4. **Deprivation of rights:** the zoning restrictions will not allow us to do the enclosing with out the variance approval an any reasonable way that make sense giving the restriction of setbacks and the necessary placement for the enclosing, we feel the we have the right to make modifications to this home to meet our family needs, as same is any home owners, ant that we are deprived of this rights by the restrictions of the current setbacks
5. **Minimum possible variance:** the zoning variance requested is the minimum variance that will make possible the reasonable use of the land and proposed structure because it simply closes off the existing structure. It does not extended beyond any existing structure.
6. **Purpose and intent:** this zoning variance request will allow us to make our house look better and will also give us the extra space to enjoy with our family. We have spoken to our neighbors and they have no objections. We feel that this proposed changes are benefit to our community.

Best regards!

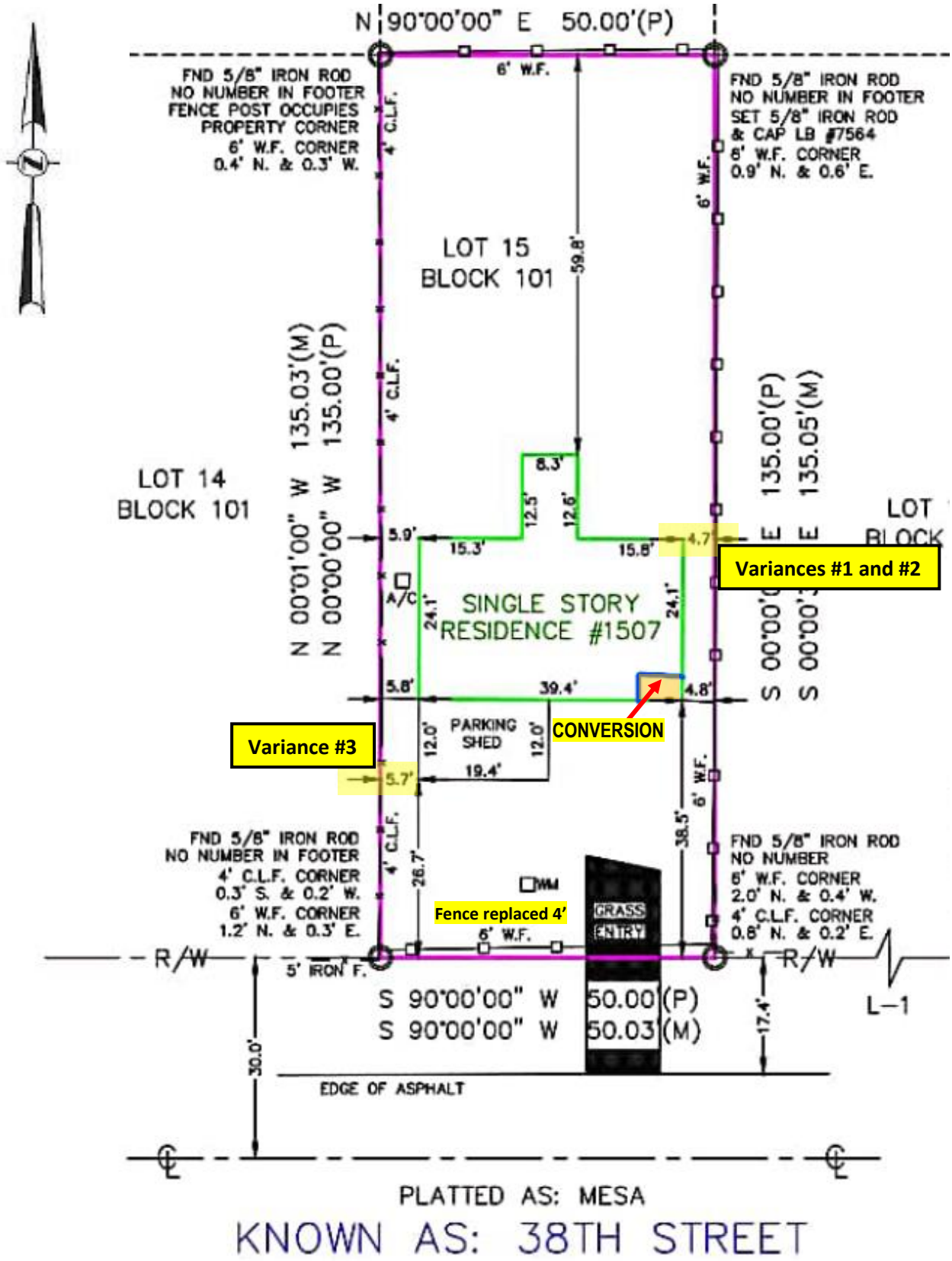
Benjamin Vazquez

407-369-1613

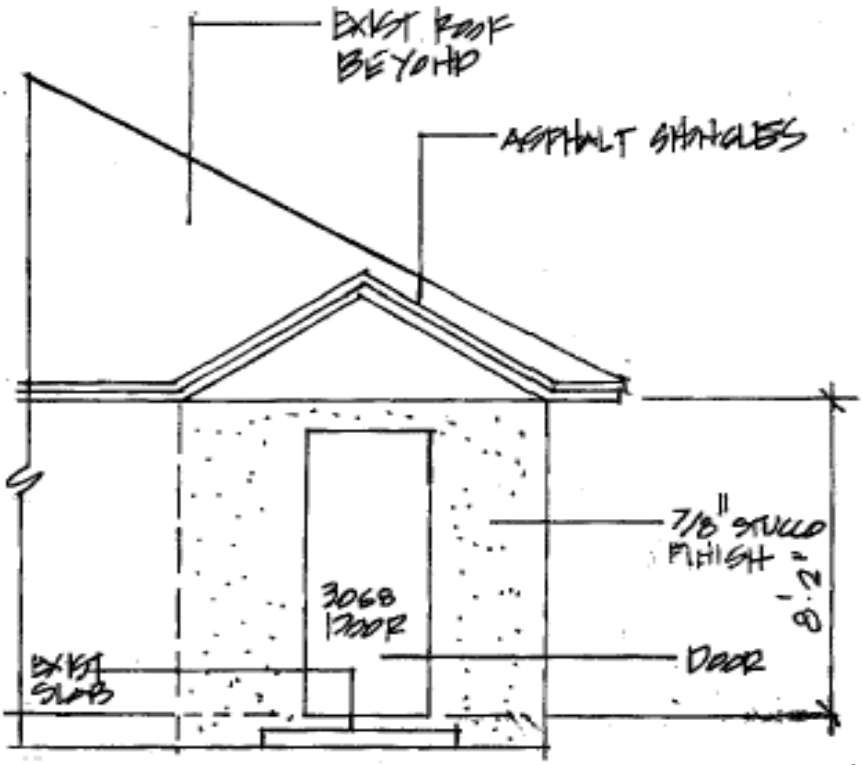
ZONING MAP

AERIAL MAP

SITE PLAN

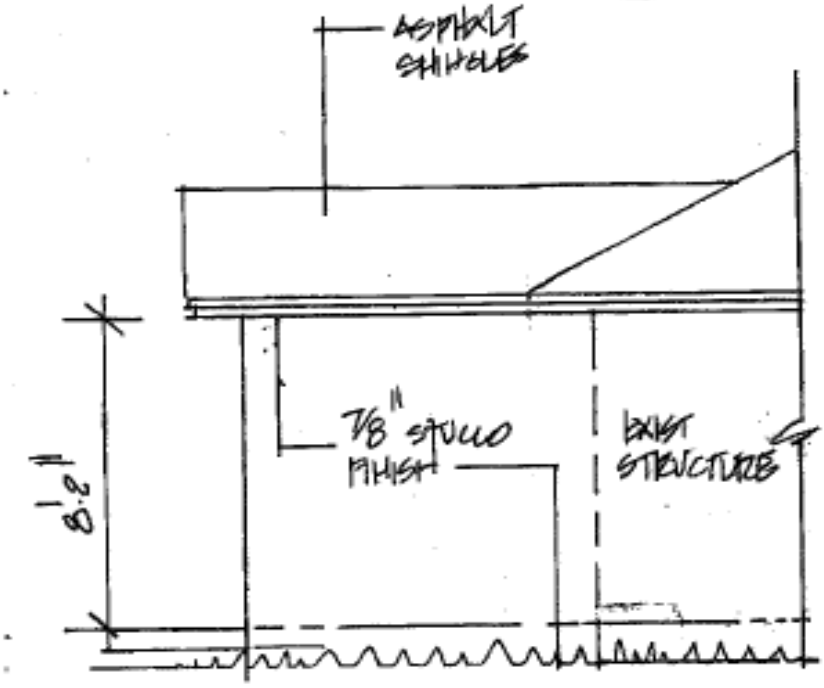

N 90°00'00" E 50.00'(P)
FND 5/8" IRON ROD
NO NUMBER IN FOOTER
FENCE POST OCCUPIES
PROPERTY CORNER
6' W.F. CORNER
0.4' N. & 0.3' W.
FND 5/8" IRON ROD
NO NUMBER IN FOOTER
SET 5/8" IRON ROD
& CAP LB #7564
6' W.F. CORNER
0.9' N. & 0.6' E.
6' W.F.
4' C.L.F.
LOT 15
BLOCK 101
59.8'
LOT 14
BLOCK 101
N 00°01'00" W 135.03'(M)
N 00°00'00" W 135.00'(P)
S 00°00'00" E 135.00'(P)
S 00°00'00" E 135.05'(M)
8.3'
12.5'
12.6'
5.9'
15.3'
15.8'
4.7'
Variances #1 and #2
A/C
SINGLE STORY
RESIDENCE #1507
24.1'
5.8'
39.4'
4.8'
Variance #3
PARKING
SHED
12.0'
19.4'
CONVERSION
5.7'
38.5'
FND 5/8" IRON ROD
NO NUMBER IN FOOTER
4' C.L.F. CORNER
0.3' S. & 0.2' W.
6' W.F. CORNER
1.2' N. & 0.3' E.
26.7'
Fence replaced 4'
GRASS
ENTRY
FND 5/8" IRON ROD
NO NUMBER
6' W.F. CORNER
2.0' N. & 0.4' W.
4' C.L.F. CORNER
0.8' N. & 0.2' E.
R/W
5' IRON F.
S 90°00'00" W 50.00 (P)
S 90°00'00" W 50.03 (M)
17.4'
L-1
30.0'
EDGE OF ASPHALT
PLATTED AS: MESA
KNOWN AS: 38TH STREET

SOUTH/EAST ELEVATIONS



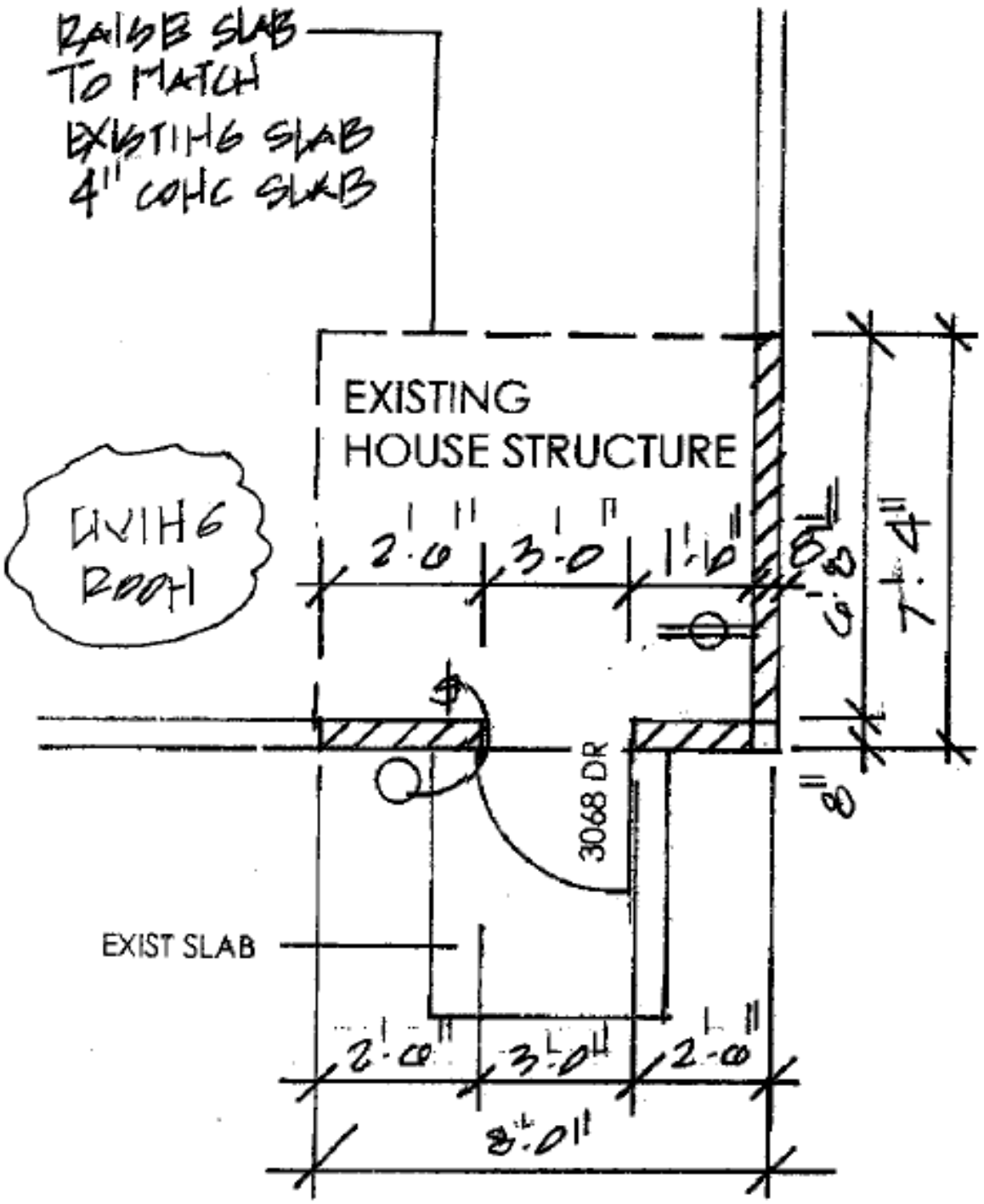
PARTIAL FRONT ELEVATION (SOUTH)

SCALE: ¼"= 1'- 0



PARTIAL SIDE ELEVATION (EAST)

SCALE: ¼"= 1'- 0



FLOOR PLAN

SCALE: ¼"= 1'-0

SITE PHOTOS

Front from 38th St. facing north

Area of living area conversion facing north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date:	**OCT 07, 2021**	Commission District:	**#3**
Case #:	**VA-21-10-093**	Case Planner:	**Nick Balevich (407) 836-0092** **Nick.Balevich@ocfl.net**

GENERAL INFORMATION

APPLICANT(s): RYAN FATULA

OWNER(s): MELANIE FATULA, RYAN FATULA

REQUEST: Variances in the R-2 zoning district as follows:

1) To allow the construction of a 2nd floor Accessory Dwelling Unit (ADU) addition to an existing one story detached accessory structure (garage) with a north side setback of 4.8 ft. in lieu of 6 ft.
2) To allow an existing detached accessory structure to remain with a north side setback of 4.8 ft. in lieu of 6 ft.
3) To allow the existing house to remain with a south side setback of 4.7 ft. in lieu of 6 ft.
4) To allow a cumulative total detached accessory structure square footage of 913 sq. ft. in lieu of a maximum of 703 sq. ft.

PROPERTY LOCATION: 1519 Cloverlawn Ave., Orlando, Florida, 32806, east side of Cloverlawn Ave., north of Curry Ford Rd., west of S. Bumby Ave.

PARCEL ID: 31-22-30-1700-04-050

LOT SIZE: +/-50 ft. x 140 ft.; +/- 0.16 acres (7,039 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 127

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 dated and elevations dated August 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 for the gazebo, or it shall be removed, prior to issuance of a permit for the ADU.

5. The exterior of the ADU shall match the exterior of the existing house, including materials and color.

6. A permit shall be obtained for the second story addition (ADU) within 3 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 approval. Staff noted that three (3) comments were received in support and no comments were received in opposition.

The applicant described the need for the request, including the desire to preserve two mature oak trees in the yard.

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

The BZA unanimously recommended approval of the variance by a 6-0 vote, subject to the six (6) 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	R-2	R-2	R-2	R-2	R-2
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Single-family residence	Single-family residence	Single-family residence	Single-family residence	Vacant

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-2, Residential district, which allows single-family homes, duplexes, and multi-family development.

The area around the subject site consists of single-family homes and vacant properties. The subject property is an approximately 0.16 acre lot, located in the Conway Terrace Plat, recorded in 1922, and is considered to be a conforming lot of record. It is developed with a 2-story 2,422 gross sq. ft. single-family home, and a 484 sq. ft. 1-story detached garage, both constructed with permits in 2004, and a swimming pool that was installed with permits in 2006. There is a gazebo that was built without permits; however, the year of construction cannot be determined using aerial photos, due to tree cover. The applicant purchased the property in 2016.

The proposal is to construct a 2nd story to the existing detached garage, to be used as an accessory dwelling unit (ADU), at the rear of the lot, which requires variances. The ADU is proposed to be 4.8 ft. from the north side property line in lieu of 6 ft. (Variance # 1). The addition of a 2nd story to the accessory structure requires the side setback to be increased from 5 ft. to 6 ft. The proposed ADU contains 429 sq. ft. of living area, which is counted towards accessory structure square footage. When combined with the existing 484 sq. ft. 1st story garage, the cumulative total is 913 sq. ft. County code allows a maximum cumulative accessory structure square footage not to exceed 10% of the lot area, which in this case is 703 sq. ft. (7,039 sq. ft. lot size) requiring variance #4 to allow a cumulative total detached accessory structure square footage of 913 sq. ft. in lieu of 703 sq. ft. The existing detached garage and proposed 2nd story ADU are over 100 ft. from the front street property line.

The single-family residence and detached garage were permitted with 5 ft. north and south side setbacks, however, the garage with a 4.8 ft. north side setback and the house was constructed with a 4.7 ft. south side setback, requiring Variances #2 and #3. Further, although the permit for the house was approved with a 5 ft. setback, the County Code at the time required 6 ft. side setbacks, and it appears the permit was issued in error. Therefore, Variances #2 and #3 are requested to recognize the north and south side setbacks for the existing 1-story garage and house.

The applicant submitted 2 letters of support from the owners of the adjacent properties to the south and across the street to the west.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	24.5 ft.
Min. Lot Width:	45 ft.	50 ft.
Min. Lot Size:	4,500 sq. ft.	7,039 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft.	39.9 ft. (West)
Rear:	15 ft. (2 story detached ADU)	15.8 ft. (East)
Side:	6 ft.	4.8 ft. (North Variances #1 and #2) 4.7 ft. (South Variance #3)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The small size of the lot and location of existing improvements, including the house, detached garage and pool can be considered to be special conditions and circumstance particular to the subject property and make it very difficult to add any new structures within the rear yard of the property.

Not Self-Created

The request is not self-created since the owners are not responsible for the existing location of the house and existing detached garage. Further, it is appropriate to use the limited small yard through the addition of a 2nd floor to the garage, and thus not increasing the building footprint.

No Special Privilege Conferred

Due to the orientation and location of the improvements on the lot, granting the requested variances will not confer any special privilege conferred to others under the same circumstances.

Deprivation of Rights

Without the requested variances, it would be difficult to construct an ADU with useable living area in a manner which meets all setback and size requirements. Further, denying the variances for the existing conditions that have existed since 2004 with permits would be a deprivation of rights.

Minimum Possible Variance

Given the orientation of the house, garage and pool on the property, the requested variances are the minimum possible in order to construct an ADU on the property and to continue enjoyment of the existing 1 story garage and the existing residence.

Purpose and Intent

Approval of the requested variances will allow the existing house and garage to remain as constructed, and allow the addition of a 2nd story ADU on top of the existing garage which will be in harmony with the purpose and intent of the Zoning Regulations. The impervious footprint of the building will remain the same, and through a 2nd floor expansion existing trees and pervious open space can be preserved. The ADU will not be detrimental to adjacent properties and will maintain the character of the neighborhood, as it is set back over 100 ft. from the front street property line.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated August 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 for the gazebo, or it shall be removed, prior to issuance of a permit for the ADU.
5. The exterior of the ADU shall match the exterior of the existing house, including materials and color.
6. A permit shall be obtained for the second story addition (ADU) within 3 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: Ryan Fatula
1519 Cloverlawn Ave.
Orlando FL 32806

Property Owner: Ryan Fatula
407-310-7722
Ryan.fatula@gmail.com

Cover Letter Regarding Variance Application For 1519 Cloverlawn Ave. Orlando, FL 32806

This variance request is for a 2nd story addition to be placed on top of our existing detached garage. The existing detached garage is 5 feet from the side property line at its northwest corner, and 4.8 feet from the side property line at its northeast corner. We are seeking a variance from the 6 foot side setback requirement to allow for the distance which the garage currently sits from the property line. We are also seeking a variance for our existing home for the same reason. It requires a side setback variance at the south side as it's currently 4.7 feet from property line, and we are seeking a variance in lieu of 6 feet code requirement for our existing home. We are also seeking a variance from the code which states the cumulate square feet of all detached accessory structures shall be limited to 10 percent of the net land area. Our lot size is 7,039 Sq. Ft., which subsequently allows for 704 sq. ft. cumulative detached accessory structure. Our ADU addition plans show 429 Sq. Ft. and the existing detached garage is 484 sq. ft. for a total of 913 Sq. Ft of detached accessory structure. We are seeking a variance to allow for the 913 sq. ft. in lieu of the allowed 704 Sq. Ft. Existing garage is concrete block & stucco. 2nd Story addition will be constructed of wood frame & stucco. The 2nd story addition will be 429 sq. ft. The existing garage is currently 22ft x 22ft, and the footprint of the building will not change. Construction will be confined to my fenced in back yard in the areas surrounding the existing detached garage. Proposed height of the 2nd story addition is 24 feet 5 inches. Zoning code allows for 25 feet maximum height.

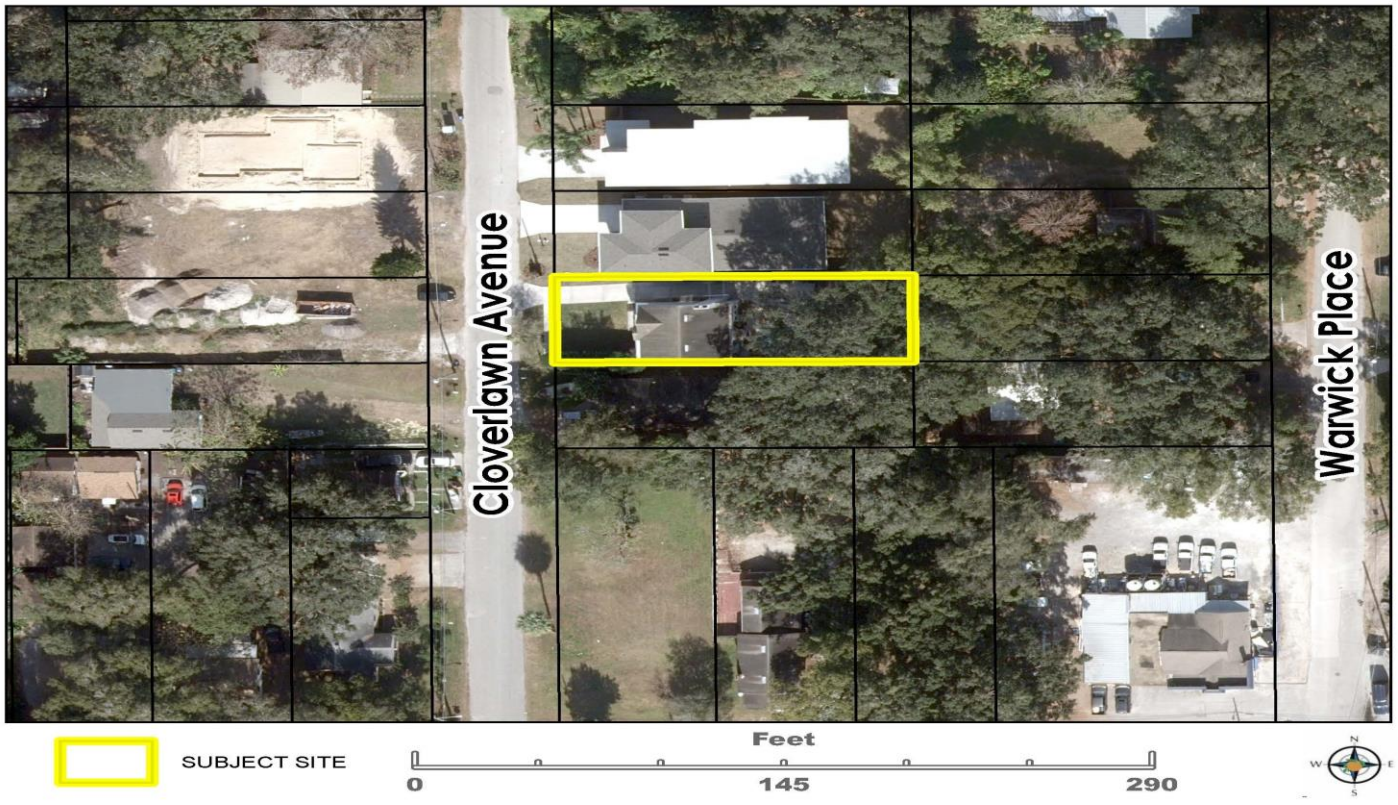
1. Special Conditions & Circumstances: The existing detached garage was built in 2004. Per the zoning development coordinator, the zoning code relating to the side setback changed in 2019 from 5 feet which is the distance from the property line the garage currently sits at, to the current side setback of 6 feet from property line. It is my understanding that the side setback of the existing detached garage is now legal non-conforming (grandfathered in). The same situation applies to our main home which also requires the side set back on the south side property line. A variance request for the cumulate square footage of the detached accessory structure is also required, as the detached garage is pre existing, and we would need to use it's whole footprint to be able to safely build an ADU on top.
2. Not Self Created: As noted above, the special conditions & circumstances are not self imposed, as the detached garage & home were built prior to the side setback code changing, and my family would like to add the addition on top of the already existing garage.
3. No Special Privilege Conferred: I am not seeking special privilege.
4. Deprivation Of Rights: I feel that since the existing garage was built prior to the change in zoning code, I should be able to have the right to build the 2nd story addition in the location the existing detached garage currently sits. The detached garage & home were built within the legal side setback before the code changed.
5. Minimum Possible Variance: I am only seeking the minimum possible variance to proceed, as noted above.
6. Purpose and Intent: This requested zoning variance is in harmony with the purpose and intent of the zoning regulations. The variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Thank you for your consideration of this variance request. My family and I are very excited to be able to have this additional space to be used as an office, playroom, and movie room.

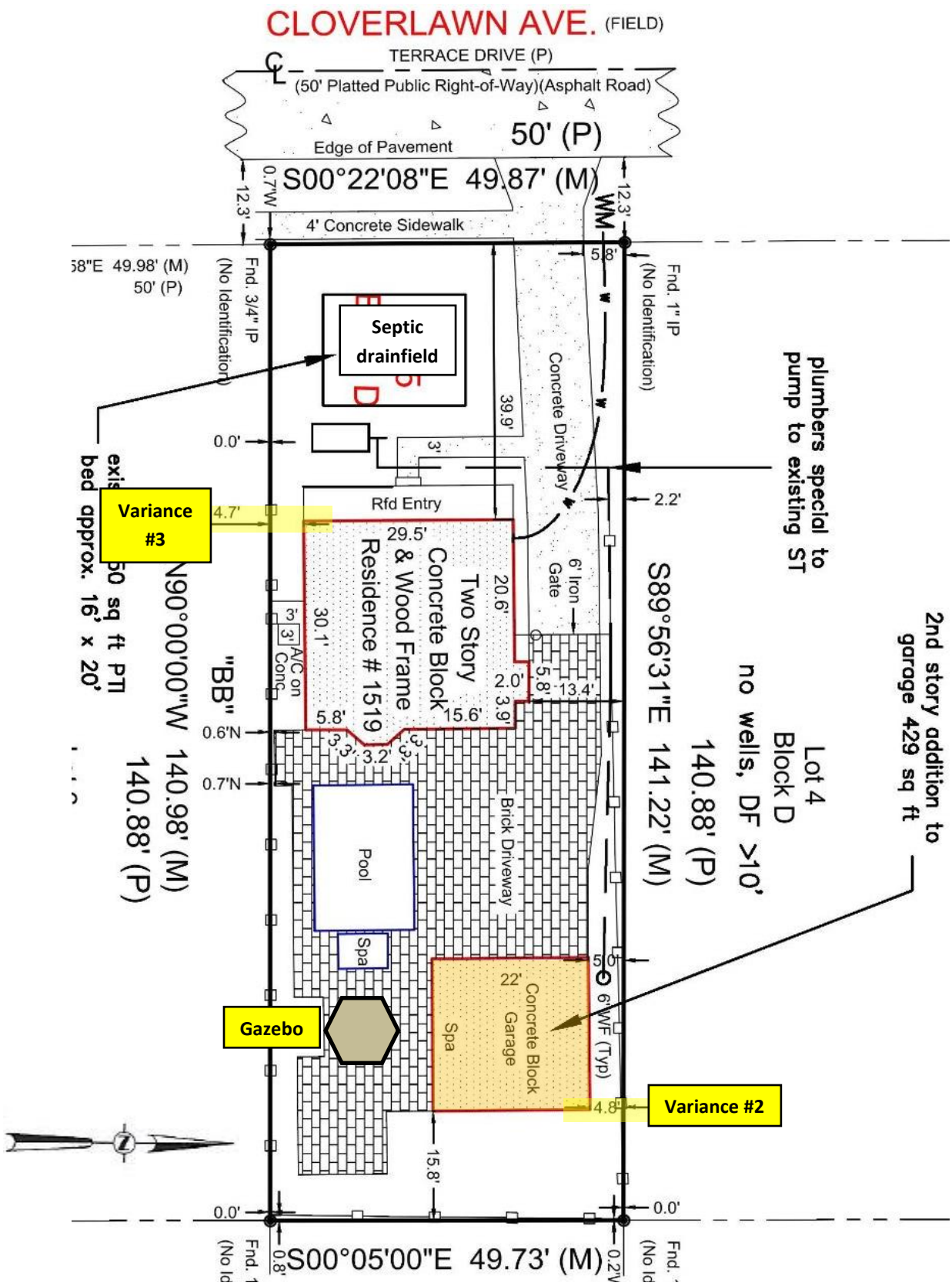
Ryan Fatula

ZONING MAP

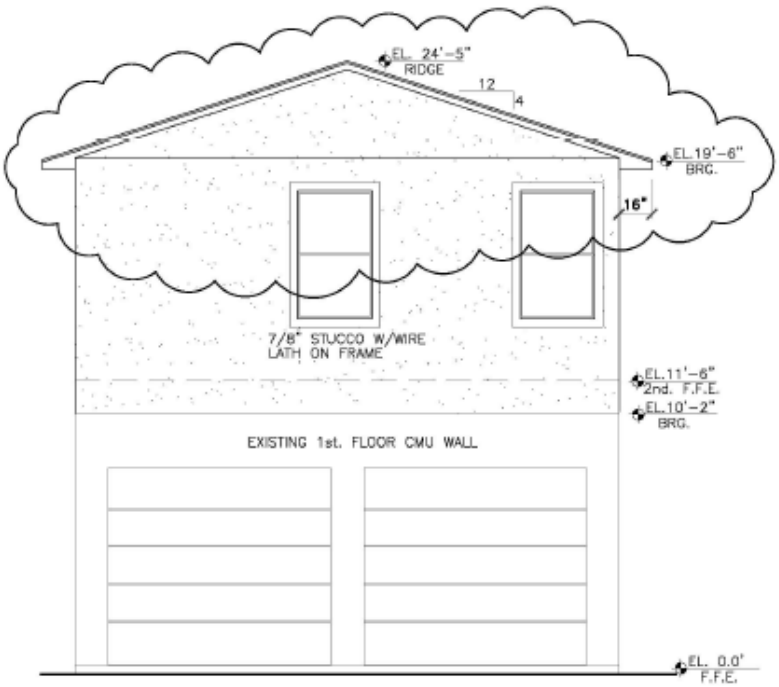
AERIAL MAP



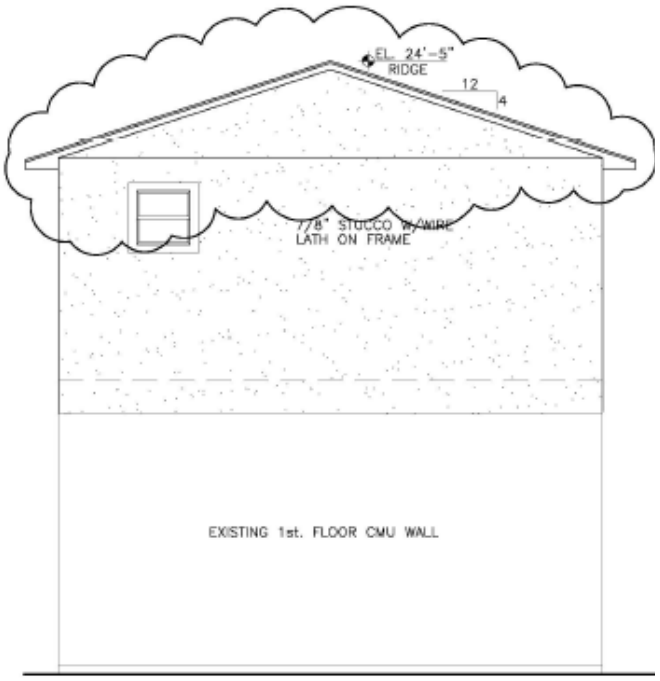
SITE PLAN


CLOVERLAWN AVE. (FIELD)
TERRACE DRIVE (P)
(50' Platted Public Right-of-Way)(Asphalt Road)
Edge of Pavement
50' (P)
S00°22'08"E 49.87' (M)
4' Concrete Sidewalk
Fnd. 3/4" IP (No Identification)
Fnd. 1" IP (No Identification)
Septic drainfield
Concrete Driveway
Rfd Entry
Variance #3
Two Story Concrete Block & Wood Frame Residence # 1519
6' Iron Gate
plumbers special to pump to existing ST
2nd story addition to garage 429 sq ft
Lot 4 Block D
no wells, DF >10'
S89°56'31"E 141.22' (M)
140.88' (P)
N90°00'00"W 140.98' (M)
140.88' (P)
"BB"
Pool
Spa
Brick Driveway
Gazebo
Concrete Block Garage
Variance #2
S00°05'00"E 49.73' (M)

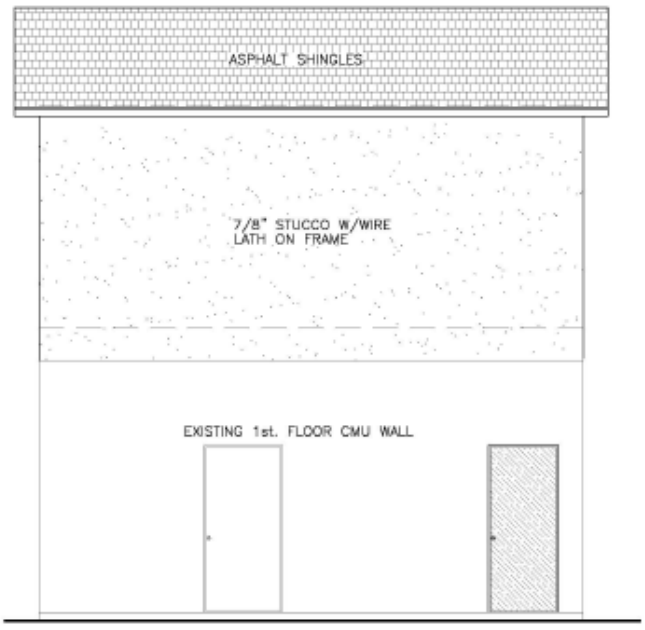
ELEVATIONS



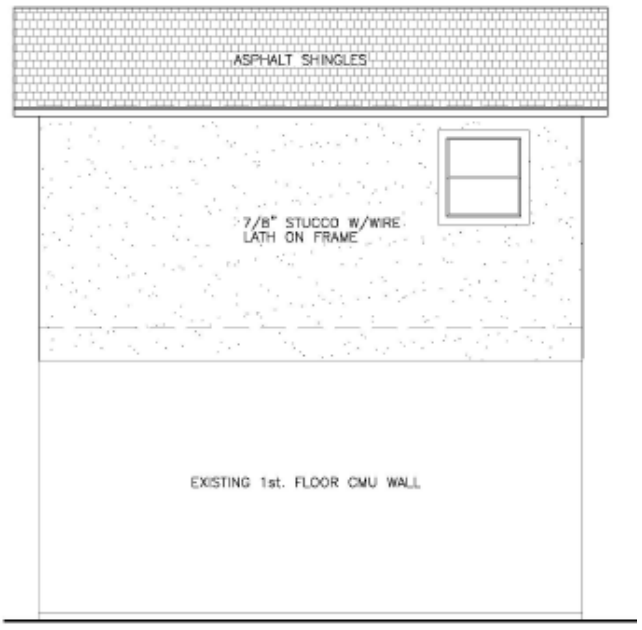
FRONT ELEVATION



REAR ELEVATION

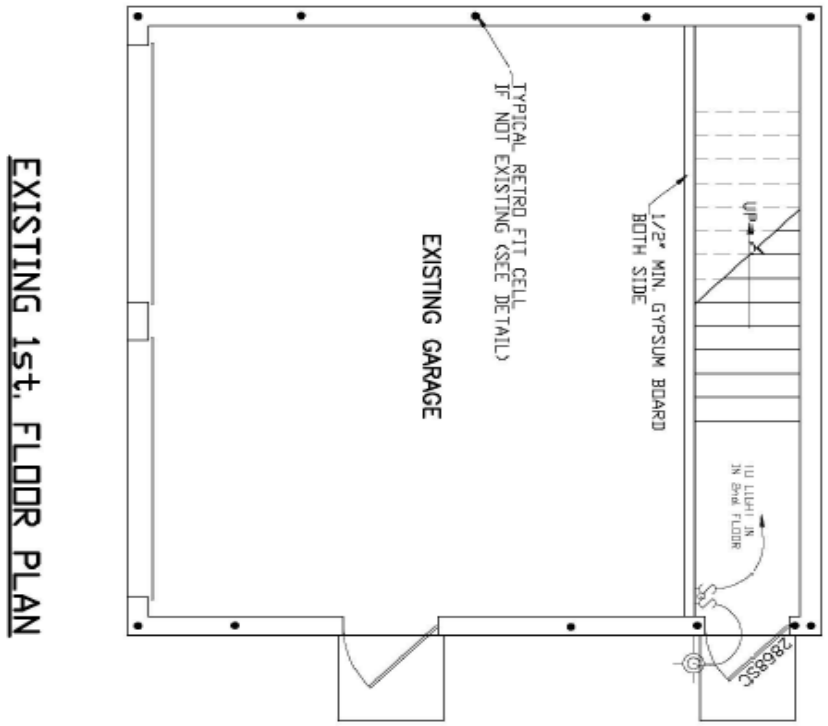


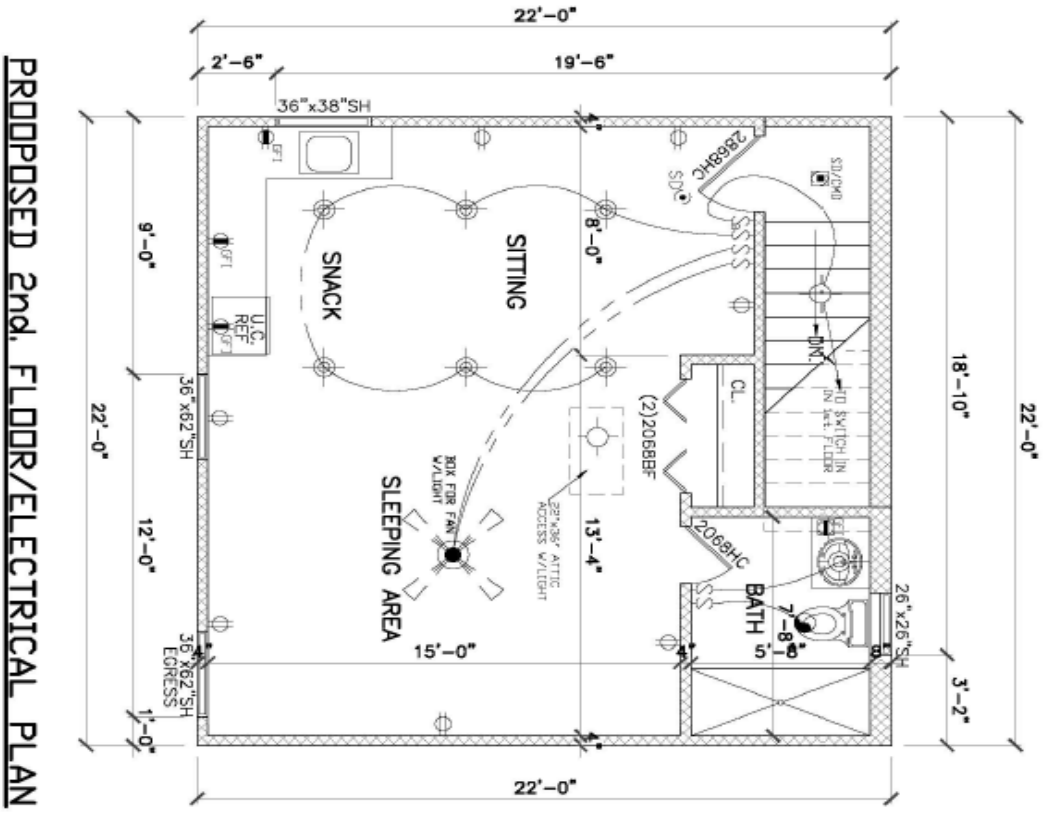
RIGHT ELEVATION



LEFT ELEVATION

FLOOR PLANS


EXISTING 1st. FLOOR PLAN
TYPICAL RETRO FIT CELL
IF NOT EXISTING (SEE DETAIL)
EXISTING GARAGE
1/2" MIN. GYPSUM BOARD
BOTH SIDE
UP
28688C


PROPOSED 2nd. FLOOR/ELECTRICAL PLAN
22'-0"
2'-6"
19'-6"
36"x38"SH
SNACK
SITTING
SLEEPING AREA
BATH
U.C.
REF
9'-0"
8'-0"
13'-4"
15'-0"
5'-8"
7'-8"
18'-10"
3'-2"
36"x62"SH
36"x62"SH
EGRESS
1'-0"
12'-0"
(2)2068F
2068HC
2868HC
26"x26"SH
BOX FOR FAN W/LIGHT
22"x36" ATTIC ACCESS W/LIGHT
TO SWITCH IN 1st. FLOOR
SD/CMD
SD
DM
CL.

SITE PHOTOS

Front from Cloverlawn Ave. facing east

Existing 1 story garage facing east, proposed ADU on top

SITE PHOTOS

Proposed ADU/garage facing north

Existing gazebo in rear yard facing east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date:	**OCT 07, 2021**	Commission District:	**#1**
Case #:	**VA-21-10-094**	Case Planner:	**Nick Balevich (407) 836-0092** **Nick.Balevich@ocfl.net**

GENERAL INFORMATION

APPLICANT(s):	SAM J. SEBAALI
OWNER(s):	A DAVID BATES, MARY ELLEN BATES
REQUEST:	Variance in R-1AA zoning district to allow a pool and deck with a setback of 15 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.
PROPERTY LOCATION:	9106 Bay Point Dr., Orlando, Florida, 32819, northwest side of the terminus of Bay Point Dr., east side of Lake Tibet Butler, west of S. Apopka Vineland Rd.
PARCEL ID:	28-23-28-0600-00-160
LOT SIZE:	1.19 acres (0.73 acres upland)
NOTICE AREA:	500 ft.
NUMBER OF NOTICES:	645

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 August 26, 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. 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 deck are located no closer than 15 feet from the Normal High Water Elevation (NHWE) of Lake Tibet Butler.

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 one (1) comment was received in support and one (1) comment was received in opposition.

The applicant agreed with the staff recommendation and had nothing to add.

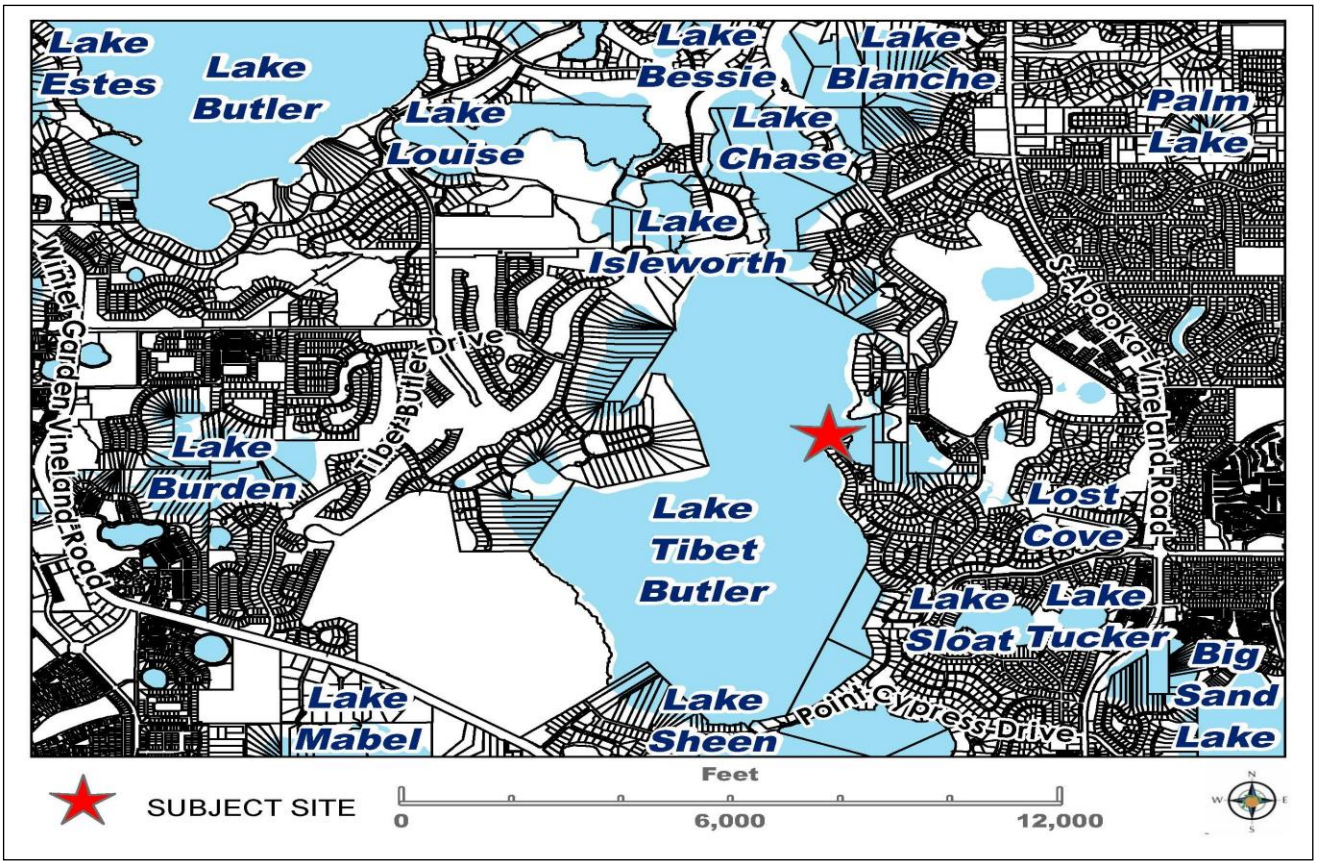
There was no one present to speak in favor or in opposition to the request.

The BZA recommended approval of the variance by a 6-0 vote, subject to the four (4) 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	R-1AA	Lake Tibet Butler	R-1AA	R-1AA	Lake Tibet
Future Land Use	R	Lake Tibet Butler	R	R	Lake Tibet
Current Use	Single-family residence	Lake Tibet Butler	Single-family residence	Single-family residence	Lake Tibet

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the 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 area around the subject site consists of single-family lakefront homes. The subject property is 1.19 acres in size (0.73 acres upland), located in the Bay Point Plat recorded in 1978, and is considered to be a conforming lot of record. The owners purchased the property in 2017. A 9,783 sq. ft. 2-story single-family home is currently under construction on the property (Permit # 20007192). The property is located on a peninsula that abuts Lake Tibet Butler, with a Normal High Water Elevation (NHWE) line along the west, north and east sides of the property.

The proposal is for a pool and deck, 15 ft. from the NHWE, requiring a variance from the required 35 ft. setback. A 50 ft. setback to the NHWE is required by code for the house, however, per Sec 38-1504, if the lot has a depth of less than 150 ft., the required setback to the NHWE is reduced to the rear setback for the zoning district, which is 35 ft. Thus, the house is being constructed at 35 ft. from the NHWE, essentially eliminating the ability to place anything in the rear or side yard without a variance from the NHWE setback due to the peninsular shape of the property. A similar development pattern exists throughout the subdivision. Previous variances have been approved in the immediate area for pools/pool decks, ranging from 9 ft. to 11 ft. from the NHWE, and for house setbacks ranging from 15 ft. to 26 ft. from the NHWE.

The Orange County Environmental Protection Division has reviewed the proposal and has no objection to the request.

As of the date of this report, no comments have been received in favor of or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	85 ft.	110 ft.
Min. Lot Size:	10,000 sq. ft.	51,932 sq. ft./1.19 ac. Gross. 31,869 sq. ft./0.73 ac Upland

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

	Code Requirement	Proposed
Front:	30 ft.	31 ft. (Northeast)
Rear:	35 ft.	35 ft. house (West)
Side:	7.5 ft.	house 11.3 ft. (North) 10 ft. (South)
NHWE:	35 ft.	pool 15 ft. (West - Variance)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstance particular to the subject property are its natural constraints and existing development, which renders any site improvements impossible without variances. After taking into consideration the NHWE setback required by the County Code, it is not possible to place anything in the rear or side yard without a variance from the NHWE setback due to the peninsular shape of the property.

Not Self-Created

The request is not self-created since the owners are not responsible for the peninsular shape of the property and the NHWE setback, making any improvements to the property, beyond the house, impossible without the need for a variance.

No Special Privilege Conferred

Due to the configuration of the lot, and the siting of the house on the lot, granting the requested variance will not confer any special privilege conferred to others under the same circumstances.

Deprivation of Rights

Without the requested variance, the owners will not be able to construct improvements to the rear or side of the home.

Minimum Possible Variance

The requested variance is the minimum possible to construct any improvements to the property.

Purpose and Intent

Approval of the requested variance will allow improvements and upgrades to the site which will be in harmony with the purpose and intent of the Zoning Regulations, will not be detrimental to adjacent properties and will maintain the existing character of the neighborhood since many other existing residences in the area have similar rear lakefront improvements.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated August 26, 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. 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 deck are located no closer than 15 feet from the Normal High Water Elevation (NHWE) of Lake Tibet Butler.

C: Sam J. Sebaali
5127 S. Orange Ave.
Orlando, FL 32809

ZONING VARIANCE REQUEST
JUSTIFICATION STATMENT

BATES RESIDENCE
9106 BAY POINT DRIVE
ORANGE COUNTY, FLORIDA

JULY 21, 2021

This letter is submitted to provide justification for a zoning variance to allow for a reduction in the rear yard setback for the subject site from a required 35 Ft. pool and pool deck setback from the Normal High-Water Elevation (NHWE) of Lake Tibet Butler to a proposed minimum 15 Ft. pool and pool deck setback. Specifically, we are requesting a variance from Chapter 38, Article XII, Section 38-1501 of the Orange County Code of Ordinances to allow for the requested reduction in the rear yard setback for the proposed pool and pool deck.

The subject site is approximately 1.19 acres and is in the northwest corner of the cul-de-sac of Bay Point Drive in Orange County, Florida. The site is zoned R-1AA and was platted for a single-family residence lot in 1978 and has been used for a single-family residence since 1981. A two-story single-family residential home is currently under construction. The construction started in 2020 and is anticipated to be completed in the next few months with a target completion of November/December 2021.

The homeowner would like to construct a pool and other improvements at the rear of the residence as shown on the plans. These improvements would entail the pool area, a spa area, and a deck area. The proposed improvements will enhance the quality of life for the homeowner and will allow the homeowner to enjoy amenities, which are similar to amenities used by neighboring homeowners within the same community.

All the adjacent neighboring property owners in the Bay Point Drive cul-de-sac have pool and pool decks in the rear yard. These pools and pool decks do not meet the required 35 Ft. pool and pool deck setback from the NHWE of Lake Tibet Butler. We have included with this submittal an Orange County Property Appraiser aerial exhibit showing the approximate distances from the adjacent neighbors' pools to the NHWE of Lake Tibet Butler. The exhibit shows all the adjacent neighboring properties have pool rear yard setbacks, which are less than 35 Ft. from the NHWE with the neighbor immediately to the south having only about 13.1 Ft. pool setback from the NHWE and the neighbor immediately to the east having only about 14.2 Ft. pool setback from the NHWE of Lake Tibet Butler.

The following paragraphs provide justification for allowing the requested variance for the required rear yard setback for the pool and pool deck based on the specific standards for the approval of variances as outlined in Section 30-43 (3) of the Orange County Code of Ordinances.

1. 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.

Response: The subject property has a unique lot configuration with frontage on the shoreline of Lake Tibet Butler along the rear and side yards. Therefore, there are special conditions necessitating the reduction of the rear yard setback for the pool and pool deck, which are attributed to the position of the house in relation to the shoreline on a uniquely irregular shaped lot.

2. 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.

Response: The special conditions are related to the existing lot configuration whereby the existing required rear yard setback would restrict the homeowner's ability to use their property with adequate outdoor amenities.

3. 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.

Response: The requested setback variance allows the homeowner the use and enjoyment of their property similar to other homeowners in this community by allowing construction of the proposed pool and pool deck amenity areas, which are similar to other properties which are in the same subdivision with similar zoning district and similar setbacks.

4. 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.

Response: The strict interpretation of the code required rear yard pool and pool deck setback would deprive the applicant of rights commonly enjoyed by other properties in the same community and same zoning district. Specifically, the neighboring properties all have pool and pool deck amenity areas, many of which also do not meet the required rear yard setback. Without the ability to obtain this variance, the design intent would be compromised as some of the home design features and pool location requirements would be compromised.

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

Response: The pool and pool deck area have been designed to have a very narrow shape to allow for the smallest amount of area (746 S.F.) to encroach into the rear yard pool and pool deck setback. This equates to about 1.4% of the total lot area. From a design standpoint, the requested variance provides the minimum variance needed for reasonable use of the pool and single-family residence on the property.

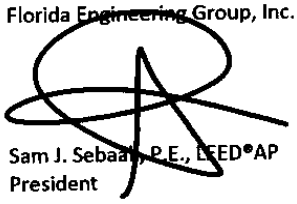
FEG FLORIDA ENGINEERING GROUP
5127 S. Orange Avenue, Suite 200
Orlando, FL 32809
Phone: 407-895-0324
Fax: 407-895-0325
2302 Parklake Drive, Suite 134
Atlanta, GA 30345
Phone: 1-877-857-1581
Fax: 1-877-857-1582
Engineering the Future

6. 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.

Response: The proposed variance would not have a negative effect on the neighborhood or the public. In our opinion, granting this variance would allow this lot to be developed in a manner, which would result in a net benefit for the homeowner and is similar in nature to the other properties within the same subdivision. Furthermore, the location of the pool does not have a negative impact on the public welfare.

Please do not hesitate to contact me should you have any questions or need additional clarification regarding this request. I can be reached by phone at 407-895-0324 or by email at SSebaali@feg-inc.us.

Sincerely,
Florida Engineering Group, Inc.



Sam J. Sebaali, P.E., LEED®AP
President

cc: Mr. David A. Bates, Owner
Mr. Mark Nasrallah, AIA, Principal Architect Nasrallah Architectural Group, Inc.

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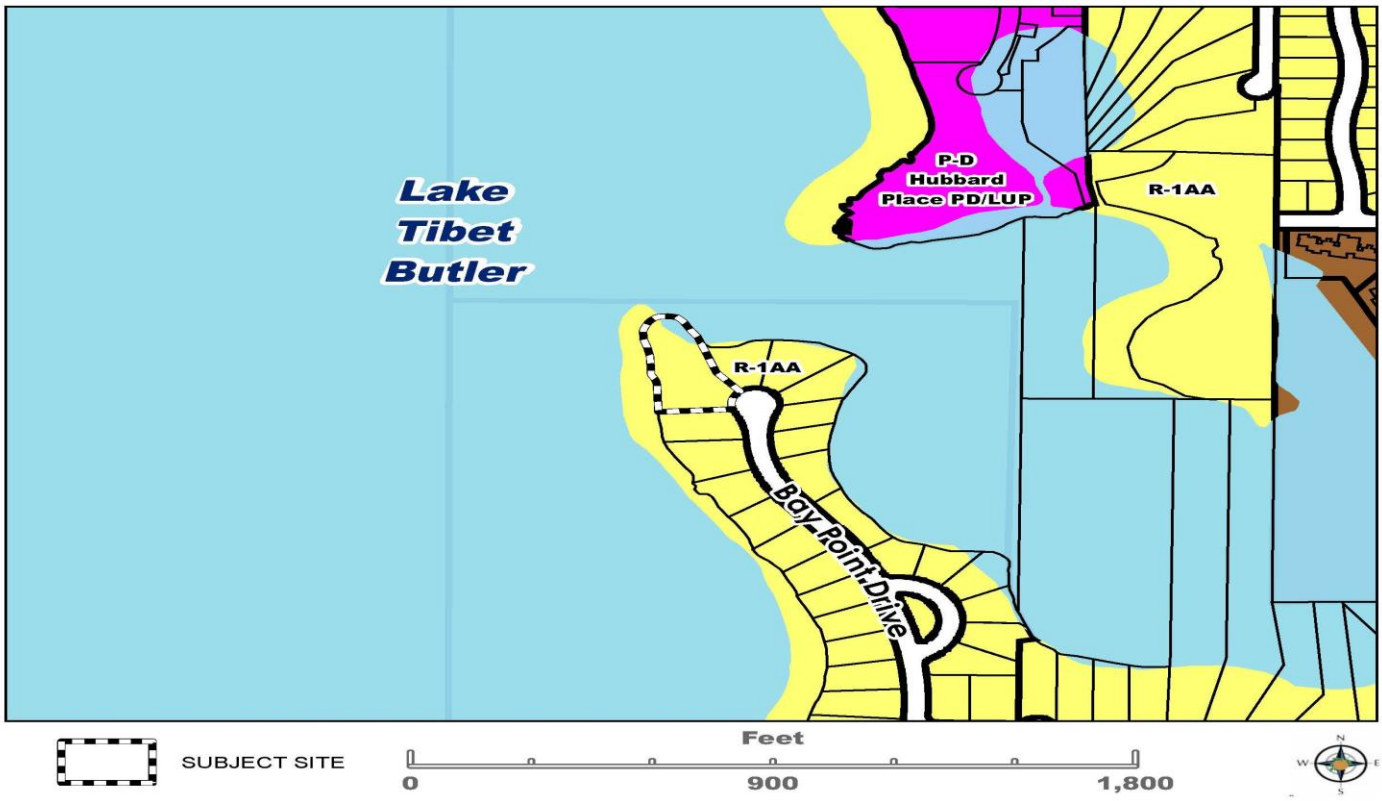
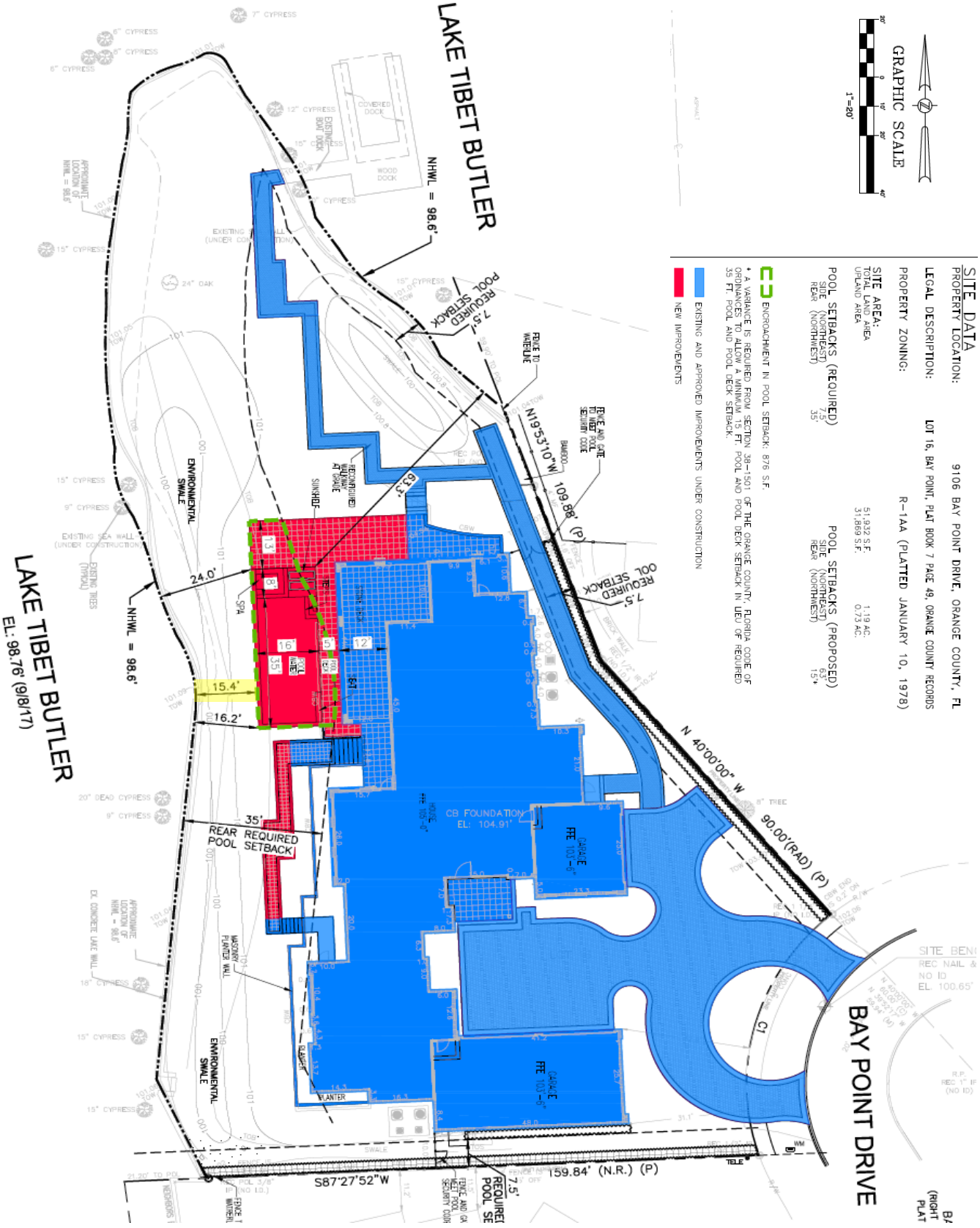
Engineering the Future

ZONING MAP



AERIAL MAP

SITE PLAN


SITE DATA
PROPERTY LOCATION: 9106 BAY POINT DRIVE, ORANGE COUNTY, FL
LEGAL DESCRIPTION: LOT 16, BAY POINT, PLAT BOOK 7 PAGE 49, ORANGE COUNTY RECORDS
PROPERTY ZONING: R-1AA (PLATTED JANUARY 10, 1978)
SITE AREA:
TOTAL LAND AREA 51,932 S.F. 1.19 AC.
UPLAND AREA 31,869 S.F. 0.73 AC.
POOL SETBACKS (REQUIRED)
SIDE (NORTHEAST) 7.5'
REAR (NORTHWEST) 35'
POOL SETBACKS (PROPOSED)
SIDE (NORTHEAST) 63'
REAR (NORTHWEST) 15'*
ENCROACHMENT IN POOL SETBACK: 876 S.F.
* A VARIANCE IS REQUIRED FROM SECTION 38-1501 OF THE ORANGE COUNTY, FLORIDA CODE OF ORDINANCES TO ALLOW A MINIMUM 15 FT. POOL AND POOL DECK SETBACK IN LIEU OF REQUIRED 35 FT. POOL AND POOL DECK SETBACK.
EXISTING AND APPROVED IMPROVEMENTS UNDER CONSTRUCTION
NEW IMPROVEMENTS
GRAPHIC SCALE
1" = 20'
LAKE TIBET BUTLER
EL: 98.76' (9/8/17)
NHWL = 98.6'
REQUIRED POOL SETBACK
7.5'
FENCE TO WATERLINE
FENCE AND GATE TO MEET POOL SECURITY CODE
N19°53'10"W
109.88' (P)
63.5'
BEGIN RAILING AT GRADE
SINKHOLE
ENVIRONMENTAL SWALE
EXISTING SEA WALL (UNDER CONSTRUCTION)
EXISTING TREES (TYPICAL)
24.0'
SPA
POOL WATER
15.4'
16.2'
35' REAR REQUIRED POOL SETBACK
CB FOUNDATION EL: 104.91'
HOUSE FFE 105.0'
GARAGE FFE 103.6'
N 40°00'00" W
90.00'(RAD) (P)
C1
BAY POINT DRIVE
MASONRY PLANTER WALL
CLAMPER
PLANTER
SWALE
S87°27'52"W
159.84' (N.R.) (P)
TELE
WM
EX. CONCRETE LAKE WALL
APPROXIMATE LOCATION OF NHWL = 98.6'
COVERED DOCK
EXISTING BOAT DOCK
WOOD DOCK
EXISTING (UNDER CONSTRUCTION)
ASPHALT
SITE BEN
REC NAIL &
NO ID
EL. 100.65'

SITE PHOTOS

Front from Bay Point Dr. facing west

Proposed pool and deck location facing north

SITE PHOTOS

Proposed pool and deck location facing west

Proposed pool and deck location facing south

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date:	**OCT 07, 2021**	Commission District:	**#2**
Case #:	**SE-21-09-082**	Case Planner:	**Ted Kozak, AICP (407) 836-5537** **Ted.Kozak@ocfl.net**

GENERAL INFORMATION

APPLICANT(s):	WHEATLEY ADULT LEARNING CENTER (STEVEN THORP)
OWNER(s):	SCHOOL BOARD OF ORANGE COUNTY
REQUEST:	Special Exception and Variances in the R-3 zoning district as follows: 1) Amendment to a Special Exception to allow a 5,000 sq. ft. Orange County Public School (OCPS) community center/adult learning center. 2) Variance to allow 8 parking spaces in lieu of 17. 3) Variance to allow a 10 ft. front setback in lieu of 25 ft.
PROPERTY LOCATION:	1408 S. Central Ave. Apopka, Florida 32703, northwest corner of S. Central Ave. and W. 18th St., west of Clarcona Rd. and north of the Apopka Expressway (S.R. 414)
PARCEL ID:	16-21-28-6044-03-050, 16-21-28-6044-03-090
LOT SIZE:	+/- 0.43 acres (19,043 sq. ft.)
NOTICE AREA:	500 FT
NUMBER OF NOTICES:	103

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, **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 as amended (unanimous; 6 in favor, 0 opposed, and 1 absent):

1. Development shall be in accordance with the site plan dated and elevations dated July 1, 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. There shall be no outdoor activities or events on the site.

5. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., daily.

6. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."

7. No structures shall be located within the 15 ft. W. 18th St. and S. Central Ave. site visibility triangles. Fencing shall be no greater than 4 ft. in height within the south front (W. 18 St.) and east street side (S. Central Ave.) yards, nor located within the 15 ft. W. 18th St. and S. Central Ave. site visibility triangles.

8. If either property is sold, a parking easement shall be recorded encumbering the Wheatley Elementary School site, benefitting the subject property.

9. A Type D, 10 feet wide, opaque buffer shall be provided along the west and north property lines. This buffer may be comprised of fencing, masonry wall, berm, planted and/or existing vegetation or any combination thereof.

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

The applicant noted the details of the proposed operations, the history of site acquisition, the requested site plan, the requested number of parking spaces and the consistency of the project with the surrounding neighborhood.

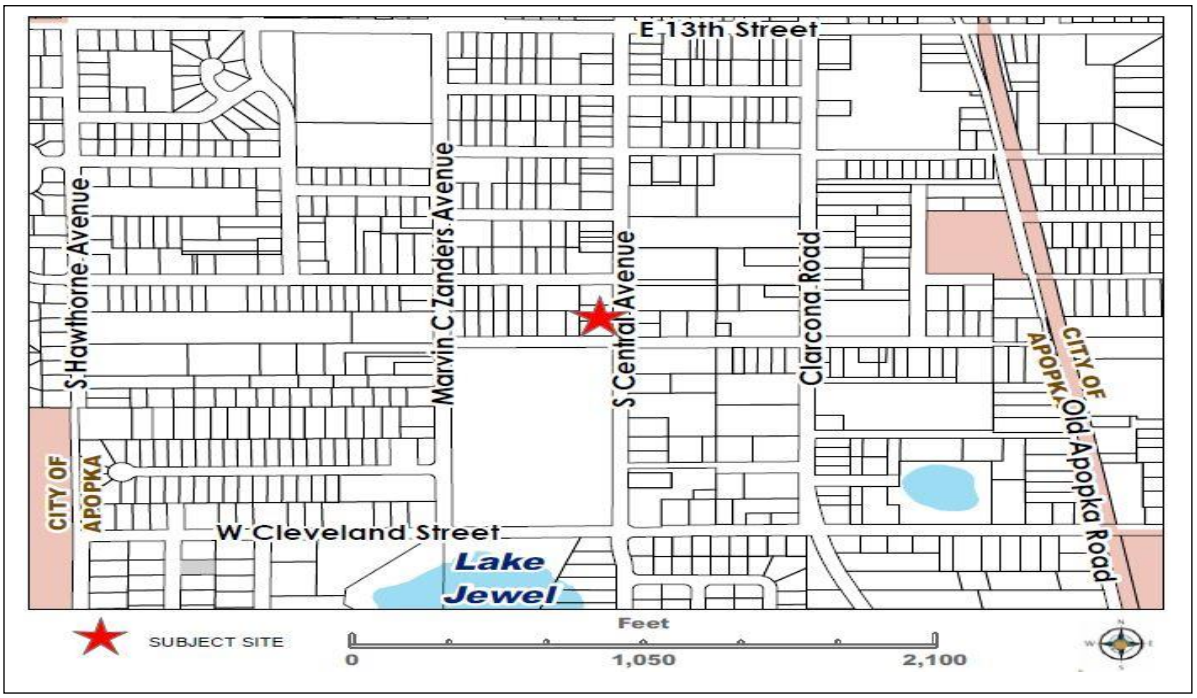
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the special exception amendment by a 6-0 vote, with one absent, subject to the nine (9) conditions in the staff report, an amendment to Condition 7, which states "No structures shall be located within the 15 ft. W. 18th St. and S. Central Ave. site visibility triangles. Fencing shall be no greater than 4 ft. in height within the south front (W. 18 St.) and east street side (S. Central Ave.) yards, nor located within the 15 ft. W. 18th St. and S. Central Ave. site visibility triangles." and an amendment to Condition 9, which states "A Type D, 10 feet wide, opaque buffer shall be provided along the west and north property lines. This buffer may be comprised of fencing, masonry wall, berm, planted and/or existing vegetation or any combination thereof."

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-3	R-3	R-3	R-3	R-3
Future Land Use	MDR	LDR	INST	LMDR	LDR
Current Use	Vacant	Single-Family Residential	Wheatley Elementary School	Single-Family Residential	Single-Family Residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the R-3, Multiple-family Residential zoning district, which allows single-family homes, multifamily development, and associated accessory structures, as well as community centers and job training facilities through the Special Exception process.

The subject site is comprised of 2 parcels, totaling approximately 0.43 acres in size, consisting of six lots, Lots 5 through 10 of the Oak Lawn First Addition plat, recorded in 1926. It is a corner lot abutting S. Central Ave. and W. 18th St. The County Code considers the lot frontage for residential parcels the narrowest portion of the property abutting a public street, which is in this case is W. 18th St. The overall property is vacant and separately

each parcel is considered to be a conforming lot of record. The area consists of single-family homes to the north, east and west, and the Wheatley Elementary School to the south.

The south portion of the site (Lots 8, 9 and 10) previously contained a convenience store (non-conforming since 1977). The building was demolished between 2016 and 2017, based upon aerial photography; however, there is no demolition permit on record. The north portion of the site (Lots 5, 6 and 7) contains a boarded single-family residence which will be demolished prior to development.

In May 2019, the Board of County Commissioners (BCC) approved a Future Land Use Amendment (FLUA) for the south property containing Lots 8, 9 and 10 (2019-1-S-2-2, Wheatley Adult Learning Center), from Low Density Residential (LDR) to Medium Density Residential (MDR) to make the FLU consistent with the Zoning district. A community meeting hosted by Orange County Schools was held for this Land Use Amendment case on January 31, 2019, and was attended by the District Commissioner and staff, the applicant team, and a small number of residents, with a generally positive tone.

In June 2020, the BCC approved a Special Exception, SE-19-12-139, for Orange County Public Schools (OCPS), on the southern parcel only, for a proposed 4,800 sq. ft., 2-story community center, used primarily for job training and seminars, county meetings and community events, and other educational functions. Since that time, OCPS has subsequently acquired the adjacent residential parcel to the north to increase the size of the site.

In April 2021, the BCC approved a FLUA for the north portion containing Lots 5, 6 and 7 (SS-21-03-099), Wheatley Adult Learning Center), from Low Density Residential (LDR) to Medium Density Residential (MDR). A virtual community meeting hosted again by OCPS for the most current FLUA was held on May 24, 2021, attended by County staff, the applicant team, and community leaders, however no residents attended.
OCPS now proposes a one-story community center to be built in 2 Phases of 2,500 sq. ft. each, totaling 5,000 sq. ft. on the expanded overall 0.43 acre site containing Lots 5 through 10 of the Oak Lawn First addition Plat, requiring an amendment to the previously approved Special Exception. The use will remain the same, primarily for job training, seminars and other associated community functions.

The parking requirements for the project are as follows:
Phase I
Building #1: 2,500 sq. ft. at 1 parking space per 300 sq. ft., requiring 9 spaces; provided 14 spaces

Phase II
Buildings #1-#2: 5,000 sq. ft. at 1 parking space per 300 sq. ft., requiring 17 spaces; provided 8 spaces

For Phase I, there will be 14 spaces provided, meeting the requirement. However, at the Phase II buildout, 6 spaces will be removed to accommodate the building addition, with the number of parking spaces required at the end of Phase II at 17 parking spaces, requiring Variance #2. Nevertheless, the remaining 9 required parking spaces will be provided across W. 18th St. at the Wheatley Elementary School, which technically meets County Code requirements for the provision of parking, since a Contribution Agreement, along with other requests, was approved by the Orange County BCC on November 13, 2018, which includes in Condition 12 that parking for the proposed facility will be located on the adjacent Wheatley Elementary School. If either property is sold, a parking easement shall be recorded encumbering the Wheatley Elementary School site, benefitting the subject property.

The applicant is proposing a south front setback of 10 ft. in lieu of 25 ft. facing W. 18th St., requiring Variance #3. The proposed 10 ft. setback is identical to the approved 2020 variance request, however, at that time W. 18th St. was considered a side street setback since the parcel was narrower along the east property line at that time.

According to the applicant, these requests have been necessitated due to the small size of the site, and due to the desire to comply with the landscape buffer requirements to adjacent residential properties. As a school district, the OCPS is exempt from landscaping code; however, they are voluntarily providing these buffers for the residential neighbors to the north and west.

The hours of operation for the community center is proposed to be from 8:00 a.m. to 10:00 p.m., daily. The previous proposal was conditioned to be from Monday through Friday, 8:00 a.m. to 10:00 p.m. However, the school district is proposing to offer some weekend availability for community activities as well.

The site plan indicates a 6 ft. high vinyl fence along the north and west property lines. However, County Code Sec. 38-1408 limits a fence to a maximum of 4 ft. high within the front and side street setbacks. These fences will be required to be reduced to 4 ft. high within these areas. Furthermore, the fences and gates will be required to be removed from the 15 ft. sight visibility triangle adjacent to S. Central Ave. and W. 18th St.

At the time of writing of this report, one comment has been received in favor of the request and no comments have been received in opposition to the request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	35 ft.
Min. Lot Width:	50 ft.	116.8 ft.
Min. Lot Size:	5,000 sq. ft.	19,043 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft. (W. 18th St.)	10 ft. (South - Variance #3)
Rear:	30 ft.	33 ft. (North)
Side:	5 ft.	59 ft. (West)
Side street:	15 ft. (S. Central Ave.)	15 ft. (East)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

With the approval of the proposed Amendment to the Special Exception, the community center will be considered consistent with the Comprehensive Plan. Furthermore, Land Use Amendments were approved by the BCC prior to this submittal to achieve consistency with the zoning.

Similar and compatible with the surrounding area

The proposal will be compatible with the surrounding properties since the area is comprised of single-family homes to the north, east and west, and Wheatley School to the south. With the increased size of the property from the prior 2020 approval with total building area essentially the same size as previously proposed (5,000 sq. ft. compared to 4,800 sq. ft.), the new proposal will allow for adequate buffering and increased separation from adjacent residences in both phases. Furthermore, the use will be similar, but less intense, than the existing Wheatley School to the south and all uses and activities will be contained within the building.

Shall not act as a detrimental intrusion into a surrounding area

The proposal on the subject property will not negatively impact the surrounding area since the use will be similar, but less intense than the existing Wheatley School located to the south. Furthermore, a community center could be considered a positive benefit to the adjacent residential neighborhood.

Meet the performance standards of the district

With the approval of the requested variances, the proposal will meet the performance standards of the district and all activities will be contained within the building(s). Further, lighting of the parking area will comply with Orange County Lighting Code Standards, which includes dark sky provisions.

Similar in noise, vibration, dust, odor, glare, heat producing

This proposed use has similar characteristics as associated with the uses permitted in the R-3 zoning district.

Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code

OCPS is exempt from landscaping code; however, for the benefit of the community, landscape buffers to screen adjacent residences to the north and west have been provided.

VARIANCE CRITERIA

Special Conditions and Circumstances

Pertaining to the requested reduced number of parking spaces, the size of the property is a special circumstance that will require variances for any development. Such a constrained site presents difficulty providing the required number of parking spaces on site. Further, with the approved Contribution Agreement, parking was previously anticipated to be offsite.

Not Self-Created

The request is not self-created since OCPS is requesting to provide only the onsite parking necessary to serve the operations. Further, the need to provide a reduced front setback is not self-created in that the relatively small site size and the desire of the school district to propose adequate room for landscaping buffers to the north and west, constrains the ability to meet strict zoning requirements.

No Special Privilege Conferred

Regarding the reduced number of parking spaces, the required overall number of parking spaces will be provided with a combination of on-site and off-site spaces. Due to the parking provision contained in the Contribution Agreement, the issue of parking was considered and resolved prior to this application being presented. Regarding the reduced front setback, there is no special privilege since several of the existing residences abutting W. 18th St. have a similar front setback as proposed.

Deprivation of Rights

Literal interpretation of the code will deprive OCPS of the right to establish the community center at the scale required to serve the needs of the community effectively. Adequate parking will be provided onsite for Phase I and for the Phase II buildout on the adjacent Wheatley Elementary School property. Furthermore, the 10 ft. front setback as proposed is similar to setbacks provided along lot frontages within the area as well as matches the setback adjacent to W. 18th St. for the previously approved 2020 proposal.

Minimum Possible Variance

The request is the minimum possible variance to allow the applicant to use the site in the manner required to serve the needs of the community, by providing the number of parking spaces that will fit on the site to accommodate the operation and use of the facility with the balance being provided on the adjacent Wheatley Elementary School property as well as by providing the maximum front setback possible while maximizing the orientation of improvements on the site.

Purpose and Intent

Approval of the requested variances will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated July 1, 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. There shall be no outdoor activities or events on the site.
5. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., daily.
6. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, “Exterior Lighting Standards.”
7. Fencing shall be no greater than 4 ft. in height within the south front (W. 18 St.) and east street side (S. Central Ave.) yards, nor located within the 15 ft. W. 18th St. and S. Central Ave. site visibility triangles.
8. If either property is sold, a parking easement shall be recorded encumbering the Wheatley Elementary School site, benefitting the subject property.
9. A minimum 15 ft. landscape buffer shall be provided with canopy trees installed 50 ft. on center along the west and north property lines.

C: Steven Thorp
6501 Magic Way, Bldg. 200
Orlando, FL 32809

C: School Board of Orange County
445 W. Amelia St.
Orlando, FL 32801

Orange County Public Schools

6501 Magic Way · Building 200 · Orlando, Florida 32809 · (407) 317-3700 · www.ocps.net

Justification Statement
Special Exception Amendment for Wheatley Adult Education Center – Parcel Addition
June 11, 2021

Parcel # 16-21-28-6044-03-050 & 16-21-28-6044-03-090

Legal Description: OAK LAWN FIRST ADDITION P/16 LOTS 5 6 & 7 BLK 3

Orange County Public Schools ("OCPS") is planning to construct an adult education center on two parcels located immediately north of Wheatley Elementary School in County Commission District #2. The first parcel (Parcel ID #16-21-28-6044-03-090) ("Initial Parcel") has been approved with the necessary entitlements to construct and operate the use. The second parcel (Parcel ID #16-21-28-6044-03-050) ("Subject Parcel"), is being added to the project and must obtain the necessary entitlements.

Wheatley Adult Education Center - History

OCPS purchased the Initial Parcel in 2018 with the intent to construct an adult education and community center, using a combination of capital dollars and grant funding secured through Orange County INVEST funds.

On November 13, 2018, the Contribution Agreement (attached) was approved by Orange County BCC and outlines how the Intended Use of the Initial Parcel shall be coordinated between Orange County and OCPS.

The Initial Parcel was subject to a Future Land Use Map amendment (#2019-1-S-2-2) from Low Density Residential (LDR) to Medium Density Residential (MDR) and received approval from the Board of County Commissioners on May 21, 2019. Additionally, the Initial Parcel was subject to a Special Exception (#SE-19-12-139) to allow for the 4,800 SF, 2-story adult education and community center use with applicable variances and received approval from the Board of Zoning Adjustment on June 4, 2020. A copy of the BZA staff report is attached.

The Subject Parcel proceeded through, and received approval, of its Future Land Use Map amendment from LDR to MDR (#SS-21-03-099) by the Board of County Commissioners on April 27, 2021 and will become effective on May 28, 2021.

Special Exception Amendment

The Subject Parcel is comprised of one (1), 0.22-acre parcel with a future land use designation of Low Density Residential (LDR) and a zoning classification of R-3 (Residential). As R-3 zoning is not consistent with the LDR future land use, OCPS is seeking a future land use designation of Medium Density Residential (MDR) to achieve consistency with the Comprehensive Plan and enable operation of the use.

It is intended that the adult education and community center use will not change, however, the building will likely transform from the previously approved 4,800 SF, 2-story building to a 5,000 SF, 1-story building with its associated stormwater and parking infrastructure built in two phases and will span both parcels.

Special Exception Amendment for Wheatley Adult Education Center – Parcel Addition
June 11, 2021

This Special Exception amendment application for the Subject Parcel to permit the building, parking, and stormwater facilities for the adult education center use will ensure the unique needs of this project can be met under the current zoning. This Special Exception for the Subject Parcel will allow for design and operational considerations, such as hours of operation and landscaping, as part of its approval to ensure that the proposed use is compatible with the adjacent parcels and the surrounding neighborhood at large.

Compatibility with Adjacent Land Uses

The subject property is located within an established neighborhood, north of the existing Wheatley Elementary School. Education and community center uses are historically integral to residential neighborhoods and the proposed use will only complement the existing Wheatley Elementary School use across E. 18th Street.

Property	Future Land Use Designation
Subject Property	LDR
North	LDR
East	LMDR
South	MDR
West	LDR

Special Exception Justification

1. The use shall be consistent with the Comprehensive Policy Plan.

This BZA application was preceded by approved Future Land Use Map amendments (2019-1-S-2-2 & SS-21-03-099) from Low Density Residential (LDR) to Medium Density Residential (MDR) to allow the property's R-3 zoning gain consistency with the its Future Land Use designation.

OCPS believes this request is consistent with the adopted Orange County 2010-2030 Comprehensive Plan based on the analysis that this meets the intent of the Goals, Objectives, and Policies of the Comprehensive Plan, as further described below:

Public School Facilities Element

GOAL/ OBJECTIVE	POLICIES
PS2 Make public schools the cornerstones of community planning and design	
PS2.1 Enhance community/neighborhood design through the joint use of educational facilities	PS2.1.1 Encourage the location of parks, recreation, and community facilities in new and existing communities in conjunction with school sites.
PS2.2 Enhance community/neighborhood design through effective school facility design and siting standards.	PS2.1.2/ ICE1.9.11 Where feasible, OCPS and OC shall work jointly to co-locate parks, libraries, and community centers with public schools. Where such co-location occurs, both entities shall establish an ongoing management relationship via written

	agreement that permits the school's use of the public facilities and the public's use of school facilities for community meetings and sports activities. PS2.1.4 Coordinate with the School Board to jointly fund and design new school facilities for joint use such as community meeting sites and community-based recreational activities. PS2.2.7 Support the School Board in locating appropriate school services, such as administrative offices, night classes and adult education, in alternative locations, such as but not limited to commercial plazas, shopping malls, and community centers.

Future Land Use Element

GOAL	OBJECTIVE	POLICIES
FLU8 Implementation. Orange County shall use its codes and ordinances to implement the goals, objectives, and policies of the Comprehensive Plan consistent with the health, safety, and welfare of the general public.	FLU8.1 Orange County's Land Development Code, Zoning, and Planned Development process will continue to be implementing tools for ensuring compatible and integrated land development that promotes the public health, safety, and welfare in Orange County.	8.1.1
	8.2 Compatibility will continue to be the fundamental consideration in all land use and zoning decisions. For purposes of this objective, the following policies shall guide regulatory decisions that involve differing land uses.	8.2.1 8.2.5.1 8.2.11

2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.

The proposed community center use is similar to the prior retail commercial use that existed on this property, as well as similar in nature to the Wheatley Elementary School use that has co-existed with the surrounding neighborhood for years.

3. The use shall not act as a detrimental intrusion into a surrounding area.

The proposed community center use is similar to the prior retail commercial use that existed on this property, as well as similar in nature to the Wheatley Elementary School use that has co-existed with the surrounding neighborhood for years. There are no further intrusions into the neighborhood that don't already exist and will not act as a detrimental intrusion.

4. The use shall meet the performance standards of the district in which the use is permitted.

Assuming approval of the requested variances, the use will meet all other required performance standards of the R-3 district.

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.**

Given the prior retail commercial use of the property, as well as the operation of the adjacent Wheatley Elementary School, the proposed use will not introduce any additional noise, vibration, dust, odor, glare, or heat that already occurs within the surrounding neighborhood.

6. **Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.**

The proposed use will comply with all landscaping requirements for educational facilities operated by the School Board as required by Florida Statutes and/or County Code.

Variance Justifications

1) **A variance from Section 38-1476 to reduce the quantity of off-site parking from 16 parking spaces to eight (8) parking spaces**

• *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.*

Due to the small size of the parcels, this site is constrained to allow the operation of the proposed use on this parcel, while maintaining the overall number of required off-street parking spaces. The reduction of the number of on-site parking spaces allows for the structure of the proposed use to be designed to the scale required to serve the needs of the community effectively. This variance also reflects the special circumstance of this project having an approved donation agreement between Orange County and Orange County Public Schools permitting the off-site parking for this project.

• *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.*

This is not self-created as the approved donation agreement between Orange County and Orange County Public Schools permits the location of parking for this project off-site due to the small size of the property, which already constrains the amount of parking we can provide. This variance is only a formality to recognize the reduction in the number of parking spaces.

• *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.*

There will be no special privilege conferred as the overall required number of spaces will continue to be provided both on-site and off-site on the Wheatley Elementary School campus, as permitted in the approved Donation Agreement between Orange County and Orange County Public Schools.

• *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.*

Due to the small size of the parcel, this site is constrained to allow the operation of the proposed use on this parcel, while maintaining the overall number of required off-street parking spaces. The reduction of the number of on-site parking spaces allows for the structure of the proposed use to be designed to the scale required to serve the needs of the community effectively.

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

This variance will still permit the minimum number of parking spaces that can physically fit on the property with the proposed structure that will accommodate the operation of the use on the property, meanwhile recognizing that the rest of the required parking spaces will be located on the adjacent Wheatley Elementary School campus.

• *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.*

This parking variance as proposed is in harmony with the purpose and intent of the Zoning Regulations, will not be injurious to the neighborhood, and is not detrimental to the public welfare.

2) A variance from Section 38-1501 to reduce the R-3 side street (east) setback from 15 feet to 10 feet

This variance is no longer required, as due to the addition of the Subject Parcel, the side street is now considered S. Central Avenue and the 10' minimum setback is satisfied.

3) A variance from Section 38-1501 to reduce the R-3 front street (south) setback from 20 feet to 10 feet

• *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.*

Due to the small size of the parcel, this site is constrained to allow the operation of the proposed use on this parcel, while permitting as many off-street parking spaces as possible. The reduction in the front setback will allow this project to maintain other required setbacks and provide for the allowance of any much buffer space as possible and allow for the construction of the drive aisle.

• *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.*

This variance is not self-created, as the parcel is inherently small and any development of the property, for the proposed use or another, likely requires a variance to the required setbacks to achieve code compliance elsewhere.

• *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 approval of this variance will not confer any special privileges to the applicant that is denied to other lands, as this variance will allow the site to develop with the required infrastructure and maintain the setbacks and buffer width on other sides of the property.

• *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.*

Due to the small size of the parcel, this site is constrained to allow the operation of the proposed use, while maintaining the required setbacks per Code. The reduction of the front setback allows for the structure and its associated infrastructure to be designed to the scale required operate efficiently.

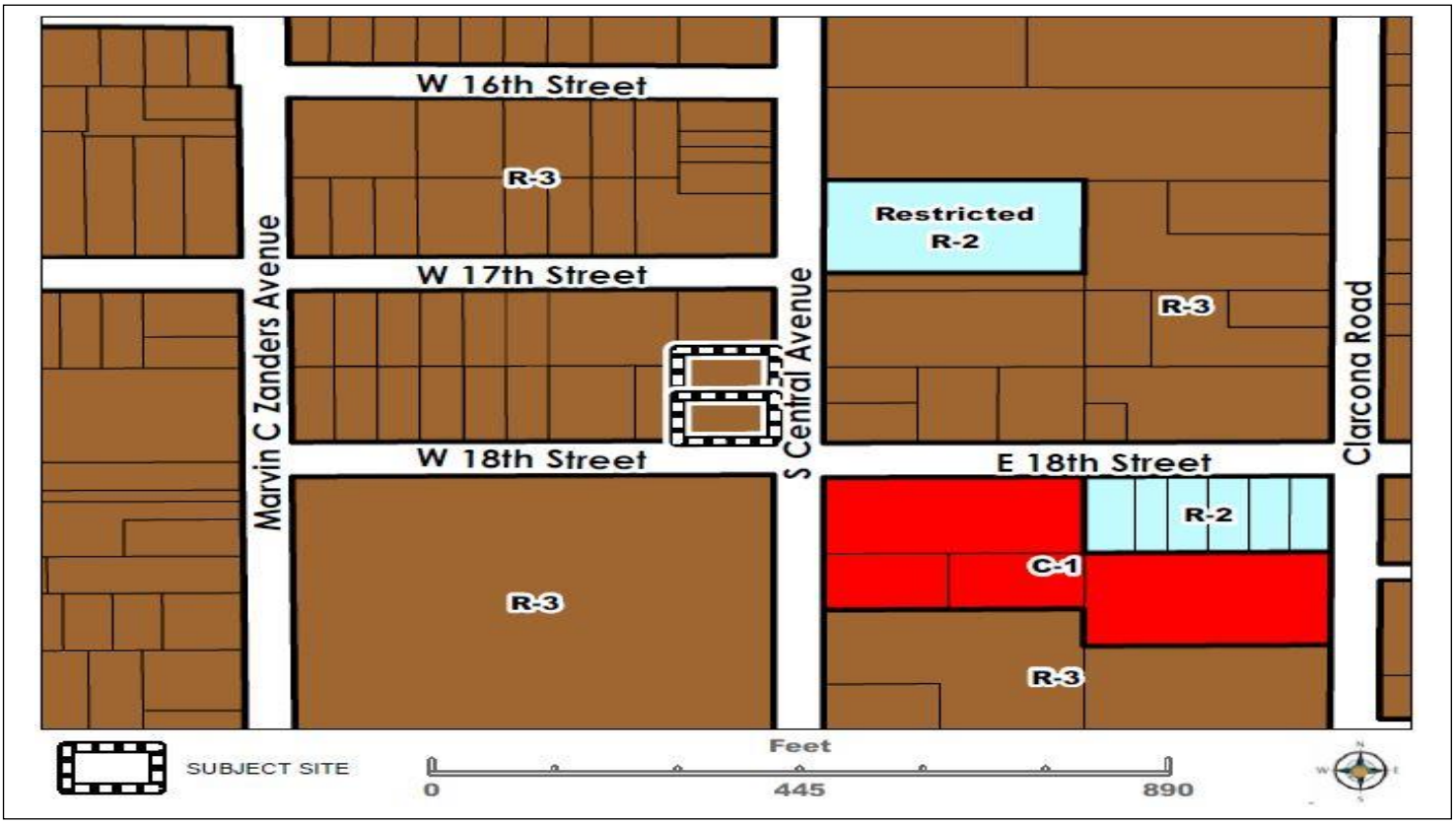
• *Minimum Possible Variance - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

This is the minimum possible variance to maintain the buffers along the northern property line as well as construct the drive aisle.

• *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.*

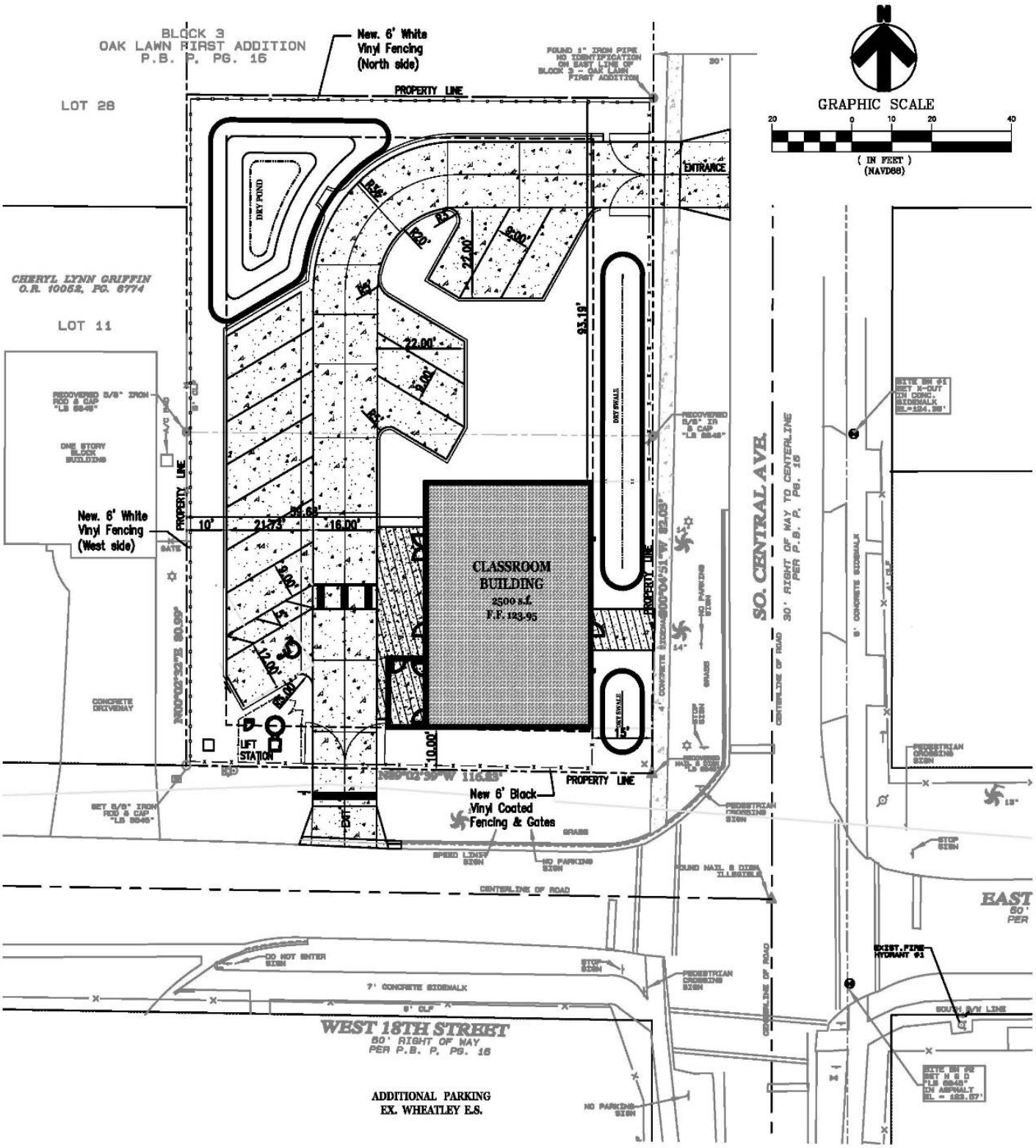
This variance as proposed is in harmony with the purpose and intent of the Zoning Regulations, will not be injurious to the neighborhood, and is not detrimental to the public welfare.

ZONING MAP

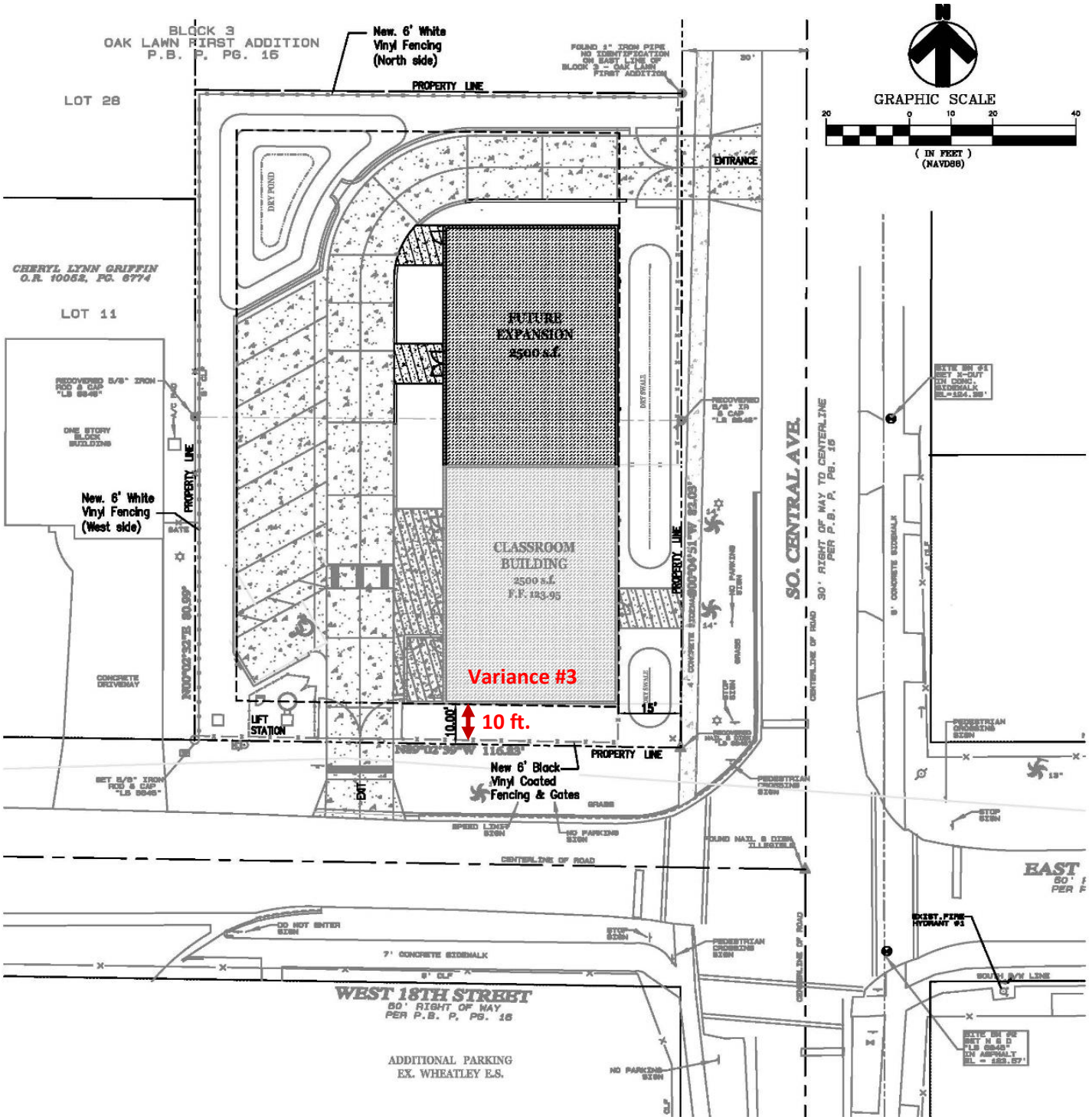


AERIAL MAP

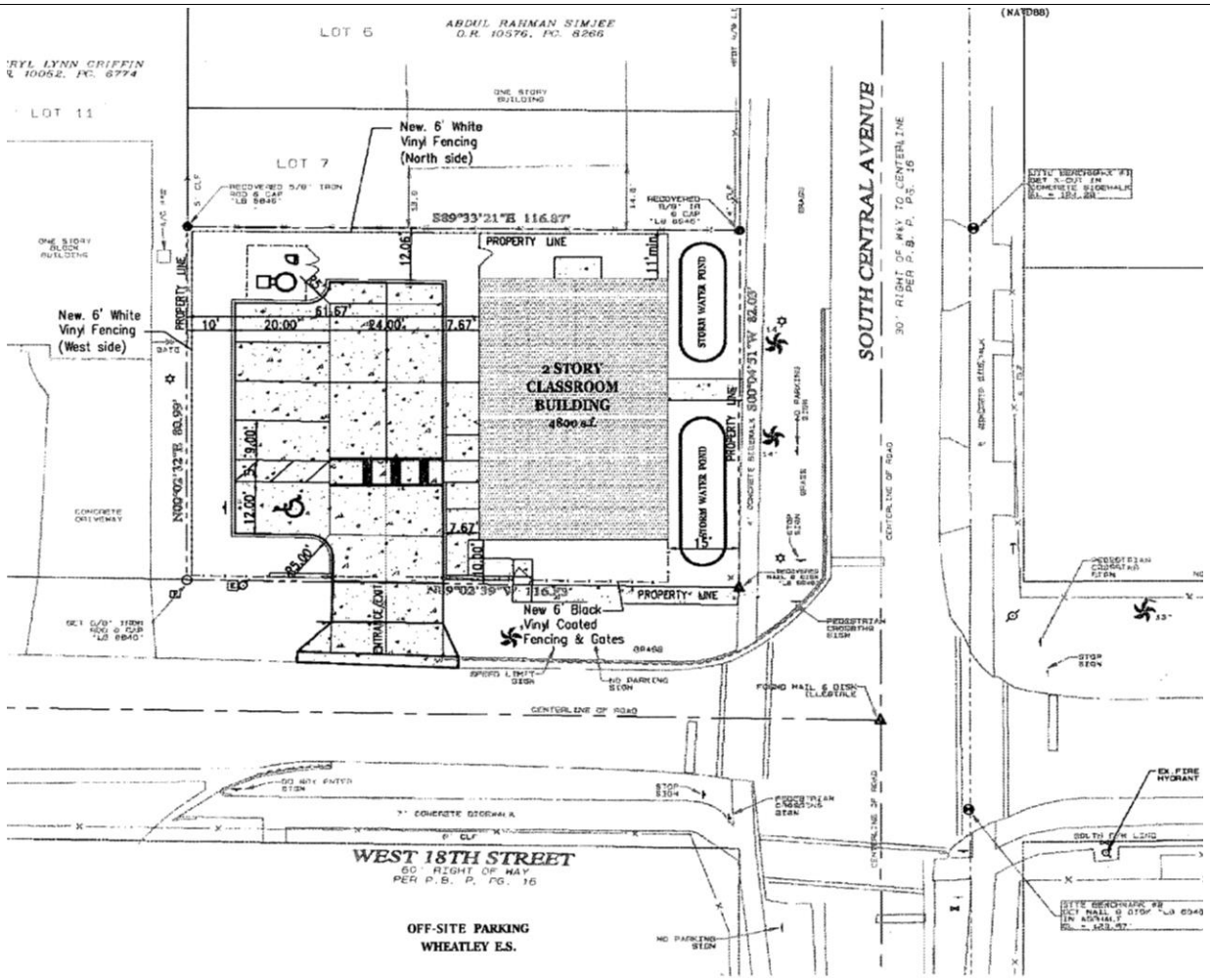
PHASE I SITE PLAN



PHASE II SITE PLAN



2020 APPROVED SITE PLAN, SE-19-12-139



OCPS ADULT LEARNING CENTER
1410 S. Central Ave., Apopka, Fl. 32703

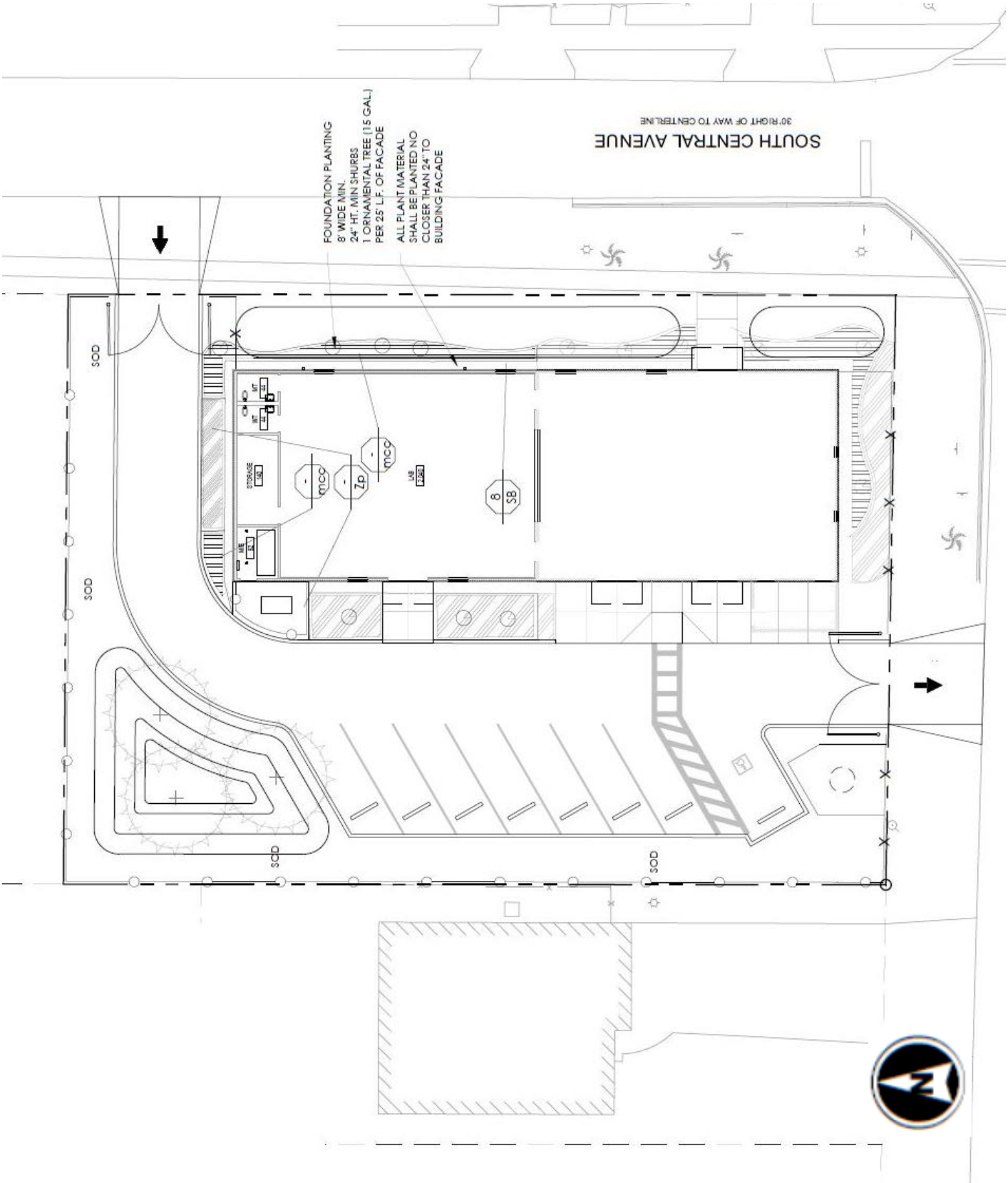
1) Cover letter attached.
2) Existing Zoning R-3
   Adjacent Zoning
   Front(South): R-3
   Side(East): R-3
   Side(West): R-3
   Rear(North): R-3
3) Legal Description shown on plan.
4)
   A) Boundary and adjacent streets shown on plan.
   B) Existing Building square footages:
      Previous convenience store was demolished.
   C) New Building square footage:
      4,800 sf
   D) BLDG. setbacks shown on plan.
      Required setbacks Proposed setbacks:
      Front(E): 20' 15' (Central)

L) Parking: Required is 16 spaces.
(General Business 1 space/300 SF)

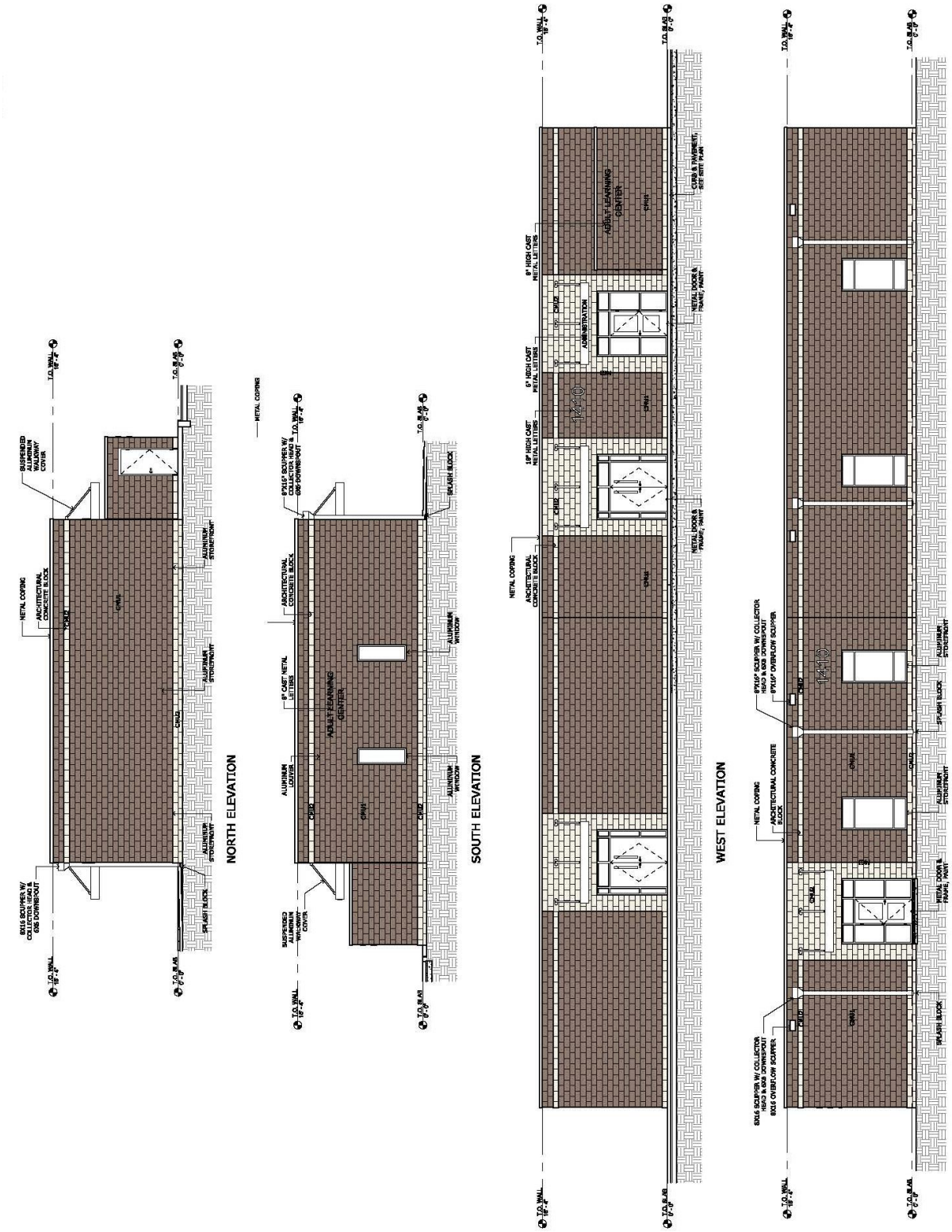
Onsite 1 handicap spaces
4 regular spaces
Offsite 11 spaces on adjacent
Wheatley ES campus.

M) Elevation plan attached.

PHASE II LANDSCAPE PLAN



ELEVATIONS AT PHASE II BUILDOUT



SITE PHOTOS

Facing southwest towards property from S. Central Ave.

Facing northwest towards property from W. 18th St.

SITE PHOTOS

Facing south from W. 18th St. towards Wheatley School parking area

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date:	**OCT 07, 2021**	Commission District:	**#4**
Case #:	**VA-21-09-079**	Case Planner:	**Ted Kozak, AICP (407) 836-5537** **Ted.Kozak@ocfl.net**

GENERAL INFORMATION

APPLICANT(s): BECKER BOARDS (JACOB ZONN)

OWNER(s): 5C HOLDINGS LLC

REQUEST: Variances in the I-4 zoning district to allow the construction of a billboard sign as follows:

1) To allow 80 ft. in height in lieu of a maximum of 40 ft.
2) To allow a 672 sq. ft. billboard sign not adjacent to a limited access highway in lieu of a maximum of 400 sq. ft.
3) To allow a south side setback of zero in lieu of 5 ft.
4) To allow an east street side setback of zero in lieu of 15 ft.

PROPERTY LOCATION: 11220 Space Blvd., Orlando, FL 32801, west side of Space Blvd., south of Central Florida Parkway and west of Florida's Turnpike.

PARCEL ID: 15-24-29-7351-00-020

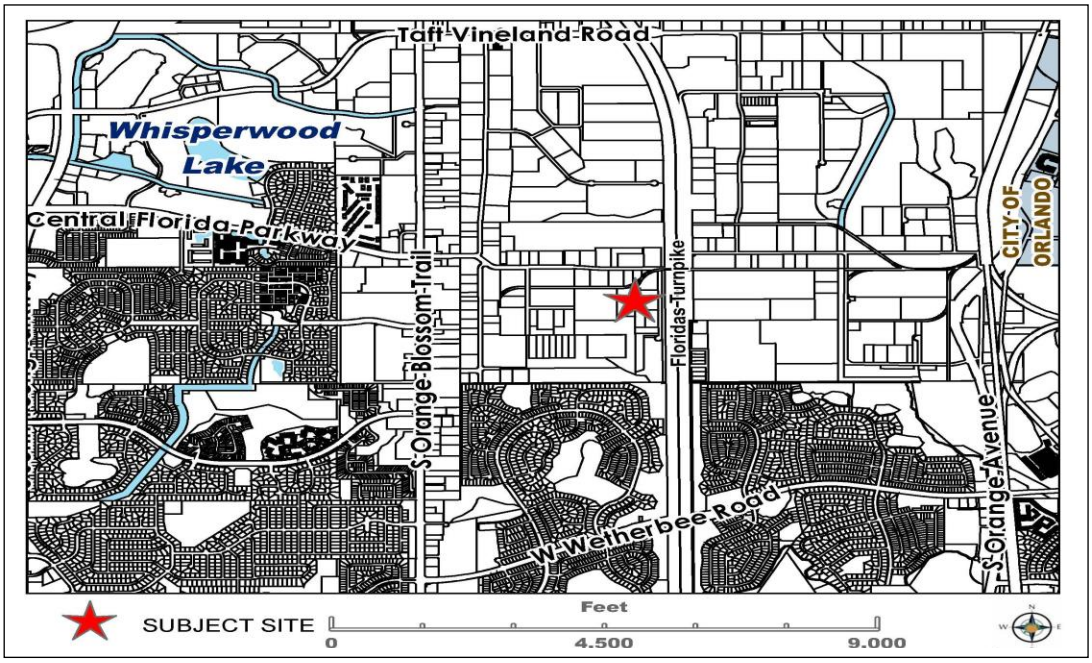
LOT SIZE: +/- 8.61 acres

NOTICE AREA: 1500

NUMBER OF NOTICES: 74

DECISION: THIS CASE WAS CONTINUED FOR RENOTICING TO THE NOVEMBER 4, 2021 BZA HEARING DATE.

LOCATION MAP



BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date:	**OCT 07, 2021**	Commission District:	**#5**
Case #:	**SE-21-04-008**	Case Planner:	**Ted Kozak, AICP (407) 836-5537** **Ted.Kozak@ocfl.net**

GENERAL INFORMATION

APPLICANT(s):	VAISHNAV SANGH OF USA (AMIT SHAH)
OWNER(s):	GARY YOUNG
REQUEST:	Special Exception in the R-1A zoning district to allow a 10,400 sq. ft. religious institution.
PROPERTY LOCATION:	5733 N. Dean Rd., Orlando, FL 32817, east side of N. Dean Rd., south of McCulloh Rd., north of University Blvd.
PARCEL ID:	05-22-31-0000-00-031
LOT SIZE:	3.89 acres
NOTICE AREA:	1,000 FT
NUMBER OF NOTICES:	287

DECISION: Recommended **APPROVAL** of the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions as amended (4 in favor, 2 opposed and 1 absent):

1. Development shall be in accordance with the site plan, landscape plan and elevations dated August 20, 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 3 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. Hours of operation shall be 7:30 a.m. to 7:00 p.m., daily.

6. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.

7. Onsite lighting shall be downlit to prevent offsite spillage.

SYNOPSIS: Staff described the proposal, including the location of the property, the proposed operations, the site plan, landscape plans, floor plan, elevations, the proposed improvements 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 two (2) comments were received in support and forty-seven (47) comments were received in opposition.

The applicant stated that proposal was consistent with the surrounding area and that the owner has committed to be a good neighbor, including the provision of limited hours of operation and no exterior noise.

Six neighbors spoke in opposition to the request, citing concerns about the traffic, lighting, drainage, landscaping buffers, security and the use being incompatible with the area. They also noted that traffic along North Dean Road over the past several years has increased and expressed a desire for additional buffering, including walls and landscaping, along the perimeter.

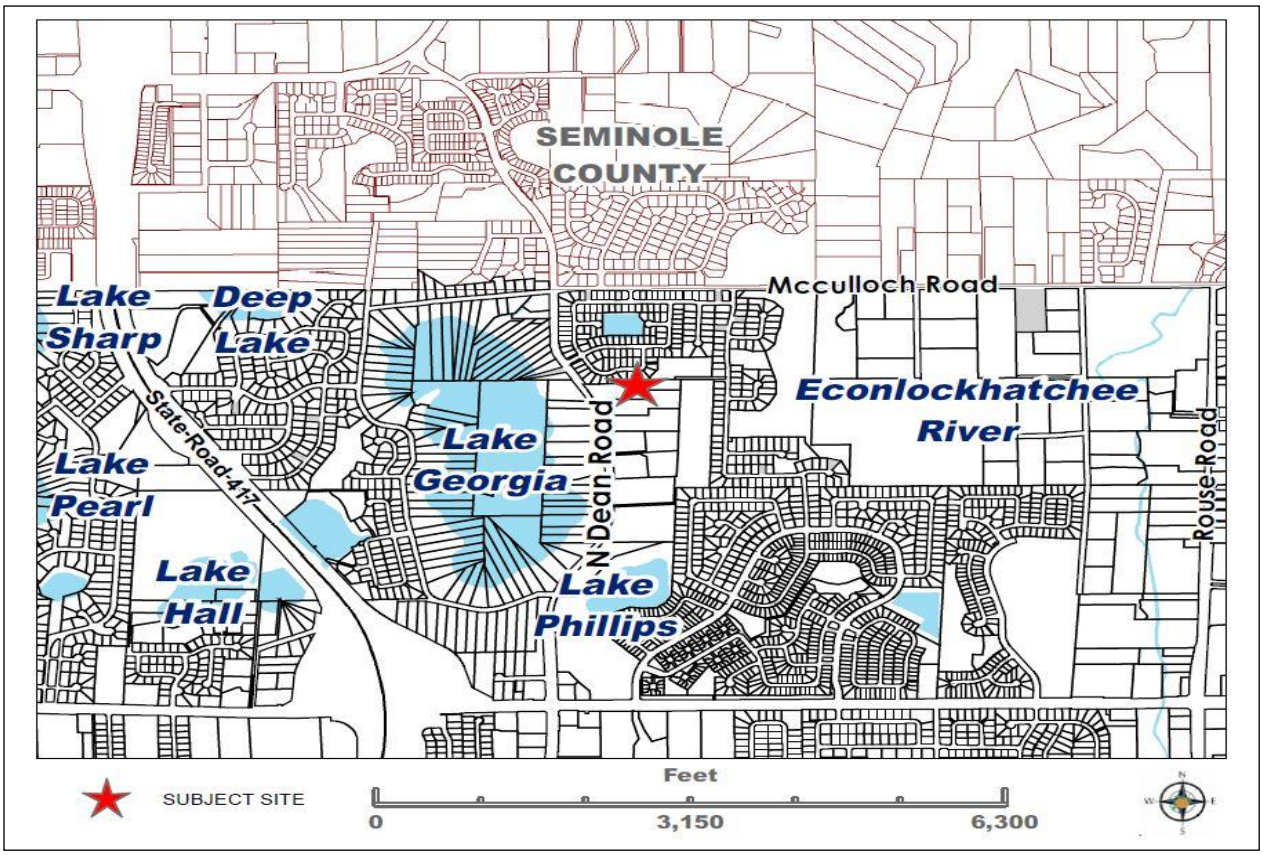
The BZA noted the hours of operation, the history of the site, and discussed the need for a condition for restricting the intensity of site lighting.

The BZA recommended approval of the special exception by a 4-2 vote, with one absent, subject to the six (6) conditions in the staff report, and a new Condition 7, which states "Onsite lighting shall be downlit to prevent offsite spillage."

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1	R-1A	A-2	R-1
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Vacant	Single-family residences	Single-family residence	Vacant	Vacant

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. Certain non-residential uses, such as daycares and religious institutions are permitted through the Special Exception process.

The subject property is a 3.89 acre vacant unplatted parcel, created via Lot split, LS-2003-009, that conforms to the minimum lot requirements of the zoning district.

The applicant is requesting a special exception for a 10,400 sq. ft. religious institution. The proposed 10,400 sq. ft. building will be constructed at the center of the property and will include a 36 ft. by 51'-8" prayer area, and

ancillary offices, classrooms and activity area for patron usage. The proposed religious institution does not have any fixed seats, but will have a maximum of 163 patrons at any given time, with between 100 and 125 patrons at the most heavily frequented time of the day. The applicant asserts that an average of 50 patrons are expected to attend the temple, daily.

Vehicular and pedestrian access to the site will be provided from N. Dean Rd. to the west, including a sidewalk connection to the front of the building. The proposed landscape plan for the project will include existing and new canopy trees and shrubs along the north and south perimeter, and along N. Dean Rd., meeting code.

Based on the number of patrons, the project requires ninety-seven (97) parking spaces which was calculated using the code requirement of one (1) parking space per three (3) patrons for a total of one hundred (100) patrons and one (1) parking space per employee for one (1) employee. A total of 97 parking space are provided, meeting the requirement. All parking spaces will be paved.

The proposed hours of operation provided are 7:30 a.m. to 7:00 p.m., daily. Separate correspondence revised the proposed hours as stated in the submitted cover letter.

The County Environmental Protection Division (EPD), as part of the Conservation Area Determination review process, evaluated the environmental components of the subject parcel. On July 8, 2021, EPD approved a Conservation Area Determination (CAD-21-02-040) which identified Class II Conservation Areas on the site. A Conservation Area Impact (CAI) will be required prior to issuance of permits for any wetlands proposed to be impacted by the development.

The County Transportation Planning Division reviewed a traffic statement provided by the applicant's traffic consultant and has indicated that the number of trips generated by the project are minimal in comparison with the number of trips that would be anticipated for permitted uses, such as single-family residences. Further, Transportation Planning noted that based upon public opposition, the widening of N. Dean Rd. was recently removed from the Long-Range (10-year) Capital Improvement Program (CIP) and will remain as a two-lane road at this time.

On Monday, August 23, 2021, a Community Meeting was held at Colonial High School to allow for input. The meeting was attended by the applicant, County staff, and 21 attendees. 13 of the attendees spoke negatively about the proposal. Comments included concerns about the height of the building, traffic along Dean Road, future expansion of the number of patrons, drainage and rain runoff, preservation of existing mature trees, the displacement of animals from the property and endangered species, wetlands, aquifer and water quality issues, hours of operation, the number of spaces and impervious area in the parking lot and concerns about future outreach/ homeless distribution ministries.

The applicant team responded that current site development requirements dictate that all drainage must be captured onsite, the operations will have minimal impact compared with the alternative potential for the development of single-family residences, and that as many trees will be preserved as possible. The applicant reiterated that the temple intends to be a quiet, good neighbor and will be part of the community, and they intend to meet all County performance standards. Based upon comments received at the August 23, 2021 Community Meeting, as stated previously, the applicant has conducted an environmental survey which has been reviewed by EPD staff and based upon a review of the provided information, no environmental issues have been identified.

The applicant has provided two (2) letters of no objection to the request. At the date of the writing of this report, three comments have been received in opposition to the request and no comments have been received in support of the request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	27 ft.
Min. Lot Width:	75 ft.	227 ft.
Min. Lot Size:	7,500 sq. ft.	3.89 ac. (169,640 sq. ft.)

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

	Code Requirement	Proposed
Front:	25 ft. (N. Dean Rd.)	314.1 ft. (West)
Rear:	30 ft.	162.3 ft. (East) and 484.1 ft. (East)
Side:	7.5 ft.	35 ft. (North) 38.3 ft. (South)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The Comprehensive Plan provides that certain institutional uses as conditioned are consistent with residential Future Land Use designations through the Special Exception process, this includes religious institutions, daycares and public and private schools.

Similar and compatible with the surrounding area

The new religious building will be integrated with other site improvements, which will contain substantial new and preserved landscaping within the buffers. Furthermore, the east 60 percent portion of the property containing wetlands will be preserved. Moreover, the proposed religious building will not negatively impact the surrounding area since it will be over 35 feet from the closest single-family residential property line to the north.

Shall not act as a detrimental intrusion into a surrounding area

The proposed building will be located at the center of the property, and is over 35 feet from the nearest adjacent property line in addition to a 15 ft. wide buffer yard, and as such will not be a detrimental intrusion to the surrounding area.

Meet the performance standards of the district

The proposed use will meet the performance standards of the district.

Similar in noise, vibration, dust, odor, glare, heat generation

No activity takes place on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the adjacent single-family residences.

Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code

The applicant has provided a 15 ft. wide "Type C" buffer at the north and south property lines, has preserved existing trees within the north and south buffers and within the N. Dean Rd. landscape strip, in accordance with Chapter 24 (Landscaping, Buffering and Open Space) of the Orange County Code.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan, landscape plan and elevations dated August 20, 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 3 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. Hours of operation shall be 7:30 a.m. to 7:00 p.m., daily.
6. No more than four (4) advertised outdoor special events open to the public per calendar year, and the hours of such events shall be limited from 9:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of 30 days prior to the date of each event.

C: Amit Shah
13014 Winter Willow Dr.
Fairfax, VA 22030

Robert Garcia
11 N Summerlin Ave. Suite 100
Orlando, FL 32801

arrymillerlaw
A Business and Real Estate Law Firm

ry L. Miller*
David Berman
Robert Garcia
Christian Walters
Casey Scalise

Kayla Manning, *Legal Asst.*
Chris Santos, *Legal Asst.*

January 13, 2021

VIA HAND DELIVERY AND EMAIL
Orange County Zoning Division
201 South Rosalind Avenue, 1st Floor
Orlando, FL 32801
bza@ocfl.net

RECEIVED
JAN 13 2021
ORANGE COUNTY
ZONING DIVISION

RE: Application-Board of Zoning Adjustment (Special Exception-religious)
5733 North Dean Road, Orlando, FL 32817

To whom it may concern,

Please be advised that the undersigned counsel has the privilege of representing Vaishnav Sangh of USA, a Florida not-for-profit religious corporation as to the purchase of 5733 North Dean Road, Orlando, Florida 32817 ("Property")[1]. Enclosed hereto is Applicant's executed *Application-Board of Zoning Adjudgment (BZA)* requesting a special exception to the Property which is currently zoned R-1A.

Pursuant to Section 1 of the BZA's Application (page 13), please allow this letter to serve as Applicant's detailed cover letter addressing each of the required inquiries:

1. Proposal:	One story house of worship.
2. Size:	10,400 square feet
3. Height:	27 feet
4. Number of buildings:	One
5. Number of current members:	Approximately 100 to 125
6. Proposed building occupancy load:	265
7. Hours of Operation:	Monday to Friday: 11 am- 1 pm; 5 pm-7 pm Saturday & Sunday: 10 am-2 pm; 3 pm-7 pm
8. Current Status:	Vacant Land

[1] The Property is currently owned by Gary A. Young. The applicant and Owner are parties to that Vacant Land Sales Contract dated October 18, 2020.

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Compliance with Section 38-78 Orange County Code

1. **The use shall be consistent with the comprehensive plan:** The Property which is currently zoned R1-A is consistent with low density land use as set forth in the County's Comprehensive Plan.

2. **The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development:** The proposed one-story house of worship would be similar and compatible with the surrounding area and consistent with the pattern of surrounding development as Dean Road and the surrounding area has five (5) other religious organizations already.

   Specifically: (i) to the North of the Property at 5700 N. Dean Road, Oviedo, FL 32765 is the Christian Life Center; (ii) to the North of the Property at 3053W. State Road 426, Oviedo, FL 32765 is East Coast Believers Church; (iii) to the South of the Property at 5873 N. Dean Road, Orlando, FL 32817 is St. Matthews Episcopal Church; (iv) to the South of the Property at 5449 Dean Road, Orlando, FL 32817 is The Church of Jesus Christ of Latter-Day Saints; and (v) to the South of the Property at 2600 Dean Road, Orlando, FL 32817 is Hope Lutheran Church.

3. **The use shall not act as a detrimental intrusion into a surrounding area:** The change in zoning to the Property would not act as a detrimental intrusion into the surrounding area as it would be consistent with the five (5) other houses of worship already located on or near Dean Road, as explained in Number 2 above. In fact, the construction of the proposed one-story house of worship would benefit the community as the subject Property is currently vacant land not being used for any purpose and collecting debris/trash from passerby's. Should a house of worship be constructed if the approved zoning is granted, the new owner would be beautifying the neighborhood by upkeeping the parcel.

4. **The use shall meet the performance standards of the district in which the use is permitted:** The proposed one-story house of worship meets the performance standards of the district as to setbacks, heights, parking, etc. Please see enclosed plans for example containing lighting, parking calculations, fencing, etc.

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:** Use of the Property would be similar to the noise, vibration, dust, and other characteristics associated with the majority of the uses currently permitted in the zoning district which include other religious organizations as noted above and commercial businesses on Dean Road. As set forth above, the limited hours of the proposed house of worship would not create an additional burden on the surrounding parcels. Attached to the Application are letters of support from surrounding neighbors.

6. **Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted:** Please see enclosed landscaping legend. In the event any changes are required, please contact the undersigned as the Applicant will work with the County on said issue.

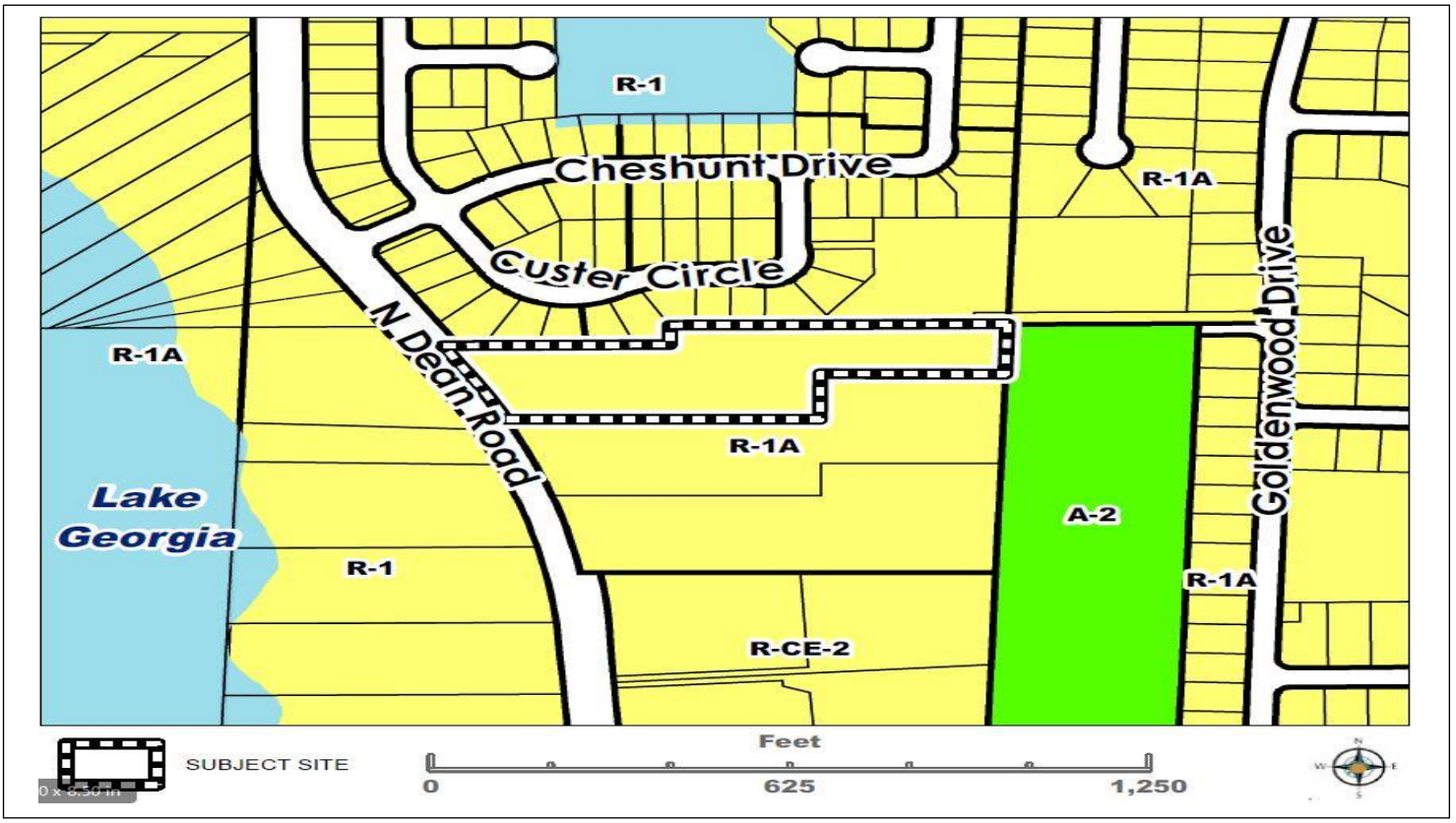
Enclosed please find the requested documentation set forth in Page 13 of the Application (Items 1 through 5) and check number 20211 in the amount of $1,355.00. Should you have any questions please do not hesitate to contact me.

Regards,

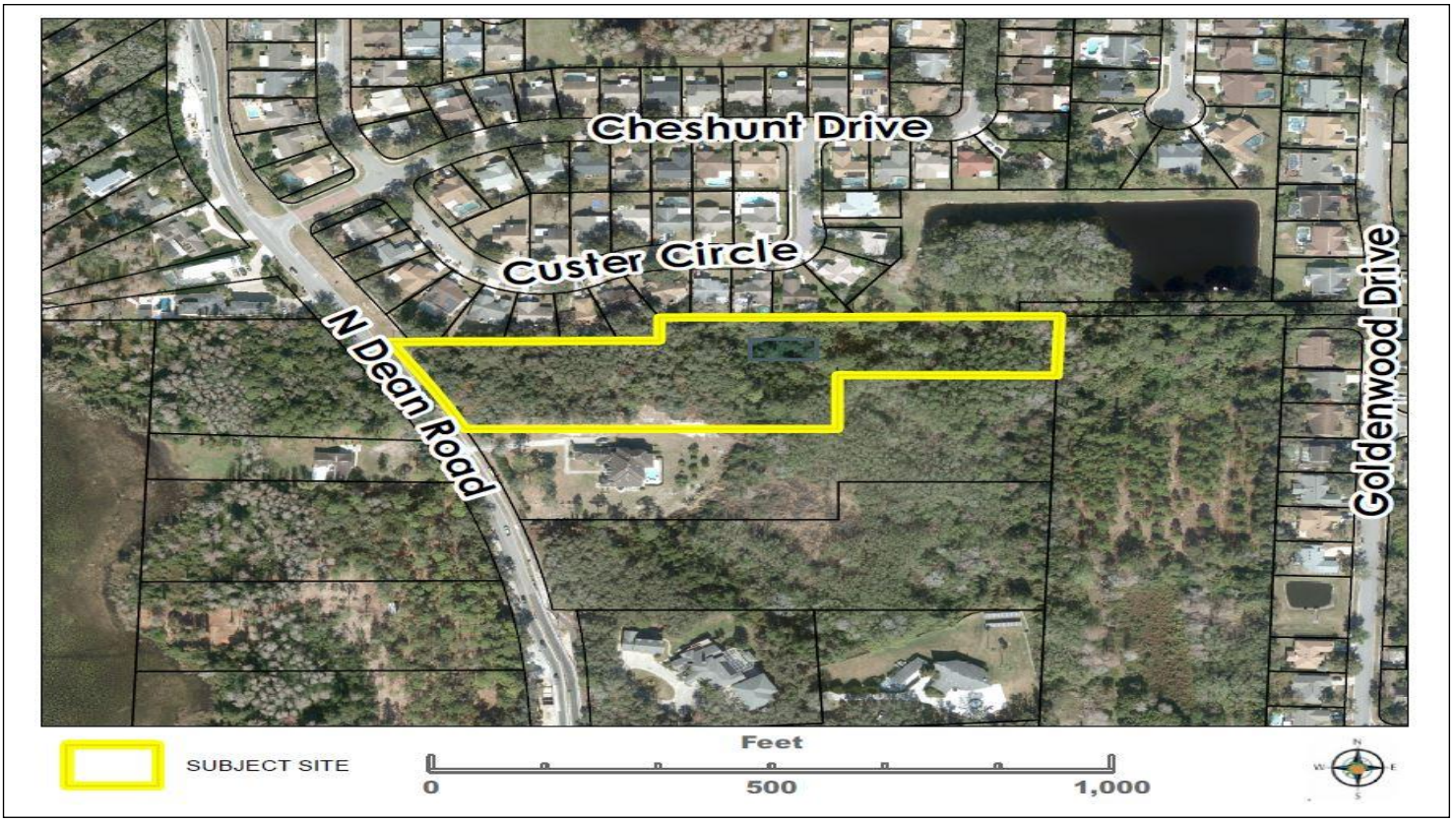
Robert Garcia, Esq.
For the Firm
robert@barrymillerlaw.com

Encl.
cc: client

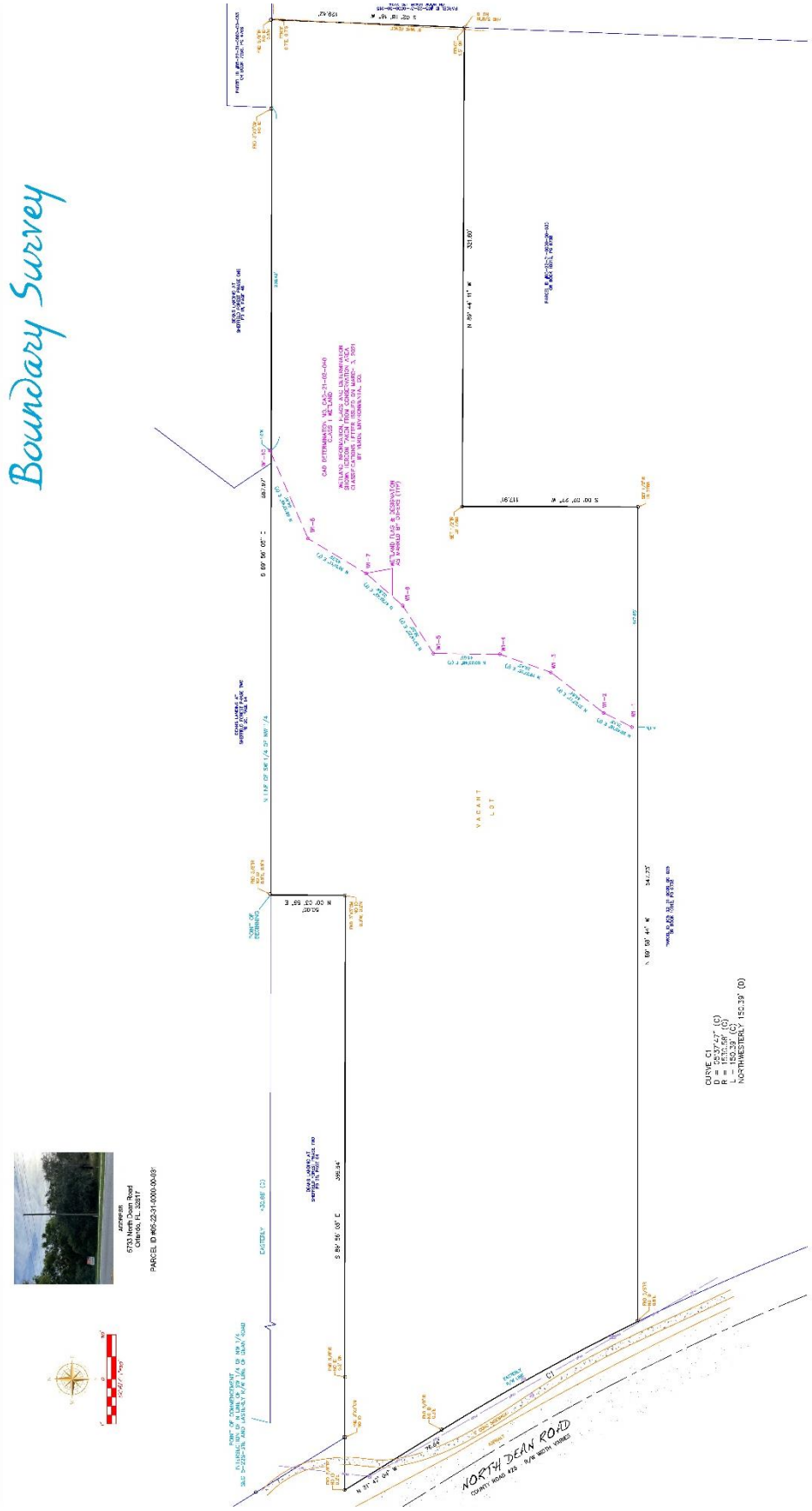
ZONING MAP



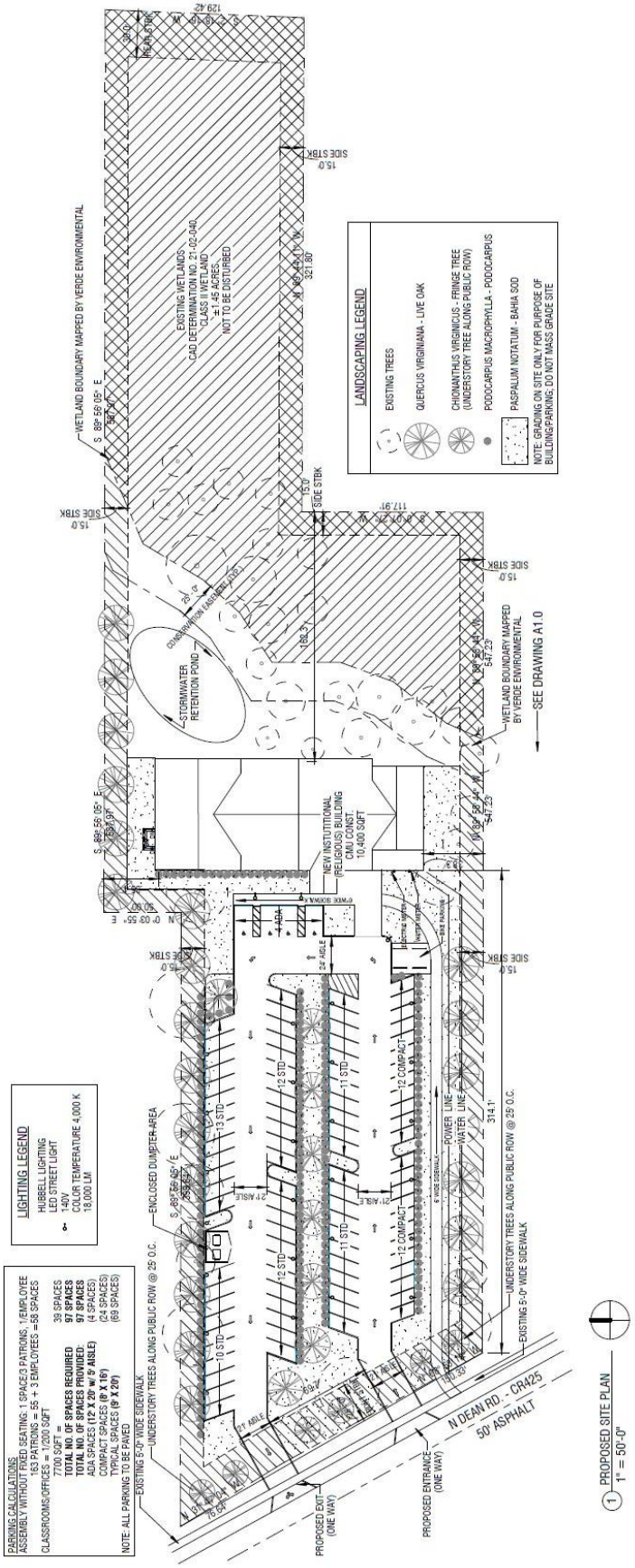
AERIAL MAP



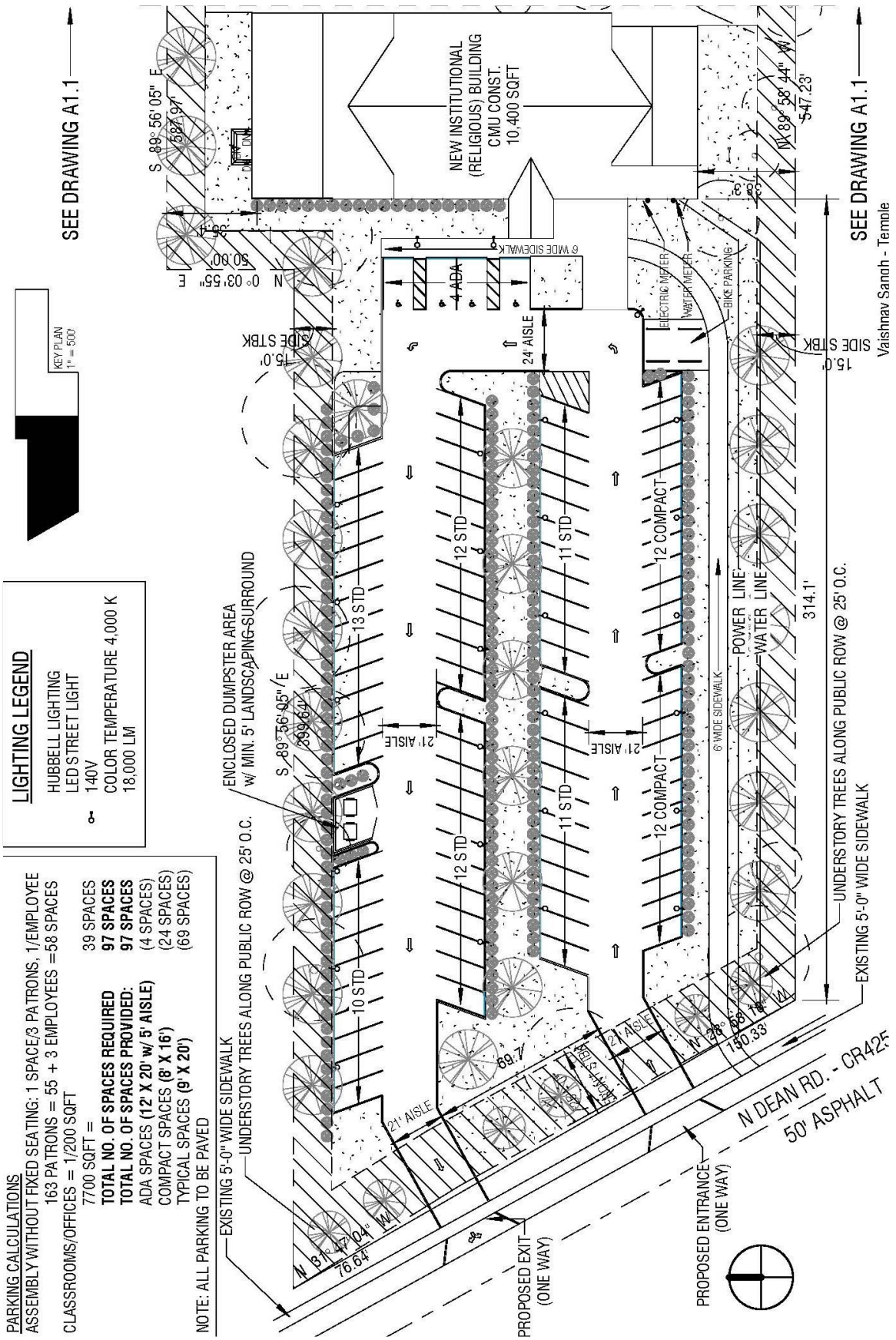
BOUNDARY SURVEY



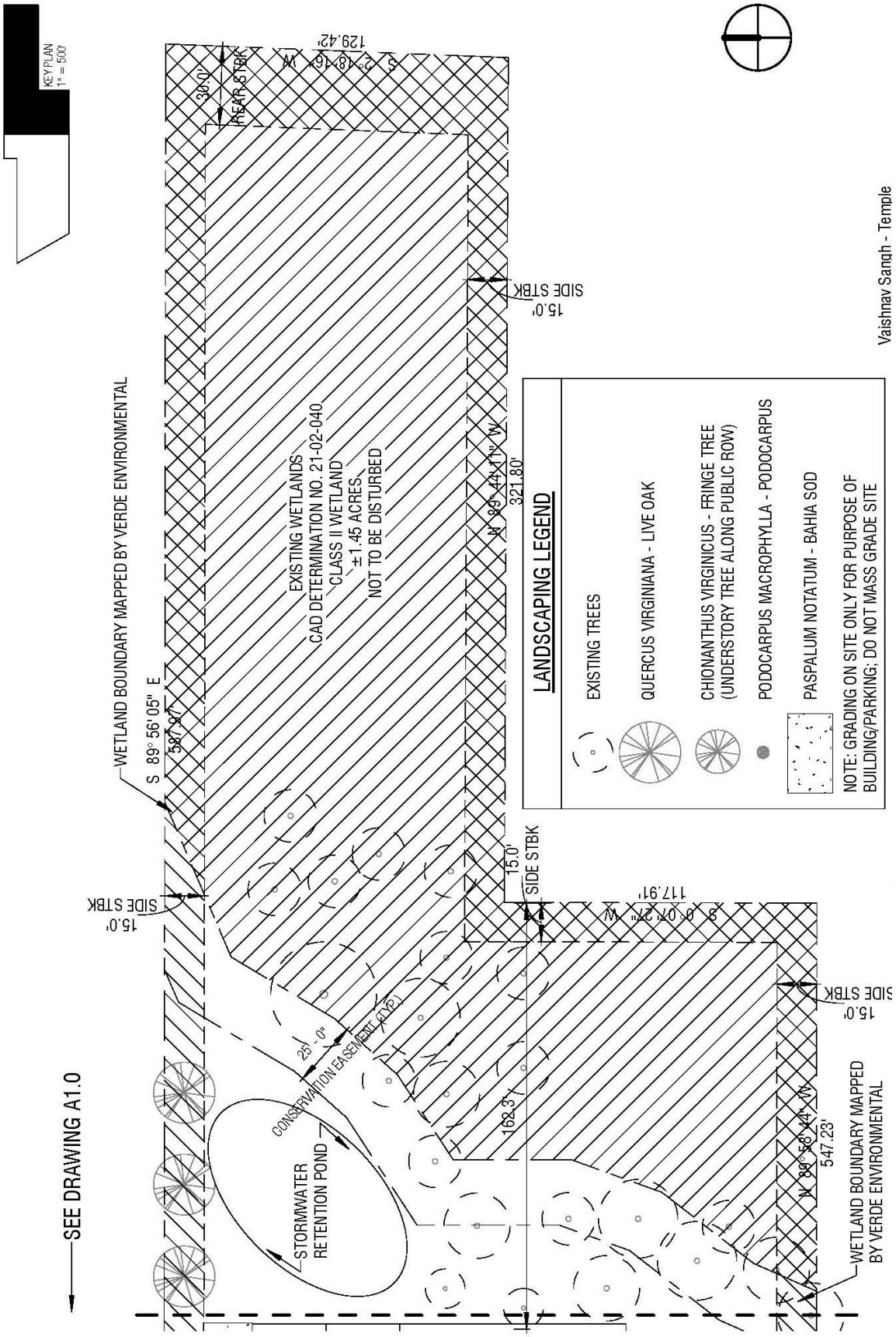
OVERALL SITE PLAN



PARTIAL SITE PLAN (WESTERN PORTION OF SITE)

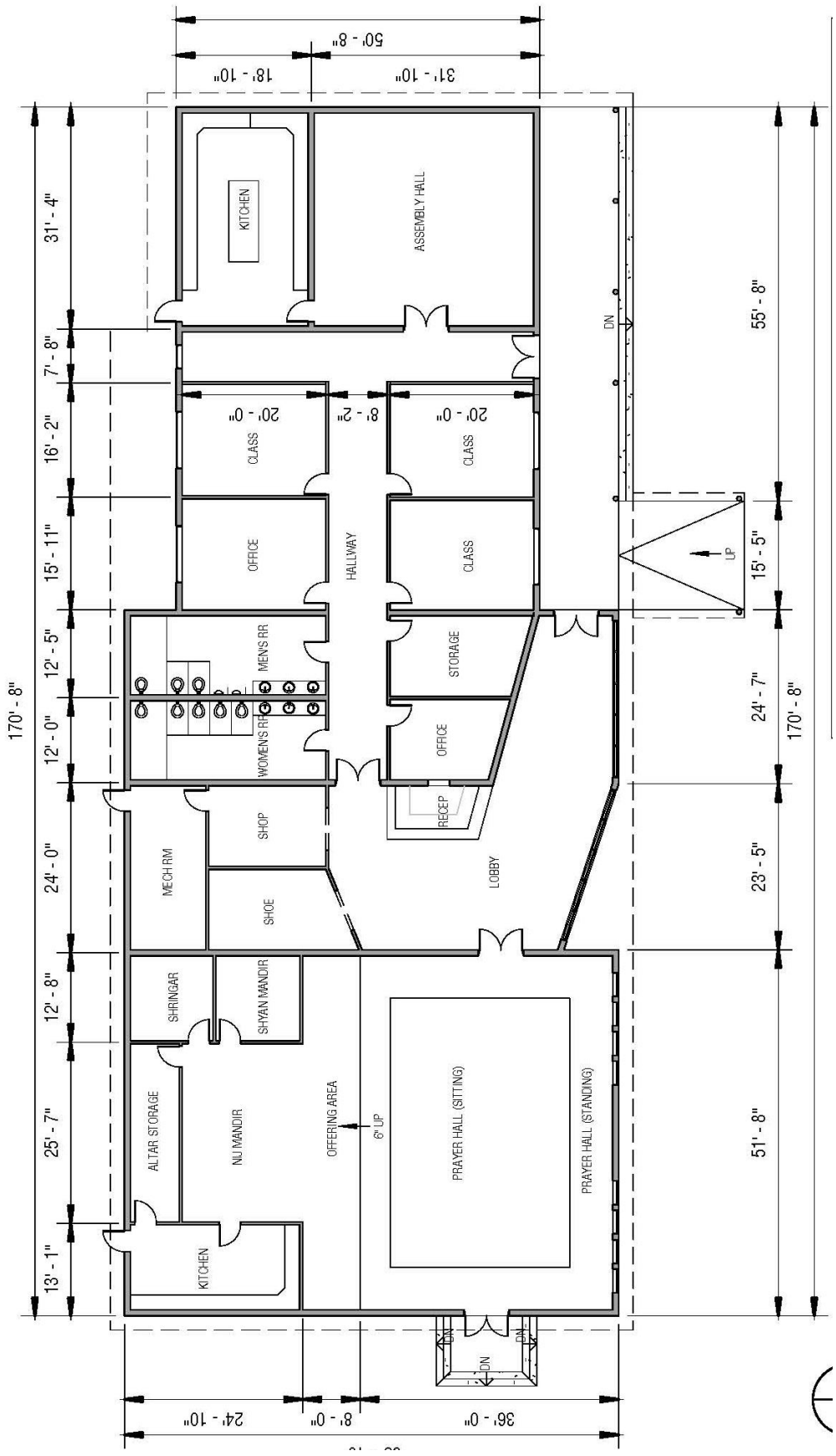


PARTIAL SITE PLAN (EASTERN PORTION OF THE SITE)

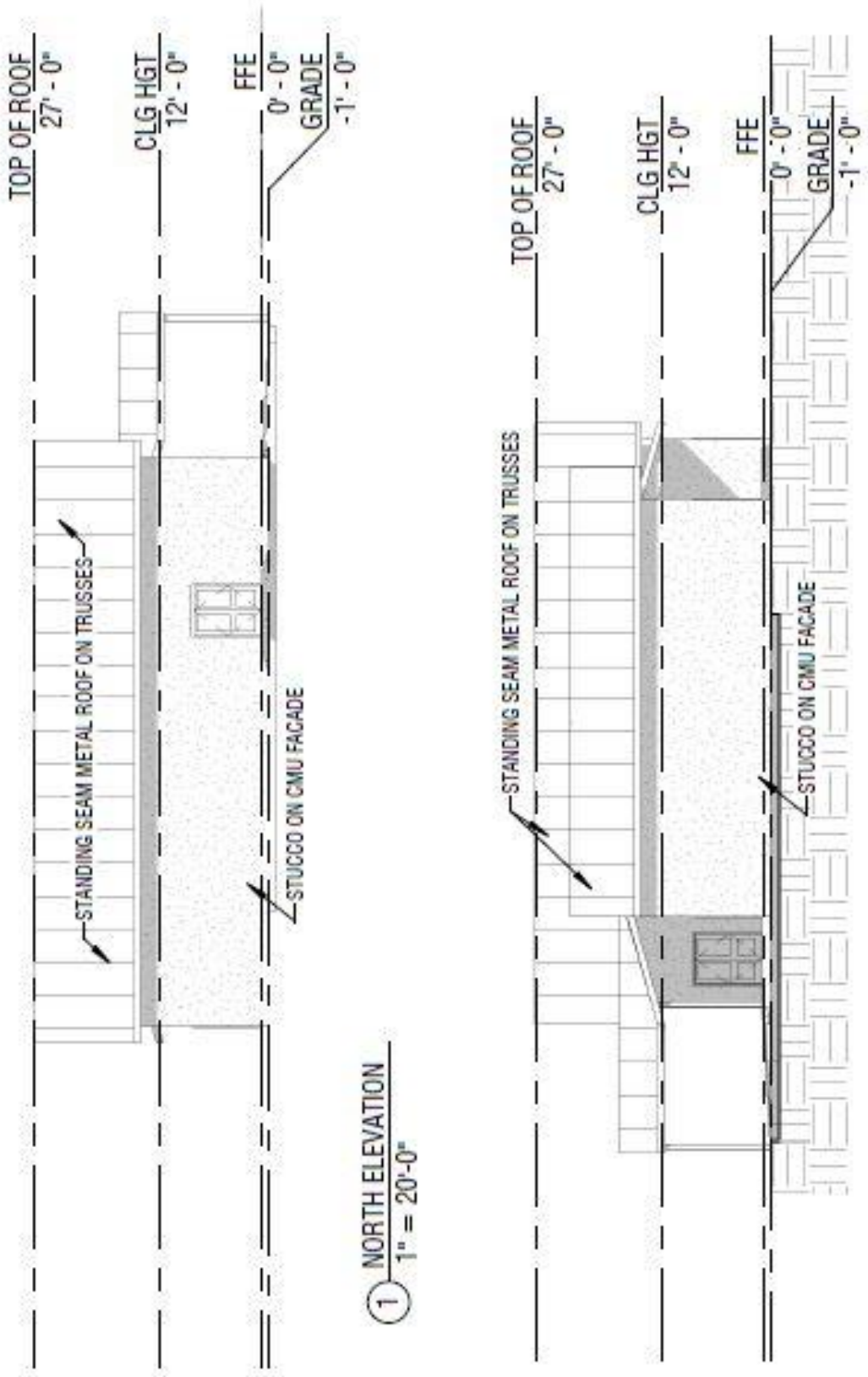


LANDSCAPE PLAN

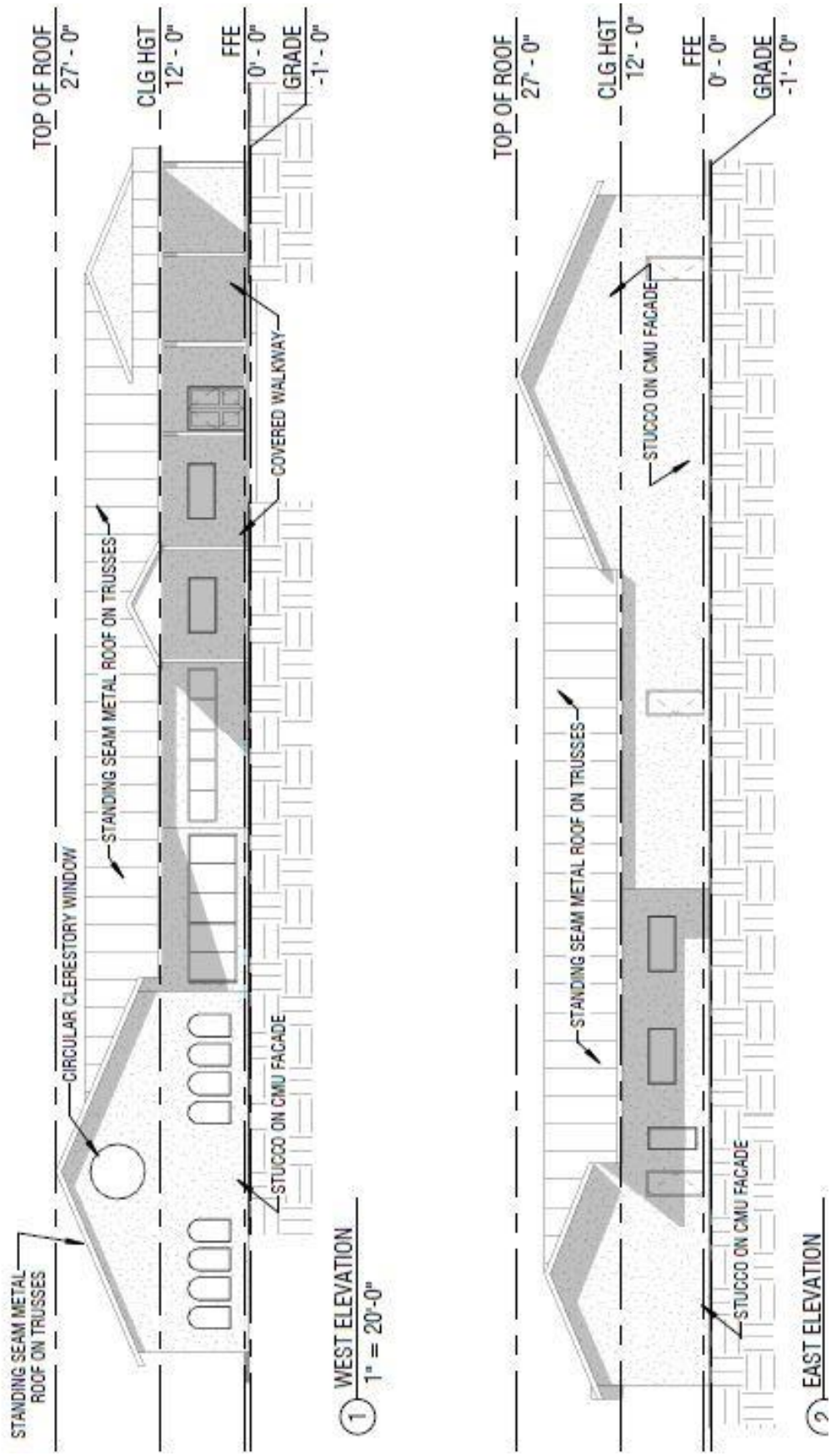
TEMPLE FLOOR PLAN



NORTH/ SOUTH ELEVATIONS



EAST/ WEST ELEVATIONS



SITE PHOTOS

Northwest property line, facing south along N. Dean Rd.

Frontage along N. Dean Rd., facing west towards property

SITE PHOTOS

Frontage along N. Dean Rd., facing northeast towards property to the left

Southwest property line, facing north along N. Dean Rd.

BOARD OF ZONING ADJUSTMENT