



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

September 2, 2021

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)
ORANGE COUNTY GOVERNMENT

<u>Board Member</u>	<u>District</u>
Thomas Moses	1
John Drago	2
Juan Velez	3
Deborah Moskowitz (Chair)	4
Wes A. Hodge (Vice Chair)	5
Charles J. Hawkins, II	6
Roberta Walton	At Large
<u>BZA Staff</u>	
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
SEPTEMBER 2, 2021**

<u>PUBLIC HEARING</u>	<u>APPLICANT</u>	<u>DISTRICT</u>	<u>BZA RECOMMENDATIONS</u>	<u>PAGE #</u>
VA-21-05-025	Emilisa Mackedon, Robert Mackedon	1	Requests #1, 2, & 4, Approved w/Conditions Request #3, Denied	1
SE-21-09-087	Eastland Baptist Church (William E Burkett P.E.)	3	Approved w/Conditions	16
VA-21-07-057	Frank McMillan	2	Approved w/Conditions	32
VA-21-09-085	Wayne Randolph	5	Approved w/Conditions	45
VA-21-09-086	Jeremy Vannice	3	Approved w/Conditions	57
VA-21-06-033	Jorge Salazar	4	Approved w/Conditions	77
VA-21-08-064	Samia Indarawis	5	Approved w/Conditions	89
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ORANGE COUNTY

ZONING DISTRICTS

Agricultural Districts

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

Residential Districts

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

Non-Residential Districts

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

Other District

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

SITE & BUILDING REQUIREMENTS

Orange County Code Section 38-1501. Basic Requirements

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

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

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

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

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

FOOTNOTES

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

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

VARIANCE CRITERIA:

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

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

SPECIAL EXCEPTION CRITERIA:

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

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

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

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **SEP 02, 2021**

Case Planner: **Nick Balevich (407) 836-0092**

Case #: **VA-21-05-025**

Commission District: **#1**

GENERAL INFORMATION

APPLICANT(s): EMILISA MACKEDON, ROBERT MACKEDON

OWNER(s): EMILISA MACKEDON-PRATS, ROBERT MACKEDON

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

- 1) To allow a detached accessory dwelling unit (ADU) with 1,245 sq. ft. of living area in lieu of 1,000 sq. ft.
- 2) To allow an ADU to be located in front of the primary dwelling unit in lieu of behind or along side.
- 3) To allow an ADU with 3 bedrooms in lieu of a maximum of 2.
- 4) To allow an ADU with a 25 ft. front setback in lieu of 35 ft.
- ~~5) To allow a 30 ft. rear setback in lieu of 50 ft.~~

PROPERTY LOCATION: 1962 Windermere Road, Windermere, Florida, 34786, southwest corner of Windermere Rd. and McKinnon Rd., east of Lake Crescent, south of Stoneybrook West Pkwy.

PARCEL ID: 06-23-28-0000-00-009

LOT SIZE: +/- 0.89 acres (38,768 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 36

DECISION: Recommended **APPROVAL** of the Variance requests #1, #2 and #4, 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; 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; 5 in favor, 0 opposed, 1 abstained and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated July 22, 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 covered deck/gazebo 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 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.
7. The east/Windermere Rd. façade shall be updated to include 2 windows to provide for transparency and architectural interest on that street facing façade.

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 variance #5 was initially advertised for the proposed ADU but was deemed unnecessary and was subsequently identified in strike-out text in the Staff Report Booklet for reference. Staff noted that no comments were received in support or in opposition to the request.

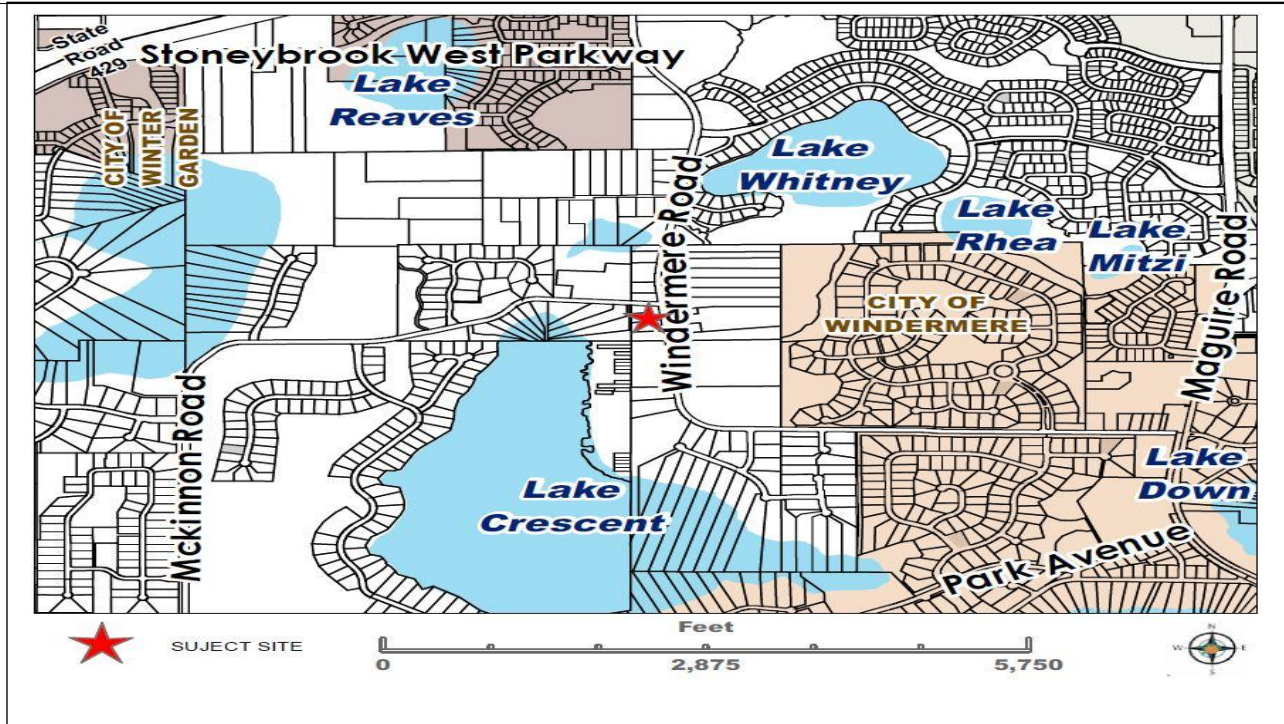
The owner stated the need for the additional living area, noted the unique “L” shape of the property, stated that the portion of the lot pertaining to the request cannot be utilized for any other purpose and noted that the size and scale of the proposed larger accessory structure is appropriate. The owner stated that in order to preserve all the trees in the rear yard she does not want to construct the ADU behind the house. She also noted that a letter of support has been provided from the neighbor located across the street.

There was no one in attendance to speak in favor or in opposition to the request. The BZA discussed the proposed location compared to the rear yard alternative location. The BZA also discussed the conversion of the proposed 3rd bedroom to an office by removing the closet. The BZA also discussed the odd shape of the lot and the appropriateness of the proposed size of the ADU and unanimously recommended approval of variances #1, 2, and 4, subject to the seven (7) conditions in the staff report and denial of variance #3 by a 5-0 vote.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-CE	R-CE	R-CE	R-CE	R-CE
Future Land Use	West Windermere Rural Settlement/RS 1/1	West Windermere Rural Settlement/RS 1/1	West Windermere Rural Settlement/RS 1/1	RS 1/1	West Windermere Rural Settlement/RS 1/1
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-CE, Rural Country Estate zoning district, which allows primarily single-family homes and certain agricultural uses with a minimum lot area of one (1) acre.

The subject property is located in the West Windermere Rural Settlement. Rural settlements are established through the Comprehensive Plan, and are intended to identify areas with unique traits and characteristics which the residents of those area wish to preserve. The rural settlement designation typically impacts such development factors as residential density, location and intensity of commercial and other nonresidential uses, and with the exception of density, have no impact on single-family development. In the West Windermere Rural Settlement, the maximum density is one (1) unit per acre for new development.

The area around the subject site consists of single-family homes and vacant lots. The subject property is a 0.89 acre unplatted lot. In 1996, the BZA approved a variance to create 3 substandard lots of less than 1 acre, which included the subject property. The subject site is an “L” shaped corner lot, and due to the unusual shape, the location of the existing house fronting on Windermere Rd., and the pattern of development along Windermere Rd., the front of this lot has been determined to be on Windermere Rd., and the side street is considered to be McKinnon Rd.

The property is developed with a 5,242 sq. ft. 2 story single family home with a detached garage and a swimming pool, constructed in 2001. The property also has a covered deck/gazebo, built in 2017 without permits. The owners purchased the property in 1999.

The proposal is to add a 1 story accessory dwelling unit (ADU) on the north-east portion of the lot, which requires a number of variances. The ADU is proposed to contain 1,245 sq. ft. of living area in lieu of a maximum of 1,000 sq. ft. (variance # 1); and to be located in front of the primary dwelling unit in lieu of behind or along side (variance # 2); with 3 bedrooms in lieu of 2 (variance # 3); and, with a 25 ft. front setback in lieu of 35 ft. (variance # 4). Due to the size, the ADU was initially reviewed as a principal structure, which requires a rear setback of 50 ft., however the required rear setback for a 1 story ADU is 5 ft., and thus variance # 5 has been determined not to be necessary. The property is uniquely shaped with a portion of the property that juts out to the north along McKinnon Rd., which is the proposed location for the ADU. However, there are alternatives to allow the relocation of the proposed ADU behind the existing house that meets setback requirements.

It should be noted that one of the provisions of Sec. 38-1426(3)(c) pertaining to a detached accessory dwelling unit requires the minimum lot size to meet the applicable minimum lot area of the applicable zoning district (which in this case is 1 acre), however, the prior granted variance referenced above essentially renders the existing lot area as a conforming lot of record, thus meeting the lot area provisions of the accessory dwelling unit requirements.

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 small in relation to the home and property, thus the limitation on maximum square footage and number of bedrooms.

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.	15 ft.
Min. Lot Width:	130 ft.	188 ft.
Min. Lot Size:	1 acre (43,560 sq. ft.)	0.89 acres (38,768 sq. ft.)

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

	Code Requirement	Proposed
Front:	35 ft. Windermere Rd.	25 ft. ADU (East-Variance #4)
Rear:	50 ft. Residence/5 ft. ADU	100 ft. Residence/30 ft. ADU (West)
Side:	10 ft.	10 ft. South/50 ft. North (Residence)
Side street:	15 ft. (McKinnon Rd.)	35 ft. (North)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The unique shape of the lot can be considered to be a special condition or circumstance particular to this property. However, it does not preclude the location of the ADU in the rear yard, which conforms to size requirements. Also, there are no special conditions or circumstances that would create the need for a larger 3 bedroom ADU.

Not Self-Created

The request for the variances is self-created, as the requests could be modified to eliminate the need for variances.

No Special Privilege Conferred

Granting the variances as requested will confer special privilege that is denied to other properties in the area since the location and size of the ADU could be modified.

Deprivation of Rights

The owners are not being deprived of the right to construct an ADU on the property, as they could build one with a size and location that meets code requirements.

Minimum Possible Variance

The request is not the minimum, since there are other alternatives to construct the ADU in a manner which meets setback and size requirements

Purpose and Intent

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

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated July 22, 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 covered deck/gazebo 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 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.
 7. The east/Windermere Rd. façade shall be updated to include 2 windows to provide for transparency and architectural interest on that street facing façade.
- C: Emilisa and Robert Mackedon
1962 Windermere Rd.
Windermere, FL 34786

COVER LETTER AND SPECIAL EXCEPTION CRITERIA

This application is for a request for a variance from the requirement to have lot area equal to the minimum required for the R-CE zoning district and from the requirement of the maximum required square footage. We are requesting to build an 1,245 square foot ADU on a .89 acre lot zoned R-CE. I currently live, I have homestead on this property and I'd like to build an ADU for my aging momma, so that I can take care of her in lieu of assisted living facilities. The ADU will be at least 50 ft away from the nearest house. I believe this request meets the six standards for variance approval as outlined below:

(1) Special Conditions and Circumstances:

My house, which is the subject property is zoned R-CE, Country Estate District. The R-CE district is primarily residential that allows for very low residential densities. The minimum lot size is 1 acre, my lot is approximately .89 acres which makes it a substandard lot. Surrounding properties to the east, west, and south of me are also R-CE as well as substandard lots, in other words they are also less than 1 acres. The proposed ADU is compatible with the development pattern of the existing Rural Settlement consistent with adjacent and surrounding uses which are residential and rural in nature. In order to keep my mommy close, we request that the ADU is 1,251 sq ft, slightly more than the required, with 3 bedrooms in lieu of 2 so that it not only meets her needs, but also keep the structure similar to surrounding buildings in size, shape, and scale of our neighborhood.

(2) Not Self-Created:

The ADU will be consistent with the pattern of surrounding development since it's only 245 square-feet above the maximum allowed. My momma is 78 years old and I'm concerned about her care as she gets older. My brother and I would love for her to live close to me however, in this area that is virtually impossible. I have a vacant area of about .24 acres that can be put to use. An ADU would give her space and independence, while it gives me peace of mind that she will be very close to keep an eye on. My momma would love to not only have a master bedroom for herself but also a guest room so that my brother and his family can come visit from Chicago and have a place to stay. Additionally, she would love a room to make into an office, since she wants to have a room to place her desk and computer, which is what she does to keep herself entertained. This additional room will ultimately become a room for overnight 24 hour care by either a hired nurse or hospice. She also loves to garden which would make my .89 acre property perfect for her.

(3) No Special Privilege Conferred

The ADU will be smaller in shape and scale, and occupied only by my mommy, a single elder person with a single vehicle, whom doesn't necessarily leave her home very often, hence will not act as a detrimental intrusion into the surrounding area with a very small 1,245 sq ft ADU. The

approval of this variance would be consistent with approvals of similar request with smaller properties in this district.

(4) Deprivation of Rights

We have no intentions to build to develop or violate any restrictions. My mommy is 78 years old, she still has many many years to be with us. There is that small piece of land they could be put to good use.

(5) Minimum Possible Variance

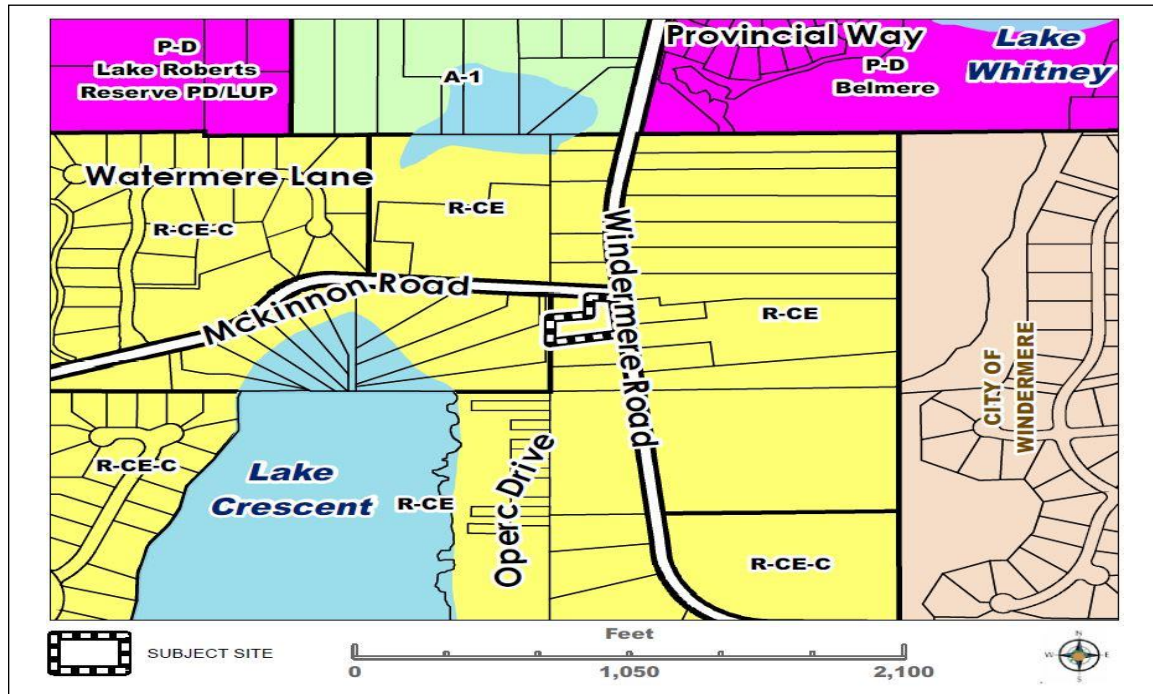
The use of this ADU is going to be, although slightly above the maximum, still be a reasonable use of land that is available, building or structure. There should be no concern with noise, activity, lighting, and traffic that is not consistent with the surrounding uses.

(6) Purpose and Intent

Our purpose and intent is to care for my aging mommy, to have her more than reasonably close by, while giving her privacy, space, independence and protection at the same time. There's no reason why a very small 1,245 sq ft ADU would not be in harmony with the purpose and intent of the Zoning Regulations, or to be injurious or detrimental to our neighborhood or public welfare. I have amazing neighbors, all around me and they have given my their blessing to have my mommy living close by in her own home.

In conclusion, the County has previously approved special exceptions for ADUs with special exceptions and variances to be located in established neighborhoods and residential areas, so we are hoping that we can similarly be approved to build this small ADU on my property for my mommy, so that my family and I can take care of her as she gets older and her needs become more challenging. In the current state of events, whether fact or fiction, homes for the elderly or assisted living facilities are not safe and are isolating. I do not wish to put my mommy in a home now or in the distant future.

ZONING MAP

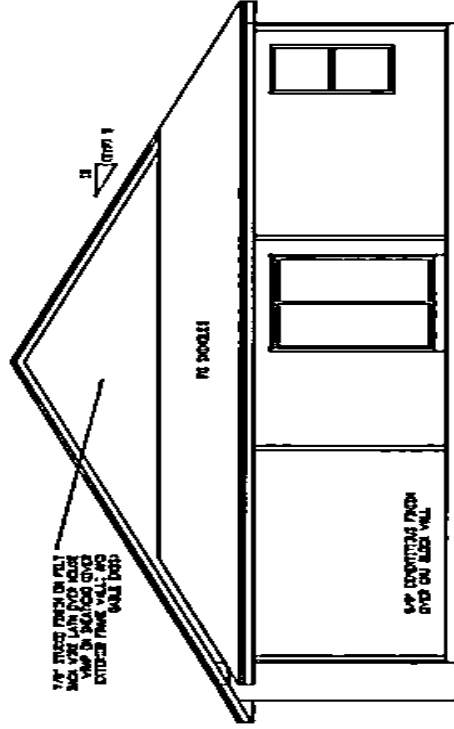


AERIAL MAP

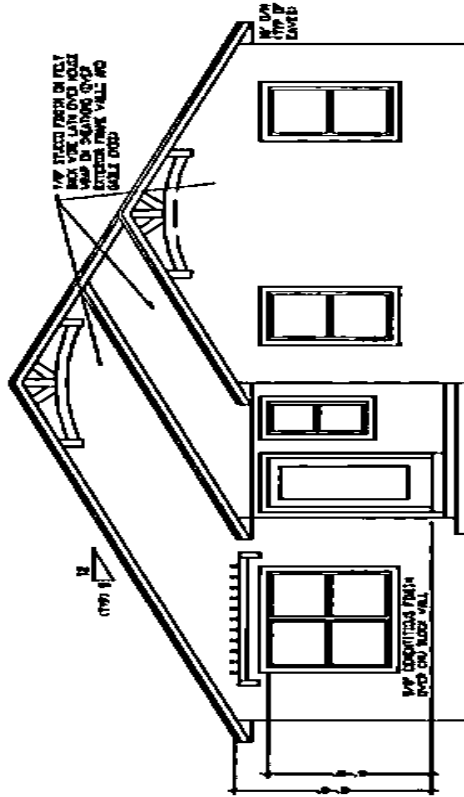


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ELEVATIONS



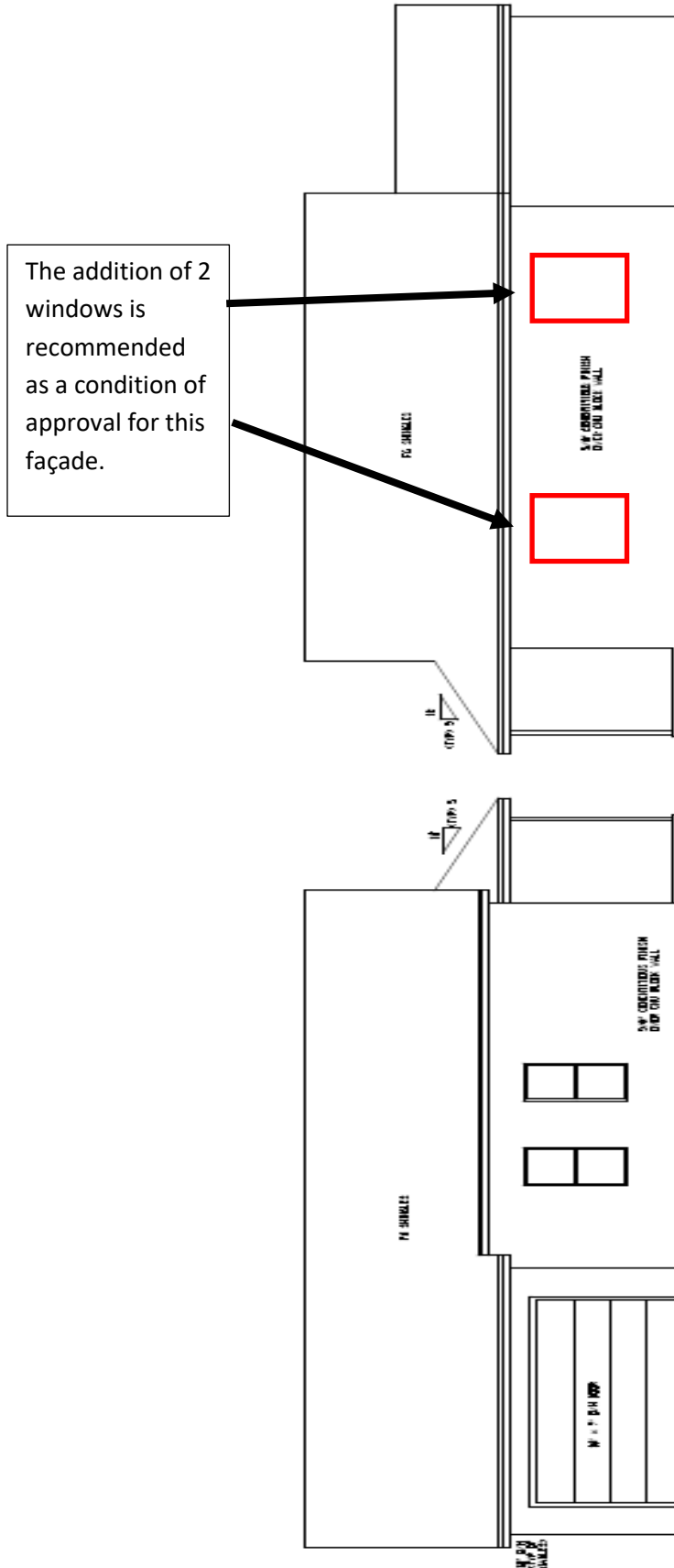
SOUTH ELEVATION



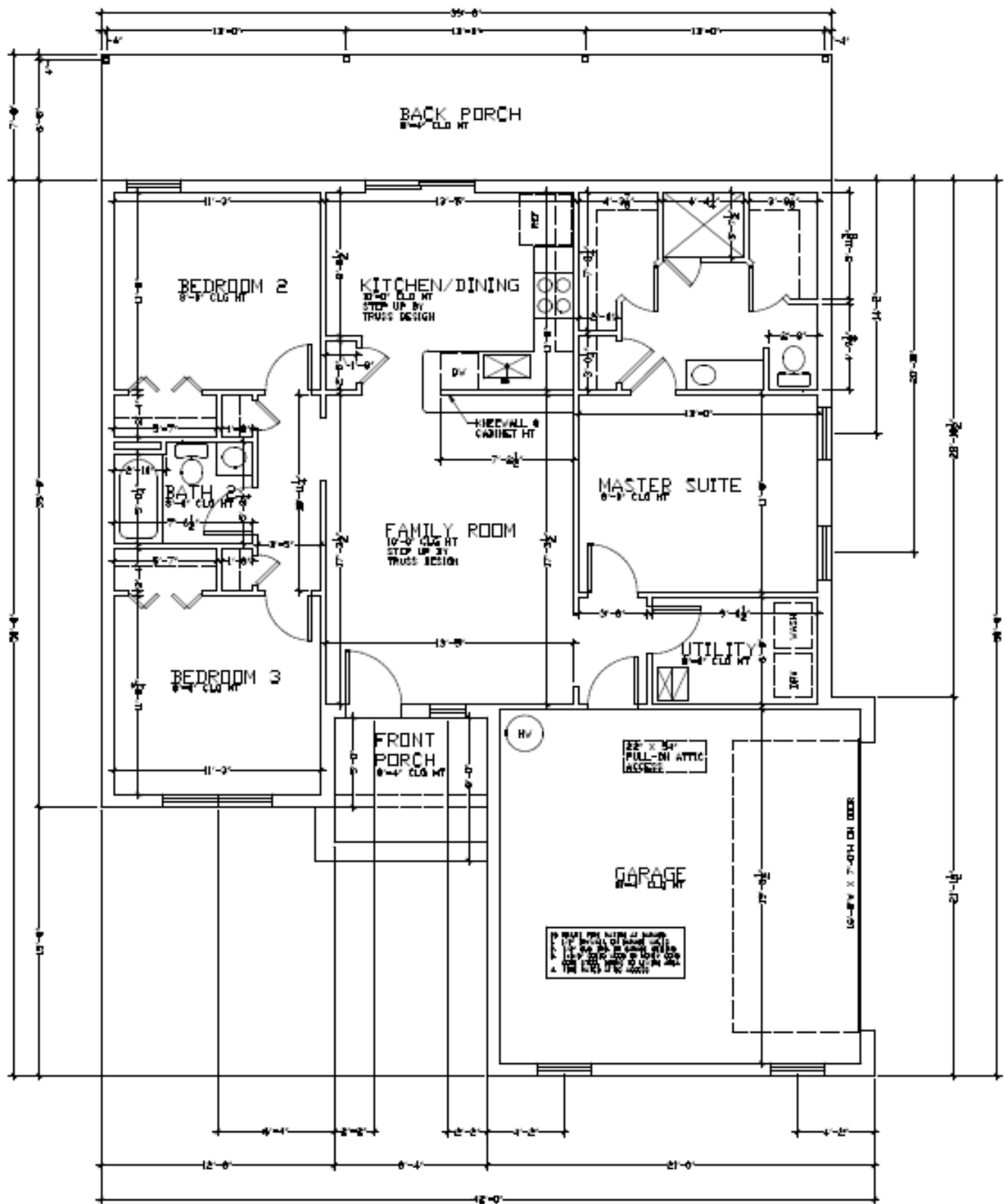
MCKINNON RD.

NORTH ELEVATION

ELEVATIONS



FLOOR PLAN



SITE PHOTOS



Front and ADU location from Windermere Rd. looking west



Proposed ADU location from McKinnon Rd. looking south

SITE PHOTOS



Unpermitted covered deck/gazebo behind house

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **SEP 02, 2021**

Case Planner: **Nick Balevich (407) 836-0092**

Case #: **SE-21-09-087**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): EASTLAND BAPTIST CHURCH (WILLIAM E BURKETT P.E.)

OWNER(s): EASTLAND BAPTIST CHURCH INC

REQUEST: Amendment to an existing Special Exception for a religious institution in the R-1AA zoning district to allow the addition of a 12,000 sq. ft. activity center building.

PROPERTY LOCATION: 9000 Lake Underhill Road, Orlando, Florida, 32825, south side of Lake Underhill Rd., west of State Road 417, east of S. Chickasaw Trl.

PARCEL ID: 31-22-31-0000-00-007

LOT SIZE: 19.3 acres (18.3 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 200

DECISION: Recommended **APPROVAL** of the amendment to the Special Exception 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 (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated August 11, 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 project shall comply with Article XVI of Chapter 9 of the Orange County Code, Exterior Lighting Standards. All lighting shall be directional fixtures down lit in the dark skies method.

5. No more than four (4) outdoor special events per year between the hours of 8:00 a.m. to 9:00 p.m. will be allowed on the church property. The activity center shall house indoor activities only and the use of outdoor amplified sound and music is prohibited.
6. A permit shall be obtained for the shipping container and gazebo, or the structures shall be removed, prior to issuance of a permit for the new building.
7. A permit shall be obtained for the activity center building within 4 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.
8. The activity center building shall utilize a stone veneer exterior with colors to match the exterior of the existing buildings on site.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff clarified the number of parking spaces provided for the campus, discussed the applicant's revision to the stated number of students per grade and confirmed that the parking demand meets code requirements. 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 no comments were received in opposition.

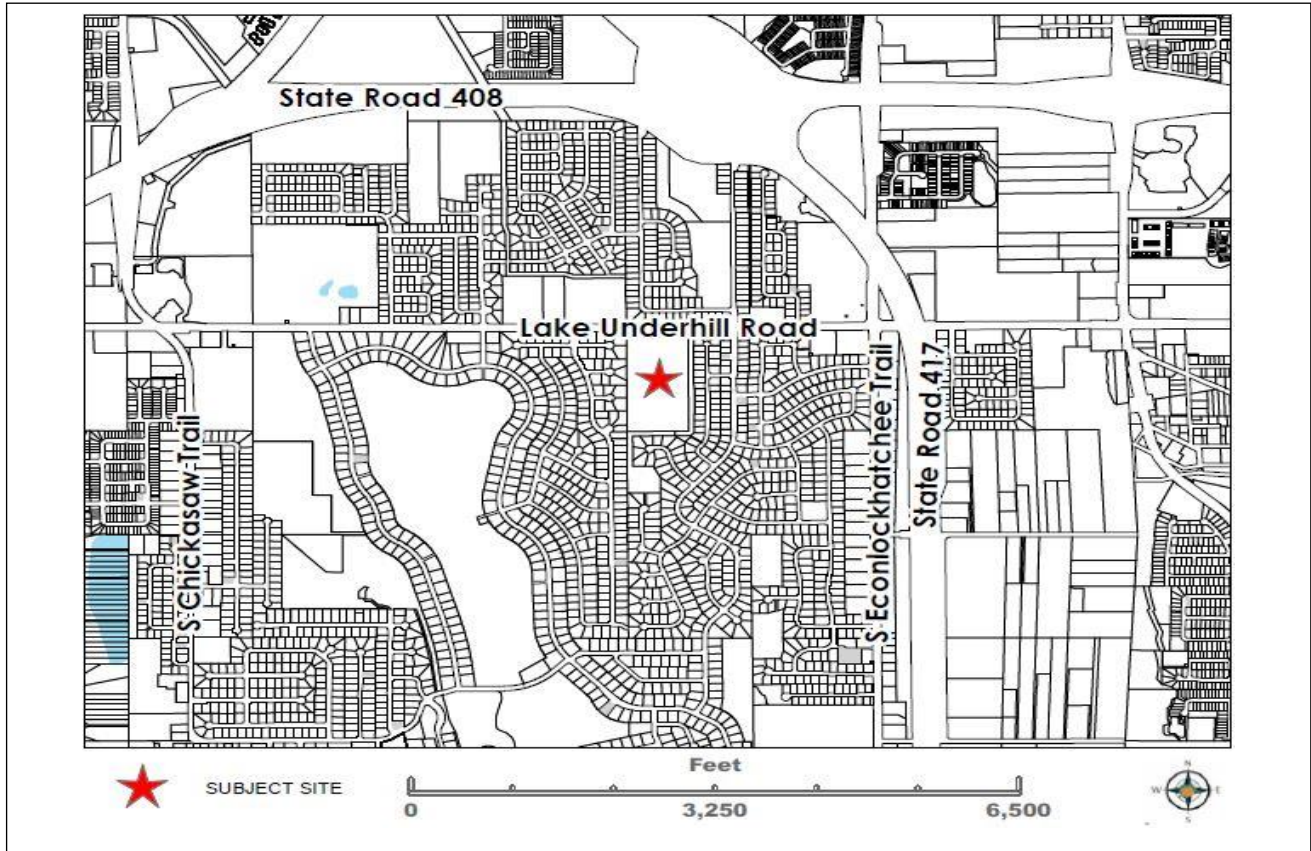
The applicant had no additional comments to the staff presentation and also discussed a commitment to provide architectural compatibility for the proposed activity center, including the use of stone veneer exterior with colors to match the exterior of the existing buildings.

There was no one to speak in favor or in opposition to the request. The BZA discussed the exterior finish of the proposed building and unanimously recommended approval of the Special Exception by a 6-0 vote, subject to the seven (7) conditions in the staff report, and the addition of condition #8 which states "the activity center building shall utilize a stone veneer exterior with colors to match the exterior of the existing buildings on site."

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1AA, Single Family Dwelling district, which allows single-family homes on lots a minimum of 10,000 sq. ft. or greater. It also allows for religious institutions through the Special Exception process.

The subject property is a 19.3 acre unplatted parcel that conforms to the minimum lot requirements of the zoning district. The site contains a 59,856 sq. ft. church, with ancillary structures including a sanctuary, modular

classrooms and outdoor ballfields that were constructed from 1988 to 2009. A 4,988 sq. ft. 1 story building that was constructed in 1991, is proposed to be removed and replaced with a proposed activity center. The site contains ingress/egress from Lake Underhill Rd.

Previous BZA approvals include:

- April 1986: Special Exception approval (#45) to establish the religious use and a daycare.
- January 2001: Special Exception approval (SE-01-01-002) to expand the religious use to include the addition of educational facility, a private school, and facilities to permit four modular classrooms.
- April 2001: Special Exception approval (SE-01-04-026) to allow the paving of a parking lot in front of the Sanctuary.
- January 2008: Special Exception approval (SE-08-01-009) to allow an 11,050 sq. ft. gymnasium. The gymnasium was never constructed.
- January 2009: Special Exception approval (SE-09-01-014) to expand the religious use facility to allow a modular classroom building, a baseball field and softball field.
- August 2017: Special Exception approval (SE-17-08-075) to allow a 12,000 sq. ft. gymnasium. The gymnasium was never constructed.

The applicant is proposing a 12,000 sq. ft. activity center building on the rear of the property, which includes a gymnasium with bathrooms, offices and meeting rooms for the church. The new activity center will be integrated within the existing site's parking, internal circulation and pedestrian access. As mentioned above, the applicant had received approval for this same proposal in 2017; however, the Special Exception approval expired in 2019, since permits were not obtained.

The parking requirements for the overall campus are as follows:

Church assembly (sanctuary): 1,075 seats, @ 1 parking space per 3 seats, requiring 359 spaces

Church employees: 15 employees, @ 1 parking space per employee, requiring 15 spaces

School: maximum 13 classrooms, @ 4 parking spaces per classroom, requiring 52 spaces

High school: maximum 125 students, @ 1 parking space per 3 students, plus maximum 7 classrooms, @ 1 parking space per classroom, requiring 49 spaces

The total parking spaces required for the entire campus is 460 parking spaces. The existing campus parking area contains 185 paved parking spaces, 307 grass parking spaces, including 12 paved handicap spaces for a total of 494 spaces, thus meeting the parking code requirement.

The hours of operation for all the campus operations are not proposed to change: For the school, Monday through Friday and from 7 a.m. to 6 p.m.; and typical hours for the church services, Sunday from 9:00 a.m. to 8:00 p.m.

During a site visit, staff observed a gazebo and shipping container on the property, but were unable to locate permits for these. The applicant has indicated they will obtain permits.

The Orange County Environmental Protection Division has reviewed the case and has not provided any objections.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	35 ft.
Min. Lot Width:	85 ft.	650 ft.
Min. Lot Size:	0.5 acre	19.3 acres

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

	Code Requirement	Proposed
Front:	25 ft.	750 ft. (North)
Rear:	30 ft.	431 ft. (South)
Side:	7.5 ft.	143 ft. (West) 385 ft. (East)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of religious facilities with ancillary uses as conditioned through the Special Exception process is consistent with the Comprehensive Plan.

Similar and compatible with the surrounding area

The new building will be integrated with other existing structures located on the religious institution campus, which contains existing landscaping and buffers. The proposed building will be ancillary to the existing religious use, and will not negatively impact the surrounding area since it will be over 143 feet from the closest single-family residence.

Shall not act as a detrimental intrusion into a surrounding area

The new building will be located at the back of the property, and is over 143 feet from the nearest adjacent property line and as such will not be a detrimental intrusion to the surrounding area.

Meet the performance standards of the district

The proposed use meets the performance standards of the district.

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

The applicant has not proposed any activities on the property that would generate noise, vibration, dust, odor, glare, or heat that is not similar to the existing religious institution.

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

The proposal will be located entirely within an existing campus on a developed site and no additional buffer yards are required.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated August 11, 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 project shall comply with Article XVI of Chapter 9 of the Orange County Code, Exterior Lighting Standards. All lighting shall be directional fixtures down lit in the dark skies method.
 5. No more than four (4) outdoor special events per year between the hours of 8:00 a.m. to 9:00 p.m. will be allowed on the church property. The activity center shall house indoor activities only and the use of outdoor amplified sound and music is prohibited.
 6. A permit shall be obtained for the shipping container and gazebo, or the structures shall be removed, prior to issuance of a permit for the new building.
 7. A permit shall be obtained for the activity center building within 4 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: Mr. William E Burkett. P.E.
105 E Robinson St. Suite 501
Orlando, FL 32801



July 12, 2021

Board of Zoning Adjustment
Orange County Zoning Division
201 S. Rosalind Avenue, 1st Floor
Orlando, FL 32802-1393

RE: Eastland Baptist Church Activity Center
BEI Job No. 1708.101

Dear BZA:

On behalf of Eastland Baptist Church, Inc., **Burkett Engineering, Inc.** is requesting a Special Exception for the Eastland Baptist Church Activity Center located at 9000 Lake Underhill Road.

The 19.3 +/- acre site consists of water, wastewater, drainage, and paving facilities in support of the existing church and private school facilities. A Special Exception was approved in 2008 (SE-08-01-009) for a 9,000 SF foot gymnasium activity center. This facility was not constructed, and the Special Exception approval expired. Another Special Exception was approved in 2017 (SE-17-08-075) for a 12,000 SF activity center. This Special Exception expired in 2019 due to a lack of permitting and construction activity. Below, in bold, is the justification for how the requested Special Exception meets the six standards for Special Exception approval as outlined in Section 38-78 of the Orange County Code.

1. The use shall be consistent with the Comprehensive Policy Plan.
The proposed activity center is consistent with the Comprehensive Policy in that the proposed Activity Center is a typical use within church property, the current use. No change is proposed to the previously approved Special Exception SE-17-08-075.
2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.
This is an existing church, and the proposed activity center is a compatible and typical use on church property. No change is proposed from the previously approved Special Exception SE-17-08-075.
3. The use shall not act as a detrimental intrusion into a surrounding area.
This is an existing church, and the proposed activity center is typical for church activities. No change is proposed to the previously approved Special Exception SE-17-08-075.
4. The use shall meet the performance standards of the district in which the use is permitted.
The proposed activity center is a typical church facility and therefore shall function according to the existing permitted uses. No change is proposed to the previously approved Special Exception SE-17-08-075.

Engineering with Integrity

105 E. Robinson Street, Suite 501, Orlando, Florida 32801 Phone: 407.246.1260 Fax: 407.246.0423 www.burkettengineering.com

Orange County Zoning
July 12, 2021
Page 2

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.
As a condition of approval in 2017, no more than four outdoor special events between the hours of 8:00 am and 9:00 pm are allowed on the church property. The activity center will house indoor activities and therefore will not create noise, vibration, dust, odor, glare, heat or other characteristics that are not currently permitted on the property. No change is proposed to the previously approved Special Exception SE-17-08-075.
6. Landscape buffer yards shall be in accordance with section 24-4 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.
Landscape buffer yards shall be in accordance with county standards. No change is proposed to the previously approved Special Exception SE-17-08-075.

Earlier this year Eastland Baptist Church attempted to commence permitting for construction of the Activity Center building, only to learn that the Special Exception had expired, and they would need to request Special Exception approval again. The church is proposing to demolish one existing building onsite and construct a new 12,000 +/- SF building. The Activity Center will consist of a gymnasium to be used for classes and other school activities for the 500+/- students. Two additional handicap accessible parking spaces will be provided in proximity to the new building. Please see the attached site plan for locations of all existing and proposed improvements.

In support of the Special Exception request, we are submitting herein the following:

1. BZA Application w/ Relationship Disclosure, Project Expenditure and Agent Authorization forms
2. Orange County Tax information including the Legal Description
3. 2017 Special Exception Approval (SE-17-08-075)
4. Articles of Incorporation
5. One copy of the Site Plan (8 ½"x11")
6. Floor Plan and Architectural Elevations (8 ½"x11")
7. Two copies of the Site Plan (24"x36")
8. \$1,355.00 check for Special Exception fee

Orange County Zoning
July 12, 2021
Page 3

Please call if you have any questions regarding the enclosed information. Thank you for your assistance in processing this application.

Sincerely,
Burkett Engineering, Inc.

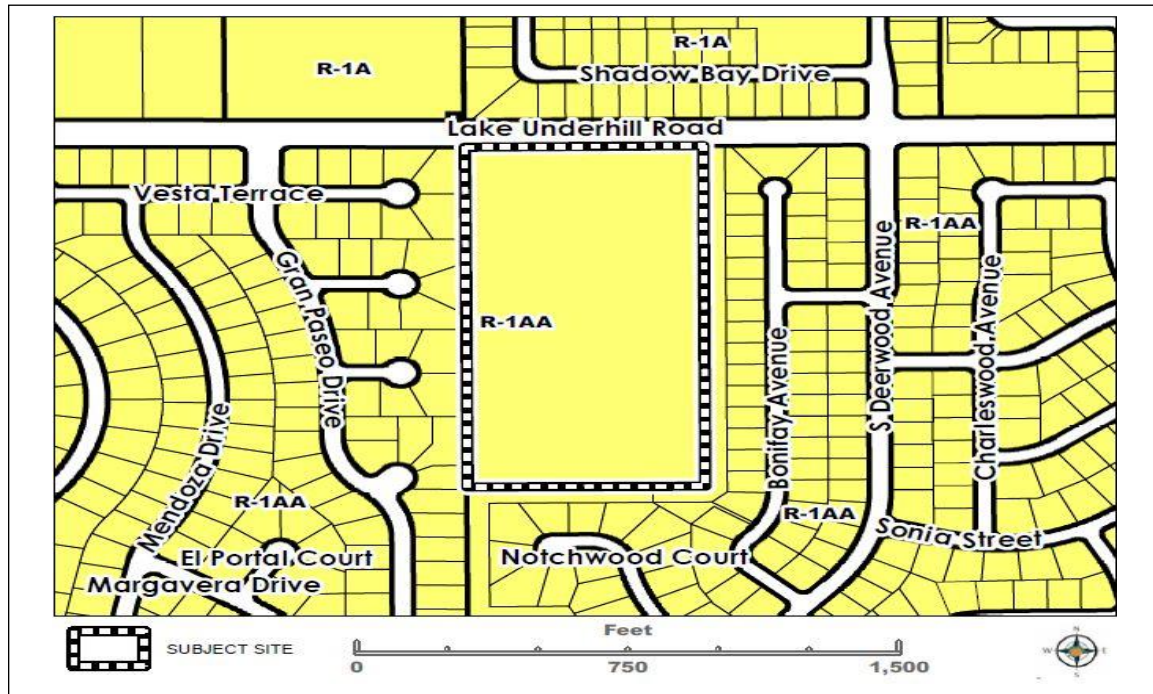


William E. Burkett, PE
President

c: Mr. Gregory Chapman – Eastland Baptist Church, Inc. (w/o encl.)
Ms. Suzanne Mix – Yellow Brick Construction (w/o encl.)

WEB:ams

ZONING MAP



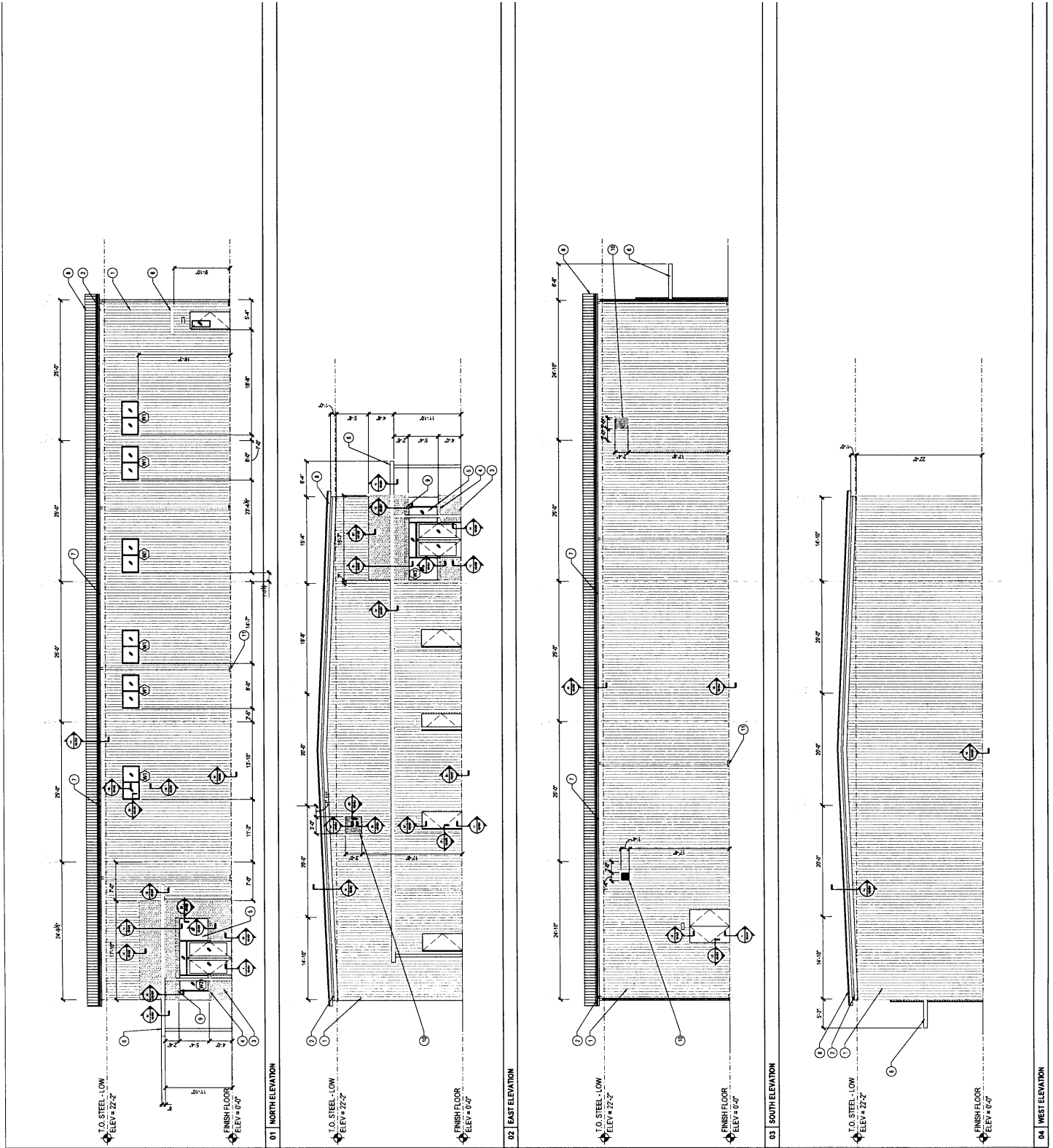
AERIAL MAP



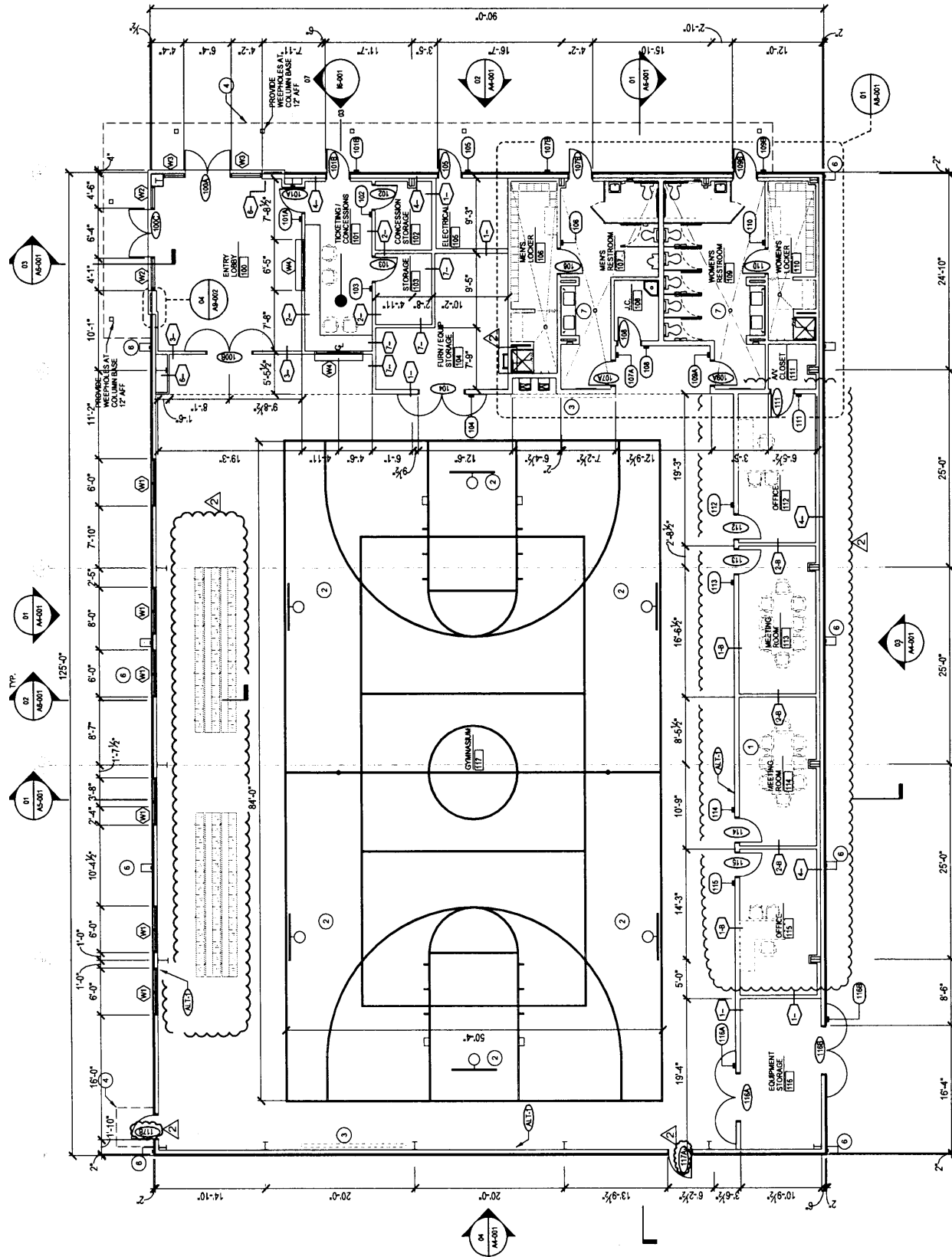
BAY FURN SECTION ONE
(PLAT BOOK 10, PAGE 133)



ELEVATIONS



FLOOR PLAN



SITE PHOTOS



Front from Lake Underhill Rd.



Proposed activity center location facing east

SITE PHOTOS



Proposed activity center location facing south



Shipping container (to be permitted/removed) facing south

SITE PHOTOS



Unpermitted gazebo facing east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **SEP 02, 2021**

Case Planner: **Nick Balevich (407) 836-0092**

Case #: **VA-21-07-057**

Commission District: **#2**

GENERAL INFORMATION

APPLICANT(s): FRANK MCMILLAN

OWNER(s): MARGIE WILLIAMS, EUNICE WILLIAMS

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

- 1) To allow a mobile home on a lot with 0.14 acres of lot area in lieu of 2 acres.
- 2) To allow a lot width of 59.5 ft. in lieu of 100 ft.
- 3) To allow a front north setback of 20 ft. in lieu of 35 ft.
- 4) To allow a rear south setback of 15 ft. in lieu of 50 ft.

PROPERTY LOCATION: 3328 Dew Berry Avenue, Apopka, Florida, 32712, southeast corner of Dew Berry Ave and Monk Ave., west of State Road 429 and north of W. Orange Blossom Trl.

PARCEL ID: 36-20-27-9612-02-040

LOT SIZE: 59.5 ft. x 102 ft./+/-0.14 acres (6,057 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 95

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated July 22, 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.

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.

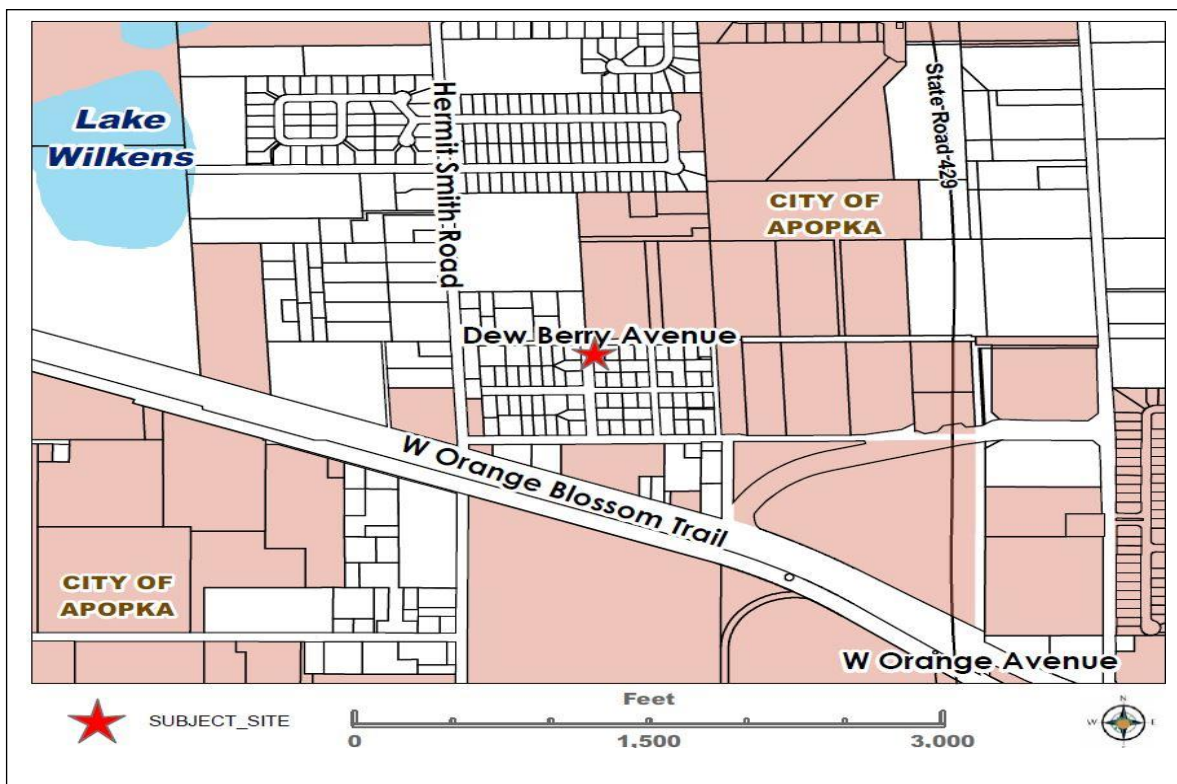
The applicant indicated agreement with the Staff report and had no additional information to supplement the Staff presentation.

There was no one in attendance to speak in favor or in opposition to the request. The BZA noted the non-conforming lots within the area and unanimously recommended approval of the variances by a 6-0 vote, subject to the three (3) 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-1	City of Apopka	A-1	A-1	A-1
Future Land Use	R	City of Apopka	R	R	R
Current Use	Vacant	Vacant	Single-family residence	Manufactured home	Vacant

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-1 Citrus Rural zoning district, which allows agricultural uses, mobile homes, and a single-family residence with associated accessory structures on larger lots.

The area around the subject site consists of single-family homes and mobile homes on small lots. The subject property is a 0.14 acre lot, located in the Morrison's Subdivision Plat, recorded in 1964. The zoning designation assigned to this area in 1957, when zoning was established, was A-1. Since the plat was recorded after the assignment of zoning, it is unclear how/why the plat was approved as it created non-conforming lots of record.

The subject site is a corner lot with the front facing Dew Berry Ave., which contains the narrowest width of the lot abutting a street, and the side street facing Monk Ave. The owner purchased the property in 1996. The property was previously developed with a single-family home that was built in 1945, but was demolished after a fire in March 2021.

The proposal is to install a 14 ft. x 66 ft., 924 sq. ft. mobile home on the property. In the A-1 zoning district, single-family homes are permitted by right on lots with 0.5 acres and mobile homes are permitted by right on lots with a minimum of two (2) acres. Variances are needed to re-build a residence on the property: including for a lot area of 0.14 acres in lieu of 2 acres required for a mobile home (variance # 1); for a 59.5 ft. lot width in lieu of 100 ft. (variance # 2); for a front setback of 20 ft. in lieu of 35 ft. (variance # 3); and for a rear setback of 15 ft. in lieu of 50 ft. (variance # 4). If all required setbacks were met, the buildable area on the lot would be 17 ft. x 25 ft., which would only be a 425 sq. ft. structure.

A field evaluation of the street that the property is located on shows 5 mobile homes, 4 site built homes and 3 vacant lots. A similar development pattern exists throughout the entire subdivision/plat. A review of previously approved variances on the same street shows 6 variances that were approved for substandard lot width and size, and 4 variances that were approved for setbacks.

As of the preparation of this report, staff had not received any correspondence in favor or in opposition to the request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	12.2 ft.
Min. Lot Width:	100 ft.	59.5 ft. (Variance #2)
Min. Lot Size:	2 acres	0.14 acre (Variance #1)

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

	Code Requirement	Proposed
Front:	35 ft.	20 ft. (North Variance #3)
Rear:	50 ft.	15 ft. (South Variance #4)
Side:	10 ft.	19.4 (East)
Side street:	15 ft.	15.5 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The existing parcel size and configuration are considerations of special conditions and circumstances. Removal of the residence in 2021 has rendered the property undevelopable without the variances for lot area, width and setbacks.

Not Self-Created

The lot was created in 1964 and therefore the owners are not responsible for the existing lot configuration, since the property was purchased in 1996, the substandard aspects of the lot are not self-created.

No Special Privilege Conferred

Granting the variances will not establish special privilege since there are other developed lots in the area with single-family homes and mobile homes with similar size and width, many of which have been granted similar variances.

Deprivation of Rights

Without the requested size, width and setback variances, the owners will be deprived of the ability to construct a residence of any type on the parcel.

Minimum Possible Variance

The requested variances are the minimum necessary to construct any improvements on the property, due to small land area in the A-1 district that only allow a minimal small developable area if strict compliance with setbacks are met.

Purpose and Intent

Approval of these requests will be in harmony with the purpose and intent of the Code, which is to allow development of lawfully created lots and parcels. The proposed mobile home will not be detrimental to the neighborhood as the proposed the residence will be consistent with the predominant construction of single-family residences and mobile homes on small lots in the area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated July 22, 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.

C: Frank McMillan
351 S SR 434
Altamonte Springs, FL 32714

Frank M. Millan
ATTORNEY AND COUNSELOR AT LAW

351 South State Road 434
Altamonte Springs, Florida 32714
TELEPHONE 407-644-7200
FAX 407-644-7438
EMAIL: frankm@mindspring.com

July 18, 2021 (revision of May 11, 2021 letter)

Board of Zoning Adjustment
Orange County zoning division
201 S. Rosalind Ave. 1st floor
Orlando, FL 32801

Re: 3328 Dew Berry Ave., Apopka, FL 32712
Parcel Number 36-20-27- 9612- 02- 040
Lot 4 and W 7 feet of Lot 3, Morrison's Sub, PB 1, Page 4
Owners/Applicants: Eunice Williams and Margie Williams, his wife

This letter is submitted in connection with the application for a number of variances on the subject property.

General Information: The Subject Property is a platted parcel within Morrison's Subdivision, one of the oldest subdivisions in Orange County (Plat Book 1, Page 4.) Because of the uniqueness that the property is zoned A-1 but contains platted lots of substandard size for A-1 zoning, it is necessary to request a number of variances.

Many of the structures in Morrison's Subdivision date back to the 1940's and are approximately 650 to 700 ft.² in size. The original structure on the subject property contained 696 ft.² and was built in 1945. The current applicants and owners of the property, Eunice Williams and Margie Williams, purchased the property in 1996 and have continuously maintained the property as their primary residence. However, on March 31, 2021, their property was totally destroyed by fire. The property has been cleared of the fire debris and is now vacant.

Because of the age and quality of construction of the prior house, it was not possible to obtain insurance and, therefore, Mr. and Ms. Williams do not have insurance funds from which to provide for rebuilding of any structure on the property. (Since filing this initial letter, information has been obtained that there may have been "forced placed" insurance on the property - but this has not been confirmed.)

Some unique circumstances have made it possible for a GoFundMe page to be established to assist the Williams in their rebuilding process but no rebuilding can be planned until a decision is made on zoning variances – thus, this application. Their youngest son, Jeremias Williams, is a Firefighter/EMT with Apopka Fire Department and a graduate of Apopka High School. Jeremias appeared on American Idol on February 28 and on March 31, exactly one month later, the fire occurred that

destroyed the home property. Because this has been their home for so many years Mr. and Mrs. Williams would like to return to their property and Jeremias has many friends who are very supportive in providing funds to assist the Williams. But this poses many challenges – one of which is that funding is not available for reconstruction of a conventional home and it will be necessary to bring in a used mobile home; and this creates zoning challenges:

* The lot is a substandard lot containing only 6,057 ft.² (per property appraiser - however, calculated dimensions of 102.3 x 59.5 = 6,086 ft.².) The minimum lot size for A-1 zoning is 21,780 ft.² sq feet – and for a mobile/manufactured home it is 2 acres.

* If all of the required setbacks are maintained the buildable area on the lot will be approximately 17 x 25 or approximately 425 ft.²; whereas, the minimum structure size for A-1 zoning is 850 ft.²

* Because the application requires the applicant to state the "size of the proposed structure" it was necessary to purchase a mobile home in anticipation that the necessary variances will be approved by the BZA. One further obstacle to providing this information with the original application was that at the time it was unknown how much funding would be available to place housing on the property. With available funding from GoFundMe a 14' x 66' mobile home has been purchased and the requested variances are based upon that mobile home being moved to the site.

* The purchased mobile home is 14' x 66' with total area of 924ft.² which exceeds the 850 ft.² for A-1 zoning. It will be possible to maintain sideline and street set backs for the main structure, but variances will be needed for the addition of required steps to the mobile home; and in order to accommodate a 66' long wide manufactured home, there will need to be combined front/rear setbacks of only 36' (with Dew Berry being deemed to be the "front" set back even though the mobile home entrance will face Monk.)

Applicants are requesting the following variances:

1. Permit mobile/manufactured home in A-1 zoning on less than 2 acres
2. Permit a structure (mobile home) on a substandard lot (less than 21,780 sq ft in A-1 zoning)
3. Applicants are requesting a combination front yard and rear yard setback of not more than 35 feet to accommodate a mobile/manufactured home of 66 feet (102.5 feet lot size less 66 feet M/H = 36 feet available for set backs) and propose 20 foot front setback from Dew Berry with 15 feet from rear lot line.
4. Note: No side lot variances are needed. The Lot is 59.5 feet in width. The mobile home is 14' wide, with 5.5' added on front and back for steps for a total of 25 feet. Therefore, applicants can maintain a "street set back" of 15 feet to the steps (20 feet to the mobile home) and the "side set back" of more than 10 feet (to the rear steps.)

Applicants submit that they meet all of the Variance Criteria as set forth in the Orange County Code and show as follows:

1. **Special conditions and circumstances.** Special circumstances and conditions exist which are peculiar to the land, structure or building involved inasmuch as this is a substandard lot in a platted subdivision on which a structure has existed for more than 75 years. Special conditions also exist by reason of the fire which destroyed the existing structure.

2. **Not self-created.** Applicants are not replatting or changing the size of the existing lot. The special conditions and circumstances of the March 31 fire which totally demolished the existing structure are not a result from the actions of the applicants.

3. **No special privilege conferred.** Approval of the requested zoning variances will not confer on the applicant any special privilege that is denied by the Zoning Code to other lands, building or structures in the same zoning district.

4. **Deprivation of rights.** A literal interpretation of the provisions contained in the Orange County zoning code would deprive the applicants of rights commonly enjoyed by other properties in the same zoning district and in the same subdivision and would work unnecessary and undue hardship on the applicants. The applicants are not purchasing the property with intent to modify the existing plat but are simply wanting to rebuild a structure on property that they have owned for more than 30 years but the housing has been lost by reason of a fire.

5. **Minimum possible variance.** The zoning variances sought to be approved are the minimum variances that will make possible the reasonable use of the land as set forth above.

6. **Purpose and intent.** The approval of the requested variances will be in harmony with the purpose and intent of the zoning regulations and such variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

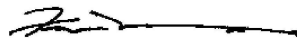
Although the applicants understand that nonconformities on neighboring properties do not constitute grounds for approval of the proposed variances, applicants respectfully submit that approximately one third of the structures in the immediate surrounding subdivision are manufactured or mobile homes which have replaced prior wooden structures most of which were more than 70 years old. The granting of the requested variances will not create a special privilege for the applicants and will, in fact, be an upgrade from the previous structure.

A detailed site plan is attached showing the footprint for the requested variances.

The property is not on a lakefront, waterfront or natural canal.

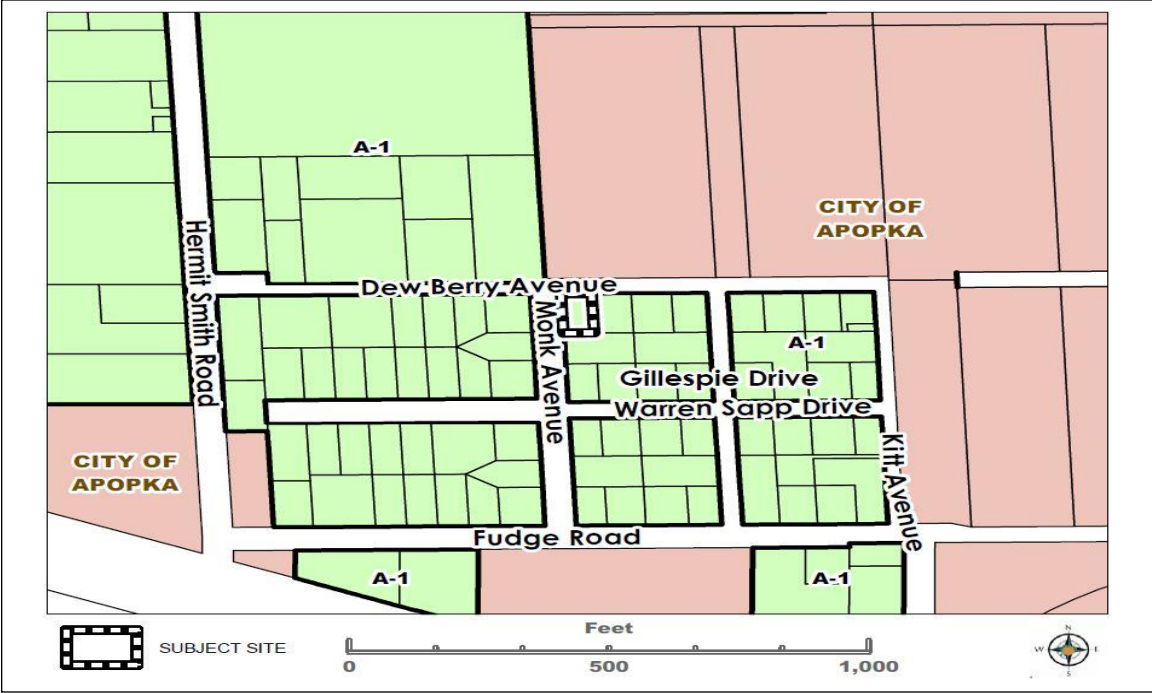
Architectural drawings of the floor plan and elevations of the mobile home are attached. Applicants are not submitting any architectural sketches for a conventional or modular home structure since funding is not available to rebuild in such fashion.

Respectfully submitted,



Frank McMillan

ZONING MAP

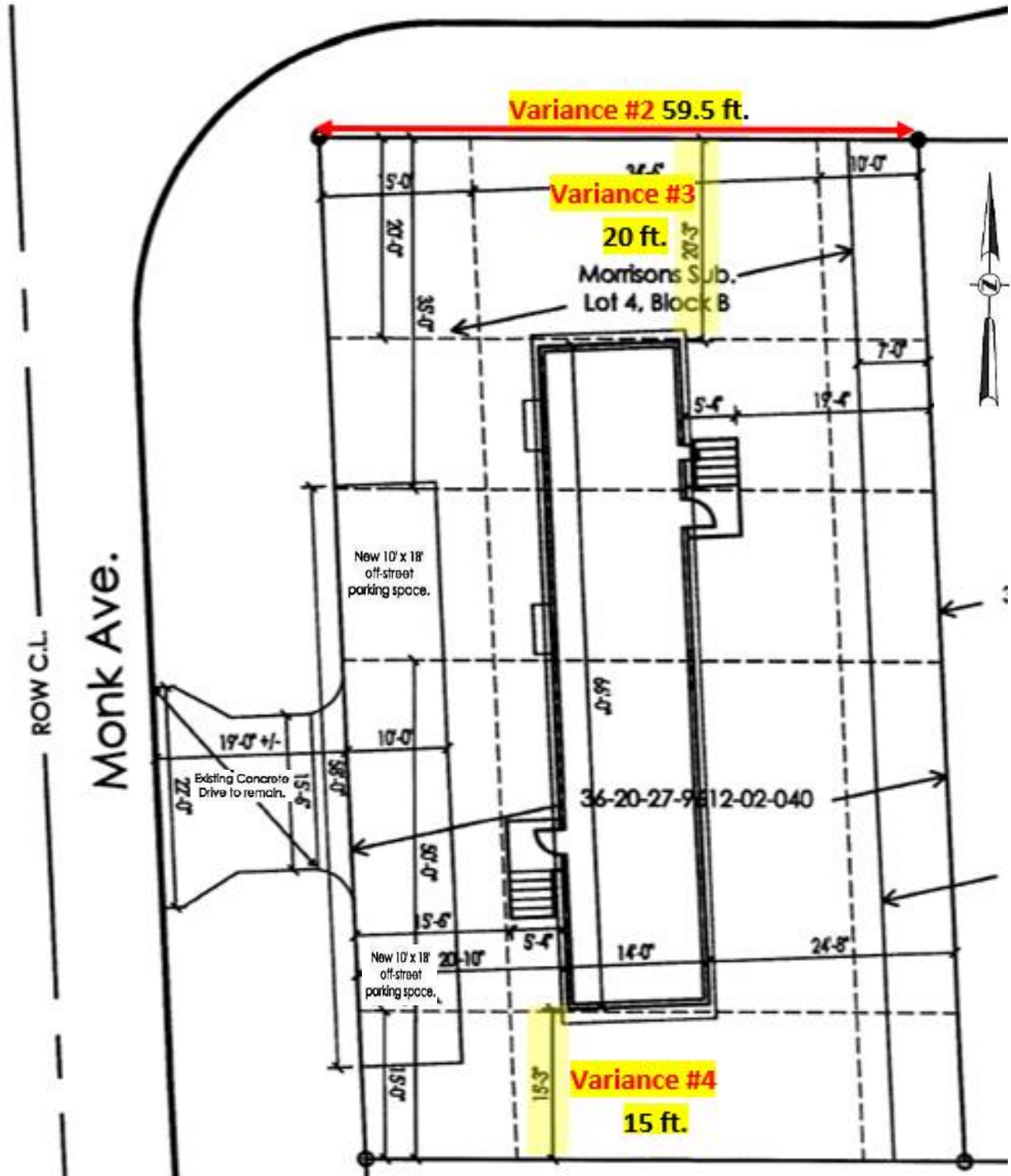


AERIAL MAP



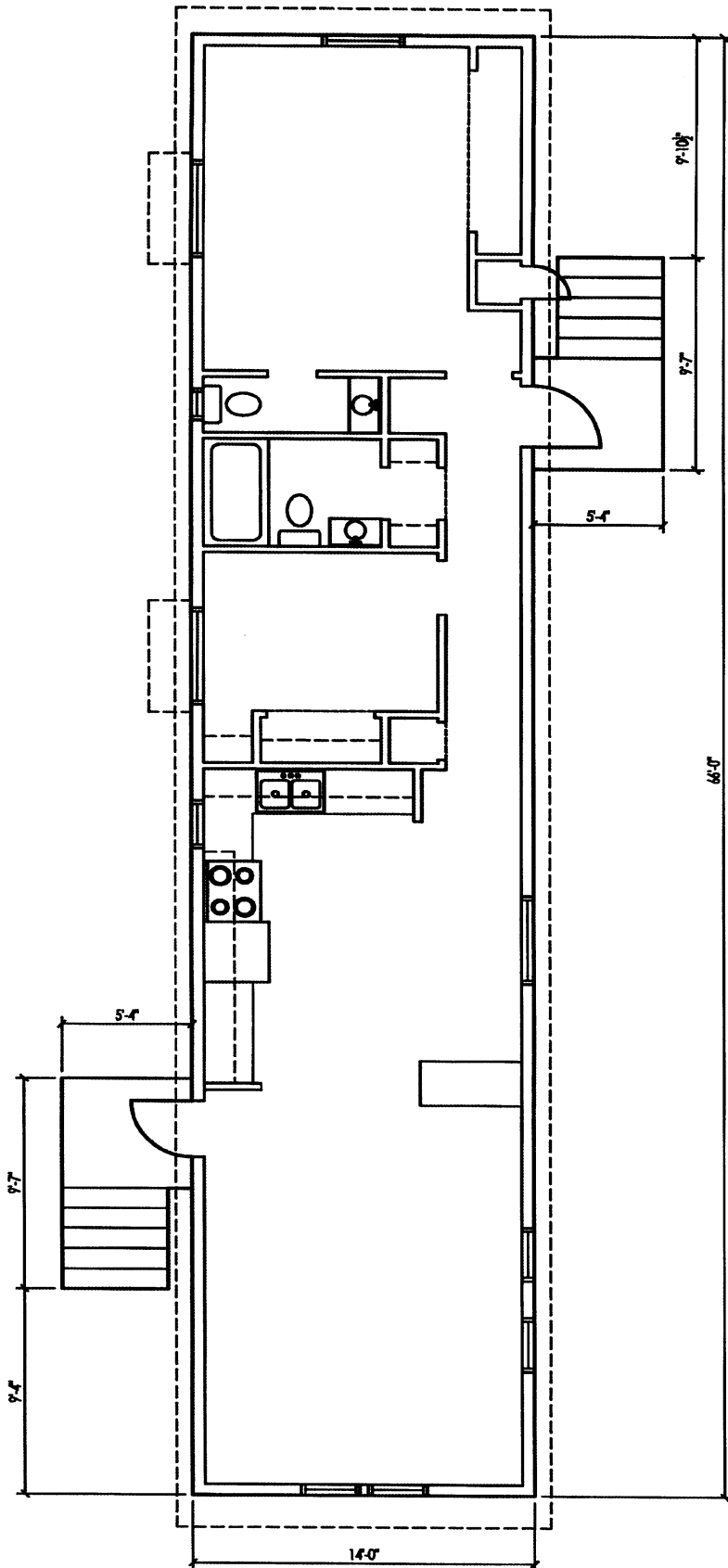
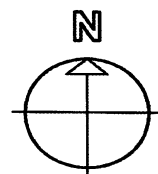
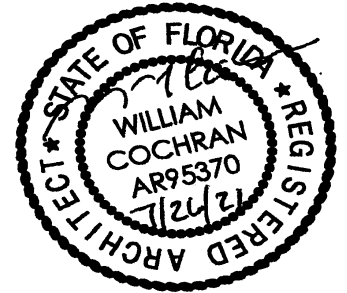
SITE PLAN

Dew Berry Ave.

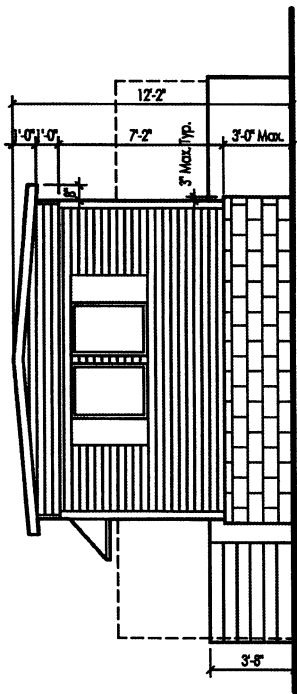


FLOOR PLAN

General Note: Dimensions are from field measurements provided by owner.

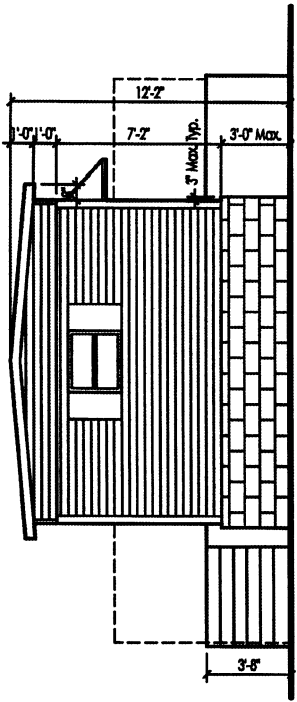


ELEVATIONS



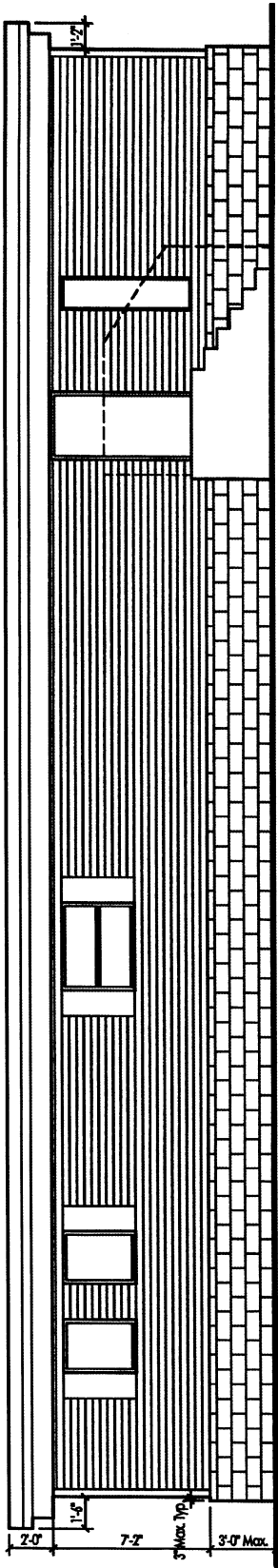
South Elevation

Scale: 1/8" = 1'-0"



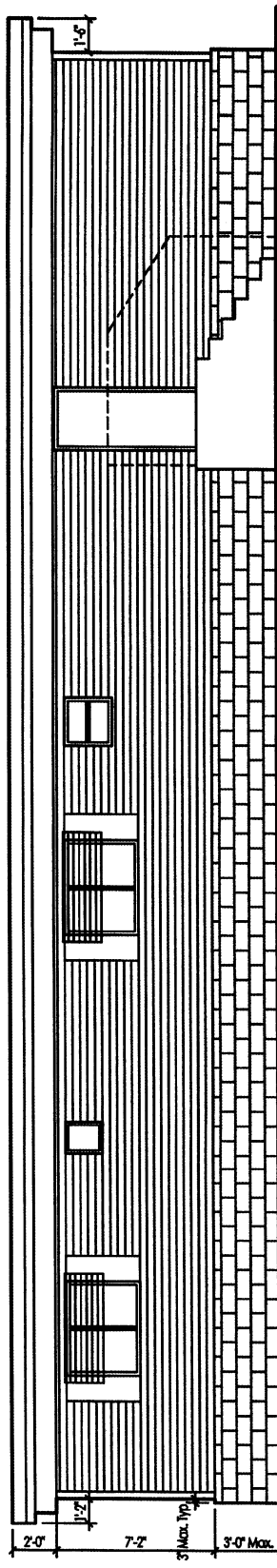
North Elevation

Scale: 1/8" = 1'-0"



East Elevation

Scale: 1/8" = 1'-0"



West Elevation

Scale: 1/8" = 1'-0"

General Note: Dimensions
are from field measurements
provided by owner.

SITE PHOTOS



Front from Dew Berry Ave facing south



Side from Monk Ave facing east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **SEP 02, 2021**

Case Planner: **Nick Balevich (407) 836-0092**

Case #: **VA-21-09-085**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): WAYNE RANDOLPH

OWNER(s): TERI RANDOLPH, WAYNE RANDOLPH

REQUEST: Variances in the R-1 zoning district:

- 1) To allow a 3,520 sq. ft. detached accessory structure in lieu of a maximum cumulative total of 3,000 sq. ft.
- 2) To allow a 3,520 sq. ft. detached metal accessory structure to have metal walls, in lieu of materials commonly used throughout Orange County for single-family residential construction, such as stucco, brick, vinyl, aluminum or wood for the siding or walls with the exception of the front veneer which shall match the home as stated in Condition #1.

PROPERTY LOCATION: 14269 Lake Pickett Road, Orlando, Florida, 32826, north side of Lake Pickett Rd., west of N. Tanner Rd., north. of E. Colonial Dr.

PARCEL ID: 13-22-31-0000-00-040

LOT SIZE: +/- 1 acre (47,776 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 97

DECISION: Recommended **APPROVAL** of the Variance request #1, and Variance request #2, as amended, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed, and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated August 5, 2021, with the exception of construction of a front veneer on the detached accessory structure which shall be constructed to match the appearance of the front of the home, 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 for the accessory structure 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.

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 three (3) comments were received in support and none in opposition.

The owner stated the need for the structure as proposed, discussed his disagreement with the need for the variances as he interprets in the code and discussed the cost to provide a stucco exterior to match the home. He also noted that there were no objections from the neighbors.

There was one (1) person in attendance that spoke in favor of the request and none to speak in opposition to the request.

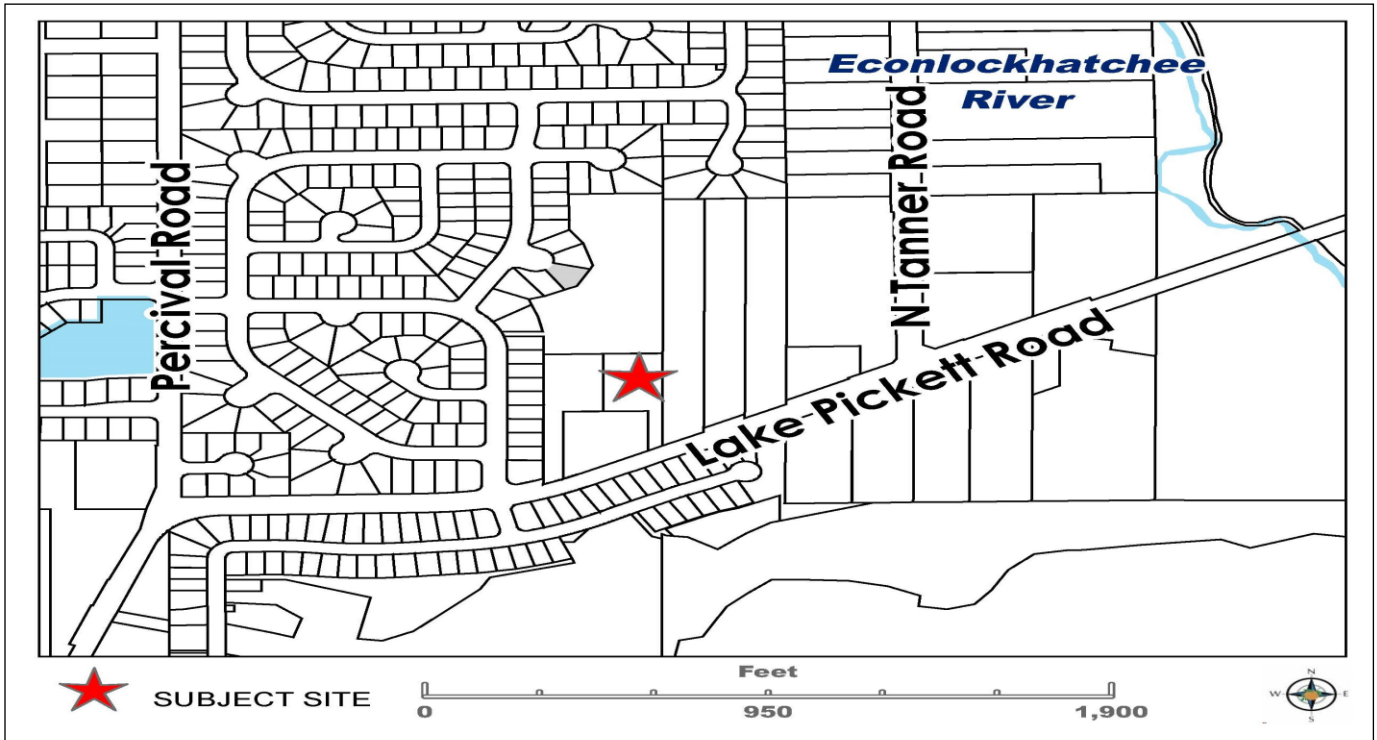
The BZA discussed the size and exterior finish of the proposed structure, a motion was made to recommend approval of the variances as requested and the motion failed due to a tied 3-3 vote.

Subsequently the BZA unanimously recommended approval of variance #1 and an amended variance #2 to allow the 3,520 square foot accessory structure to have metal walls with a front veneer that matches the home, subject to the four (4) conditions in the staff report by a 6-0 vote.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

The area around the subject site consists of single-family homes and a vacant lot to the west. The subject property is an approximately 1 acre unplatted lot that was created by a lot split in 2019. It is a flag lot with the developable portion of the lot located 173 ft. north of Lake Pickett Rd. Currently a 4,960 gross sq. ft. single-family home is under construction (B20008715). The owners purchased the property in 2019.

The owner is proposing to construct a 3,000 sq. ft. metal building with a 520 sq. ft. covered porch for a total of 3,520 sq. ft. of accessory structure square footage in lieu of 3,000 sq. ft., requiring Variance #1. Also the proposal includes the use of metal walls in lieu of materials commonly used throughout Orange County for single-family residential construction, such as stucco, brick, vinyl, aluminum or wood for the siding or walls, requiring variance #2. The proposed detached accessory structure meets all other code requirements including setbacks.

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

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	22.1 ft.
Min. Lot Width:	50 ft.	165 ft.
Min. Lot Size:	5,000 sq. ft.	47,776 sq. ft.

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

	Code Requirement	Proposed
Front:	20 ft.-House	38 ft.-House 121 ft.-Accessory structure (South)
Rear:	20 ft.-House 10 ft.-Accessory structure	138 ft.-House 68 ft.-Accessory structure (North)
Side:	5 ft.-House 5 ft.-Accessory structure	30 ft.-House (East) 66 ft.-House (West) 79.8 ft.-Accessory structure (West) 26.8 ft.-Accessory structure (East)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The unique shape of the lot may be considered a special condition or circumstance particular to this property, as it is a flag lot with the accessory structure proposed to be located 294 ft. from Lake Picket Rd. The proposed structure would not likely be visible from the road.

Not Self-Created

The request for the variances is self-created, since the proposal could be slightly modified to a conforming size and constructed with different materials to eliminate the need for variances.

No Special Privilege Conferred

Granting the variances as requested will confer special privilege that is denied to other properties in the area, since the owners could modify the proposed size and materials.

Deprivation of Rights

The owners are not being deprived of the right to have an accessory structure on the property, as they could build the structure conforming to size and materials that meet code requirements.

Minimum Possible Variance

The request is not the minimum, since there are other alternatives that would allow the owners to construct the building in a manner which would meet code requirements.

Purpose and Intent

Approval of these requests will be in harmony with the purpose and intent of the zoning regulations, as the accessory structure is setback a significant distance from the street, thereby minimizing the impacts of the size and proposed materials. Further, the building will be secondary and accessory to the house, in size and scale.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated August 5, 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 for the accessory structure 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.

C: Wayne Randolph
3584 Scoutoak Loop.
Oviedo, FL 32765

June 10, 2021

ORANGE COUNTY ZONING DIVISION
201 South Rosalind Avenue, 1st Floor
Orlando, Florida 32801

This detailed cover letter is being provided with enclosed Application – Board of Zoning Adjustment for a Variance. We are requesting a variance to the allowable square footage of this property and to have metal material as walls for the structure. The permit application under B20020344 is for a 3,000 sq. ft. detached metal building.

The Variance is being submitted to request for a 3,000 sq. ft. metal detached building with an additional 520 sq. ft. to be attached to the outside of the 3,000 sq. ft. metal detached building. The metal detached building will be used as a workshop and parking a boat, RV and other types of vehicles. The additional 520 sq. ft. will be for a walkway/porch attached to the west side of the 3,000 sq. ft metal detached building in the backyard of our current residential house. There are numerous metal detached buildings in the area that are used for garages. The metal detached buildings are made with metal material, which according to Orange County code the building shall be comprised of materials commonly used throughout Orange County for single-family residential construction, “such as” (meaning examples) stucco, brick, vinyl, aluminum or wood for the siding or walls, and shingles, tiles or corrugated metal for the roof. This is only examples in the building code and not a mandatory list. We are requesting not only our roof to be metal material but also the walls of the detached building as well.

The proposed height of the metal detached building will be 22 ft. and 1 inch to the top of the roof ridge. The metal detached building will be 68 ft. and 4 inches from the north (back) of property line and 88 ft. and 4 inches from the west side of property line and 26 ft and 8 inches from the east side of property line exceeding all set back requirements in Florida code.

The proposed height of additional 520 sq. ft. is 15 ft. high, which aligns with roof of metal detached building in the backyard. The additional 520 sq. ft will be 68 ft. and 4 inches from the north (back) of property line and 79 ft. and 8 inches from the west side of property line and 76 ft. and 8 inches from the east side of property line exceeding all set back requirements. Orange County Municode 38-1426 allows for detached structure to be 3,000 sq. ft. The detached structure we are proposing will be a 3,000 sq. ft. metal detached building with a 520 sq. ft. overhang outside the building for a walkway and porch in our backyard.

The justification for how the proposal meets the six standards for variance approval is as follows:

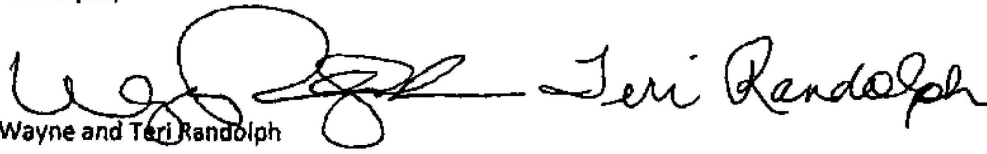
Special conditions and Circumstances apply to the 3,000 sq. ft. detached building constructed of metal material for the siding and roof along with an additional 520 sq. ft metal walkway/porch to be attached to the 3,000 square foot detached metal building. The metal building with metal roof will be designed to sustain 140 mph winds which exceed the Florida wind requirements for our area. The addition does not encroach on any other neighboring properties. No hardships exist with this variance. The zoning variance will not confer any special privileges to us. This variance does not have any impact on any

other properties in same zoning district and will not place any undue hardship. This variance will allow us to have a detached building for storage with covered walkway in our backyard that will be attached to the metal detached building and provide coverage for us to walk between garage and house under covered walkway.

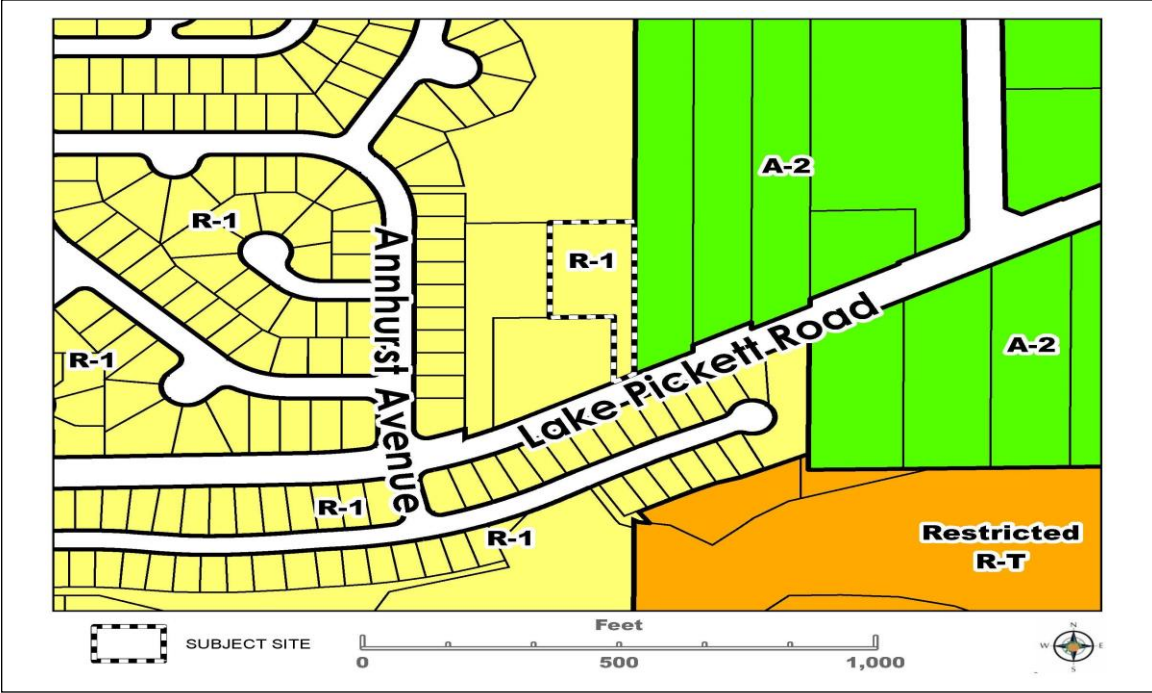
The approval of this variance will be in harmony with the Zoning Regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

We request your approval for this variance, so we can be able have a metal detached building with metal walls and a covered walkway that will allow us to have a workshop and store our vehicles along with being able to walk from our garage to our house undercover. The covered walk will exist in our backyard and be part of our future enclosed pool area.

Thank you,


Wayne and Teri Randolph
Homeowners
407-221-8078

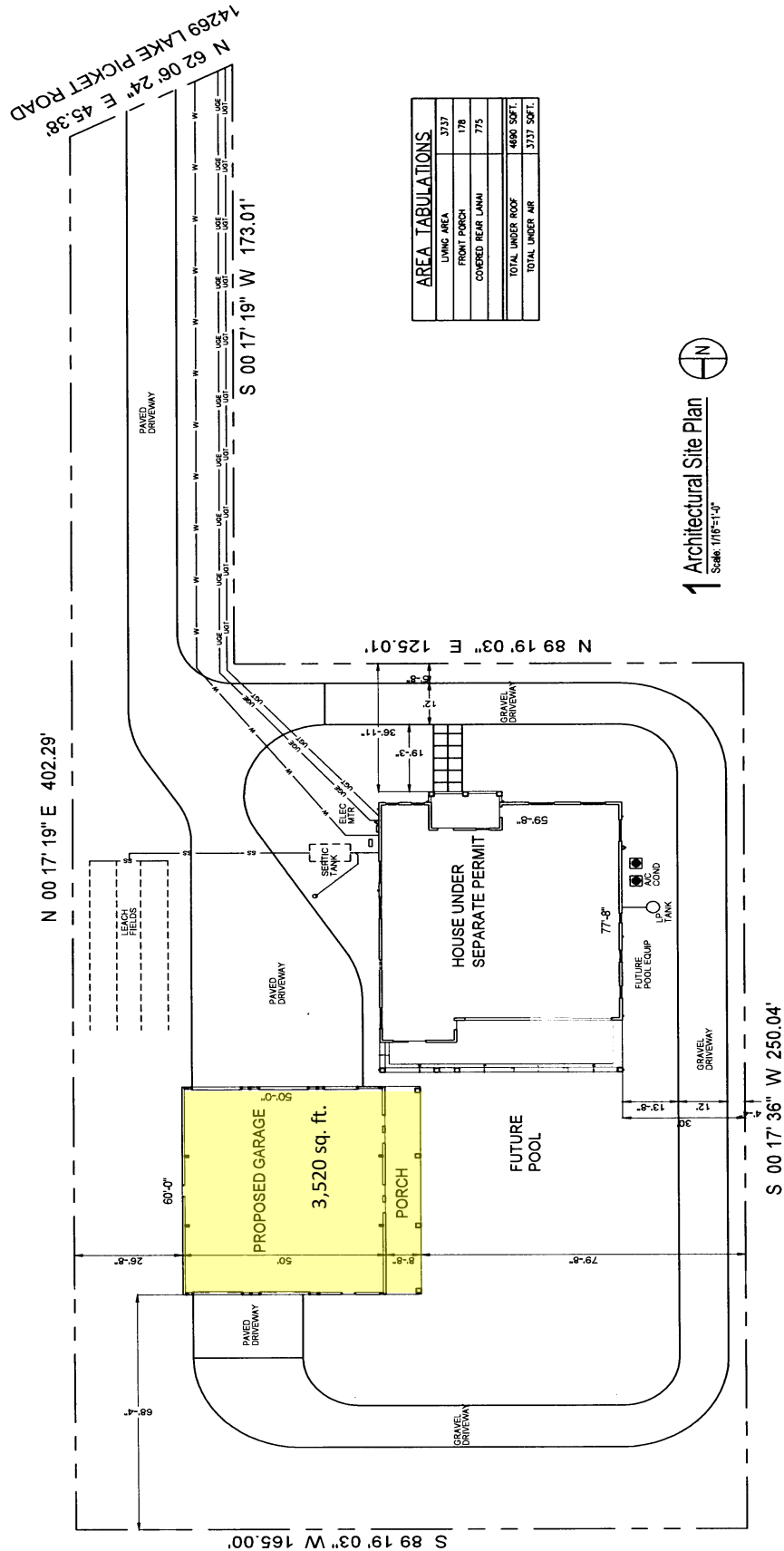
ZONING MAP



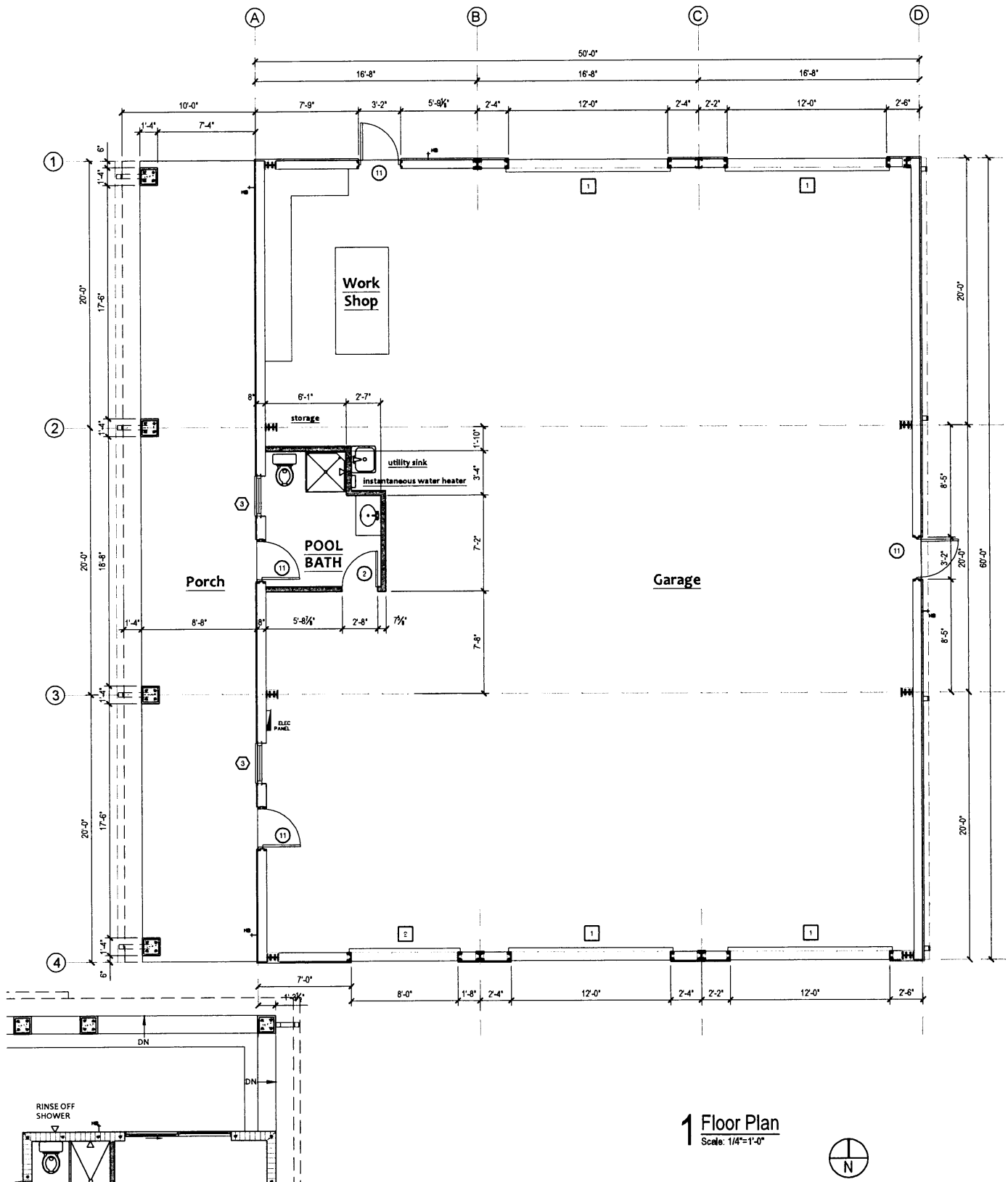
AERIAL MAP



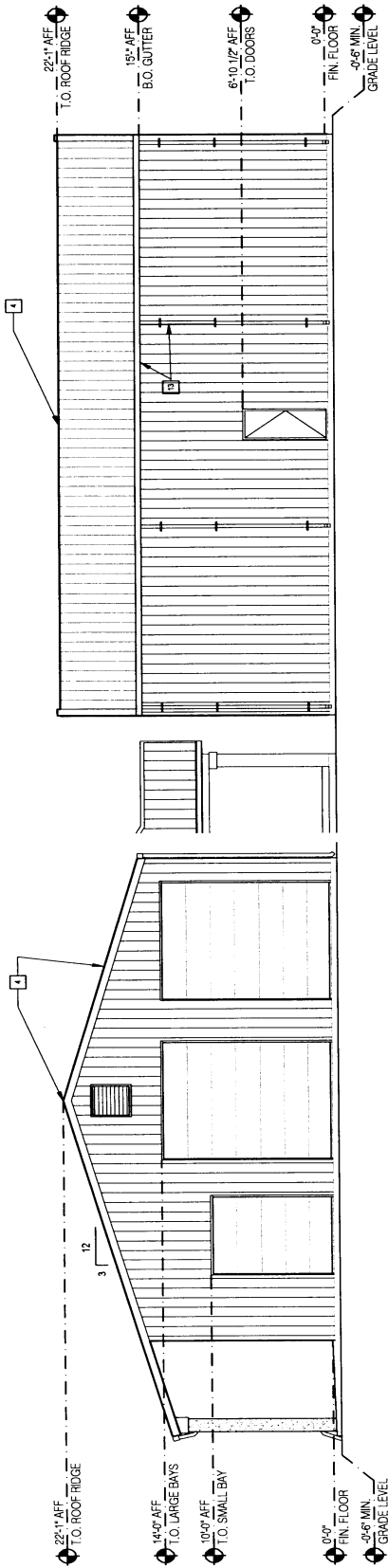
SITE PLAN



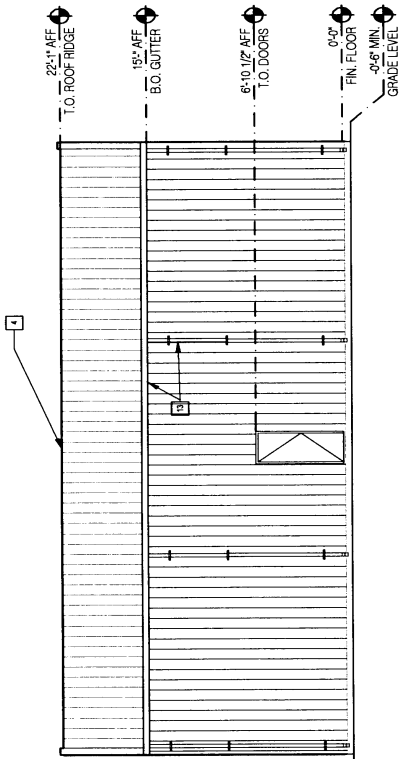
FLOOR PLAN



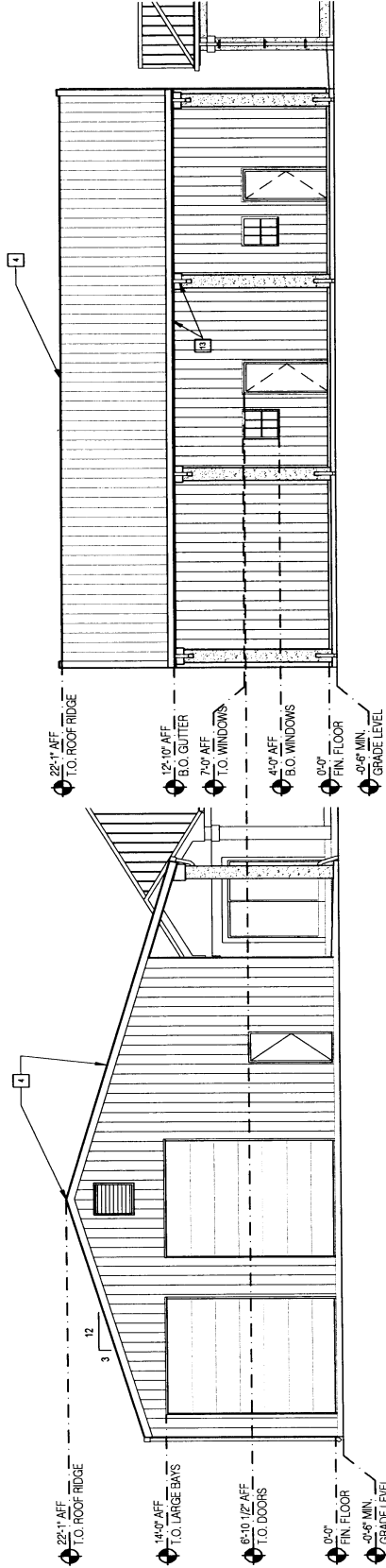
ELEVATIONS



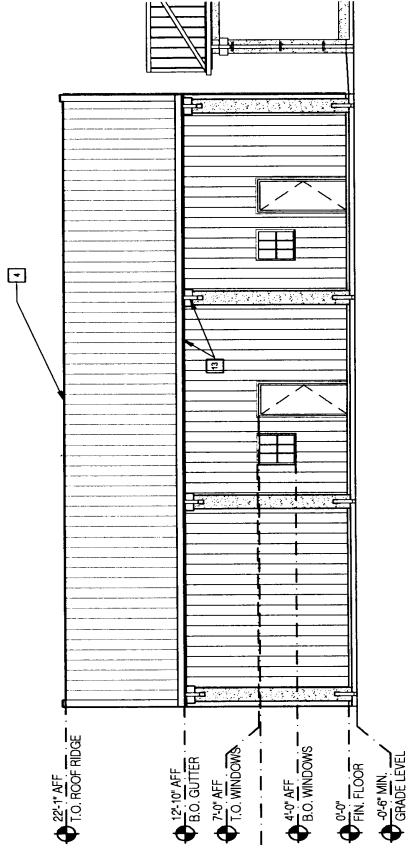
1 FRONT (SOUTH) ELEVATION
Scale: 3/16"=1'-0"



2 RIGHT SIDE (EAST) ELEVATION
Scale: 3/16"=1'-0"



3 REAR (NORTH) ELEVATION
Scale: 3/16"=1'-0"



4 LEFT SIDE (WEST) ELEVATION
Scale: 3/16"=1'-0"

SITE PHOTOS



Front of property facing north



Proposed accessory structure location facing north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **SEP 02, 2021**

Case Planner: **Nick Balevich (407) 836-0092**

Case #: **VA-21-09-086**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): JEREMY VANNICE

OWNER(s): JEREMY VANNICE

REQUEST: Variance in the R-1A zoning district to allow a 2 story addition with a rear east setback of 16.75 ft. in lieu of 30 ft.

PROPERTY LOCATION: 143 Underhill Loop Drive, Orlando, Florida, 32825, east side of Underhill Loop Dr., north of Lake Underhill Rd., west of S.R. 417.

PARCEL ID: 30-22-31-4727-00-180

LOT SIZE: 75 ft. x 113 ft. +/- 0.19 acres (8,479 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 65

DECISION: Recommended **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor, 0 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated July 13, 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 unpermitted shed shall be removed from the property prior to issuance of any building permits for the addition.
5. The exterior of the addition shall match the exterior of the existing house, including materials and color.

6. 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.

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 due to the limited options for any potential home expansion and noted that the request will not be detrimental to adjacent properties. Staff noted that three (3) comments were received in support and no comments were received in opposition.

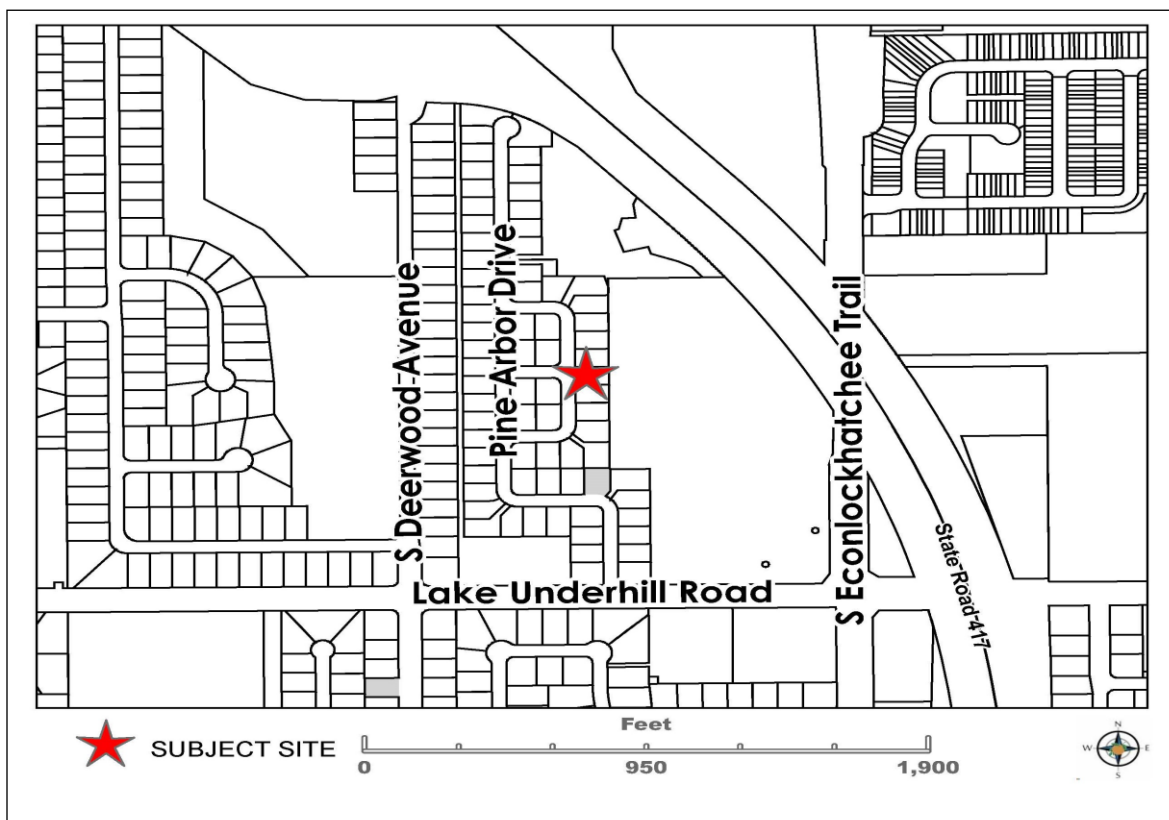
The applicant had nothing to add to the Staff presentation and noted that the existing shed will be removed.

There was no one in attendance to speak in favor or in opposition to the request. The BZA unanimously recommended approval of 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-1A	R-1A	R-1A	R-CE	R-1A
Future Land Use	LDR	LDR	LDR	INST	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Electrical Substation	Single-family residential

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. To the rear of the property is an electrical substation. The subject property is a 0.19 acre lot, located in the Lake Underhill Pines Plat, recorded in 1996, and is considered to be a conforming lot of record. It is developed with a 2,659 gross sq. ft. single-family home, constructed in 1999. The applicant purchased the property in 2008.

The applicant is proposing to construct a 2nd floor addition to the house, of which a 16 ft. x 14.75 ft. (236 sq. ft.) portion will extend into the rear yard. The expansion beyond the existing building by 16 ft. will be located 16.75 feet from the rear property line in lieu of a 30 ft. setback, requiring a variance. A 14.75 ft. wide portion of the addition will encroach into the rear setback, and no residences at the rear will be affected since the property abuts an electrical substation at the rear. The applicant is also leaving room for a future pool in the rear yard. There is an unpermitted shed on the property that the applicant has used for storage of materials for construction that will be removed prior to issuance of permits.

The applicant submitted 3 letters of support from the owners of the adjacent properties to the north, south and west. At the time of writing of this report, no comments have been received in favor or in opposition to the request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	25.75 ft.
Min. Lot Width:	75 ft.	75 ft.
Min. Lot Size:	7,500 sq. ft.	8,479 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft.	25 ft. (West)
Rear:	30 ft.	16.75 ft. (East - Variance)
Side:	7.5 ft.	10.65 ft. North and South

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The special conditions and circumstances particular to the subject property are its size and configuration, which renders any addition impossible without variances. After taking into consideration the rear and side setbacks required by the County Code, there is only a 2 ft. buildable area in the rear yard that remains. Further, the rear yard backs up to an electrical substation.

Not Self-Created

The request is not self-created since the owners are not responsible for the configuration and location of the home in relation to the property lines. The home was constructed over 22 years ago in its current location, and as such any upgrades to the residence is impossible without the need for a variance.

No Special Privilege Conferred

Granting the requested variances will not confer any special privilege conferred to others under the same circumstances since meeting the literal interpretation of the code would prohibit any new construction beyond a 2 foot expansion in the rear.

Deprivation of Rights

Without the requested variance, the owners will not be able to construct improvements to the home.

Minimum Possible Variance

The requested variance is the minimum necessary to construct any improvements at the rear of the property. The applicant is proposing adding a partial 2nd floor to maximize the addition while minimizing the area of expansion that will encroach into the rear setback.

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 and will not be detrimental to adjacent properties. Furthermore, no rear neighbors will be affected by this expansion as the property backs up to an electrical substation.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated July 13, 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 unpermitted shed shall be removed from the property prior to issuance of any building permits for the addition.
5. The exterior of the addition shall match the exterior of the existing house, including materials and color.
6. 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.

C: Jeremy Vannice
143 Underhill Loop Dr.
Orlando, FL 32825

COVER LETTER PAGE 1

Request for Variance

To: Orange County Zoning Division
ATTN: Board of Zoning Adjustments
201 S. Rosalind Ave, 1st Floor
Orlando, FL 32801

From: Jeremy Vannice
143 Underhill Loop Dr.
Orlando, FL 32825

Distinguished Members of the Board of Zoning Appeals,

This letter is to formally request a Zoning Variance to reduce the rear yard setback imposed upon my residential property, zoned R-1A, located at 143 Underhill Loop Dr, Orlando, FL 32825, Parcel ID # 30-22-31-4727-00-180. This request is being made to allow for the planning and design of an addition to my home.

Proposed Home Addition and Pool Information:

The proposed addition will be concrete block and frame construction and will be constructed to the East from the northwest corner of my home. The addition will increase the first-floor building footprint at the rear of my home by an area that measures 14'-9" x 16'-0" (236 sq. ft.). This proposed area will allow for the proposed addition to incorporate a second floor over a portion of my existing home, which will bring the total addition square footage to 1,145 sq. ft. This addition also increases the overall height of my home by 6'-11" which brings the final height to 25'-6".

Please see the provided site plan, aerial images, and elevations for more information.

Reason for request:

My home is designated as zoning classification of R-1A and the platting of our neighborhood occurred in 1996. Based upon this information I reviewed the Orange County Land Development Code for setback requirements. I've found the following per the Orange County Land Development Code, Chapter 38, Article XII, Sec. 38-1501, footnote "H":

District	Min. lot area (sq. ft.) ^a	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.)	Min. rear yard (ft.)	Min. side yard (ft.)	Max. building height (ft.)
R-1A	7,500	1,200	75	20 ^b	25 ^c	7.5	35

^a 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.

Based upon a noted rear yard setback requirement of 30'-0" there is no available area for construction in my rear yard that could accommodate the desired home addition or the pool.

Please see the provided Architectural Site Plan and Aerial Photos for more information regarding existing and proposed setback locations and adjacent property conditions.

Requested Setback Variance:

Based upon the existing setbacks designated in the aforementioned Land Development Code I am requesting that the current 30'-0" (30.0') rear yard setback be reduced to a 16'-9" (16.75') rear yard setback. This will allow adequate space for both the proposed addition and proposed swimming pool.

Please see the provided Architectural Site plan for clarification to designated setback versus requested setback.

Standards for Variance:

The application for variance provides a list of "required documentation for all variance requests" on page 11. This list states the following:

The letter is also required to provide justification for how the proposal meets the six standards for variance approval as outlined below:

Variance Criteria: Section 30-43 (3) of the Orange County Code stipulates specific standards for the approval of variances. No application for a zoning variance will be approved unless the Board of Zoning Adjustment finds that the following standards are met:

Therefore, please consider the following insights regarding the six standards described within the application.

1) Special Conditions

This request for variance is not due to any special conditions. My property does not have any peculiarities that exist, nor is it any different from the adjacent properties of my neighbors.

2) Not Self-Created

This request for variance is not due to any self-created circumstances associated with my property.

3) No Special Privilege Conferred

This request for variance does not make any requests that ask for special privileges for my property that would not be potentially granted to my neighbors if they made a similar request.

4) Deprivation of Rights

This request for variance would grant the right to make improvements to my home and property that would be the right of any homeowner in Orange County.

5) Minimum Possible Variance

COVER LETTER PAGE 3

This request for variance is the minimum distance to allow for adequate spacing for both the proposed addition and a future swimming pool. This also accounts for structural separation between the building structure and pool structure.

6) Purpose and Intent

This request for variance does not risk injury or detriment to my neighborhood or general public welfare.

Closing Summary:

The current rear yard setbacks associated with my residential property, zoned R-1A, located at 143 Underhill Loop Dr. in Orlando Florida as defined by the Orange County Land Development Code have limited the opportunities to improve my home and property. Therefore, I am requesting the rear yard setback be reduced from 30'-0" (30.5') to a distance of 16'-9" (16.75') from my rear property line.

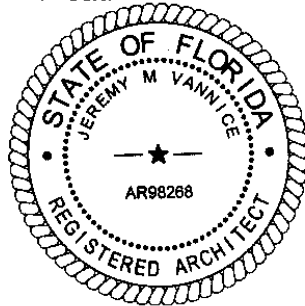
Thank you for your time in review of this application.

Respectfully Submitted,

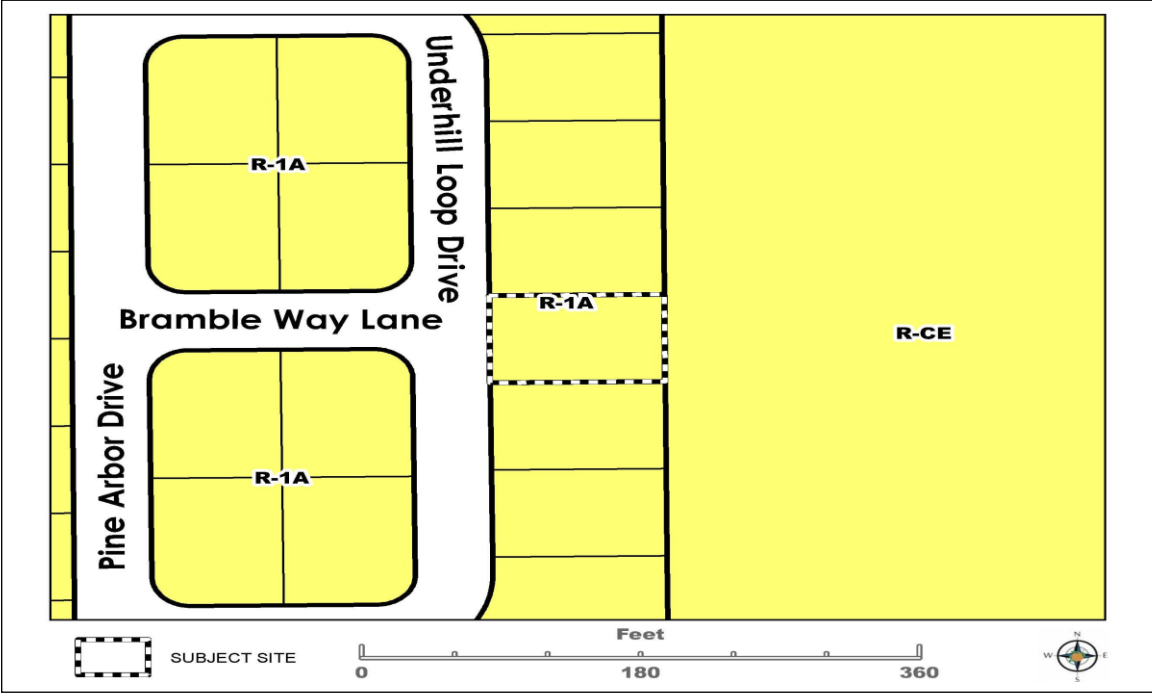


Jeremy Vannice

Homeowner/Architect



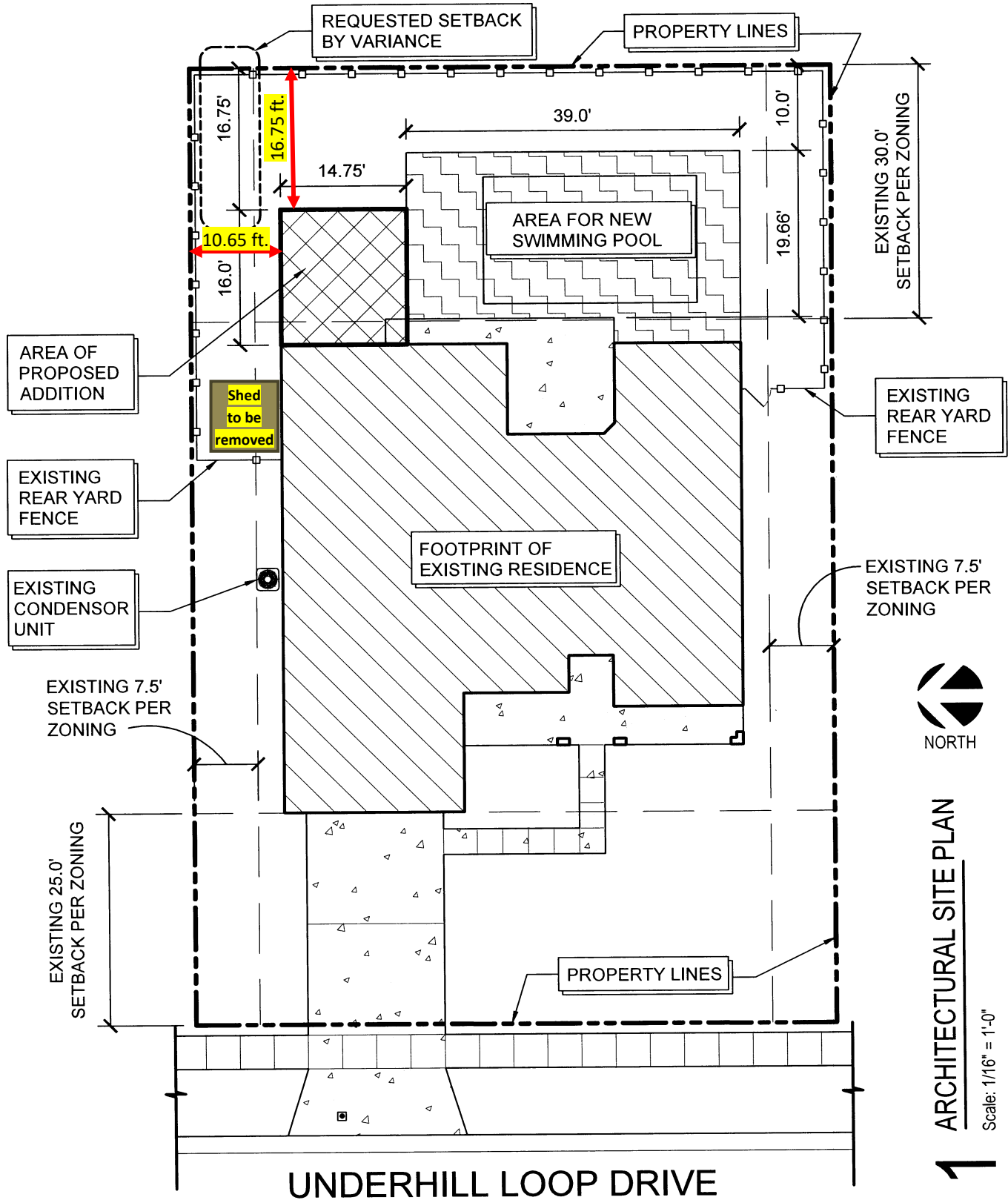
ZONING MAP



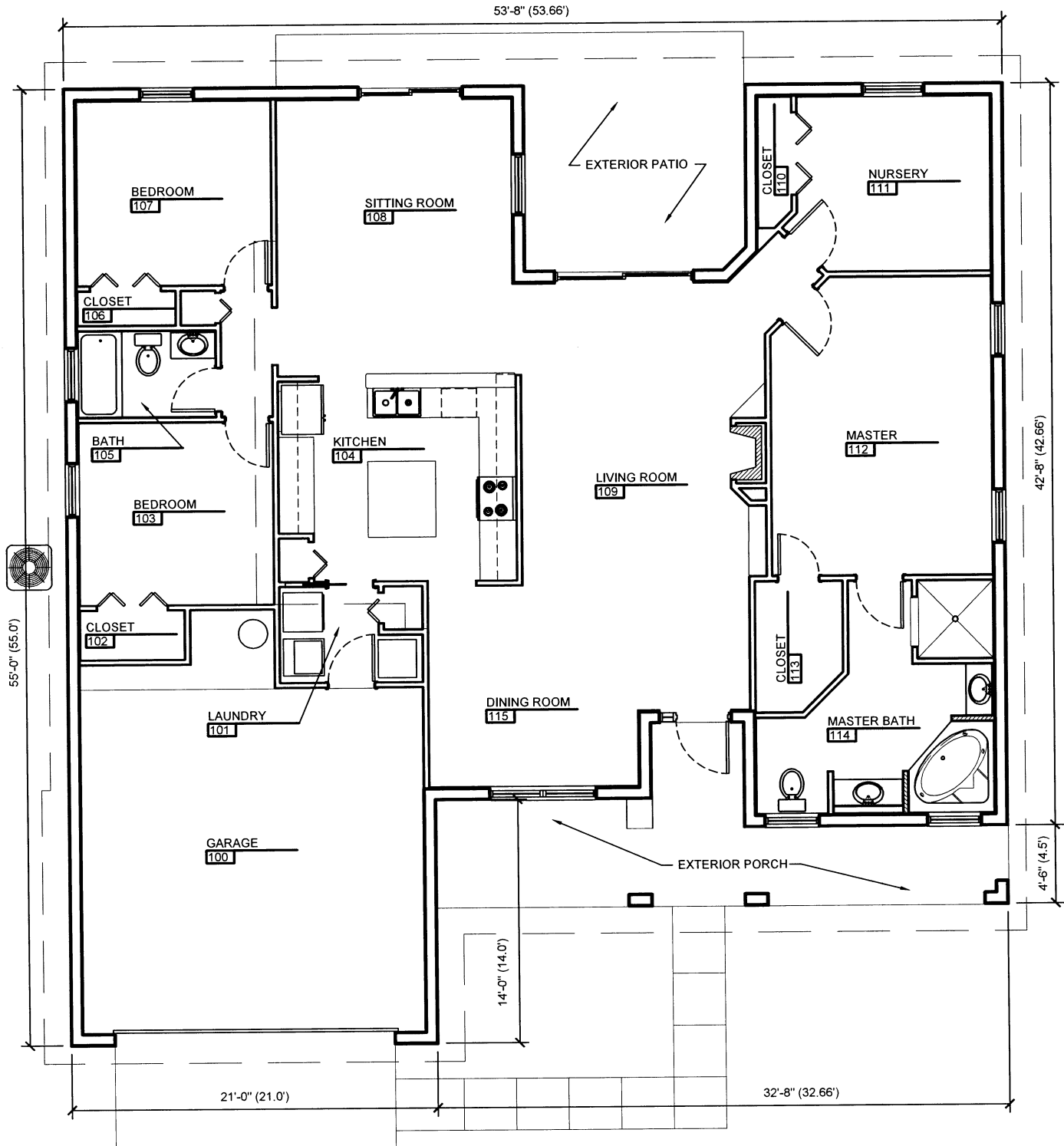
AERIAL MAP



SITE PLAN



EXISTING FLOOR PLAN

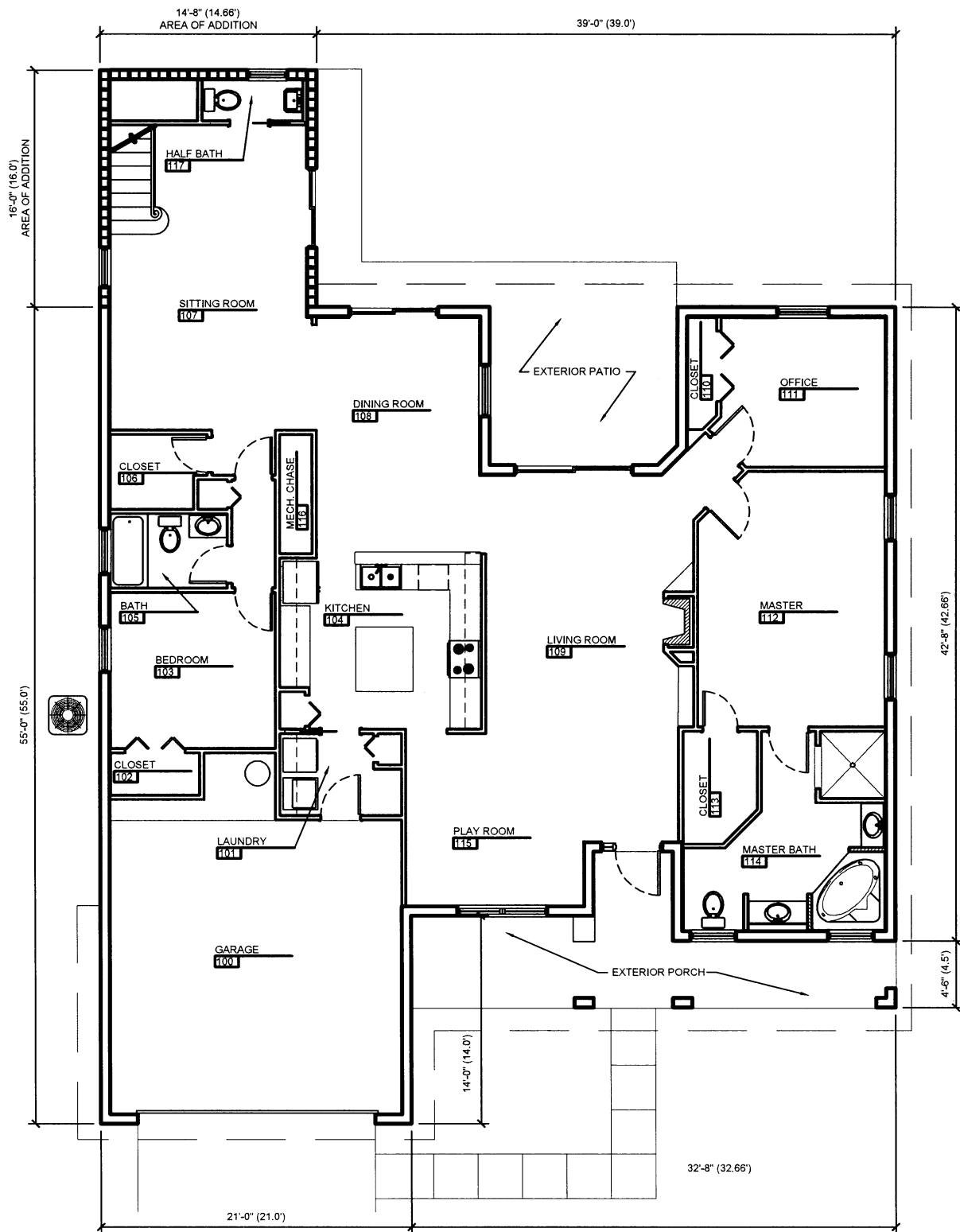


1 EXISTING FLOOR PLAN

Scale: 1/8" = 1'-0"



PROPOSED FIRST FLOOR PLAN

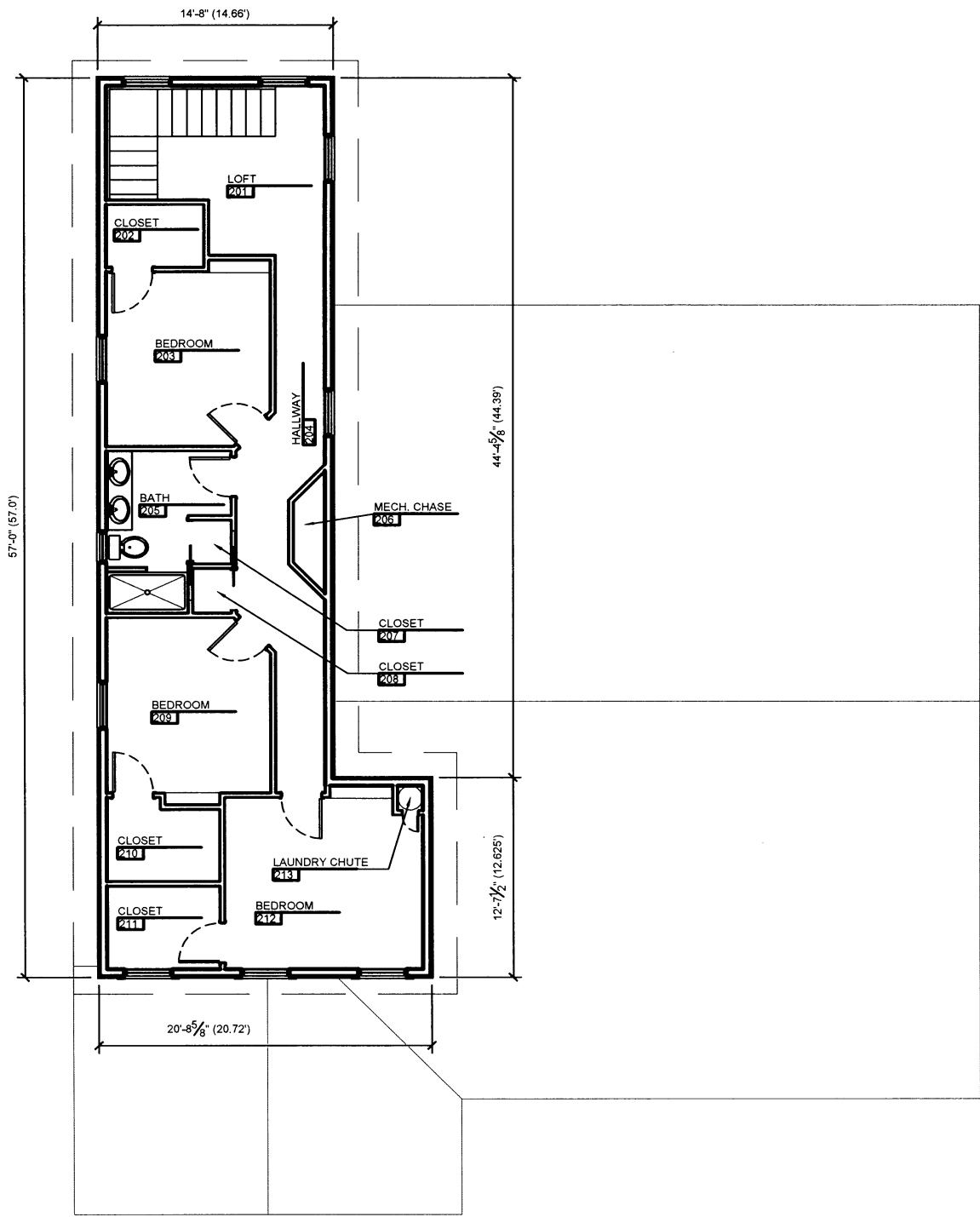


1 PROPOSED FLOOR PLAN

Scale: 3/32" = 1'-0"



PROPOSED SECOND FLOOR PLAN



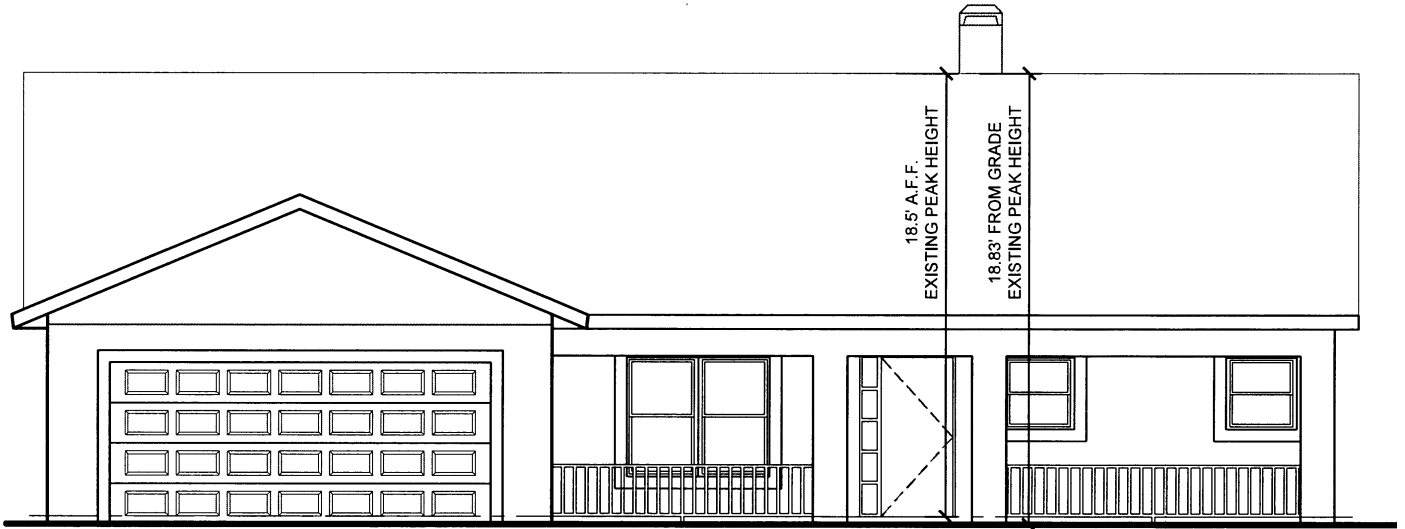
1

PROPOSED SECOND FLOOR PLAN

Scale: 3/32" = 1'-0"

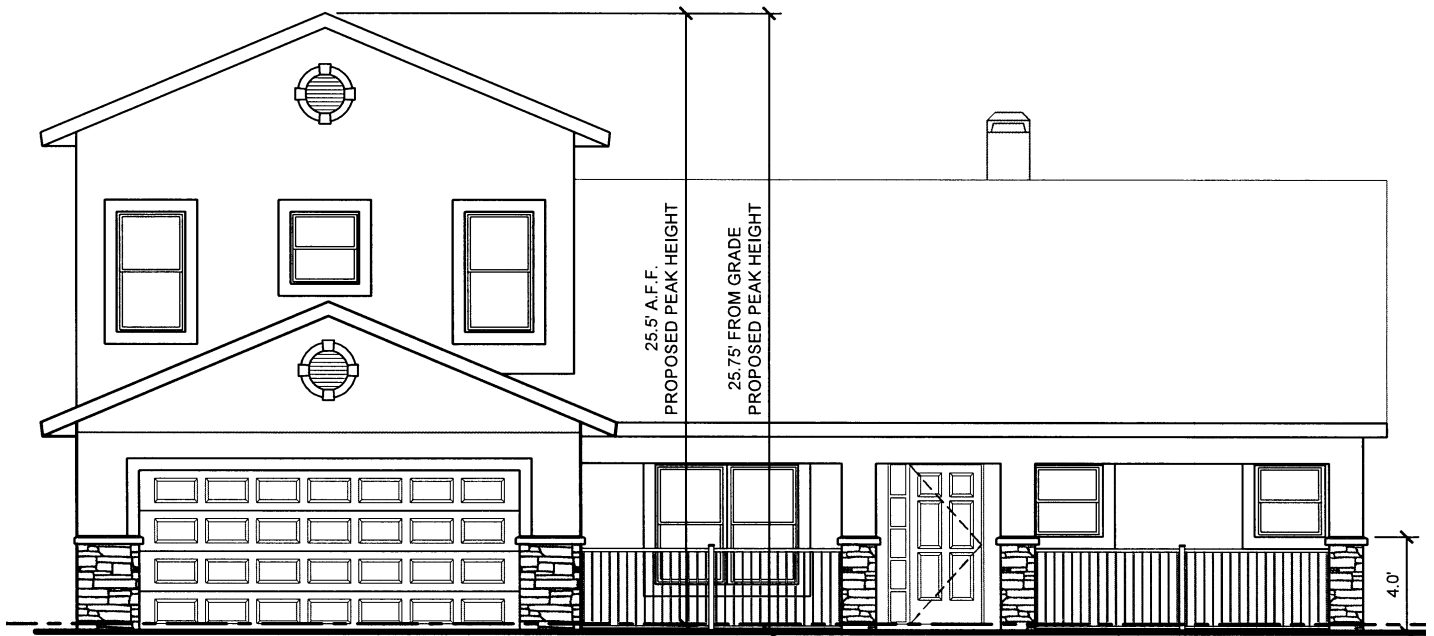


EXISTING AND PROPOSED WEST ELEVATIONS



1 EXISTING FRONT ELEVATION (WEST)

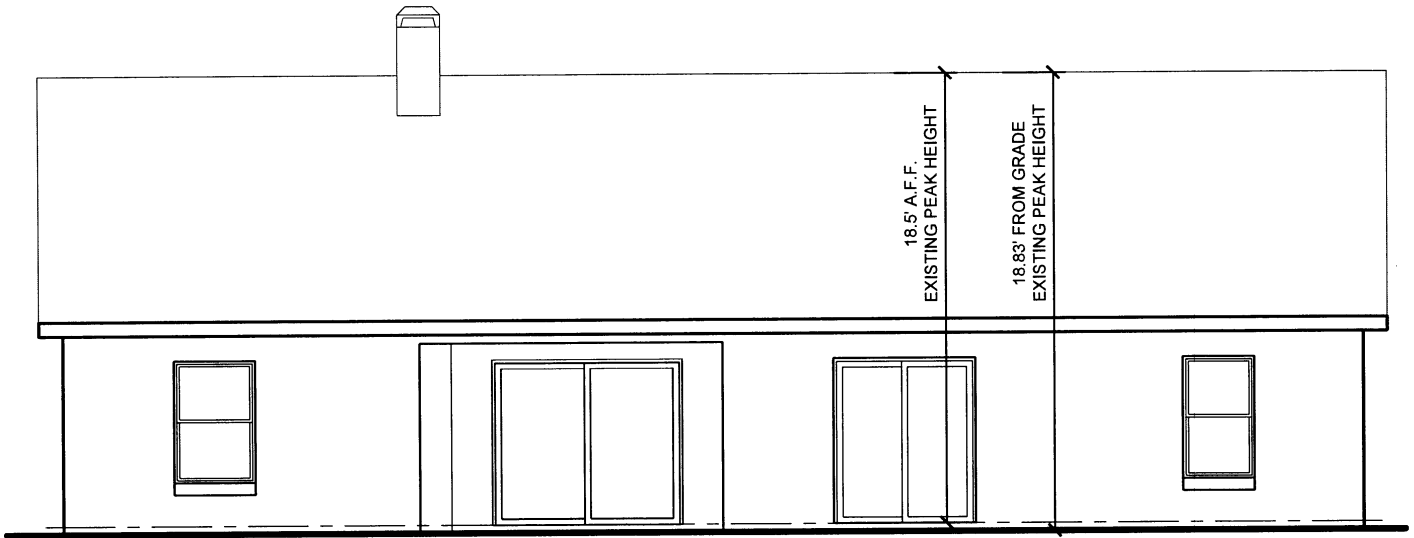
Scale: 1/8" = 1'-0"



2 PROPOSED FRONT ELEVATION (WEST)

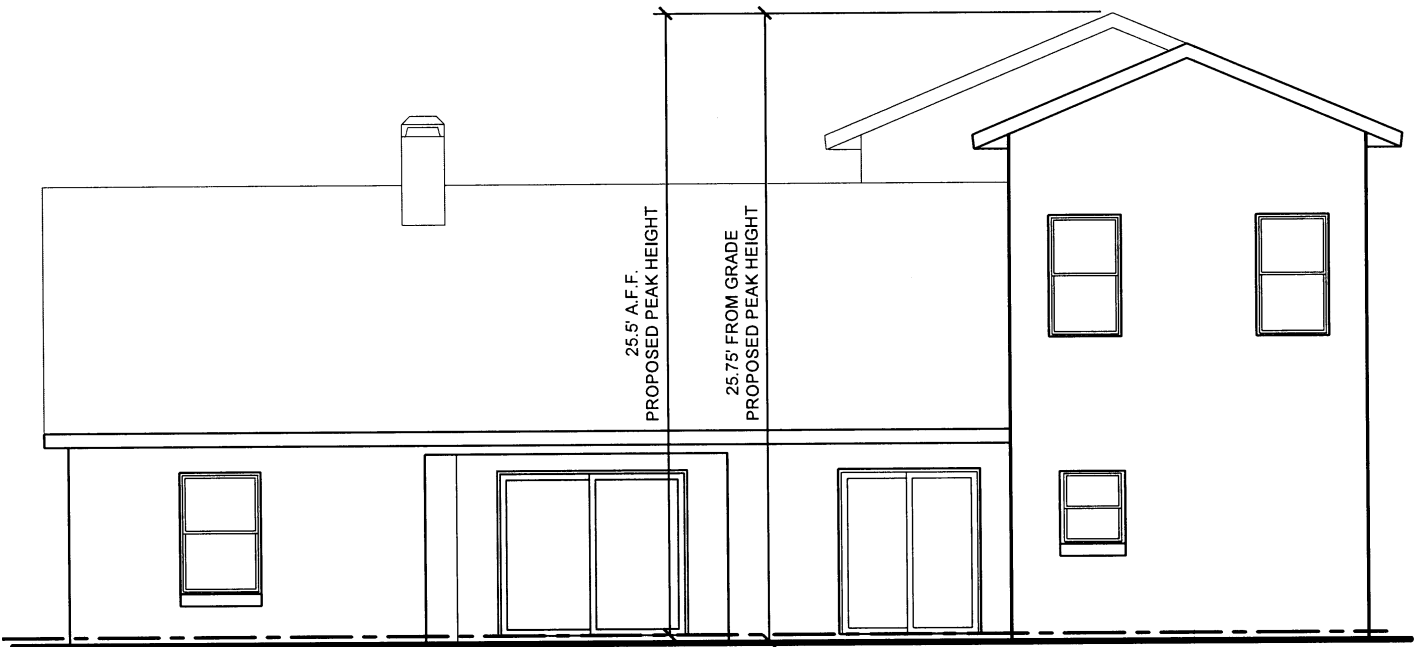
Scale: 1/8" = 1'-0"

EXISTING AND PROPOSED EAST ELEVATIONS



1 EXISTING REAR ELEVATION (EAST)

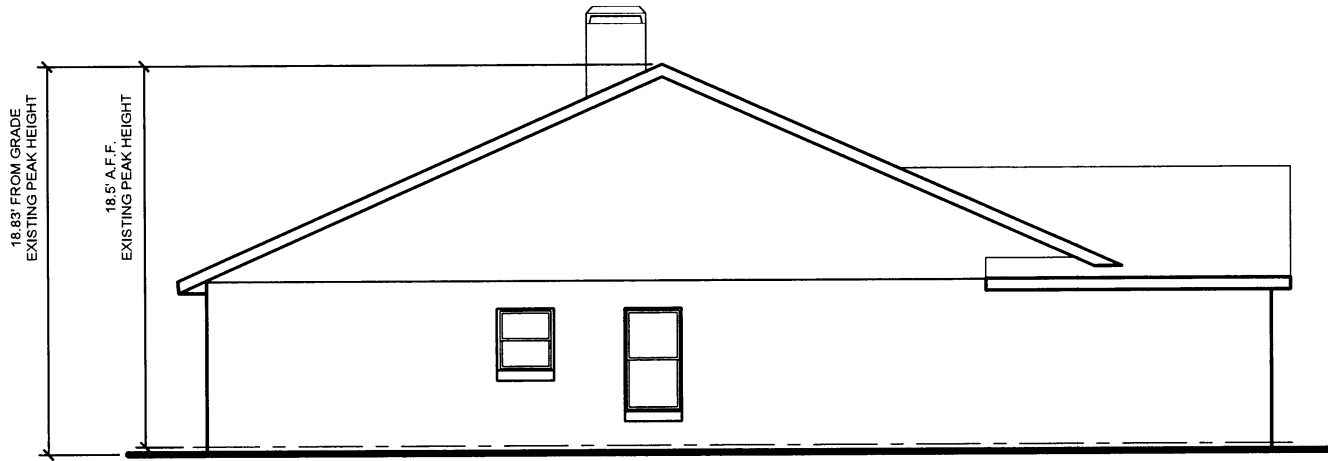
Scale: 1/8" = 1'-0"



2 PROPOSED REAR ELEVATION (EAST)

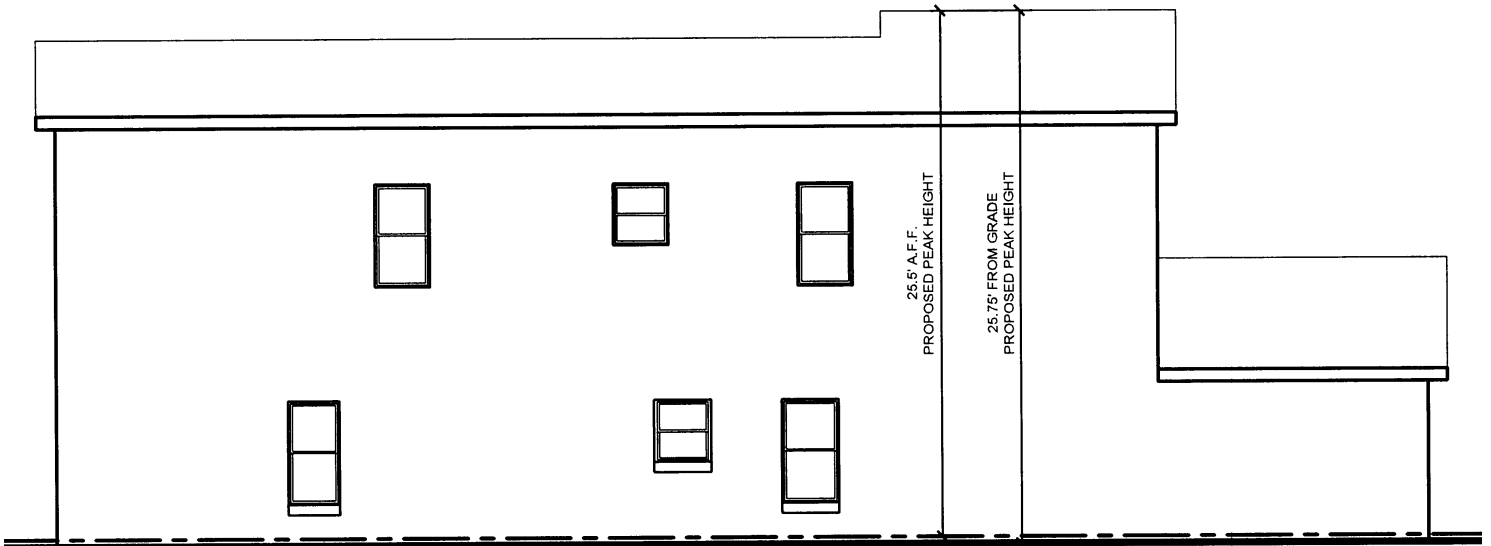
Scale: 1/8" = 1'-0"

EXISTING AND PROPOSED NORTH ELEVATIONS



1 EXISTING SIDE ELEVATION (NORTH)

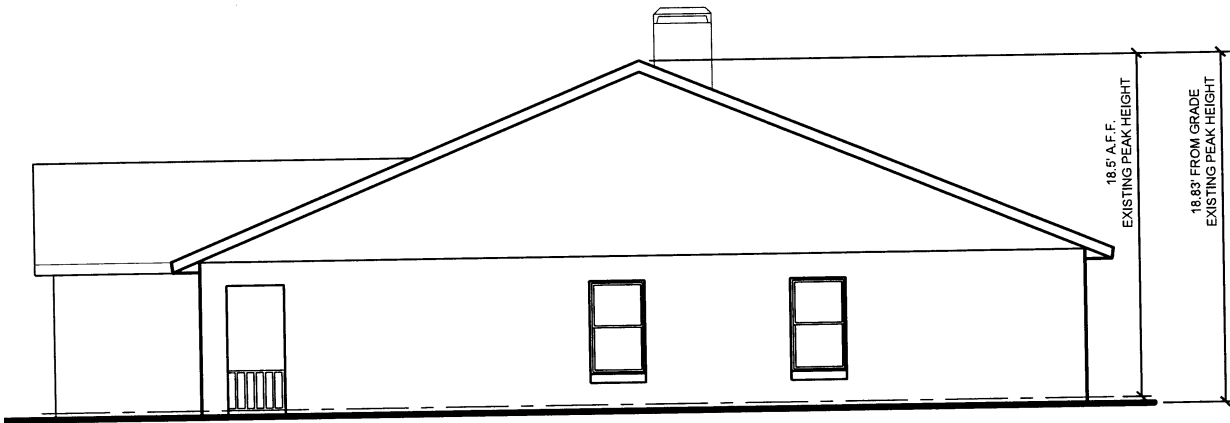
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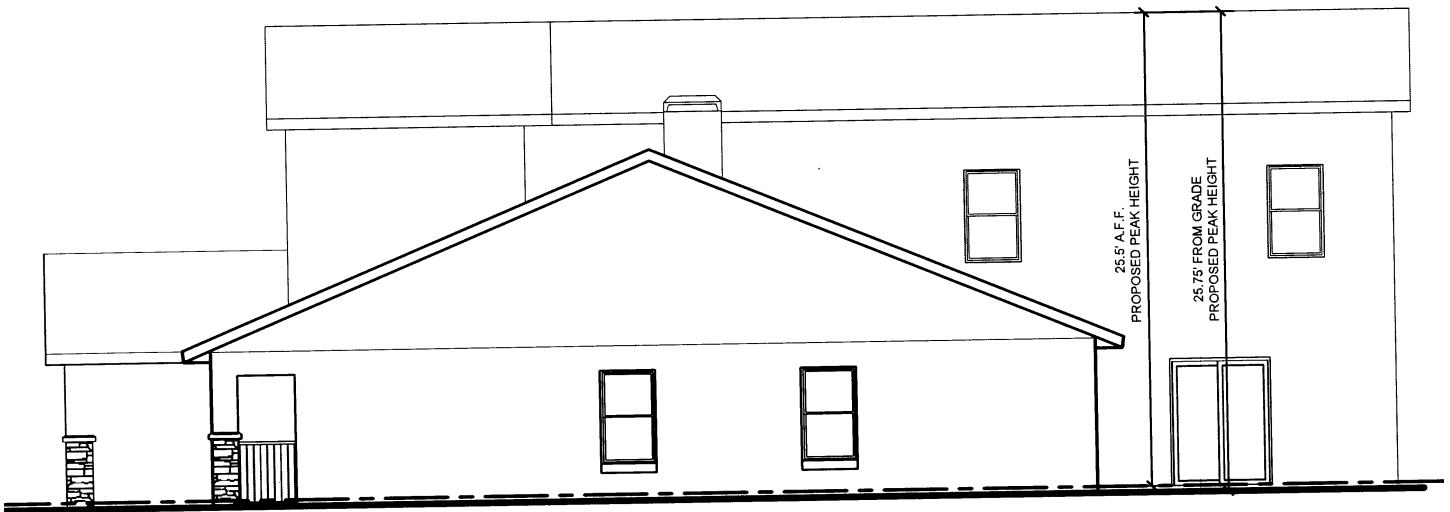
2 PROPOSED SIDE ELEVATION (NORTH)

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

EXISTING AND PROPOSED SOUTH ELEVATIONS



1 EXISTING SIDE ELEVATION (SOUTH)
Scale: 3/16" = 1'-0"



2 PROPOSED SIDE ELEVATION (SOUTH)
Scale: 3/16" = 1'-0"

SITE PHOTOS



Front from Underhill Loop Dr. facing east



Rear yard facing north towards proposed location of addition

SITE PHOTOS



Rear yard towards area of addition, facing west



Unpermitted shed to be removed facing west

SITE PHOTOS



Rear yard facing east towards electric substation

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **SEP 02, 2021**

Case Planner: **Michael Rosso (407) 836-5592**

Case #: **VA-21-06-033**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): JORGE SALAZAR

OWNER(s): TELLOSA INVESTMENTS LLC

REQUEST: Variance in the R-2 zoning district to allow a west side street setback of 7.3 ft. in lieu of 15 ft. for a new single-family residence.

PROPERTY LOCATION: 201 1st Street, Orlando, Florida, 32824, northeast corner of 1st St. and Ave. E, south of E. Landstreet Rd., west of S. Orange Ave.

PARCEL ID: 36-23-29-8228-50-207

LOT SIZE: 50 ft. x 143 ft. / +/- 0.16 acres (7,144 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 84

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; 5 in favor, 0 opposed, 1 abstained and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated August 6, 2021 and elevations dated March 31, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

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 for the variance, and the reasons for a recommendation for denial since the applicant has other options for new construction to meet setback requirements, including the provision of a second floor. Staff noted that no comments were received in support or in opposition.

The applicant discussed the proposal, including the presence of the unimproved right-of-way, Avenue E, to the west side of the lot, the potential difficulty to modify the proposal to meet the setback requirement, and the need for the variance.

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

The BZA discussed the likelihood of a future Avenue E extension and the potential separation of the residence from a future Avenue E right-of-way. The BZA unanimously recommended approval of the variance by a 5-0 vote, with one abstention, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-2	R-2	R-T-2	R-2	R-2
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Vacant	Vacant	Single-family residential	Vacant	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

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

The subject property is 0.16 acres, or 7,144 sq. ft., in size and was platted in 1915 as Lot 7 in Block B, Tier 5 of the Spahler's Addition to Taft Prosper Colony plat. The property is currently vacant and is heavily vegetated, as are the two parcels to the east of the property.

The property is a corner lot with the front yard abutting 1st Street and the side street yard abutting Avenue E, an unimproved, unmaintained 50 ft. right-of-way to the west. The applicant is proposing a 1,874 sq. ft., one-story residence with a 7.3 ft. side street setback. The required side street setback is 15 ft., necessitating the requested variance. Although in the cover letter the applicant indicated a requested side street setback of 7 feet, the setback as indicated on the site plan is 7.3 feet and therefore the request has been advertised as such.

The applicant has submitted B21002850 for the construction of the single-family residence which is on hold pending the outcome of this variance request. However, while the request meets some of the standards for variance criteria, it does not meet all of the standards. The proposed new construction could be modified to comply with all required setbacks. Therefore, staff is recommending denial.

At the time of the writing of this report, staff have not received comments in favor or in opposition to the request. County Public Works Engineering has confirmed that there are no plans to vacate this portion of Avenue E due to drainage issues and have indicated that the road may be improved in the future to increase connectivity in the area.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	17.2 ft.
Min. Lot Width:	45 ft.	50 ft.
Min. Lot Size:	4,500 sq. ft.	7,213 sq. ft.

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

	Code Requirement	Proposed
Front:	20 ft.	25.8 ft. (South)
Rear:	20 ft.	56.3 ft. (North)
Side:	5 ft.	7.5 ft. (East)
Side street:	15 ft.	7.3 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances since as new construction on a vacant lot, the proposed home could be modified to meet setback requirements.

Not Self-Created

The need for the variance is self-created as the proposed new construction could be modified to obtain the desired sq. ft. while still complying with all required setbacks. One way to accomplish this would be to build a two-story home with a detached garage.

No Special Privilege Conferred

Approval of the request would grant the applicant special privilege denied to other properties in the same area and district since other residences in the immediate area contain setbacks consistent with code requirements.

Deprivation of Rights

Deprivation of rights is not a consideration as a single-family residence could be constructed on the property in a manner which meets all setback requirements.

Minimum Possible Variance

The request is not the minimum as the applicant could modify the plans to remove the need for the variance.

Purpose and Intent

Approval of the request would be in harmony with the purpose and intent of the Zoning Regulations as the intent of the 15 ft. side street setback is to provide a greater separation between a functioning right-of-way and a structure since Avenue E is an unimproved ROW and will likely remain that way for the foreseeable future, the need for a larger side setback abutting Avenue E may not be necessary. Furthermore, even if Avenue E is

constructed at the same width as it is to the south, the residence, as proposed, would still have an approximately 19 ft. setback from the eastern edge of the roadway.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated August 6, 2021 and elevations dated March 31, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Jorge Salazar
2621 Quail Pond Way.
Kissimmee, FL 34743

COVER LETTER

Orlando, 07/06/2021

COVER LETTER

ORANGE COUNTY ZONING DIVISION
201 S. Rosalind Ave. 1st Floor
Orlando, FL. 32801

Dear Board of Zoning Adjustment

This letter formally requests an application for a Variance of the west side boundary line from 15 feet to 7 feet. The project is located on a corner vacant lot which a future land development use could be a street.

Unfortunately, once the application was submitted to Building Department, I realized of this situation for the 15 feet setbacks and the architect designed the project with 7 feet. I am asking BZA for reviewing the details site plan and floor plan attached to this application.

The set of plans submitted to Building Department are under permit # **B21002850**

Six standards for Variance approval:

Special conditions and circumstances: the setback requesting the variance is located at the west side of the property line. The project was created with 7 feet of setback on each side west and east. The project was design by architect and me as a regular setback for a regular and standard vacant land on the area. The variance in this case allows us to develop the project with a reducing set back from 15 feet to 7 feet and get it buildable.

Not self-created: the situation was created without any previous knowledge of the existent 15 feet set back due to the future street use. The project was design under normal setback.

No special privilege conferred: the requested change of setback approval does not confer any special privilege to us in this application.

Deprivation of Right: the disapproval of the 15 feet setback to 7 feet setback in this case will be a hard financial and social impact in our proposal project already designed and submitted to Building department for approval. The area has needed more update development.

Minimum possible Variance: The requested minimum 7 feet variance to Zoning Department will be needed to develop and perform the planned project on the site.

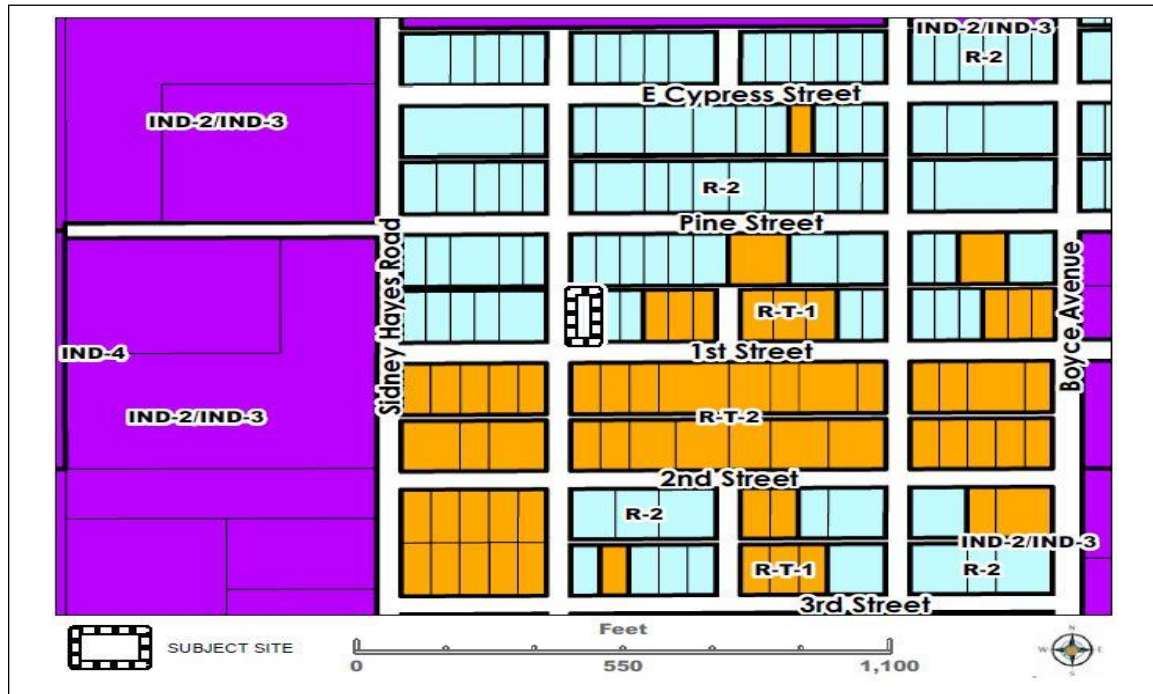
Purpose and Intend: The variance application approval will be in harmony with all purposes and intent of Zoning regulations. The approval of zoning variance will not be injurious to the neighborhood or detrimental of public welfare.

Thanks for all your help and collaboration this matter could require

Best Regards,

Alvaro Bastidas
Tellosa Investment, LLC

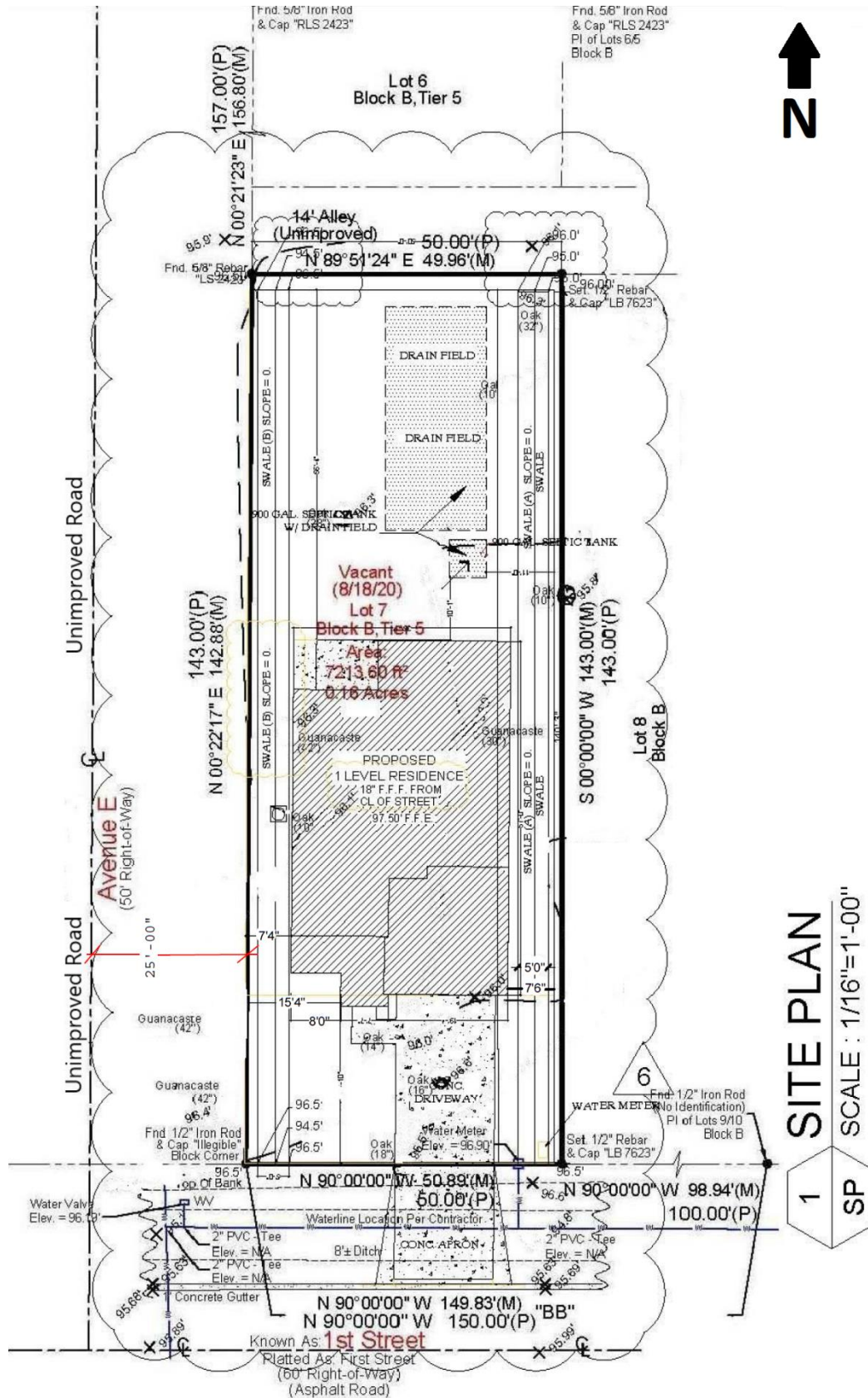
ZONING MAP



AERIAL MAP

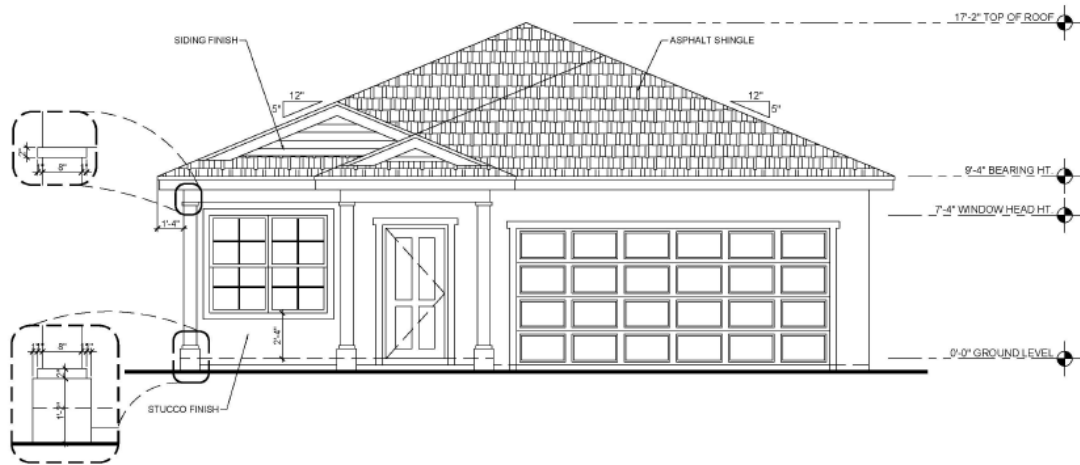


SITE PLAN / SURVEY

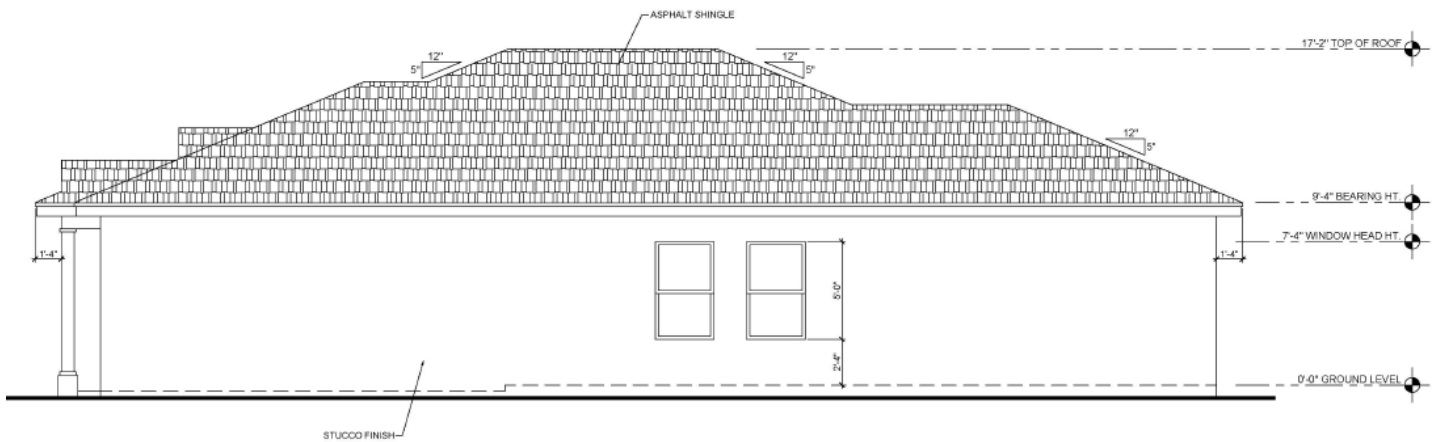


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SOUTH AND EAST ELEVATIONS

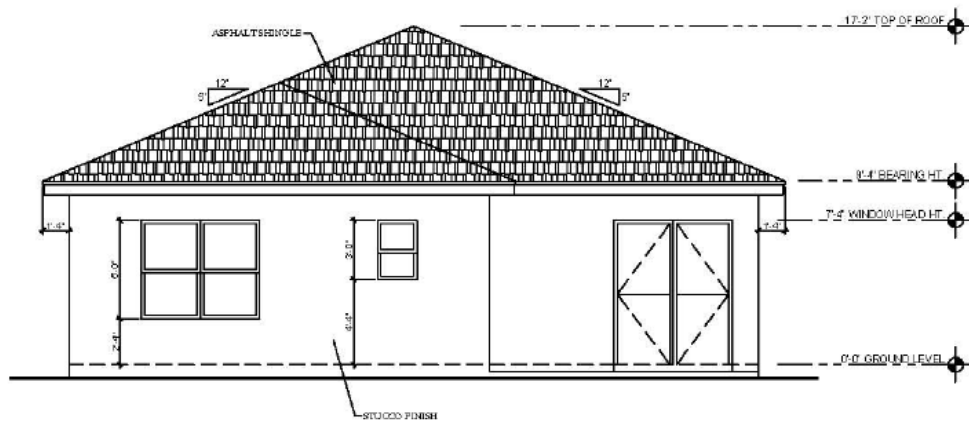


1 FRONT ELEVATION
A-2 SCALE : 1/4"=1'-0"

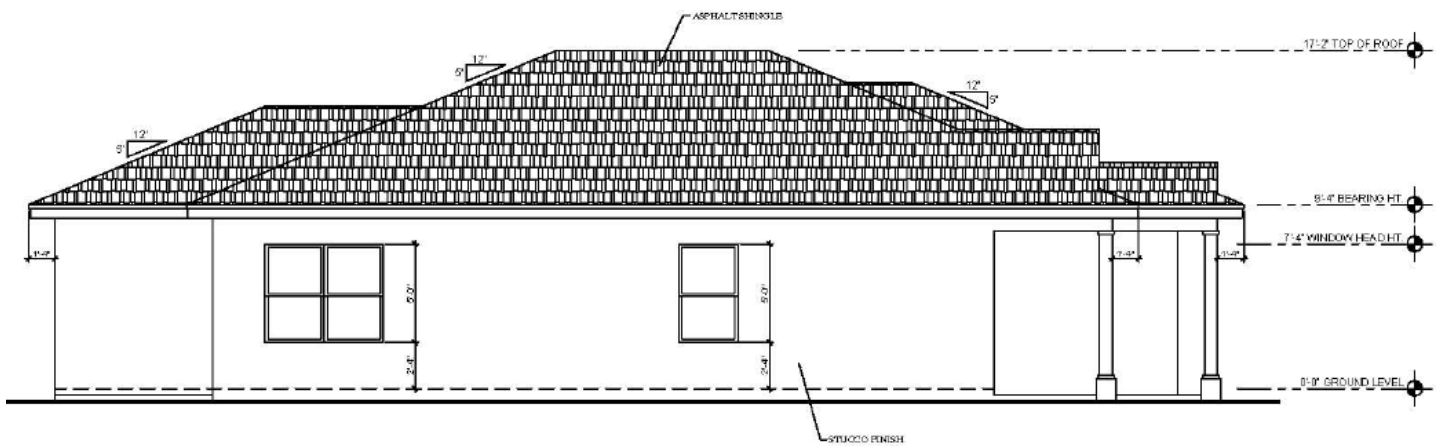


2 RIGHT ELEVATION
A-2 SCALE : 1/4"=1'-0"

NORTH AND WEST ELEVATIONS



1 REAR ELEVATION
A-3 SCALE : 1/4"=1'-0"



Avenue E/West Side Street Elevation

SITE PHOTOS



Facing north from Avenue E

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **SEP 02, 2021**

Case Planner: **Michael Rosso (407) 836-5592**

Case #: **VA-21-08-064**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): SAMIA INDARAWIS

OWNER(s): SAMIA INDARAWIS

REQUEST: Variances in the UR-3 zoning district as follows:

1) To allow an addition with a 22 ft. south rear setback in lieu of 30 ft.

2) To allow an existing residence with a 29.25 ft. south rear setback in lieu of 30 ft.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 11630 Shilpa Court, Orlando, Florida, 32817, south side of Shilpa Ct., east of Vishaal Dr., west of N. Alafaya Trl., and north of Lakanotosa Trl.

PARCEL ID: 10-22-31-7978-00-151

LOT SIZE: +/- 0.13 acres (5,749 sq. ft.)

NOTICE AREA: 500 FT

NUMBER OF NOTICES: 130

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 January 20, 2021 and elevations dated January 20, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. The addition shall match the existing home in material and color.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria, and the reasons for a recommendation for denial of variance #1, since the request is self-created and a recommendation of approval of variance #2, since the structure has been existing in its current configuration for several decades. Staff noted that one comment was received in support and no comments were received in opposition.

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

Code Enforcement Staff discussed the history of the code citation.

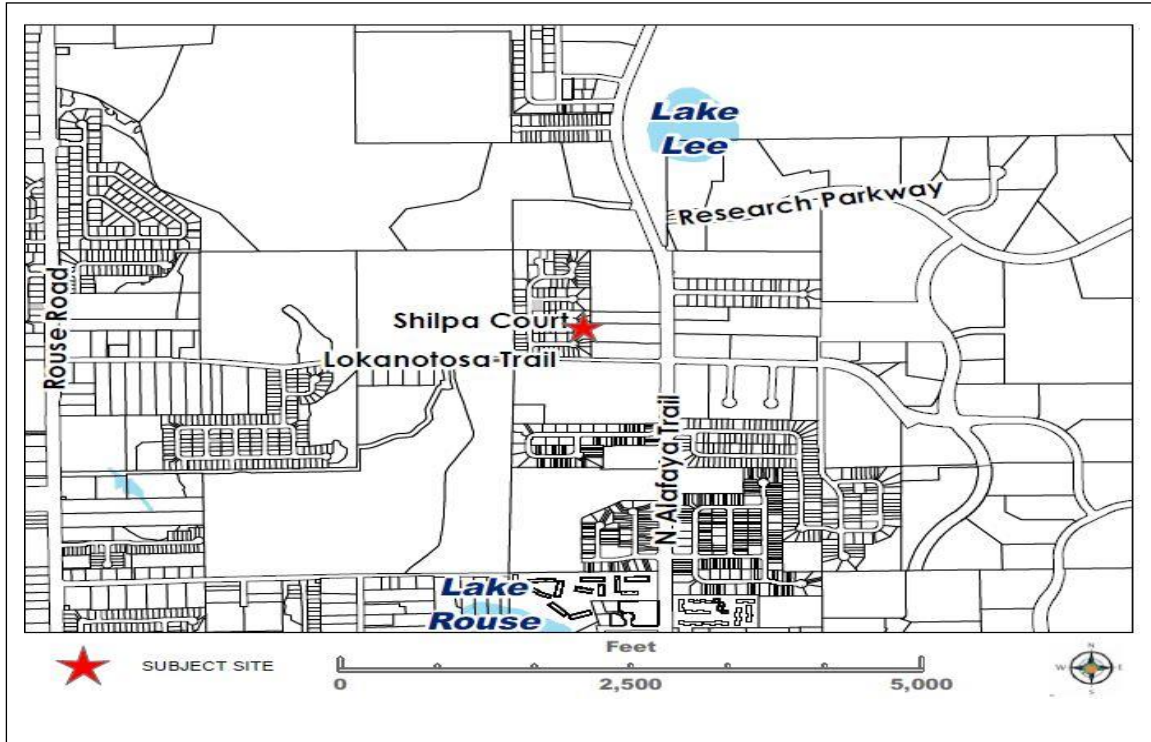
There was no one present to speak in favor or in opposition to the request.

The BZA discussed the location of the addition and the owner's reliance on the contractor's expertise to obtain required permits and to meet code requirements. The BZA unanimously recommended approval of the variances by a 6-0 vote, subject to the five (5) conditions in the staff report.

STAFF RECOMMENDATIONS

Staff recommends denial of Variance #1, and approval of Variance #2 subject to the conditions in this report. However, if the BZA should find that the applicant has satisfied the criteria for the granting of both 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	UR-3	UR-3	UR-3	UR-3	UR-3
Future Land Use	LMDR	LMDR	LMDR	LMDR	LMDR
Current Use	Duplex	Duplex	Duplex	Duplex	Duplex

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the UR-3, University Residential district, which allows multiple-family residential uses within close proximity to colleges or universities, such as student housing. The future land use is LMDR, which is inconsistent with the UR-3 zoning. The Planning Division has indicated that the inconsistency with the zoning and future land use should not have an impact on the proposed addition, as attached housing is permitted in UR-3, and it is an existing use.

The subject property is 5,749 sq. ft. in size and is the east half of Lot 15 of the Sherwood Forest subdivision, which was platted in 1985. It is a pie-shaped lot with a large east side setback. The lot is currently occupied by half of a one story duplex unit with 1,052 gross sq. ft. built in 1985, with a partially constructed unpermitted addition in the rear.

The applicant hired a contractor in December 2020 to construct a 129 sq. ft. addition at the rear of the existing duplex. Permits to complete the work were never obtained by the contractor, and subsequently the partially constructed addition was cited by Code Enforcement on December 17, 2020 (Incident #: 582775). The addition is encroaching 8 ft. into the 30 ft. rear setback, requiring Variance #1 to allow an addition with a 22 ft. rear south setback in lieu of 30 feet. The existing residence has a 29.25 ft. south rear setback, requiring Variance #2 to allow an existing residence with a 29.25 ft. south rear setback in lieu of 30 feet. The rear yard is surrounded by a 6 ft. high opaque fence. There is also significant tree cover in the immediate area.

Regarding Variance #1, while the applicant’s request meets some of the standards for variance criteria, it does not meet all of the standards. Therefore, staff is recommending denial of this request. Regarding Variance #2, this request was added to vest the existing 29.25 ft. setback as constructed in the 1980s. Therefore, staff is recommending approval of this request.

Staff has received a letter of support from the owner of the adjoining duplex unit to the west. Additionally, EPD has reviewed the plan and has no concerns.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft. (County Code)	10.5 ft. (Addition)
Min. Lot Width:	85 ft. (Duplex Plat – includes lot to west)	46 ft.
Min. Lot Size:	N/A	5,749 sq. ft.

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

	Code Requirement	Proposed
Front:	25 ft.	25 ft. (North)
Rear:	30 ft.	22 ft. (South – Variance #1) 29.25 ft. existing (South – Variance #2)
Side:	7.5 ft.	0 ft. (West)/17 ft. (East)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1

There are no special conditions and circumstances as there is an extensive side yard where an addition could be built.

Variance #2

The special conditions and circumstances are that the building was constructed with this setback in 1985.

Not Self-Created

Variance #1

The need for the variance is self-created, as the owner could have had the addition constructed on the east side of the duplex, which would not have encroached into any setbacks.

Variance #2

The need for the variance does not result from the actions of the owner, as the residence was constructed long before current ownership.

No Special Privilege Conferred

Variance #1

Granting the variance as requested would confer special privilege as other properties in the Sherwood Forest subdivision meet the requirements of code.

Variance #2

Granting the variance as requested will not confer special privilege, as it is a minimal request and the residence has been in the same location and configuration since it was constructed over 35 years ago.

Deprivation of Rights

Variance #1

There is no deprivation of rights as the existing duplex can still be utilized as constructed, and a conforming addition could be built.

Variance #2

As the residence is already existing, non-conforming, literal interpretation of the code would deprive the owner of the ability to rebuild the duplex in the same place if it was destroyed by any means.

Minimum Possible Variance

Variance #1

This is not the minimum possible because a code compliant addition could be built to the east of the residence.

Variance #2

The request is the minimum as the existing rear setback is as originally constructed.

Purpose and Intent

Variance #1 and #2

Approval of the requested variances would be in harmony with the purpose and intent of the Zoning Regulations as the duplex is only 0.75 ft. closer to the rear property line than required by code, which is not a discernable distance. Furthermore, despite being 8 ft. closer to the rear property line than required by code, the addition will likely not be visible from any of the surrounding properties due to the fence surrounding the property and the significant tree cover, and so there would be no quantifiable negative impact to surrounding property owners.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated January 20, 2021 and elevations dated January 20, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 2 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. The addition shall match the existing home in material and color.

C: Samia Indarawis
3817 N. Econlockhatchee Tr.
Orlando, FL 32817

COVER LETTER

To: Orange County Zoning Division, Board of Zoning Adjustment
From: Samia Indarawis
Address: 11636 Shilpa Ct Orlando, FL 32817

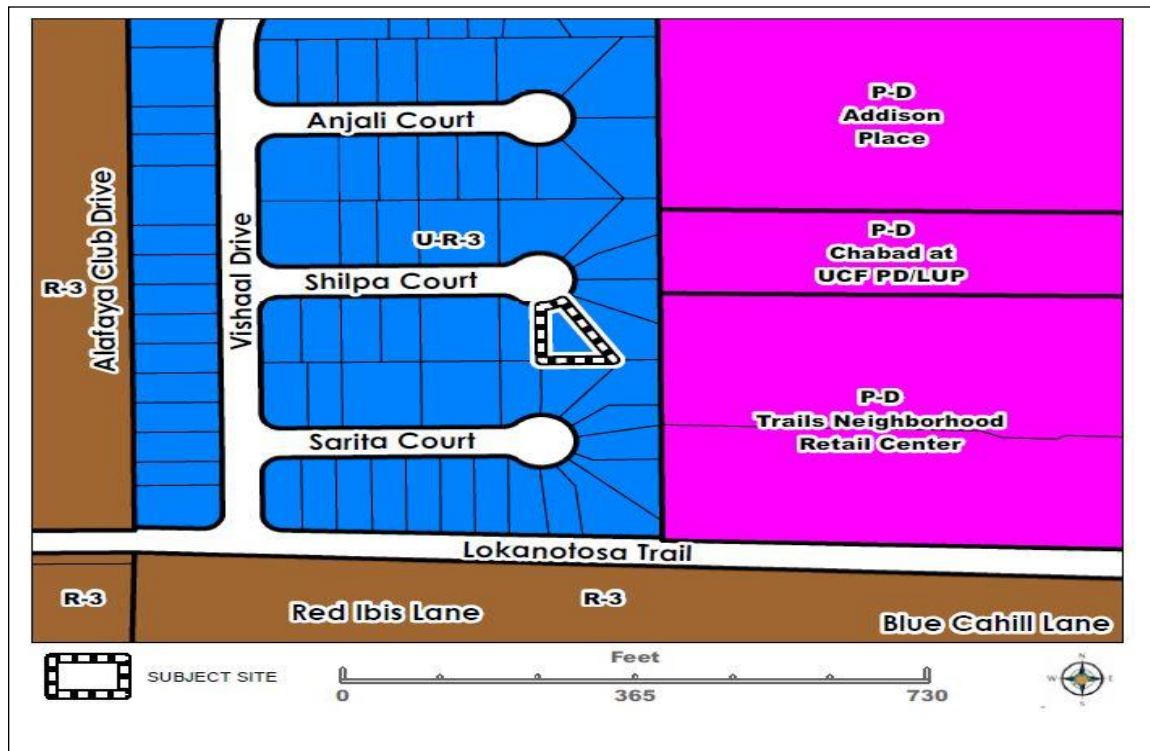
The following cover letter is in reference to an application for a zoning adjustment secondary to a concrete room addition to the aforementioned home. We needed to make a room addition due to a financial hardship my son encountered due to Covid-19 and him needing a larger home to live with his family. The reason we are requesting a zoning adjustment is because I hired a contractor to add this room to our house and I was assured that he would apply for the permit after making the addition. I have never made an addition before and was not aware that the permit should have been applied for ahead of time and was taken advantage of. The contractor proceeded with the addition, but then encroached into the setback by 7.75 feet. The type of construction is a room addition that is based on a concrete floor plan of 10 x 12 feet with cinder block walls, and a shingled roof. The height of the room has 8 feet-tall ceilings. The allowed setback is 30 feet in the current zoning and the contractor made the setback at 22.25 feet.

Variance Criteria: Section 30-43 (3) fo the Orange County Code stipulates specific standards for the approval of variances.

1. Special Conditions and Circumstances: The actual lot shape at the rear of our property is oddly shaped and makes it difficult to make this addition without encroaching on the existing setback.
2. Not Self-Created: The special circumstance listed above does not result from our actions.
3. No Special Privilege Conferred: I am not requesting any special privilege.
4. Deprivation of Rights: Due to the odd shape of the property, we would be deprived of not being able to make this addition without this variance approval.
5. Minimum Possible Variance: The minimum possible variance requested would be 7.75 feet.
6. Purpose and Intent: ~~Understood and agreed.~~

The purpose of adding an additional bedroom is consistent with the single-family home use. The addition will look just like the rest of the home, and will not be visible from the surrounding properties or the right-of-way. S.G

ZONING MAP

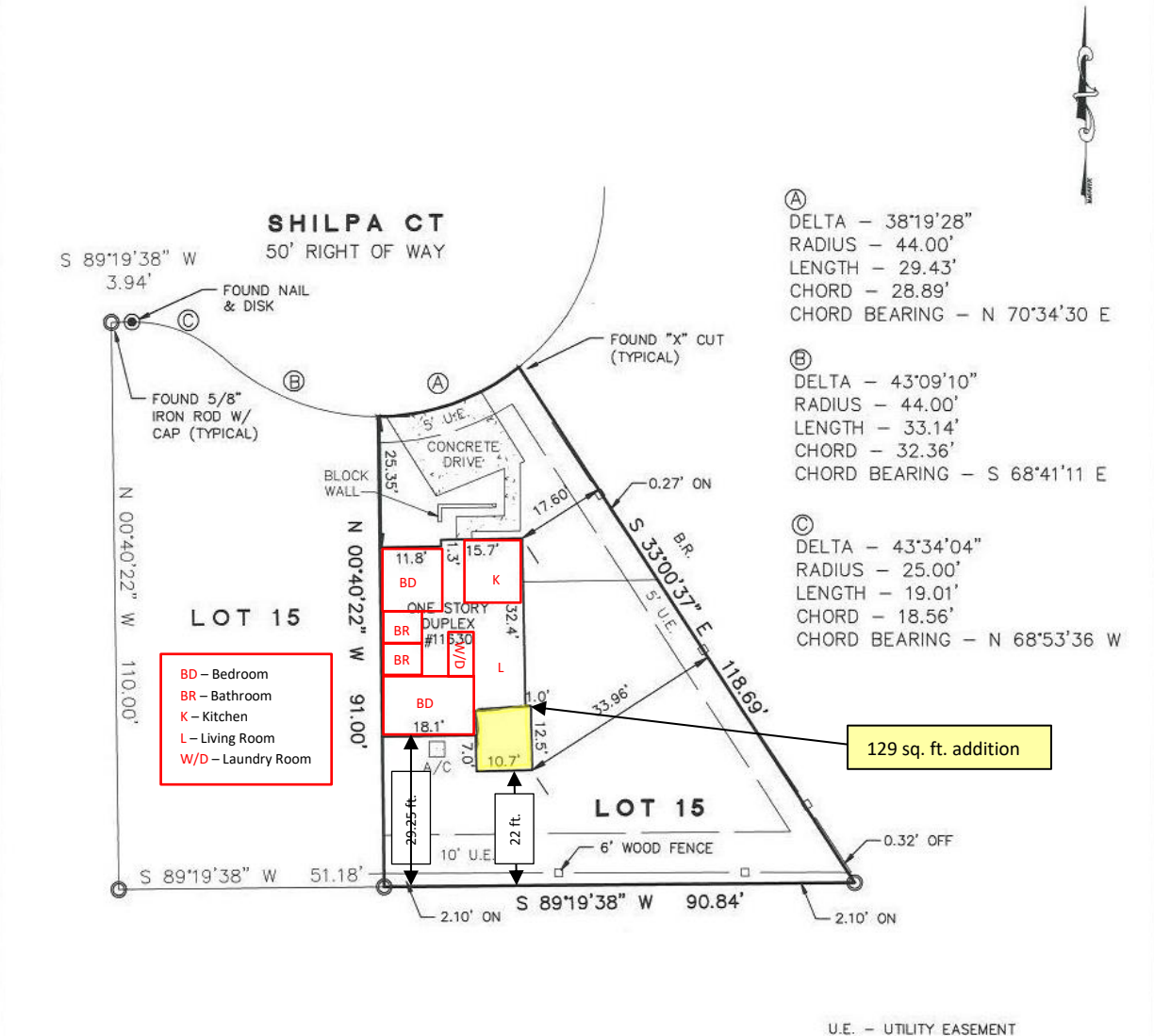


AERIAL MAP



SITE PLAN

LEGAL DESCRIPTION: Sherwood Forest, the Easterly 1/2 of Lot 15
According to the plat thereof, as recorded in Plat Book 15 Page 46 of the public records of Orange County, Florida. Said lands lying in Orange County, Florida.



NOTES:

Lands shown here were not abstracted by the surveyor for rights-of-way and/or easements of record or ownership.

The survey map and report or the copies thereof are not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

Bearings are Referenced (B.R.) on the Easterly line of Lot 15 as being N 33°00'37" E.

Distances are plat and measured unless otherwise noted.

Property lies in flood zone X per Flood Insurance Rate Map #12095C0280F, dated 09/25/2009.

Legal description was provided by client.

RUSSELL A. BRACH

1821 SIR LANCELOT CIRCLE
ST. CLOUD, FLORIDA, FLORIDA 34772
(407) 487-0719

I HEREBY CERTIFY THIS SKETCH MEETS
THE MINIMUM TECHNICAL STANDARDS OF
FLORIDA ADMINISTRATIVE CODE RULE 5J-17.

Russell A. Brach
RUSSELL A. BRACH
FLORIDA REGISTRATION # 5299

BOUNDARY SURVEY

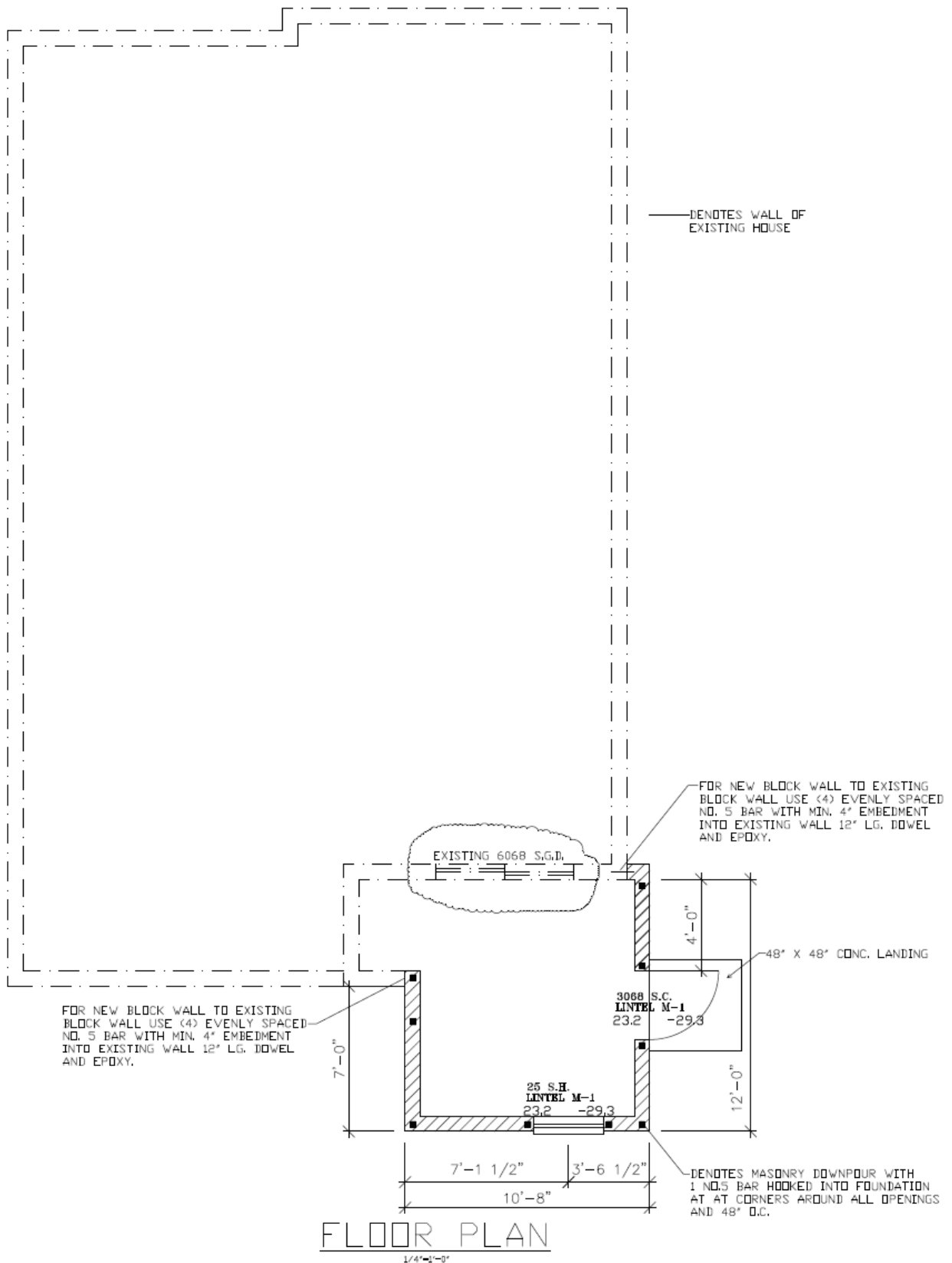
SCALE: 1" = 30'

FIELD DATE: 01/19/21

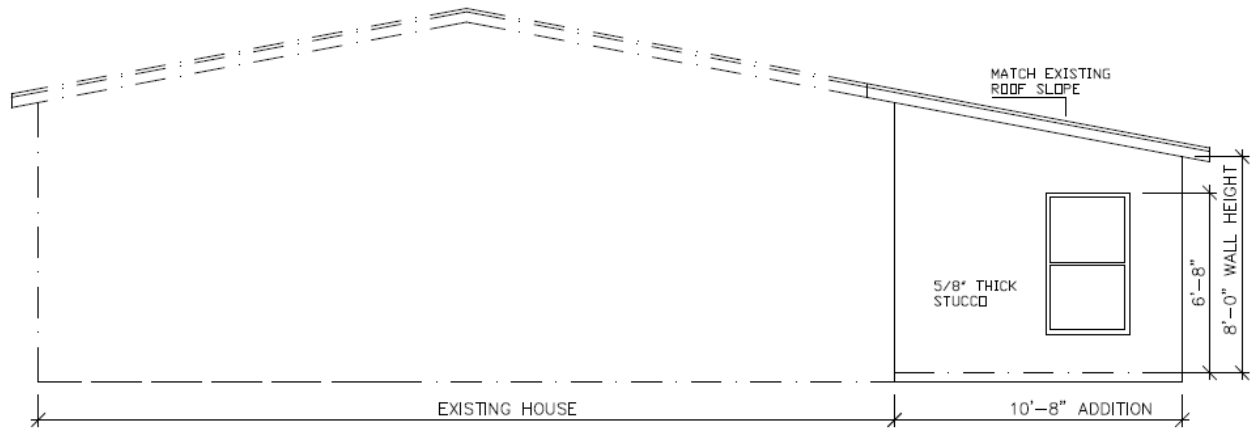
JOB No. 11630Bndy

DRAWN DATE: 01/20/21

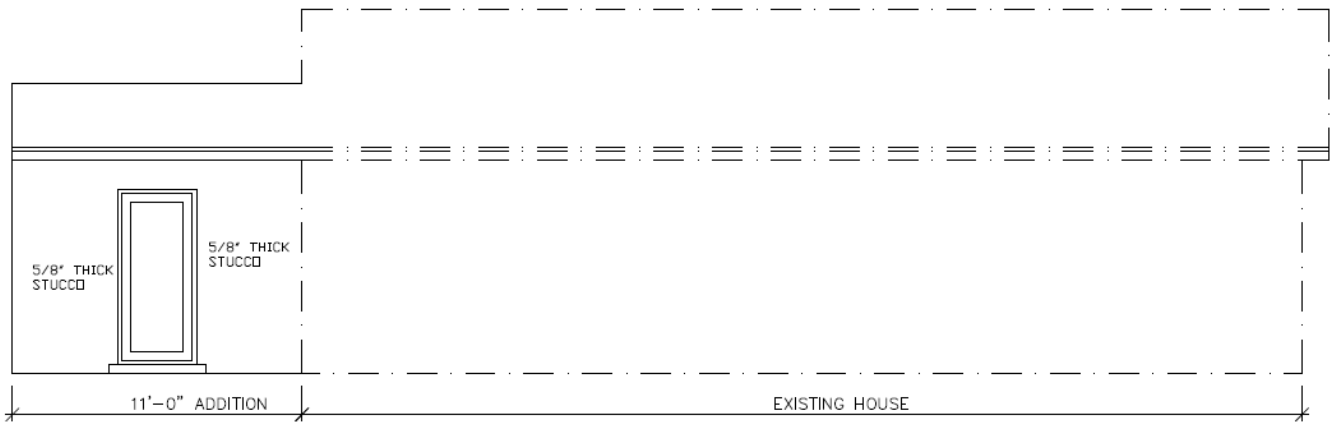
FLOOR PLAN (ADDITION)



ELEVATIONS



SOUTH ELEVATION



EAST ELEVATION

SITE PHOTOS



Facing south towards front of subject property, the subject residence is on left



Facing northwest towards front of property and adjoining duplex

SITE PHOTOS



Facing west towards adjoining duplex



Rear yard, facing northeast towards addition

SITE PHOTOS



Rear yard, facing east towards addition to the left



Facing south towards rear of property (addition is to right)

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **SEP 02, 2021**

Case Planner: **Laekin O'Hara (407) 836-5943**

Case #: **VA-21-09-081**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): JUAN FRIAS

OWNER(s): PINA RAMONA, JUAN FRIAS

REQUEST: Variance in the R-1AA zoning district to allow a 6 ft. high fence within the clear view triangle from the right-of-way line for visibility from the driveway on an adjacent lot.

This is the result of Code Enforcement action.

PROPERTY LOCATION: 9067 Stockton Court, Orlando, Florida, 32817, north of University Boulevard, east of N. Econlockhatchee Trail

PARCEL ID: 06-22-31-9090-00-020

LOT SIZE: +/- 0.25 acres

NOTICE AREA: 500

NUMBER OF NOTICES: 94

DECISION: Recommended **DENIAL** of the Variance request in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (4 in favor, 2 opposed and 1 absent).

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, including but not limited to, safety reasons.

Staff noted that six (6) comments were received in support and no comments were received in opposition.

The owners discussed the request, including the history of the replacement of a prior existing fence in the same location, and the need for the fence to enclose the pool area for safety.

No one was present to speak in opposition to the request. Two persons spoke in favor of the request, citing that the proposed fencing was an improvement to the fence that was replaced at the same height and location.

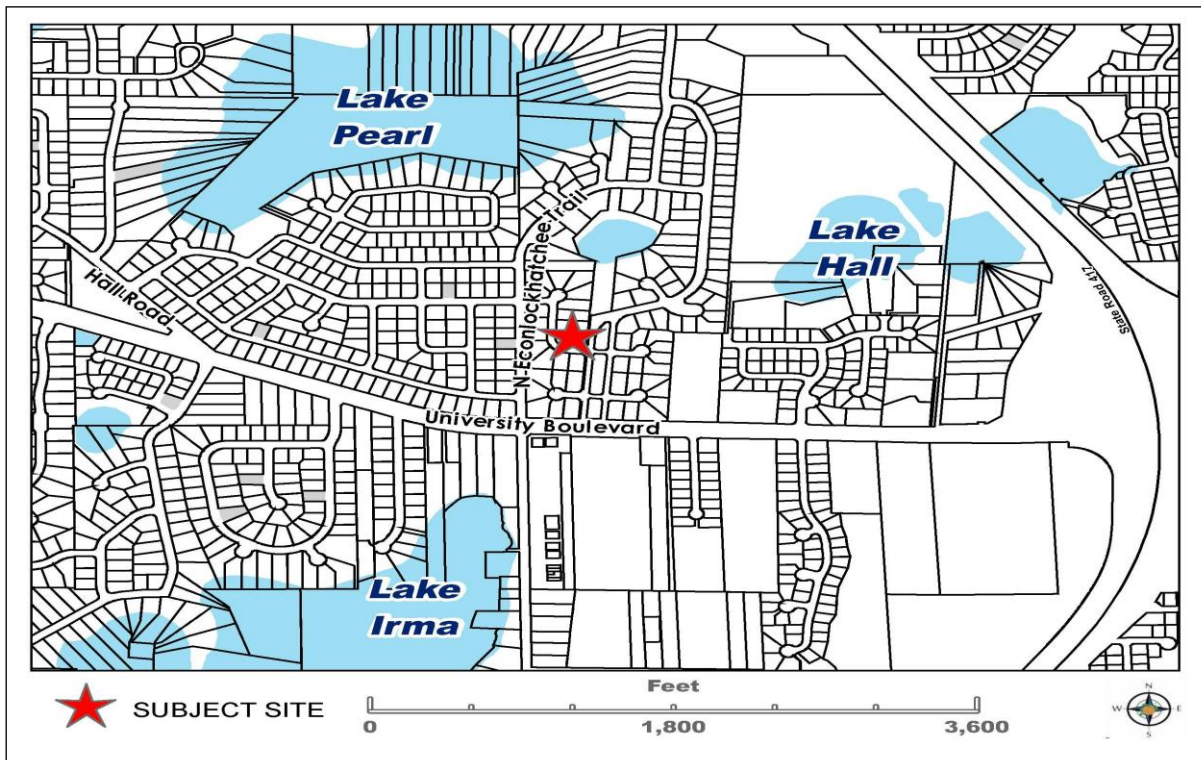
Code Enforcement Staff discussed the history of the citation, the violation of the sight distance triangle and the minimum required pool fence height.

The BZA discussed the sequence of fence replacement and reinstallation, the lack of compliance with the issued fence permit, how the request was self-created, that the location of the fence was a possible safety concern and recommended denial of the variance by a 4-2 vote.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

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

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is zoned R-1AA, Single-Family Dwelling district, which allows single-family homes and associated accessory structures. The area around the subject site consists of single-family homes.

The subject property is a +/- 0.25 acre lot that was platted in 1984 as lot 2 of the Watermill West subdivision. The site is developed with a 2,308 sq. ft. single-family home, constructed in 1985, and a pool at the rear of the property. The owner purchased the property in 2016.

The property is a reverse corner lot (the rear yard is the side yard of the adjacent lot to the north) with a driveway located approximately 11 ft. away on the property to the north. A variance is being requested to allow a 6 ft. high vinyl privacy fence within the reverse corner lot visibility triangle. Per Code Sec. 38-1408(j), “on any reversed corner ... no part of any fence greater than four (4) feet in height shall be located within the required front yard setback of the adjacent lot as measured from the common corner of each lot...”. A fence installed outside of the visibility triangle would be permitted to be a maximum of eight (8) feet high.

The applicant submitted a fence permit (F21011876) in May 2021 with the fence in the requested configuration, but was subsequently revised to meet code, and the permit was issued on June 28, 2021. The fence was then constructed in the originally requested configuration, not in compliance with code or the approved plan. A code violation is currently active (591124) for the construction of the fence that does not meet code.

The western edge of the fence was installed approximately 3 ft. from the property line/back of sidewalk, significantly blocking visibility from cars backing out; however, the northernmost portion of the fence is located approximately 11 ft. from the driveway to the north, which does provide for some visibility.

The applicant has submitted two letters of no objection from the adjacent neighbors to the east and north.

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 of the adjacent lot as measured from the common corner of each lot.	6 ft. high fence along property line, including the visibility triangle / front-yard section of adjacent lot (Variance)
Min. Lot Width:	85 ft.	95 ft.
Min. Lot Size:	10,000 sq. ft.	11,016 sq. ft.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances, as the fence could have been installed in compliance with the requirements of the code and the issued fence permit.

Not Self-Created

The need for the variance is self-created, as the owner installed the fence in this configuration and location, which is not consistent with the issued permit. The owner had the opportunity to install the fence at a conforming height in a conforming location.

No Special Privilege Conferred

Granting the variances as requested will confer special privilege that is denied to other properties in the same area and zoning district, as the applicant could relocate or modify the improvements requested to a conforming height and location.

Deprivation of Rights

There is no deprivation of rights as a fence could be installed in a location compliant with code, and the issued permit.

Minimum Possible Variance

The requested variance is not the minimum possible, as the applicant could relocate or modify the improvements requested to a conforming height and location.

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 adjacent driveway is located at a distance which will limit any visibility issues.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan dated July 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 for the as-built fence 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: Juan Frias
9067 Stockton Ct.
Orlando, FL 32817

COVER LETTER

July 20, 2021

Via Email

Orange County Zoning Division
201 S. Rosalind Avenue, 1st
Orlando, FL 32801

RECEIVED

JUL 30 2021

ORANGE COUNTY
ZONING DIVISION

Re: 9067 Stockton Court, Orlando, FL 32817

To Whom It May Concern:

I am writing to seek a fence variance for my single-family home at 9067 Stockton Court, Orlando, FL 32817 (Code case# F21011876, Case # VA-21-09-081). Current zoning rules say that a 6ft fence cannot be installed within 30'x30' from the right-of-way line or the edge of the driveway for visibility from driveways on the adjacent lot.

I respectfully request variances in the R-1AA zoning district as follows:

- 1) To allow a 6 ft. high fence within the reverse corner lot visibility triangle.
- 2) To allow a 6 ft. high fence within the side street setback.

The enclosed images depict the specific corner on the north side of the property that is the subject of this matter (see enclosed image with 'Variance A' and Variance 'B').

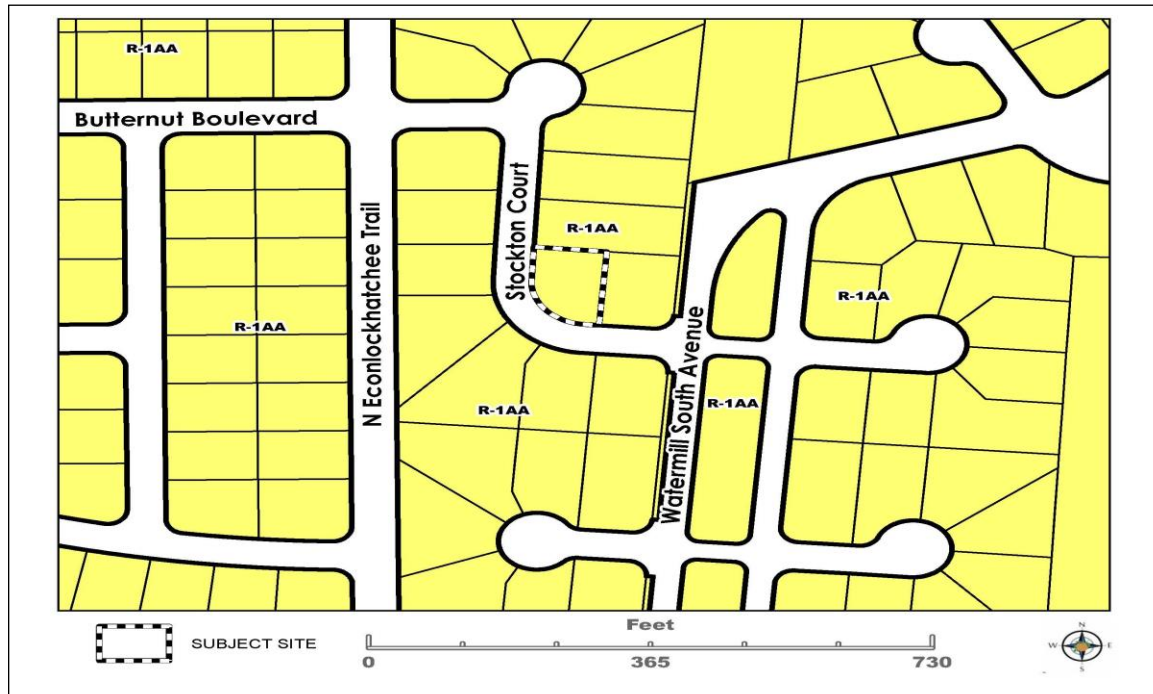
We purchased this home in 2016 and the 6-foot fence was already there, installed by the previous owner. Over the last few months, I have started to replace the fence due to it being old and damaged. I applied for a permit, which is now on hold due to the pending variance request. I have communicated with my neighbor, who lives directly behind my house, regarding the height of the fence being that it blocks part of her view from the driveway, and per the attached notarized letter, she has no objection to the 6-foot fence being in place.

The special conditions that exist is that the fence was installed by the previous owners. I have done my due diligence to apply for the permit, which has now been approved, so it can be in compliance with the city even though it was never completed by the previous owner. No one will be prejudiced by this request.

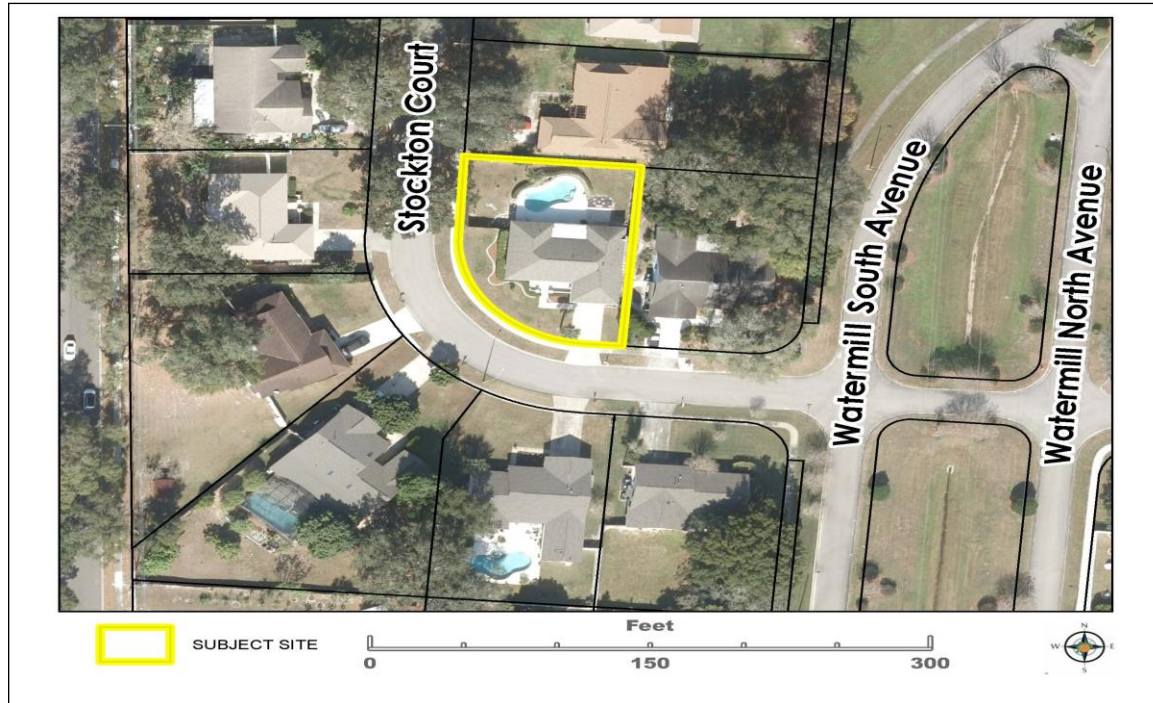
Below are the six variance criteria:

1. **Special Conditions and Circumstances** – The property on the north has a driveway adjacent to the rear fence of my home.
2. **Not Self-Created** - The special conditions and circumstances are not a result of the applicant.
3. **No Special Privilege Conferred** – Special privilege would be a six foot fence within the visibility triangle of adjacent property driveway.
4. **Deprivation of Rights** – No.
5. **Minimum Possible Variance** – Yes.
6. **Purpose and Intent** – Approval of the zoning variance will not be injurious to the neighborhood or detrimental to the public welfare.

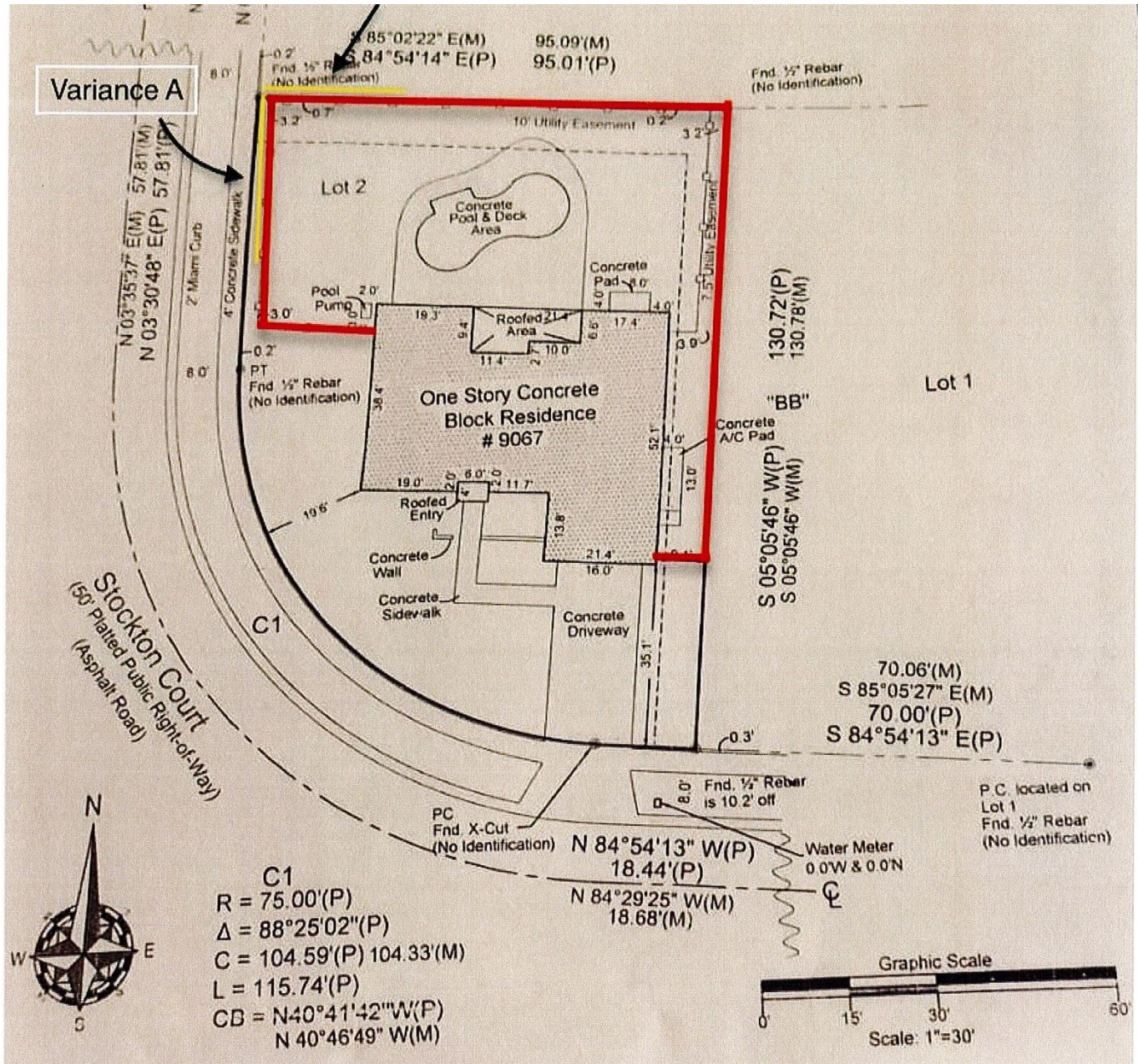
ZONING MAP



AERIAL MAP



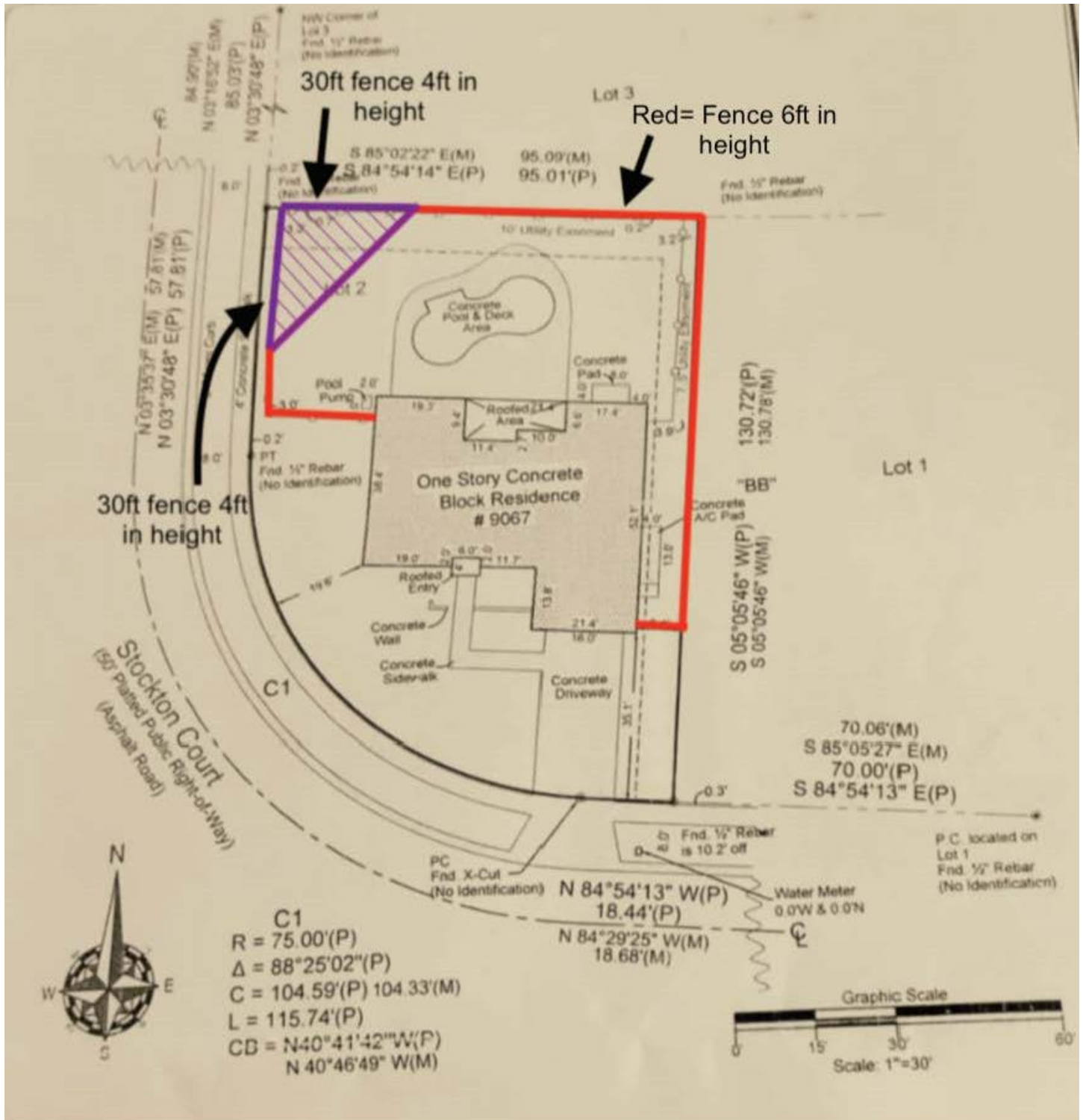
SITE PLAN



SITE PLAN WITH AERIAL



CODE COMPLIANT SITE PLAN



Lot 2

One Story Concrete Block Residence # 9067

Stockton Court (50' Platted Public Right-of-Way) (Asphalt Road)

Lot 1

Curve Data:

Curve	Radius (P)	Delta (P)	Chord (P)	Chord (M)	Length (P)	Chord Bearing (P)	Chord Bearing (M)
C1	75.00'	88°25'02"	104.59'	104.33'	115.74'	N40°41'42" W	N40°46'49" W

Boundary Bearings and Distances:

- Top: S 85°02'22" E (M) 95.09' (M); S 84°54'14" E (P) 95.01' (P)
- Right: 130.72' (P); 130.78' (M); S 05°05'46" W (P) 130.05' (P); S 05°05'46" W (M) 130.05' (M)
- Bottom: 70.06' (M); S 85°05'27" E (M) 70.00' (P); S 84°54'13" E (P) 70.00' (P)
- Left: N 03°35'37" E (M) 57.81' (M); N 03°30'48" E (P) 57.81' (P)

Other Features and Notes:

- 10' Utility Easement
- 7.5' Utility Easement
- Concrete Pool & Deck Area
- Concrete Pad
- Concrete A/C Pad
- Concrete Driveway
- Concrete Sidewalk
- Concrete Wall
- Roofed Entry
- Roofed Area
- Pool Pump
- PC Fnd. 1/2" Rebar (No Identification)
- PC Fnd. X-Cut (No Identification)
- Water Meter 0.0'W & 0.0'N
- Scale: 1"=30'

SITE PHOTOS



View of fence facing southeast from Stockton Court



View of fence from affected driveway to the north

SITE PHOTOS



View of fence facing north from Stockton Court



View of fence facing east from Stockton Court

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **SEP 02, 2021**

Case Planner: **Laekin O'Hara (407) 836-5943**

Case #: **VA-21-06-038**

Commission District: **#3**

GENERAL INFORMATION

APPLICANT(s): KIMBERLY BRUNSON

OWNER(s): LEA BRUNSON, KIMBERLY C BRUNSON

REQUEST: Variance in the R-1AA zoning district to allow a 339 sq. ft. detached accessory structure (carport) 2.5 ft. from the west side property line in lieu of 5 ft.

PROPERTY LOCATION: 1283 Old Mill Road, Orlando, Florida, 32806, north side of Old Mill Rd., west of S. Fern Creek Ave., east of S. Orange Ave. and south of Gatlin Ave.

PARCEL ID: 13-23-29-9074-00-090

LOT SIZE: 95 ft. x 150 ft./+/- 0.32 acres (14,250 sq. ft.)

NOTICE AREA: 500 FT

NUMBER OF NOTICES: 110

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 (5 in favor, 1 opposed and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated July 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. Permits shall be obtained for the carport within two (2) years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria for the variance, and the reasons for a recommendation for denial of the variance.

Staff noted that no comments were received in support or in opposition to the request.

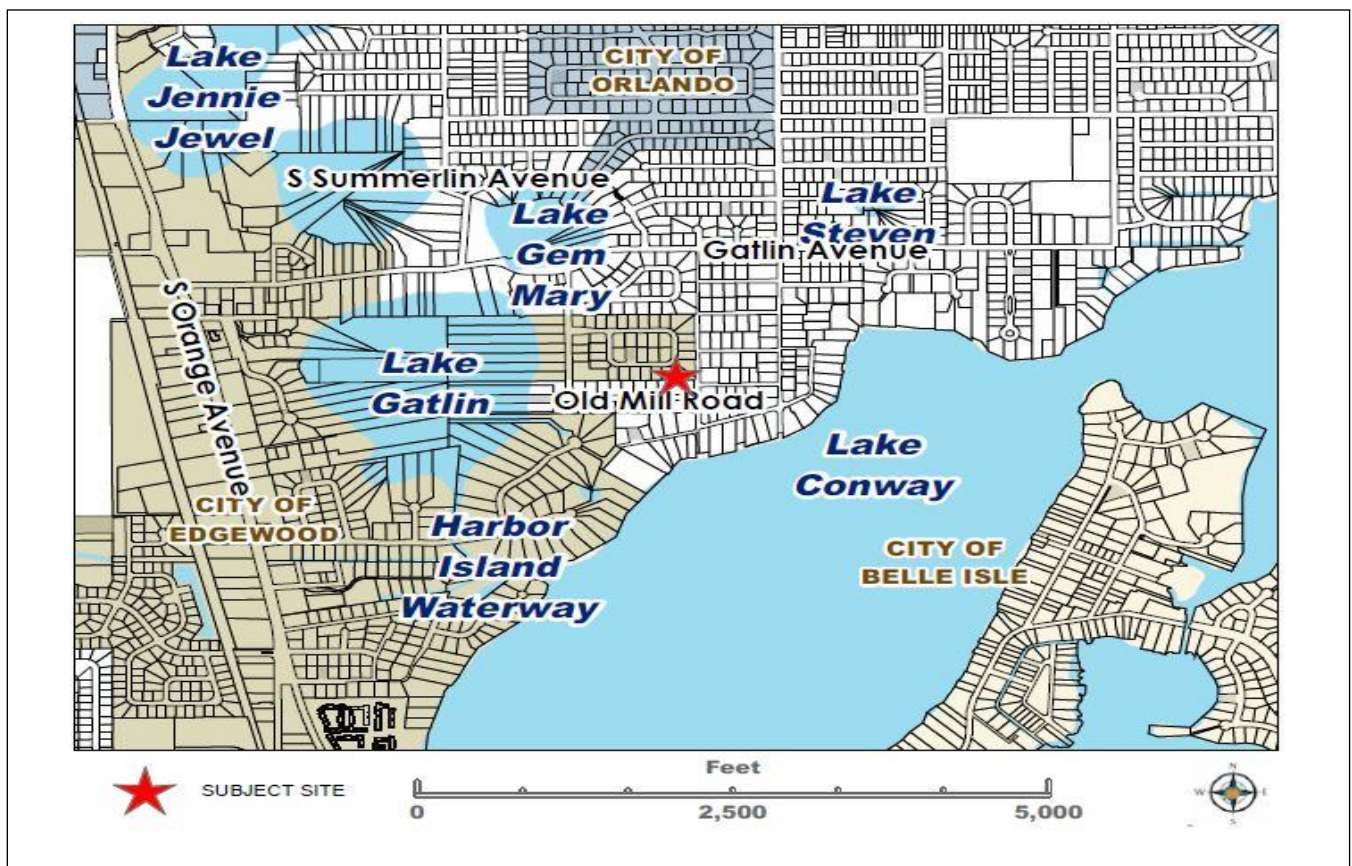
The owner discussed the history of the abandoned right-of-way and the remnant utility easement, the need for the requested carport location to avoid the utility easement, the design and width of the proposed carport, the existing adjacent fence on the property, and the existing driveway location.

There was no one present to speak in favor or in opposition to the request. The BZA discussed the size of the carport and the distance of the proposed carport from the adjacent property, and recommended approval of the variance by a 5-1 vote, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

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

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1AA	City of Edgewood	R-1AA	R-1AA	R-1AA
Future Land Use	LDR	City of Edgewood	LDR	LDR	LDR
Current Use	Single-Family	Single-Family	Single-Family	Single-Family	Single-Family

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 homes. The subject property is a +/- 0.32 acre lot platted in 1967 as lot 9 of the Waterwitch Point subdivision. There is an existing 2,412 sq. ft. residence with an attached 1-car garage. A 6' utility easement runs east/west through the center of the rear yard, and the rear 30 ft. of the property is a portion of vacated right-of-way. There is an existing 6 ft. high custom wood fence that surrounds the majority of the rear yard.

The proposal is for a 339 sq. ft. carport to be located 2.5 ft. from the west side property line, where 5 ft. is required. Per Sec. 38-1426(3)(b), a detached accessory structure with a height of fifteen (15) feet or less shall be set back a minimum of five (5) feet from any side or rear lot line. The owners have indicated that they do not want to have to relocate their fence to accommodate the carport; however, the carport could easily be shifted 2.5 ft. or greater to meet code, and was already shifted to be located outside of the easement.

The applicant has submitted five letters of no objection from the adjacent neighbors to the north, south, east, and west, including the most affected owner to the west.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft., 15 ft. for accessory structures	11 ft. 6 in. (Carport)
Min. Lot Width:	85 ft.	95.5 ft.
Min. Lot Size:	10, 000 sq. ft.	14,325 sq. ft.

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

	Code Requirement	Proposed
Front:	30 ft.	84 ft. 6in. Carport (South)
Rear:	5 ft. for accessory structures	36 ft. Carport (North)
Side:	5 ft. for accessory structures	2.5 ft. Carport (West - Variance), 80 ft. (East)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

There are no special conditions or circumstances particular to this property. The owner could construct a carport as proposed and still meet the required side setback.

Not Self-Created

The need for the variance is self-created, as the applicant could install the carport in a conforming location.

No Special Privilege Conferred

Granting the variance will be granting a special privilege not available to others in the area since the owner has options to comply with the setbacks.

Deprivation of Rights

There is no deprivation of rights. The carport could be built in a location which meets code simply by relocating a portion of fence.

Minimum Possible Variance

The requested variance is not the minimum possible, as the applicant could relocate or modify the improvements requested to a conforming location.

Purpose and Intent

Granting the variance will not be in harmony with the purpose and intent of the zoning regulations since there are options to construct a carport that complies with the required setbacks.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated July 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).
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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 carport within two (2) years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Kimberly Brunson
1283 Old Mill Rd.
Orlando, FL 32806

COVER LETTER

Orange County Zoning Division
201 South Rosalind Avenue, First Floor
Orlando, Florida 32801
407-836-3111

July 28, 2021

Re: Variance Application Cover Letter

To: Orange County Zoning Division,

My husband and I have lived at 1283 Old Mill Road, Orlando, FL 32806 just over six years. When we purchased the home, we had great plans for renovating the interior and enhancing the outdoor space. The first area we are addressing is the exterior. We are planning to construct a carport to provide protection from the sun and weather for our custom F-350 truck. Due to the height of this truck, we are unable to park it within our garage and therefore need an alternative covered parking area. We are proposing this carport to be placed just in front of a utility easement running through our back yard. Due to an existing custom fence in our back yard the placement and necessary width of the structure will encroach into the 5' side setback from the property line. By shifting the placement to clear the existing fence we only need no more than 2'-6" to properly place it. We are asking for a variance to the current Orange County Zoning required setback of a detached structure from 5' to 2'-6". There is no impact to the rear setback.

Our neighborhood does not have an HOA however we have support for this request from all our neighbors that abut our property as well as those across the street.

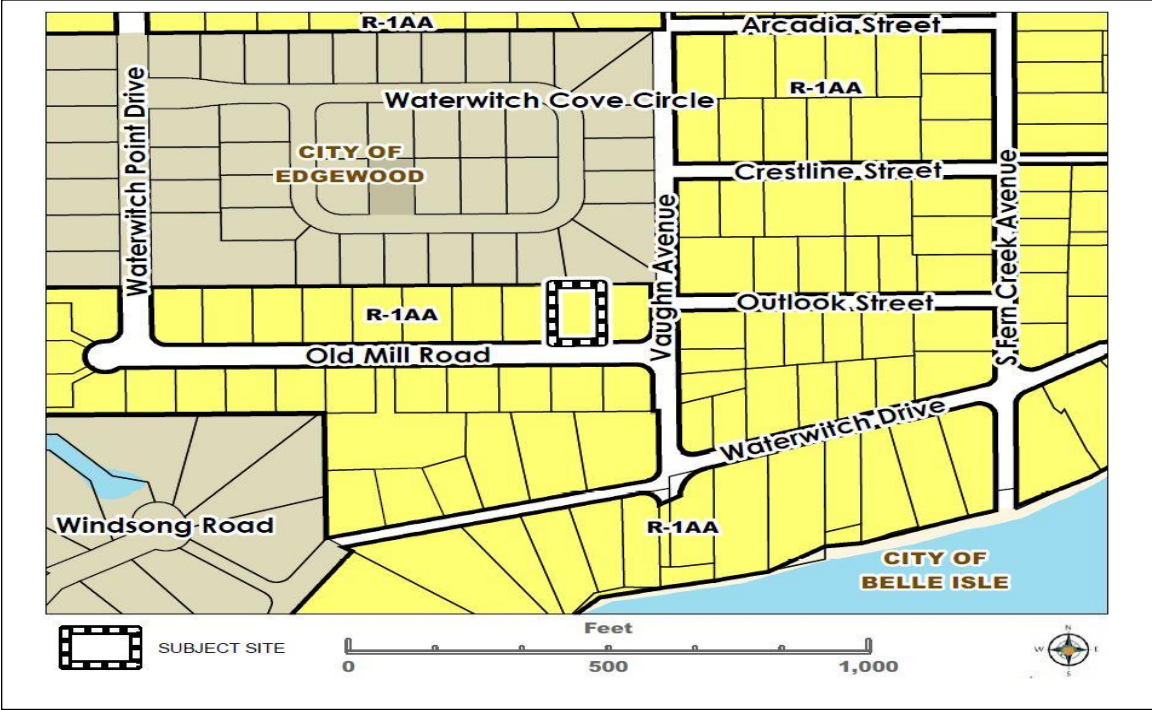
We appreciate your consideration of this request and are available should you have further questions or concerns.

Thank you,

Kimberly Brunson
Kbrunson001@cfl.rr.com
407-463-8097

1. **Special Conditions and Circumstances** – Our existing home garage will not allow our F-350 truck to be parked within therefore we need alternate covered parking to protect the truck from sun and weather conditions. Building a carport would provide this protection. Due to the position of our driveway and an existing custom fence we need to situate this structure 30" into the 60" setback on our western property line. There is also an existing fence line along this property line so the structure would situate within the existing "slot" of open space.
2. **Not Self-Created** – The restricted space for situating this structure is not self-created. The existing fence (permit ref#F19006379) is within current code requirements, it is the width of the vehicle that requires the additional 30".
3. **No Special Privilege Conferred** – No special privilege would be conferred by this variance and we have approval of our intentions by all abutting neighbors as well as those across the street.
4. **Deprivation of Rights** – This structure will not adversely impact the residents of our neighborhood. Not having this structure will leave our vehicle vulnerable to the severe Florida weather conditions and potentially decrease the value of the truck. There are other homes in the area with similar carport.
5. **Minimum Possible Variance** – We are requesting only 30" into the setback which is the maximum space necessary to situate this structure.
6. **Purpose and Intent** – This carport will be an enhancement allowing the vehicle to be parked more out of view from the street while providing the protection we are seeking.

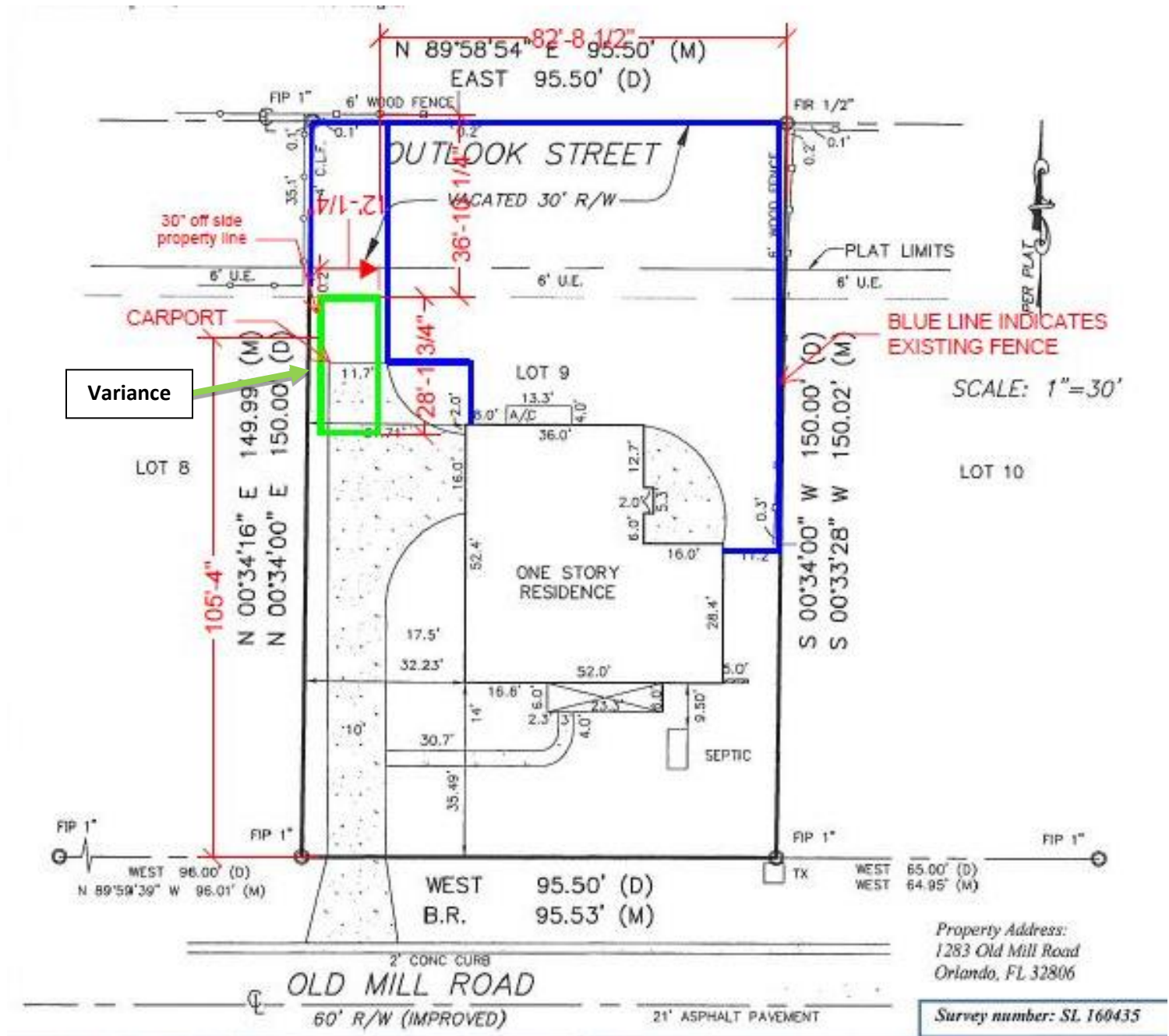
ZONING MAP



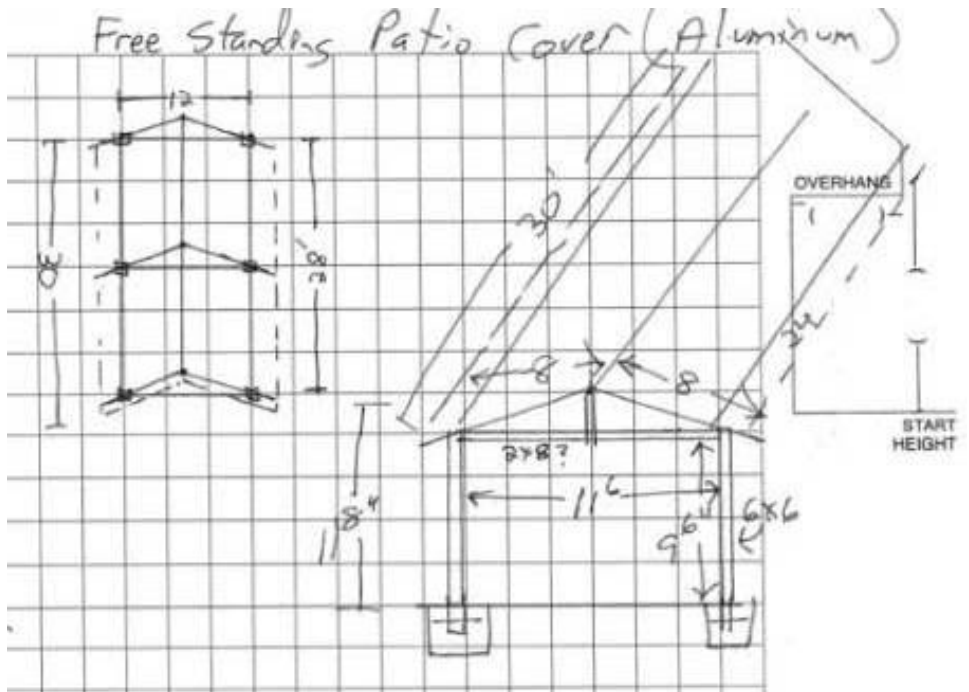
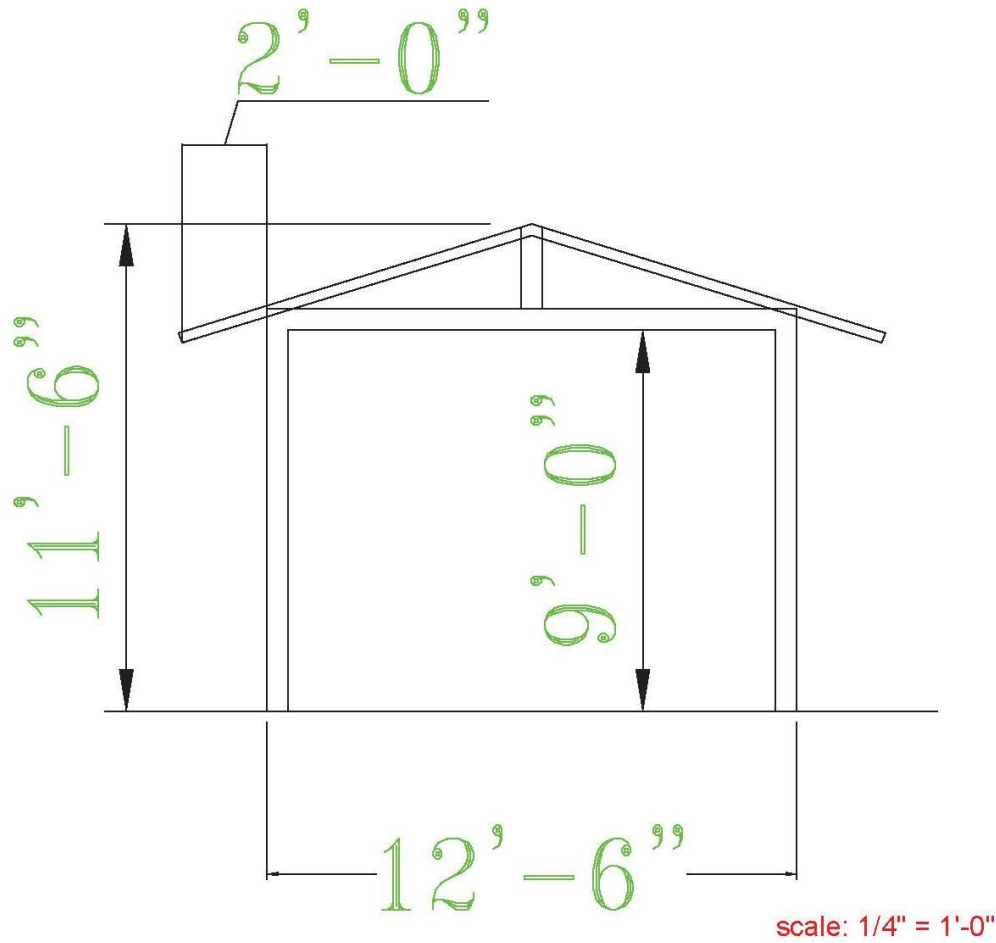
AERIAL MAP



SITE PLAN



CARPORT ELEVATION AND AXONOMETRIC DRAWING



SITE PHOTOS



View of proposed carport location from Old Mill Road



View of proposed carport location from garage

SITE PHOTOS



View of proposed carport location from driveway



BOARD OF ZONING ADJUSTMENT