



Planning, Environmental &  
Development Services  
Department



Orange County Board of Zoning Adjustment

# Staff Booklet

Hearing Date:

June 3, 2021

Zoning Division

**ORANGE COUNTY GOVERNMENT**  
**BOARD OF ZONING ADJUSTMENT (BZA)**

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

**BZA Staff**

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



# MEETING AGENDA

June 3, 2021

TIME	HEARING #	APPLICANT	DISTRICT	BD MBRS/ STAFF	PAGE #
9:00 AM	VA-21-05-023	Mark Cross	1	TM/EK	1
	VA-21-06-031	Kassandra Salazar	2	JD/DN	12
9:30 AM	VA-21-06-034	Steven Earl	1	TM/DN	22
	VA-21-06-035	Sylvia Ruperto	3	JV/DN	33
10:00 AM	VA-21-06-032	Lazen Engineering (Mohammed Issa)	1	TM/DN	45
	VA-21-06-036	Madison Landing (Scott Baker)	6	CH/DN	61
10:30 AM	VA-21-03-141	Kaley Square Community Center (Ereka Cleveland-Creative Signs)	6	CH/NB	75
	VA-21-07-043	Davila Homes 1st Street (Debi Plaisance)	4	DM/NB	87
11:00 AM	VA-21-07-044	Davila Homes Blackwood Avenue (Debi Plaisance)	1	TM/NB	99
	VA-21-07-040	Edgar Oswaldo Saya	3	JV/NB	114
11:30 AM	VA-21-07-041	Cynthia Syphax	3	JV/NB	126

# ORANGE COUNTY

## ZONING DISTRICTS

### Agricultural Districts

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

### Residential Districts

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

### Non-Residential Districts

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

### Other District

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

## ***SITE & BUILDING REQUIREMENTS***

## Orange County Code Section 38-1501. Basic Requirements

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



<i>District</i>	<i>Min. lot area (sq. ft.)<sup>m</sup></i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.)<sup>a</sup></i>	<i>Min. rear yard (ft.)<sup>a</sup></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.) <sup>m</sup></i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.) <sup>a</sup></i>	<i>Min. rear yard (ft.) <sup>a</sup></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>

<b>District</b>	<b>Min. front yard (feet)</b>	<b>Min. rear yard (feet)</b>	<b>Min. side yard (feet)</b>	<b>Max. building height (feet)</b>
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: (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: **JUN 03, 2021**

Case Planner: **Ted Kozak, AICP**

Case #: **VA-21-05-023**

Commission District: **#1**

## GENERAL INFORMATION

APPLICANT(s): MARK CROSS

OWNER(s): LEDERER EUGENE, LEDERER GLORIA

REQUEST: Variance in the R-CE zoning district to allow a generator with a south setback of 8.9 ft. in lieu of 10 ft.

PROPERTY LOCATION: 2720 Midsummer Dr., Orlando, FL 34786, west side of Midsummer Dr., east side of Lake Down, southwest of Florida's Turnpike, west of S. Apopka Vineland Rd.

PARCEL ID: 04-23-28-4406-00-150

LOT SIZE: +/- 2.74 acres

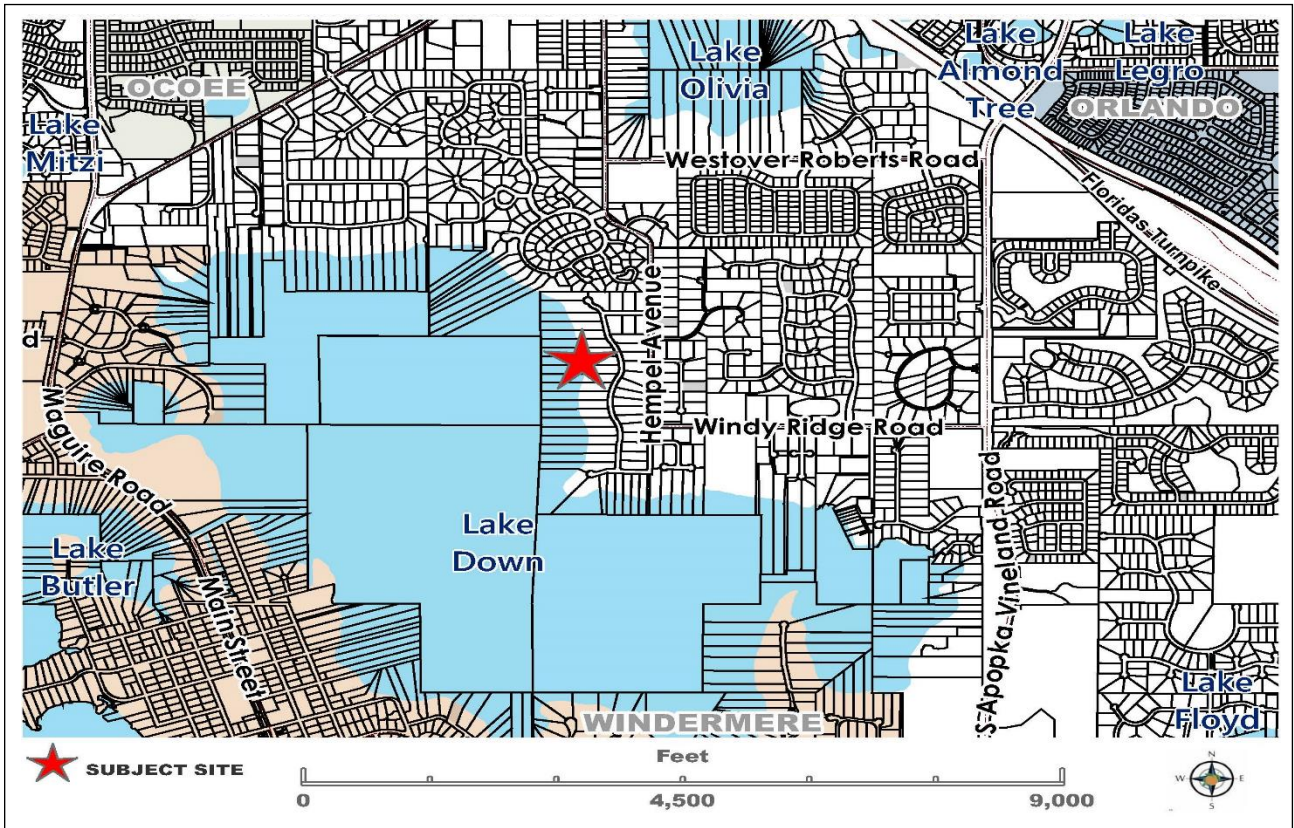
NOTICE AREA: 900 ft.

NUMBER OF NOTICES: 92

## 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



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**SITE & SURROUNDING DATA**

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

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located within the R-CE, Rural Country Estate district, which allows for single-family residences and certain agricultural uses with a minimum lot area of one (1) acre. The property is also located in the West Windermere Rural Settlement. Rural settlements are rural communities that were established before the enactment of the Comprehensive Plan in 1991 but are located in the rural service area, which typically requires a minimum density of 1du/10acre. Because these communities were previously established with higher densities, rural settlements were created to recognize and allow the higher densities in the rural service area. The property has a Future Land Use of Rural Settlement 1/1, which allows 1 du/1 acre.

The subject property is located on Lake Down and consists of approximately 2.74 acres, with 1 acre uplands. It is lot 15 of the Lake Down Shores Replat, recorded in 1972. The current owner purchased the property in August 2018 and subsequently demolished an existing residence, which was constructed in the early 1980s. A 7,536 sq. ft. residence is currently under construction (B20014345) on the site. The site plan provided shows a 5 ft. utility easement along the north and south sides of the property. However, in August 2019, the owner vacated the north and south 5 ft. wide utility easements to allow for the future installation of a block wall and landscaping (PTV-19-08-028).

The applicant proposes to install a 76.8 inch by 35 inch, 3.9 ft. high permanent generator on a 42 inch by 84 inch pad, 8.9 ft. from the south side property line, adjacent to the recently constructed residence in lieu of the 10 ft. minimum side setback required by County Code Sec. 38-79 (16), requiring a variance. The generator will operate normally at 70 decibels (Db) noise level from a distance of 23 ft. The generator can be set to self-test every other week at 61 Db. When the unit is operating at full power during a power outage, it operates at a level of approximately 70 Db, which is between the sound of conversation in a restaurant and a vacuum cleaner, or an a/c compressor. Normal conversation is 50 Db.

The applicant indicates that the owner prefers to install the generator along the south side of the residence for aesthetics and convenience although there are locations in the rear yard and along the north side of the residence where a generator could meet the setback requirements.

The applicant has submitted one letter of support from the most impacted neighbor to the south. As of the date of the preparation of this report, staff has not received correspondence in opposition or in support.

#### District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	130 ft.	130 ft.
Min. Lot Size:	1 acre	2.74 acres (1 acre upland)

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

	Code Requirement	Proposed
Front:	35 ft. residence generator not allowed in front	120 ft. residence (east)
Rear:	50 ft. residence 5 ft. generator	+/- 700 ft. residence (west)
Side:	10 ft. residence 10 ft. when adjacent to house, 5 ft. other sides for generator	12 ft. residence (north) 10 ft. residence (south) 8.9 ft. generator (south - variance)
NHWE:	50 ft.	88.9 ft. residence (west)

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#### STAFF FINDINGS

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#### VARIANCE CRITERIA

##### Special Conditions and Circumstances

There are no special conditions or circumstances particular to the subject property since the new residence could have been constructed in a manner that a generator could have met side setback requirements and in fact there are locations on the site that would meet code.

##### Not Self-Created

The owner could site the generator in the rear yard behind the residence or on the north side of the house adjacent to the mechanical equipment without the need for a variance, but prefers it to be located along the south side of the residence, which is considered a self-created hardship.

##### No Special Privilege Conferred

Granting the variance would confer a special privilege not afforded to others.

##### Deprivation of Rights

The owner has the ability to locate the generator within the rear yard or along the north side of the house in an area that would satisfy setback requirements. Denying this variance would not deprive the applicant of the ability to have a generator in a conforming location.



### **Minimum Possible Variance**

Since the applicant could comply with the siting requirements for the generator, this is not the minimum possible variance.

### **Purpose and Intent**

The purpose and intent for side setback requirements for generators is to reduce the noise and air impacts to adjacent residences. The generator placement as proposed does not meet the purpose and intent.

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### **CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan dated June 19, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the generator within 180 days of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. Two fast growing shrubs planted at a minimum height of 30 inches shall be installed between the generator and the street to screen the generator from the street.

c: Mark Cross  
5818 Lyda Ln.  
Orlando, FL 32839

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## COVER LETTER

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2/15/2021

We are making a request to place a Generator on the side of the residence. We are requesting a variance to encroach 13" into the 10' side lot line setback which would keep the generator grouped with the rest of the mechanical equipment for the residence. A current survey, including the proposed generator placement, is attached.

**Generator:**

**Special conditions and circumstances:** As this is a lakefront residence the option of installing the generator or any mechanical equipment in the back yard between the residence and the lake would have a detrimental impact on the aesthetics of this property and surrounding properties.

**Not self-created:** The current lot size and placement of the home in close proximity to the side setback was established prior to the request to install a generator.

**No special privilege conferred:** Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter

**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.

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

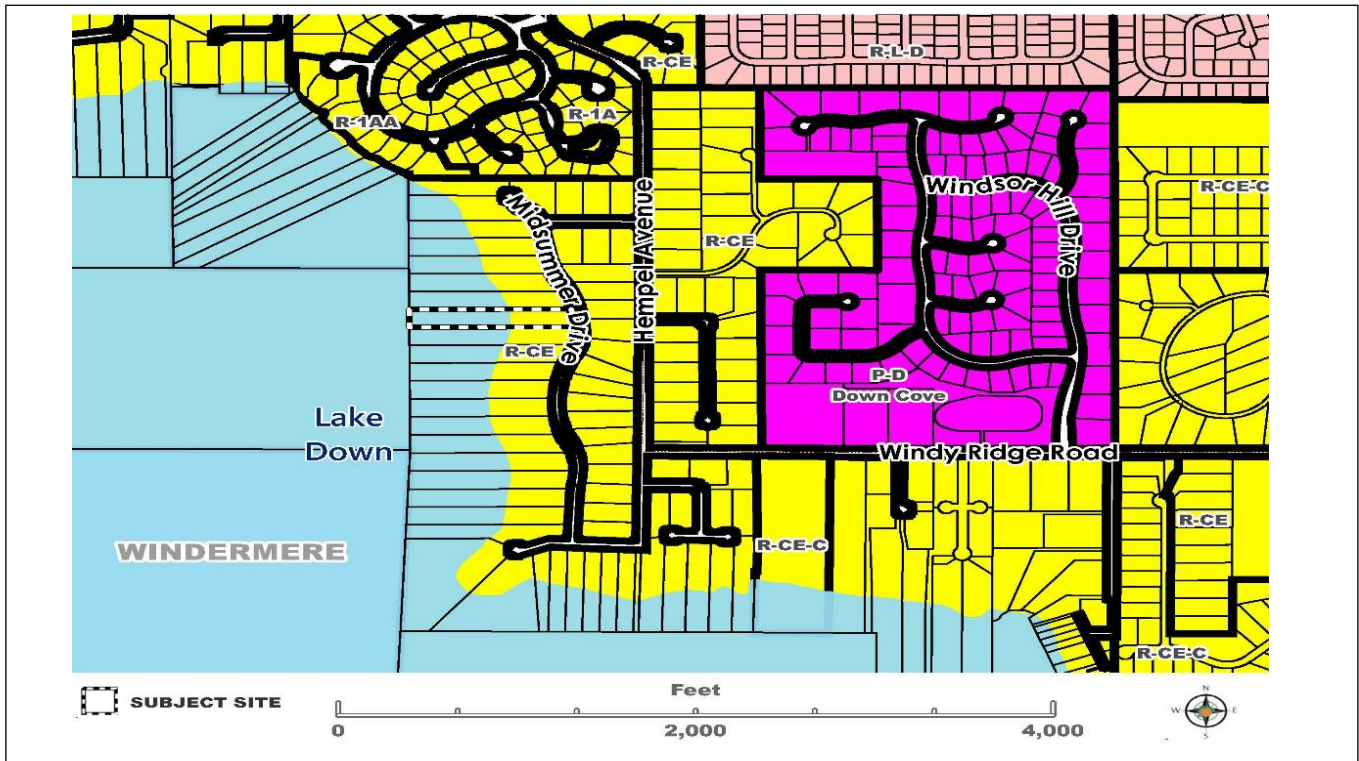
**Purpose and Intent:** Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**Square footage:** The generator covers 18 square feet

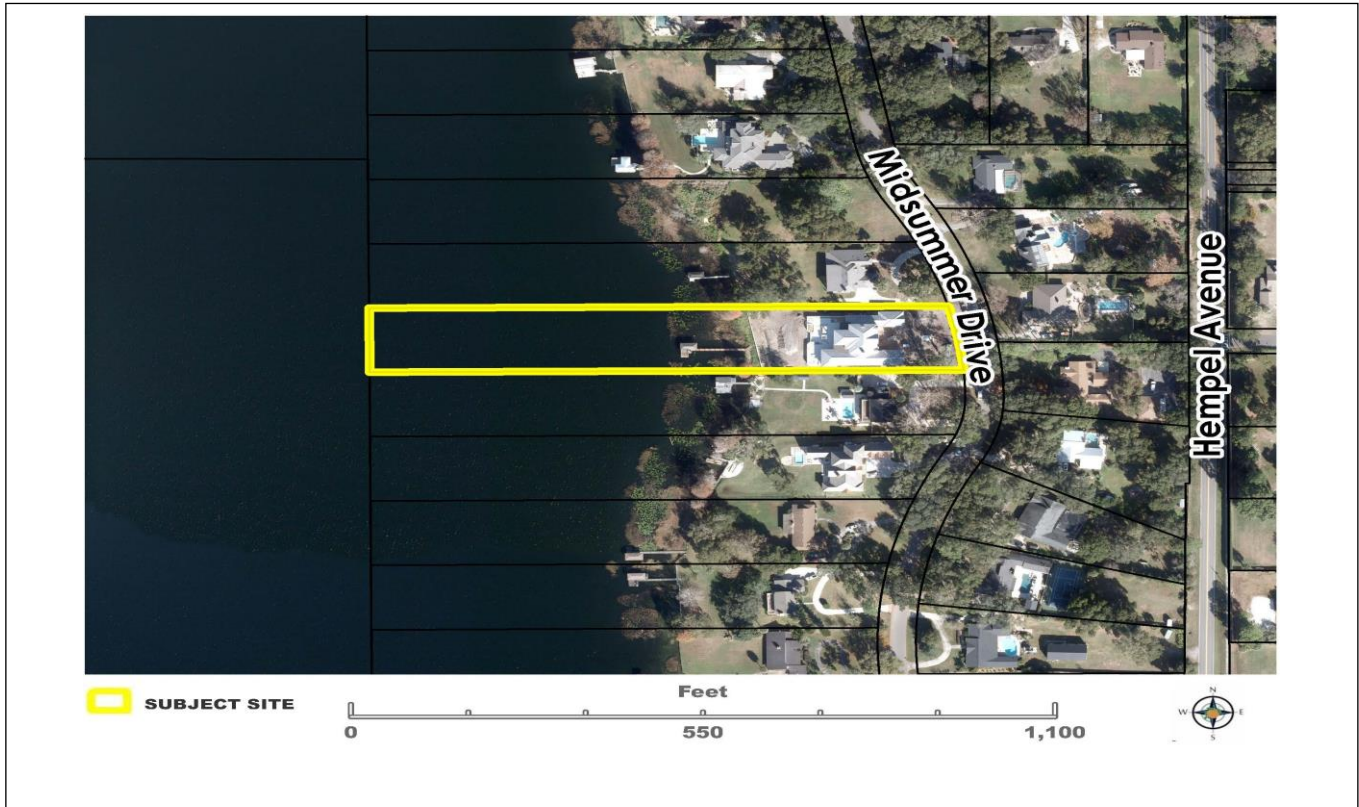
**Location:** We propose placing the unit on the south side of the residence as depicted in the sketch. In reviewing the project we considered placing the unit in other locations. The existing gas and electrical utility connection points are located on the south side of the residence. On the north side of the residence there is ample room but installing gas piping and cable from the north side of the residence to connect to the utility interfaces on the south side would not be feasible logistically as there is no pathway through the residence. Locating the unit behind the residence between the lake and the residence will be unsightly at best and detract from the aesthetics of this property and surrounding properties.

Mark Cross  
MARCOPE, LLC  
5818 Lyda Lane  
Orlando, FL 32839  
407-816-9000

## ZONING MAP



## AERIAL MAP





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## CLOSE UP AERIAL MAP

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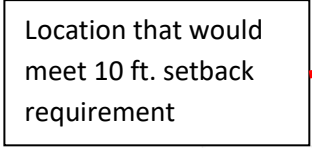
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## PROPOSED GENERATOR

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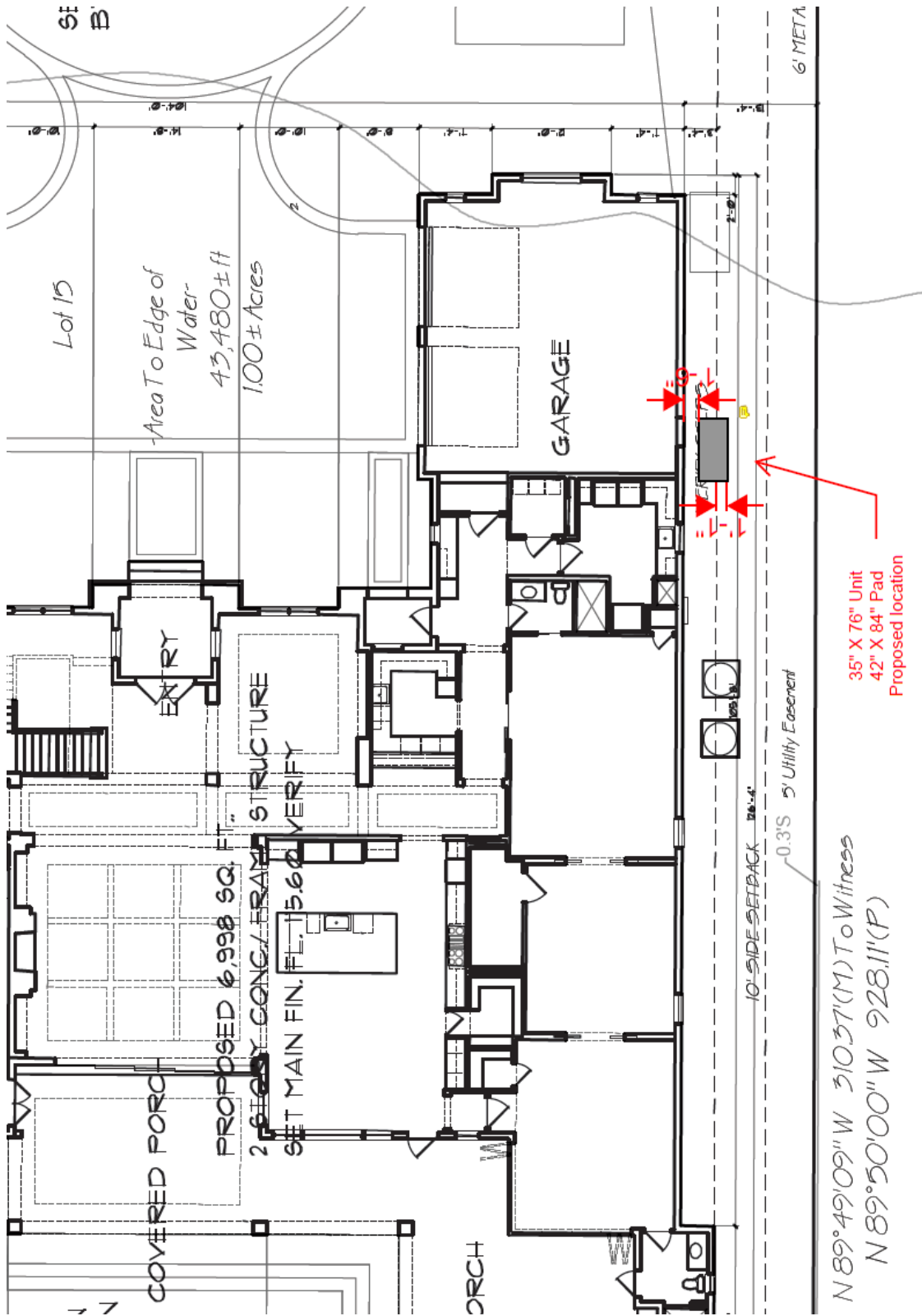


## SITE PLAN



Proposed location  
35 inch X 76 inch unit  
42 inch X 84 inch pad

# CLOSE UP SITE PLAN





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**SITE PHOTOS**

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**Front from Midsummer Dr. facing west**



**South side of residence facing west towards proposed generator location**



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**SITE PHOTOS**

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**North side of residence facing west/ alternate location that would meet code**



**Backyard facing south**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 03, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-06-031**

Commission District: **#2**

## GENERAL INFORMATION

APPLICANT(s): KASSANDRA SALAZAR

OWNER(s): JUAN LUIS CASTANEDA, ALFREDO CASTANEDA

REQUEST: Variance in the A-1 zoning district to allow a mobile home for residential purposes on a property with +/- 1.93 acres in lieu of a minimum of 2 acres.

PROPERTY LOCATION: 6907 Holly Street, Mount Dora, Florida, 32757, north side of Holly St., west of N. Orange Blossom Trl., south of Sadler Rd.

PARCEL ID: 16-20-27-2912-16-001

LOT SIZE: 133 ft. x 629 ft./ +/- 1.93 acres

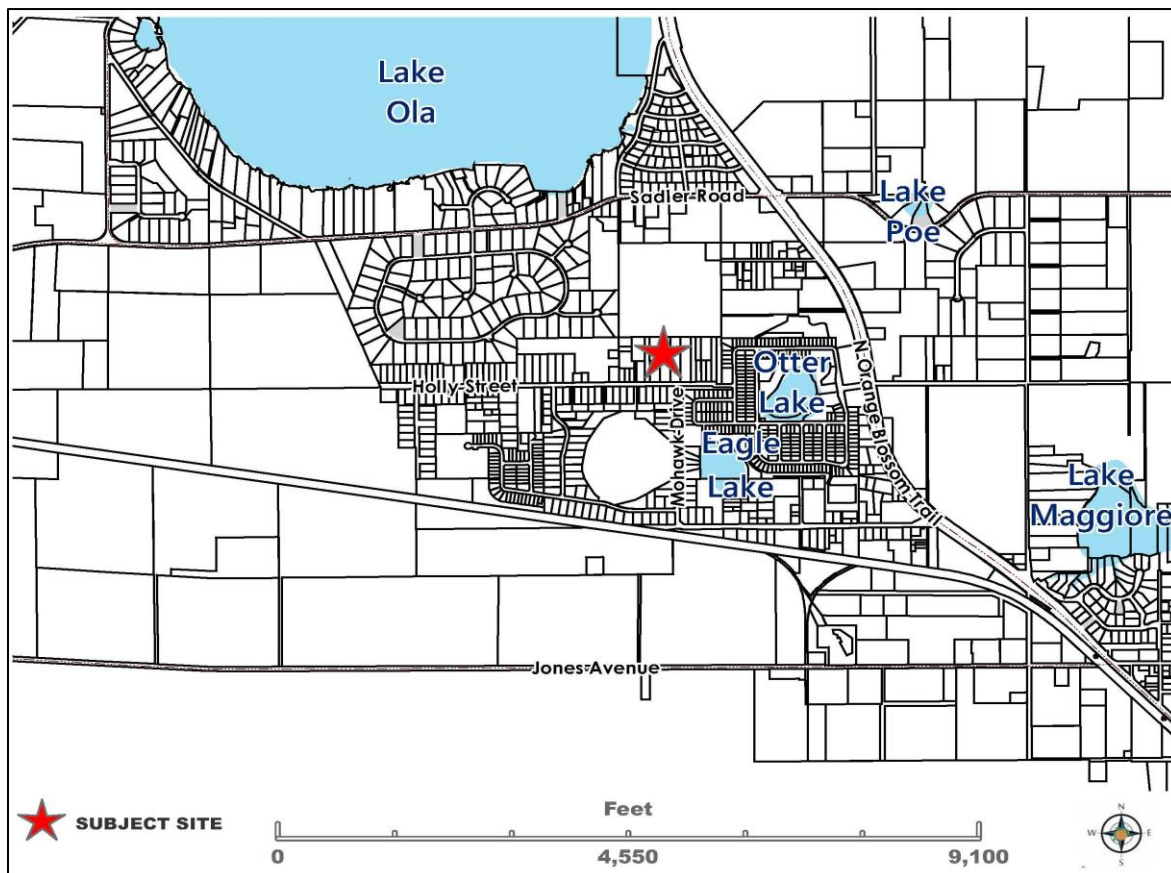
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 70

## STAFF RECOMMENDATIONS

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

## LOCATION MAP





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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	A-1	A-1	R-1A	A-1	A-1
Future Land Use	LDR	Tangerine Rural Settlement 1/1	LDR	LDR	LDR
Current Use	Vacant	Agricultural	Single-family residences	Vacant	Single-family residences

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

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

The subject property consists of a vacant 1.93 acre parcel of land, which is a portion of a lot from the Geo. T. Gaines Sub. Addition to Gainesboro, which was recorded in 1891. In 1959, Orange County acquired the south 30 ft. of the subject property for right-of-way for Holly St., reducing the size of the property below two (2) acres.

The owners purchased the subject property in 2019, and now request to install a 28 ft. x 56 ft., 1,568 sq. ft. mobile home in a location complying with the required setbacks. Single-family homes are permitted by right with 0.5 acres, and mobile homes are permitted by right with a minimum of two (2) acres. A variance is required since the property is 1.93 acres in size.

A field evaluation indicates that all but one (1) of the developed parcels within 1/2 miles of the subject property contains site built single-family residences. The only mobile home in the area is located on a property four (4) lots to the east of the subject property, on a 0.46 acre parcel of land, which was granted a variance in 2003 (VA-03-12-135) to allow a mobile home on a substandard parcel with insufficient width and area.

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.	14 ft.
Min. Lot Width:	100 ft.	133 ft.
Min. Lot Size:	2 acres for mobile home	1.93 acres - variance



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

	Code Requirement	Proposed
Front:	35 ft.	161 ft. (South)
Rear:	50 ft.	437 ft. (North)
Side:	10 ft.	39 ft. (West)/38 ft. (East)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances**

There are no special conditions and circumstances since the owners have the opportunity to construct a single-family home on the property, eliminating the need for the variance.

**Not Self-Created**

Although the owners are not responsible for the size of the parcel since purchasing it in 2019, the request for the variance is self-created since a single-family home may be constructed. This is a self-created hardship.

**No Special Privilege Conferred**

Granting of the variance will establish special privilege, since the vast majority of the developed properties in the area contain single-family homes.

**Deprivation of Rights**

Failure to grant the variance will not deprive the owners of the use of the property for residential use, as a single-family home is able to be constructed on the property.

**Minimum Possible Variance**

The property to the immediate east is vacant and identical in size. The owners could contact the owner(s) of that property and attempt to acquire a portion of that property to provide the minimum land area for a mobile home, or they can have a single-family home on the existing site without the need for a variance.

**Purpose and Intent**

Given that this is new construction, there are other options to eliminate the need for the variance by building a single-family residence. Approval of the variance within a predominantly single-family residential neighborhood will not be in harmony with the purpose and intent of the County code to prevent a proliferation of mobile homes on smaller lots.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations dated March 20, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained for the mobile home 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: Juan Castaneda  
6907 Holly St.  
Mount Dora FL 32757

C: Kassandra Salazar  
7026 Holly St.  
Mount Dora, Florida, 32757

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## COVER LETTER

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Members of The Board of Zoning Department

I am writing this letter for a variance request. My request is to add a mobile home on my property 6907 Holly St Mount Dora, FL 32757. The mobile home is 1,475 square feet and the dimensions are the following 28'W x 56'L x 11'H. The home would be brought to the property already constructed. The proposed home will be 162' from the front property line, 39.3' from left side property line, 38.3' from right side property line and 437.7' from the back-property line.

Meeting the six variance 6 standards:

- 1) Special conditions and Circumstances: My property is 1.93 acers, not the exact 2 acers and I am unable to obtain more acreage.
- 2) Not self-created: The property fell 0.07 shy of the 2 acers mark which would have allowed me to place mobile home.
- 3) No special Privilege Conferred: A few of my neighbors have mobile homes on smaller lot sizes.
- 4) Deprivation of Rights: Others on the same street have mobile homes just as I want on my property as well.
- 5) Minimum possible Variance: My property is 0.07 of an acre shy.
- 6) Purpose of intent: My intent is to put a mobile home on my property.

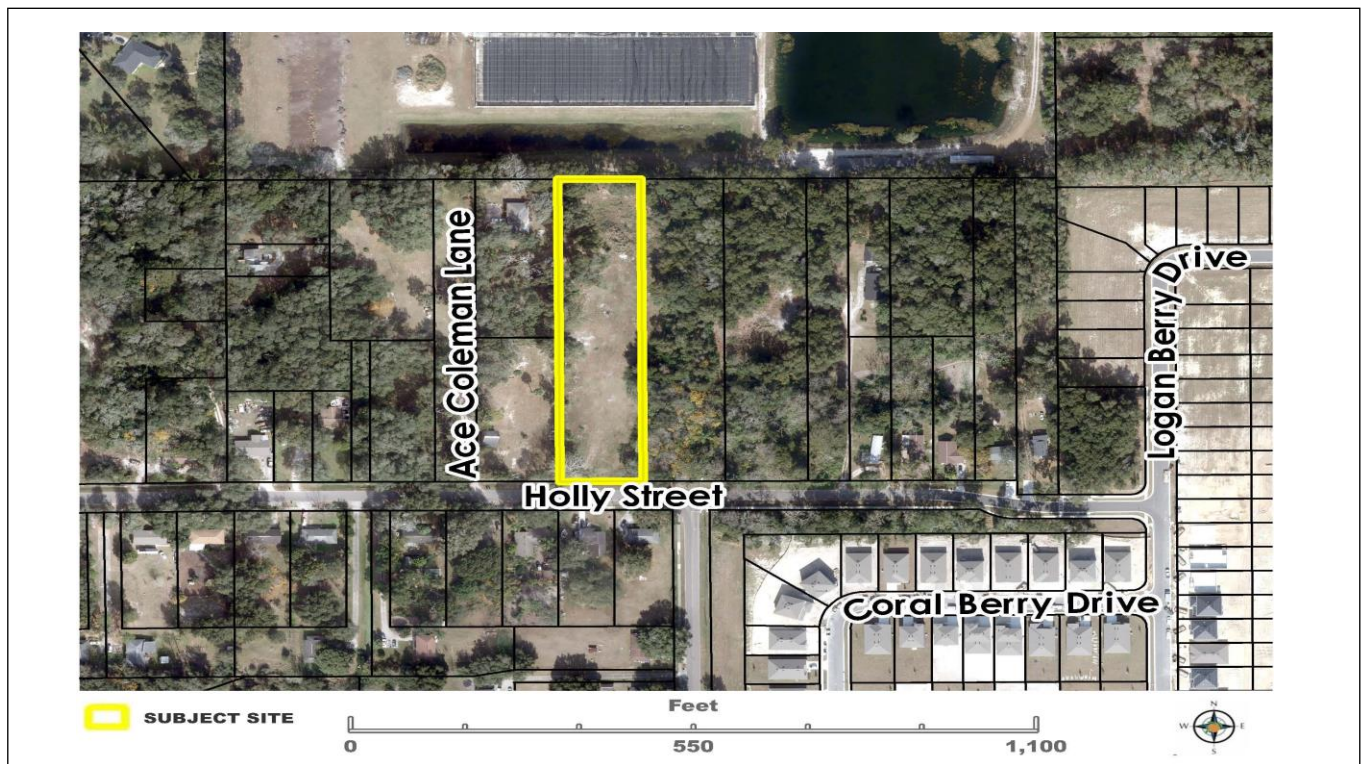
Thank you,

Alfredo Castaneda and Juan Castaneda (property owners)

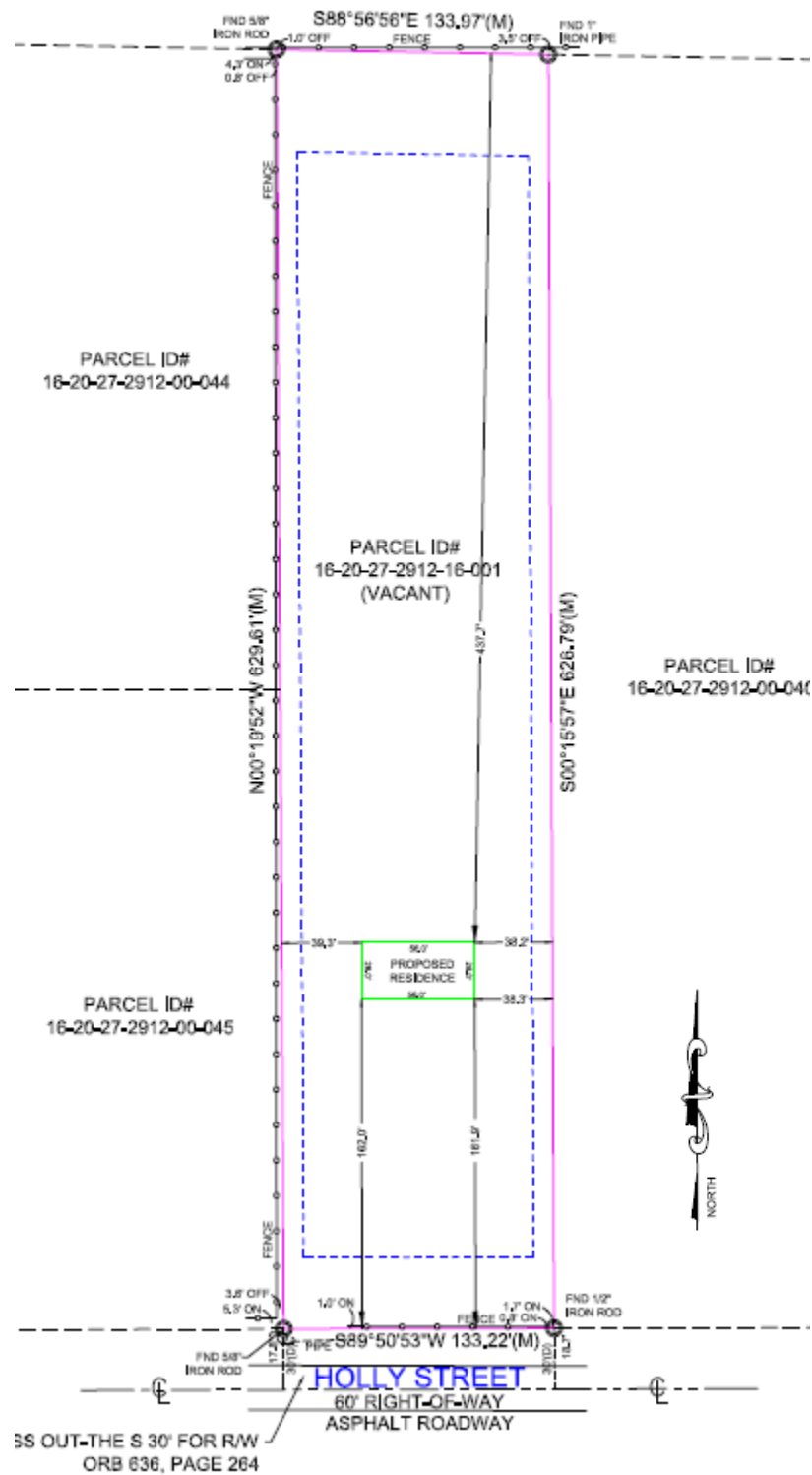
## ZONING MAP



## AERIAL MAP



# SITE PLAN



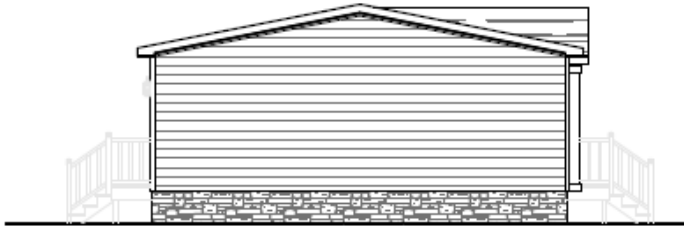
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## ELEVATIONS

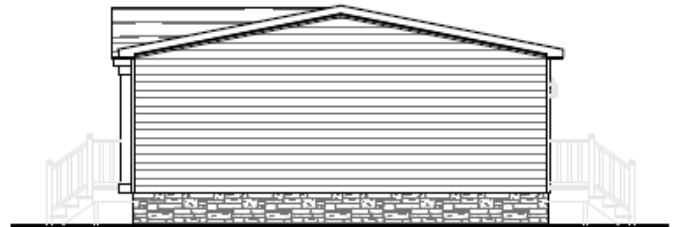
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**REAR ELEVATION**



**LEFT SIDE ELEVATION**



**RIGHT SIDE ELEVATION**



**FRONT ELEVATION**



## SITE PHOTOS



**Subject property looking north from Holly St.**



**West side of subject property looking north**



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**SITE PHOTOS**

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**West property line tree line looking northwest**



**Structure on property north of subject property, looking north magnified**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 03, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-06-034**

Commission District: **#1**

## GENERAL INFORMATION

APPLICANT(s): STEVEN EARL

OWNER(s): RONNIE GROSS, ANDREW GROSS

REQUEST: Variance in the R-CE zoning district to allow an existing 355 sq. ft. detached accessory structure to remain in front of an existing residence in lieu of alongside or behind.

PROPERTY LOCATION: 9694 Kilgore Road, Orlando, Florida, 32836, north of Darlene Dr., west of Kilgore Rd. on the east side of Lake Sheen, east of Winter Garden Vineland Rd.

PARCEL ID: 04-24-28-0000-00-021

LOT SIZE: +/- 1.59 acres (1.29 acres upland)

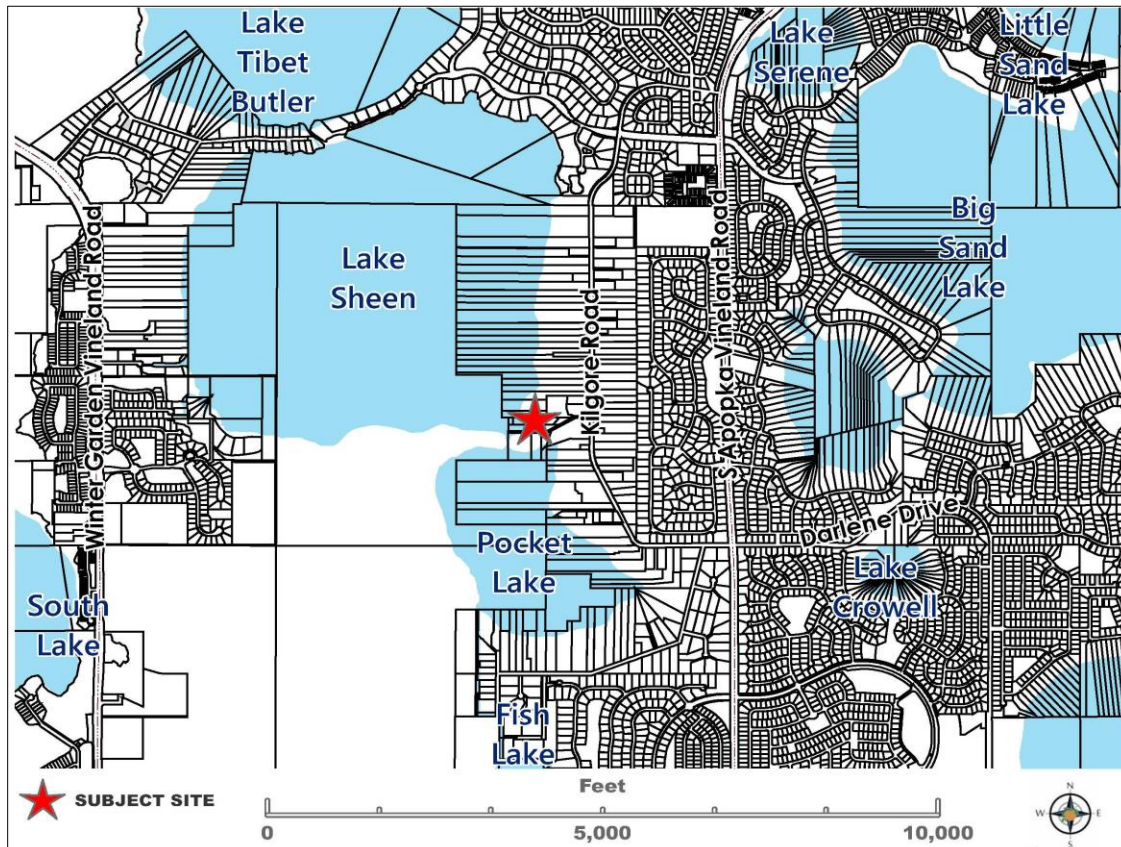
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 38

## STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

## LOCATION MAP



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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-CE	R-CE	R-CE	R-CE	Lake Sheen
Future Land Use	LDR, R, WB	LDR, R, WB	Rm WB	LDR, R	WB
Current Use	Single-family residence	Single-family residence	Vacant	Vacant	Lake Sheen

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is zoned R-CE, Rural Country Estate, which allows for single-family development on one (1) acre lots and certain rural uses.

The subject property is a 1.59 acre unplatted lakefront parcel that has existed since prior to 1955, and is considered to be a conforming lot of record. It is located on the east shore of Lake Sheen. The property does not have direct road frontage, but rather is accessed through easements to Kilgore Rd. Approximately 0.3 acres of the parcel is submerged land. The area consists of single family homes on large lots, about half of which are lakefront. There is a 2,585 sq. ft. single family home on the subject property, which was constructed in 1987 (B86002457). A boat dock was added in 2004 (Permit #04-113). Based on historical aerials, the accessory structure which is the subject of this request was constructed prior to 2003 without permits. There is also an unpermitted pump house on the north side of the home proposed to be removed. The subject accessory structure is located approximately 650 ft. from Kilgore Rd., and is approximately 180 ft. from the front (east) property line. The owners purchased the property in 2004.

In 2019, the BZA recommended approval (VA-19-09-104) to allow the same existing accessory structure to remain in front of the principal structure where it is required to be alongside or behind. Condition #4 required the owner to obtain permits for the structure within one (1) year. They failed to do so, and are now requesting the BZA to once again approve a variance to allow more time for permitting.

Through the same variance application, the BZA also granted approval to allow an existing structure (pump house) to remain on the north side of the house within a side setback. The owner has since decided to remove the structure, and will be obtaining a demolition permit to do so.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	25 ft. Accessory Structure	11 ft.
Min. Lot Width:	130 ft.	144 ft.
Min. Lot Size:	1 Acre	1.59 Acres (1.29 acres-upland)

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

	Code Requirement	Proposed
Front:	35 ft. Principal structure	185 ft. Accessory structure (East)
Rear:	5 ft. Accessory structure	226 ft. Accessory structure (West)
Side:	5 ft. Accessory structure	12 ft. Accessory structure (North) 73 ft. Accessory structure (South)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special conditions and circumstances particular to this property are the distance from Kilgore Rd., approximately 550 ft., and therefore, the accessory structure is not visible from the public right of way. The 100 year flood zone is located behind the house, which makes it difficult to locate a similar sized accessory structure behind the house.

**Not Self-Created**

The need for the variance does not result from the actions of the owners, as the accessory structure was installed before the owners purchased the property in 2004.

**No Special Privilege Conferred**

In consideration of the unique access, the presence of the flood plain at the rear of the home, and the lack of direct frontage along a road, granting the variance will not confer a special privilege.

**Deprivation of Rights**

Without the requested variance, the owners will be required to remove or relocate the accessory structure, which deprives the owners the ability to continue enjoyment of the structure that has been existing for over 20 years.

**Minimum Possible Variance**

The request is the minimum possible variance to allow the existing structure to remain in its present location.

**Purpose and Intent**

Approval of this request will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the neighborhood.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations dated April 14, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the owners 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 owners 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 owners 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 accessory structure 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: Steven Earl  
101 S Eola Dr. 520  
Orlando, FL 32801



April 13, 2021

Orange County Zoning Division  
201 S Rosalind Ave.  
Orlando, FL 32802

RE; Variance for 9694 Kilgore Road, Application VA-19-09-104

To Whom It May Concern:

On behalf of the owners of the above-mentioned property, Andrew and Ronni Gross, we are requesting to renew a previously approved variance (VA-19-09-104) to allow the existing storage shed to remain on the property as located. We are seeking a variance to allow a shed to remain in front of the property. This variance was previously approved and required a permit for the structure to be pulled within one year of approval. Due to the COVID pandemic and the owners being in south Florida, when we started the permit process, we exceeded the 1-year timeframe and therefore are looking to reinstate this approval so we can complete the process.

In its current location it does meet all set-back limits for the current zoning.

The structure has existed on the property prior to the purchase by the current owners for a time in excess of 20 years. Due to the size of the lot and distance from other neighbors, the structure does not infringe on others or has not been an area of contention from any local owners in the past. Other variances have previously been approved for similar structures in adjacent properties where structures exist in the front of the existing home and therefore this application should not be held as a denial for a similar status.

**Variance Criteria Standards**

1. Special conditions and circumstances; Storage shed has existed on the property for over 20 years and was there prior to the current owners purchasing the property in 2004
2. Not Self-created; Shed existed prior to the owners obtaining the property
3. No Special Privilege Conferred As it relates to the zoning question of structures in the front of the property the other properties in the area also have similar structures. i.e. one to the right has a barn on the front of the property and one to the left has a similar storage shed in front of the property.
4. Deprivation of Rights; With similar instances existing on adjacent properties and the fact that the shed in question was in existence when the home was purchased it would cause a financial loss to have it removed.
5. Minimum Possible Variance: In its current position the shed meets all current zoning set backs.

6. Purpose and Intent; Due to the length of time in existence and the existence of similar structures on adjacent properties the shed does not cause a detriment to the surrounding properties or public welfare.

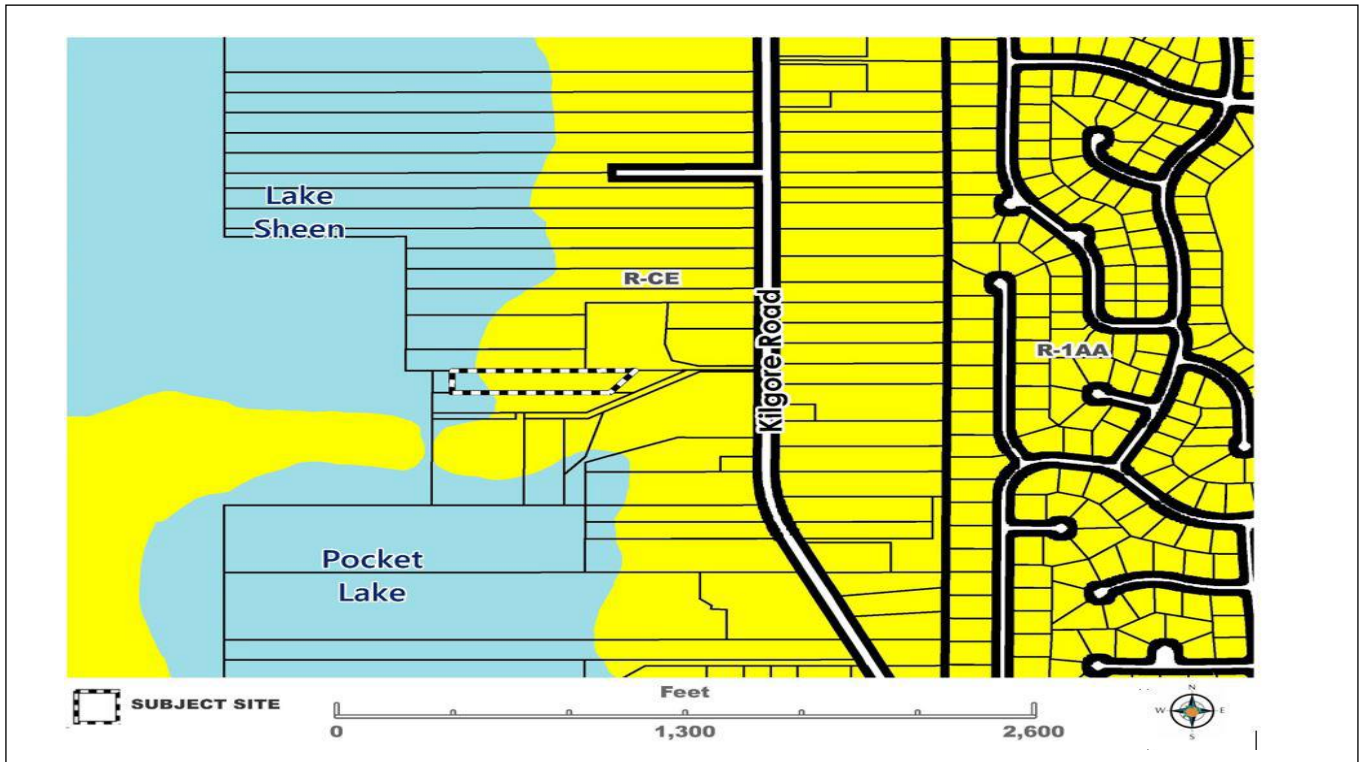
Thank you for your consideration.



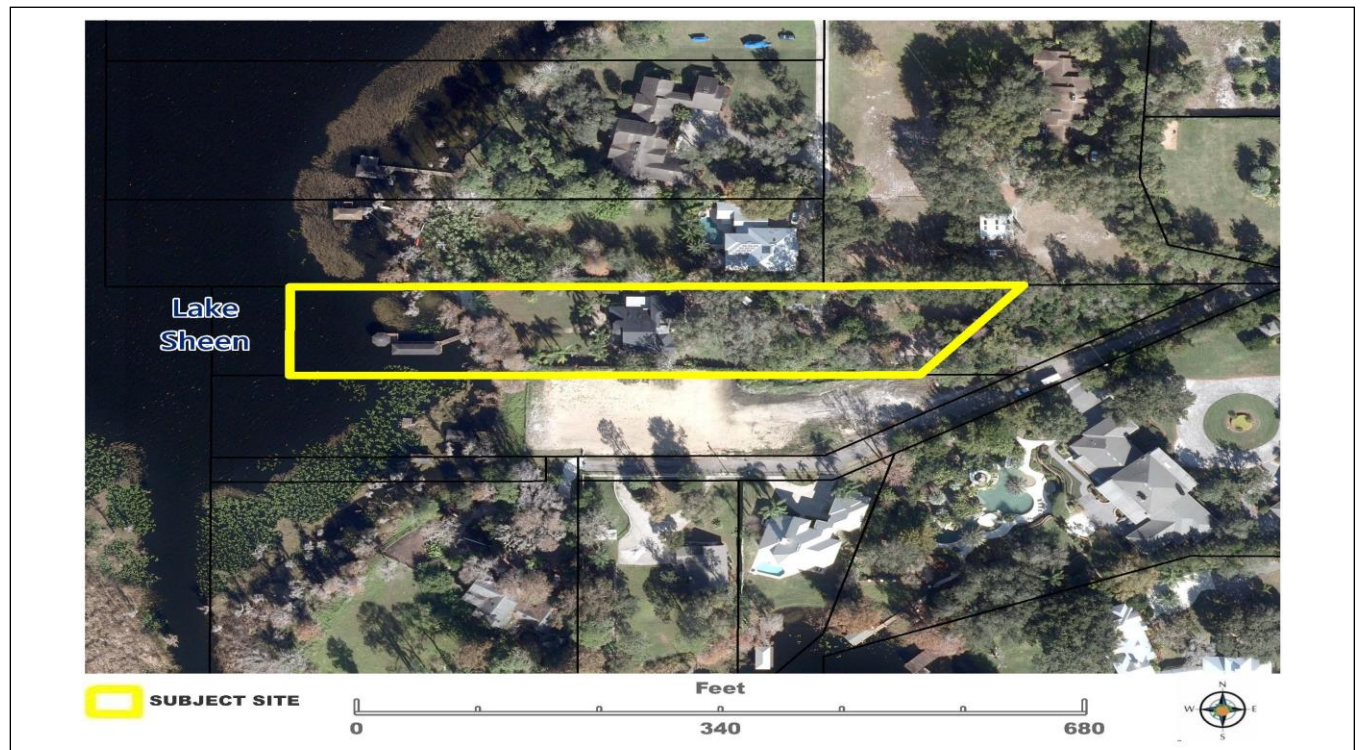
Steven R Earl  
Envy Homes LLC  
Representative for the Owners



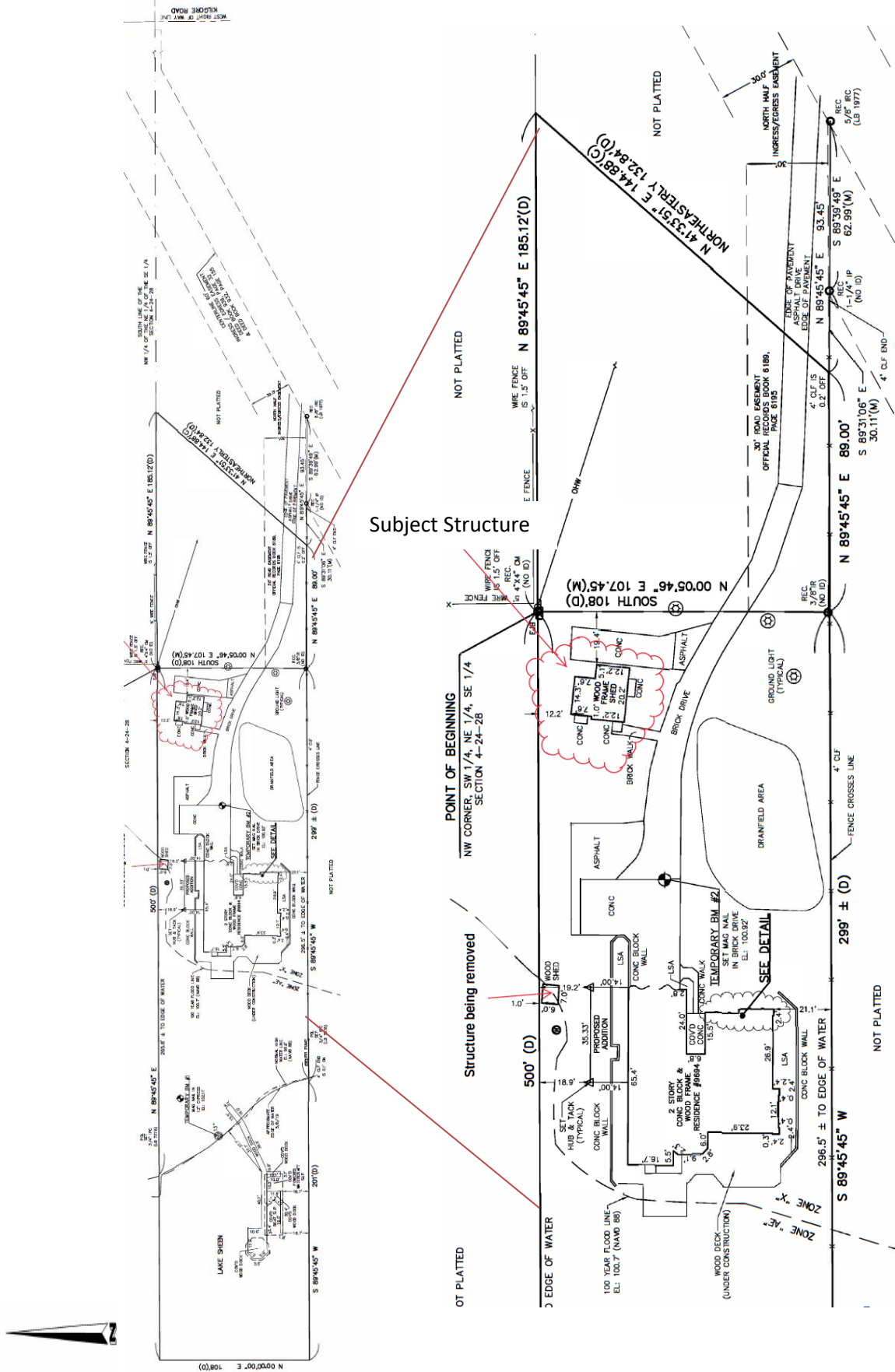
## ZONING MAP



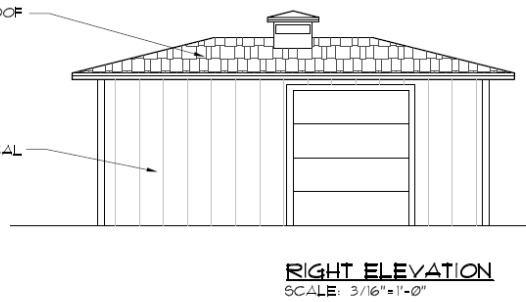
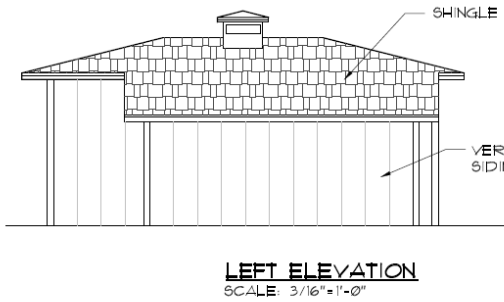
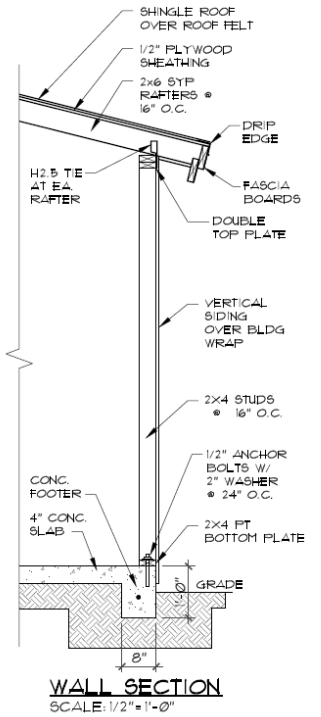
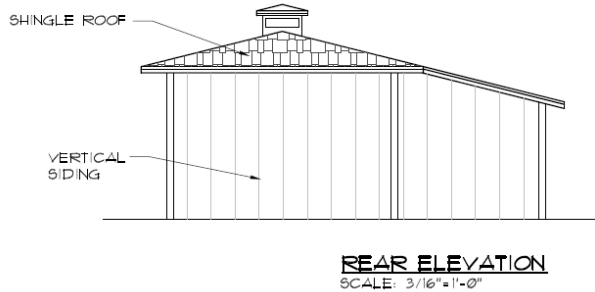
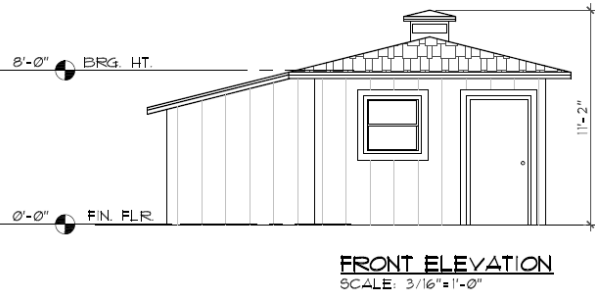
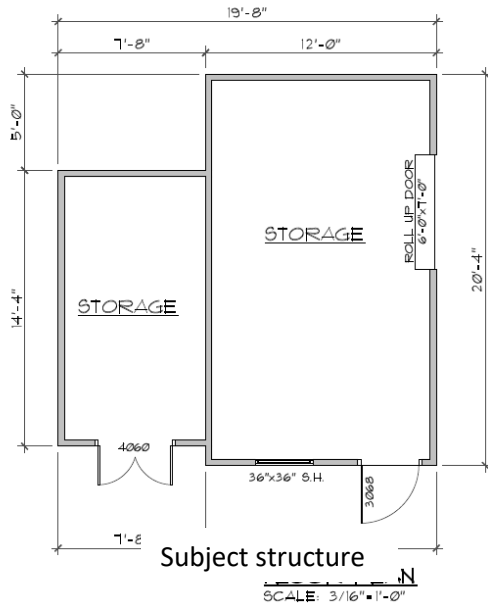
## AERIAL MAP



OVERALL & ENLARGED SURVEY



## ELEVATIONS & FLOOR PLAN



COVERAGE AREAS	
EXISTING SHED	354 S.F.



## SITE PHOTOS



**Subject property looking west**



**Accessory structure looking southeast toward Kilgore Rd.**



## SITE PHOTOS



**Accessory structure looking southwest**



**Looking east toward Kilgore Rd.**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 03, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-06-035**

Commission District: **#3**

## GENERAL INFORMATION

APPLICANT(s): SYLVIA RUPERTO

OWNER(s): SYLVIA RUPERTO, GLENN RUPERTO

REQUEST: Variance in the R-1AA zoning district to allow a 588 sq. ft. addition with a south rear setback of 28 ft. in lieu of 35 ft.

PROPERTY LOCATION: 702 S Deerwood Avenue, Orlando, Florida, 32825, southeast corner of S. Deerwood Ave. and Waywood Ave., west of S.R. 417, south of Lake Underhill Rd.

PARCEL ID: 31-22-31-2002-02-810

LOT SIZE: +/- 0.33 acres (14,499 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 90

## 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





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**SITE & SURROUNDING DATA**

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

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

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

The subject property is a 0.33 acre (14,499 sq. ft.) corner lot with frontage on both Deerwood Ave. and Waywood Ave. It was created through the Deerwood Unit 5 plat, recorded in 1985. The property is improved with a 3,112 sq. ft. single-family home with an attached two-car garage. The owners purchased the property in August 2020, and are proposing a 588 sq. ft. addition to the south side of the existing residence with a south rear setback of 28 ft. in lieu of 35 ft., requiring a variance.

Due to the angle of the rear property line, the southeast corner of the addition will encroach up to seven (7) ft. into the south rear 35 ft. setback with 86 sq. ft. of floor area. The southwest corner of the addition meets the required setback.

Although there are other locations on the property to reorient the addition, the owners assert that the addition cannot be built in the area directly behind the west portion of the home due to interior challenges such as two (2) sliding glass doors, and a utility door to an interior bathroom. Further, the owners state that, the adjacent abutting house to the south is not impacted by the reduced setback since it is oriented to the south and will be set back approximately 50 ft. from the addition.

The owners submitted a letter of no objection from the community's HOA, and letters of support from 13 neighboring residents, including the most impacted to the north, east, and across Waywood Ave. to the west.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	18 ft. (Addition)
Min. Lot Width:	85 ft.	89 ft.
Min. Lot Size:	10,000 sq. ft.	14,999 sq. ft.

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

	Code Requirement	Proposed
Front (S. Deerwood Avenue):	30 ft.	33.8 ft. (Residence north)
Rear:	35 ft.	28 ft. (Addition south)
Side:	7.5 ft.	40 ft. (Addition east)
Side Street (Waywood Avenue):	15 ft.	24 ft. (Addition west)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances**

Special conditions and circumstances include the angle of the rear property line, which causes only a portion of the addition to be nonconforming.

**Not Self-Created**

The request is self-created since the addition may be redesigned to reduce or eliminate the need for the variance.

**No Special Privilege Conferred**

Approval will not confer special privileges as other in the area have obtained variances to reduce setbacks.

**Deprivation of Rights**

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

**Minimum Possible Variance**

The variance request is not the minimum since the size of the addition could be reduced, or the layout of the addition could be modified to reduce or eliminate the need for the variance.

**Purpose and Intent**

One purpose and intent of setbacks is to provide uniform development standards, but given the separation distance between the proposed addition and the neighboring residence, the purpose and intent is being met.

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### CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations dated April 14, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The exterior of the addition shall match the exterior of the existing residence, including materials and color.
5. Permits shall be obtained 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: Sylvia Ruperto  
702 S Deerwood Ave.  
Orlando, 32825

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## COVER LETTER

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Glenn & Sylvia Ruperto  
702 S. Deerwood Avenue, Orlando, FL 32825  
(305) 297-2060 / (305) 282-0773 / sruperto@live.com



April 13, 2021

Orange County Zoning Division  
201 South Rosalind Avenue, 1<sup>st</sup> Floor  
Orlando, FL 32801

To whom it may concern:


We would like to request approval of a variance to extend a portion of an addition to my home to encroach seven feet into the 35 ft. rear setback. It is understood that certain criteria must be met for this to be possible. Below please find an explanation of how the criteria is being met.

1. Special Conditions and Circumstances – We have a corner lot that is in the shape of a trapezoid and only the sides of the lot, the east and west are parallel. Unfortunately, the front and back of the house are on the angled property lines. We need to add approximately 580 sq. ft. to the back of the house. To accomplish this, the SW corner of the expansion would be within the setback line but when it is extended to the east it will encroach on the setback by 6' 9" ft. on the SE corner of the expansion. This would cause a triangular encroachment of approximately 86 sq ft.
2. Not Self-Created – The need for the variance is not self-created. It is being requested so my elderly parents can live with us. They are approaching their 80<sup>th</sup> birthdays and need the ability to request immediate assistance due to their age and increasing medical issues. My husband is home most of the time and can provide them with the support they need. They also want to maintain their independence and require a relatively large private space to accomplish this. They do not want to feel like an encumbrance but realize their situation. Some may consider this to be a self-imposed situation, but it is not, wanting to help your parents for as long as possible is simply human nature and we consider it to be our responsibility.

3. No Special Privilege Conferred – We are not aware of any other lots with the same or similar situation or of any privilege that has been denied to other individuals, with the hindrances that we are facing. In addition, since the lot was platted in 1985, the setback lines are greater than those platted after 1997.
4. Deprivation of Rights – We believe that literal interpretation of the provisions contained in this Chapter would deprive us from being able to support our family. This would cause a financial hardship in the future if my parents had to be placed in an Assisted Living Facility. In addition, it would cause unnecessary concern over their wellbeing. Having the ability to be close and supportive would give us and my parents much needed peace of mind. Unfortunately, all my siblings live in Miami and are unable to help.
5. Minimum Possible Variance – In order to accommodate the needs of Sylvia's parents for assistance while maintaining their independence, their living area must accommodate a full bathroom, bedroom, closet, and area where they can keep their personal things. To achieve this and keep the encroachment as small as possible, the closet has been pushed into the SW bedroom, reducing the size of that bedroom. Placing the closet in their room, would have more than doubled the encroachment. In addition, we are not able to build onto the home where the patio is located because that portion of the house has two sets of French doors, a sliding glass door, the kitchen window, and an exterior bathroom door.
6. Purpose and Intent – The entire residence shall be used as a single-family residence and no part of it shall be used as a second residence. The roof and walls will have matching materials. Approval of this zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Thank you for your time and consideration. If you have any further questions, feel free to me at 305-282-0773 at your convenience.

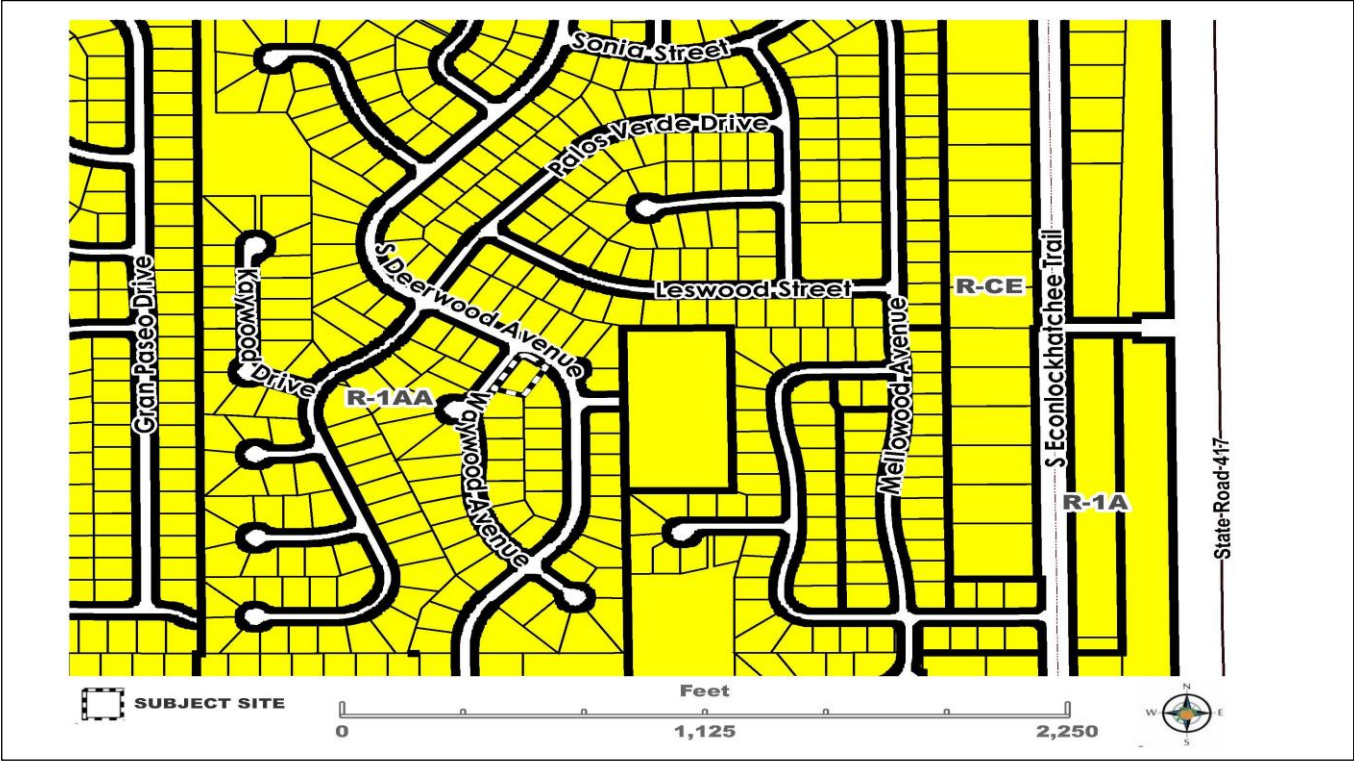
Sincerely,



Sylvia S. Ruperto



ZONING MAP



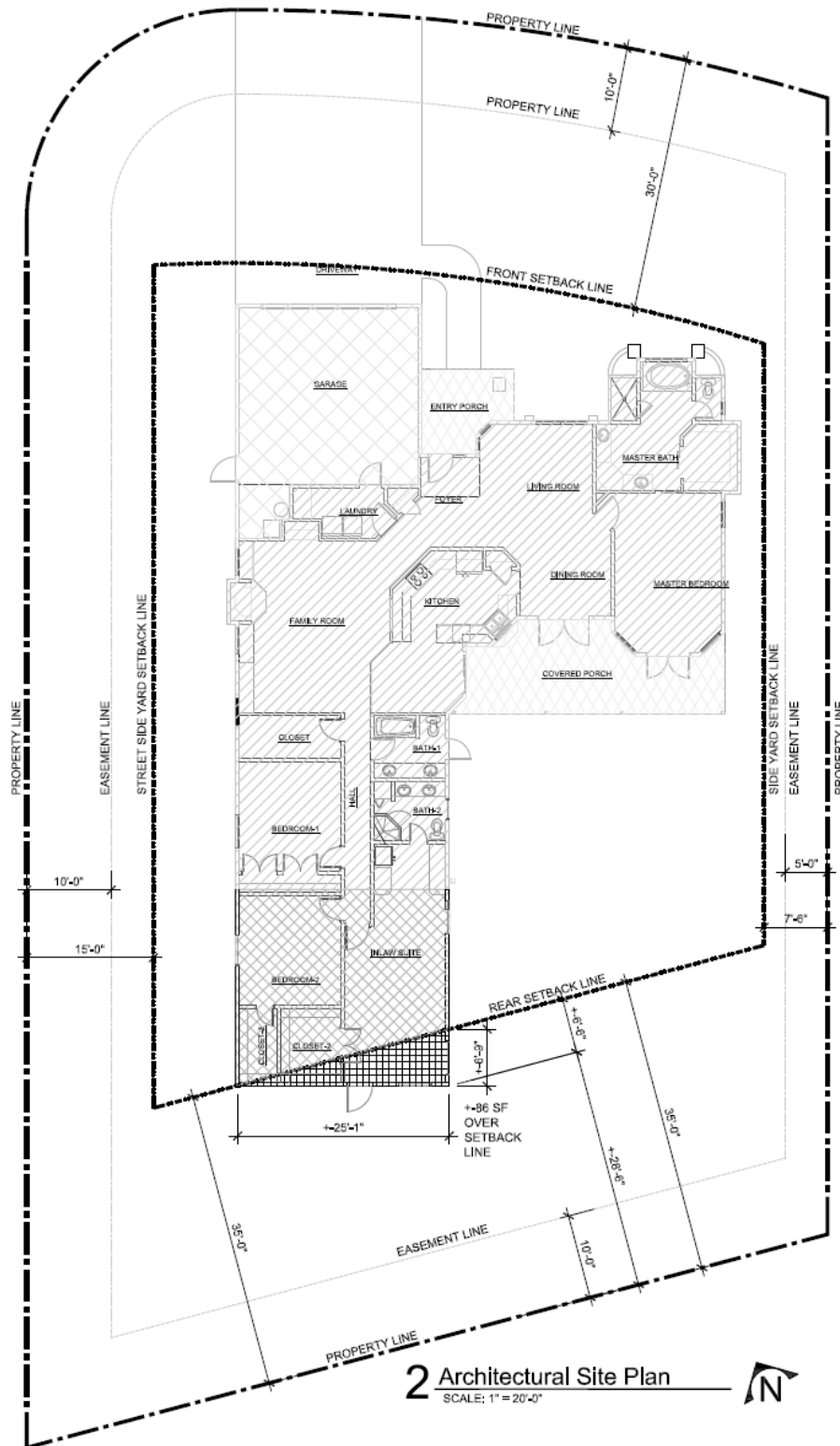
AERIAL MAP



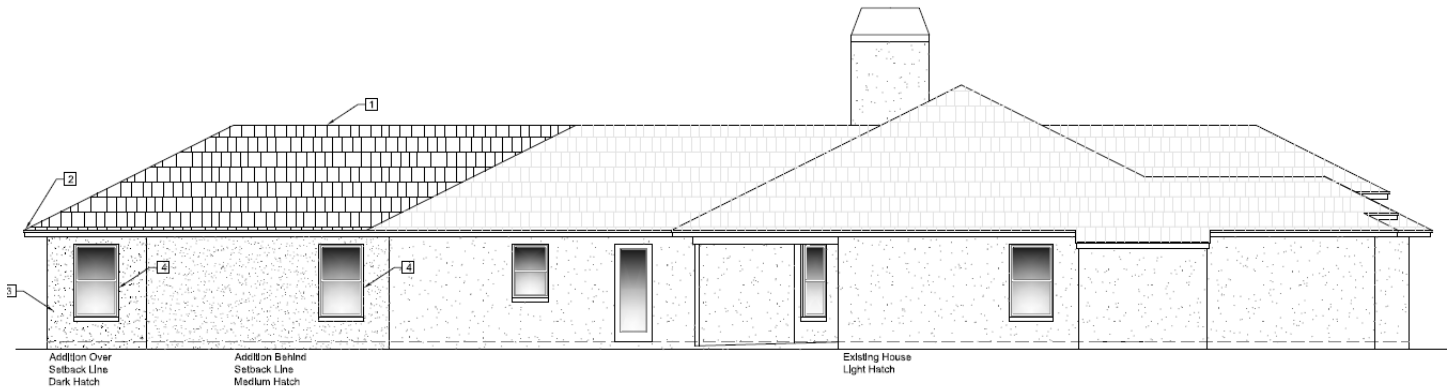
## SITE PLAN

Deerwood Ave.

Waywood Ave.

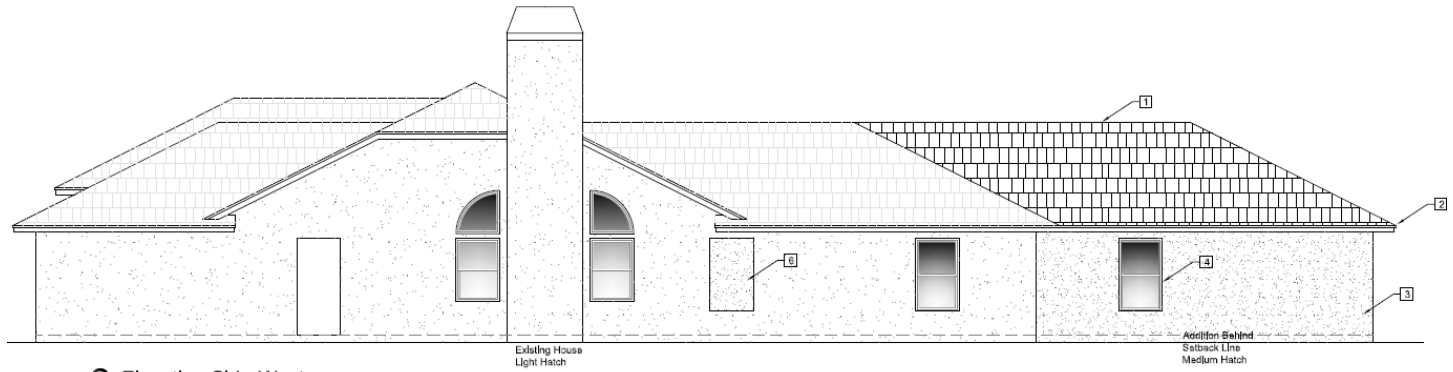


## ELEVATIONS



**4** Elevation-Side-East

SCALE: 1/4" = 1'-0"



**3** Elevation-Side-West

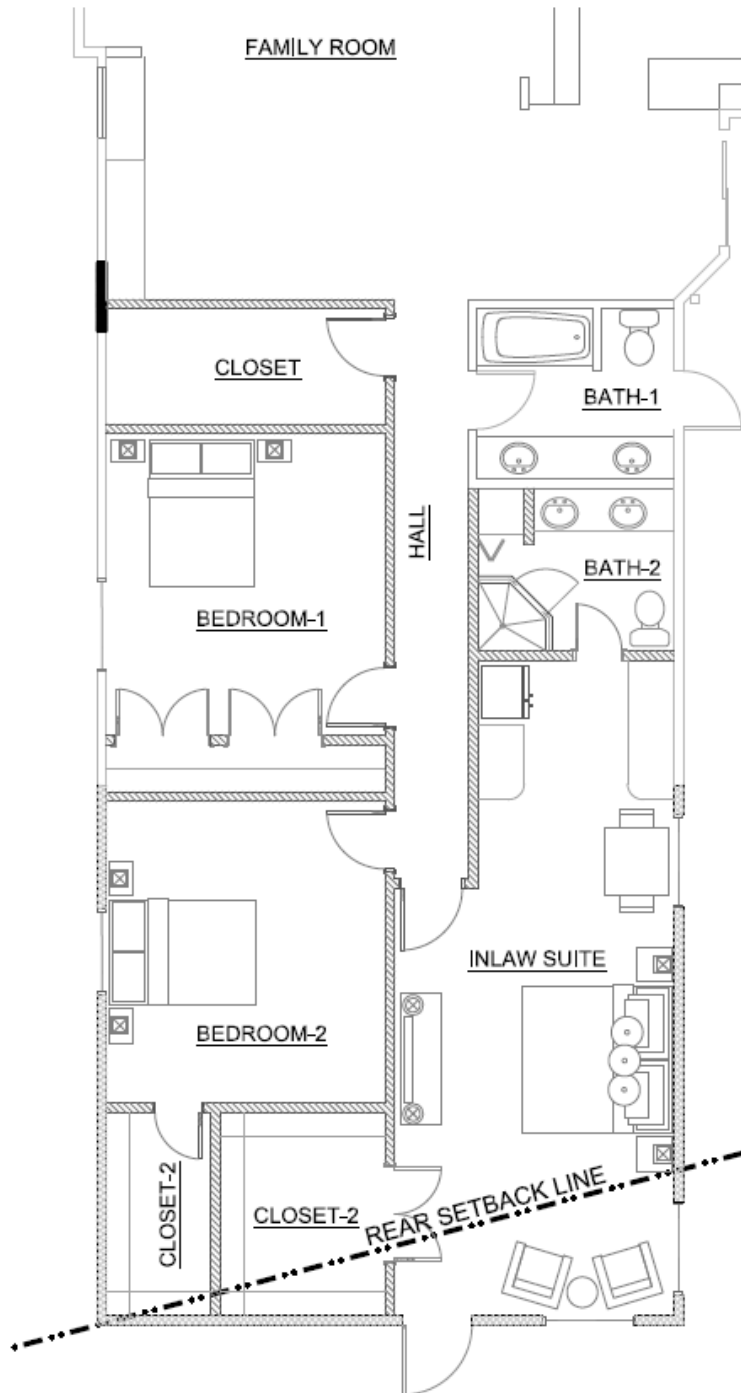
SCALE: 1/4" = 1'-0"



**2** Elevation-Rear/South

SCALE: 1/4" = 1'-0"

## FLOOR PLAN



### 3 Notation Floor Plan

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





**SITE PHOTOS**



**Subject property looking south**



**Location of proposed addition looking northeast**



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**SITE PHOTOS**

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**Rear of subject property looking north**



**Neighboring residence to south from rear property line of subject property**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 03, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-06-032**

Commission District: **#1**

## GENERAL INFORMATION

APPLICANT(s): LAZEN ENGINEERING (MOHAMMED ISSA)

OWNER(s): SAAD SAYYED KAWASMEH

REQUEST: Variance in the R-CE zoning district to allow an attached 1,859 sq. ft. carport with a south front setback of 15 ft. in lieu of 35 ft.

PROPERTY LOCATION: 9575 Westover Roberts Road, Windermere, Florida, 34786, north side of Westover Roberts Rd, on the south side of Lake Olivia, east of Hempel Ave., west of S. Apopka vineland Rd.

PARCEL ID: 33-22-28-3100-11-100

LOT SIZE: 183 ft. x 1,291 ft./ +/- 5.43 acres (1.43 acres upland)

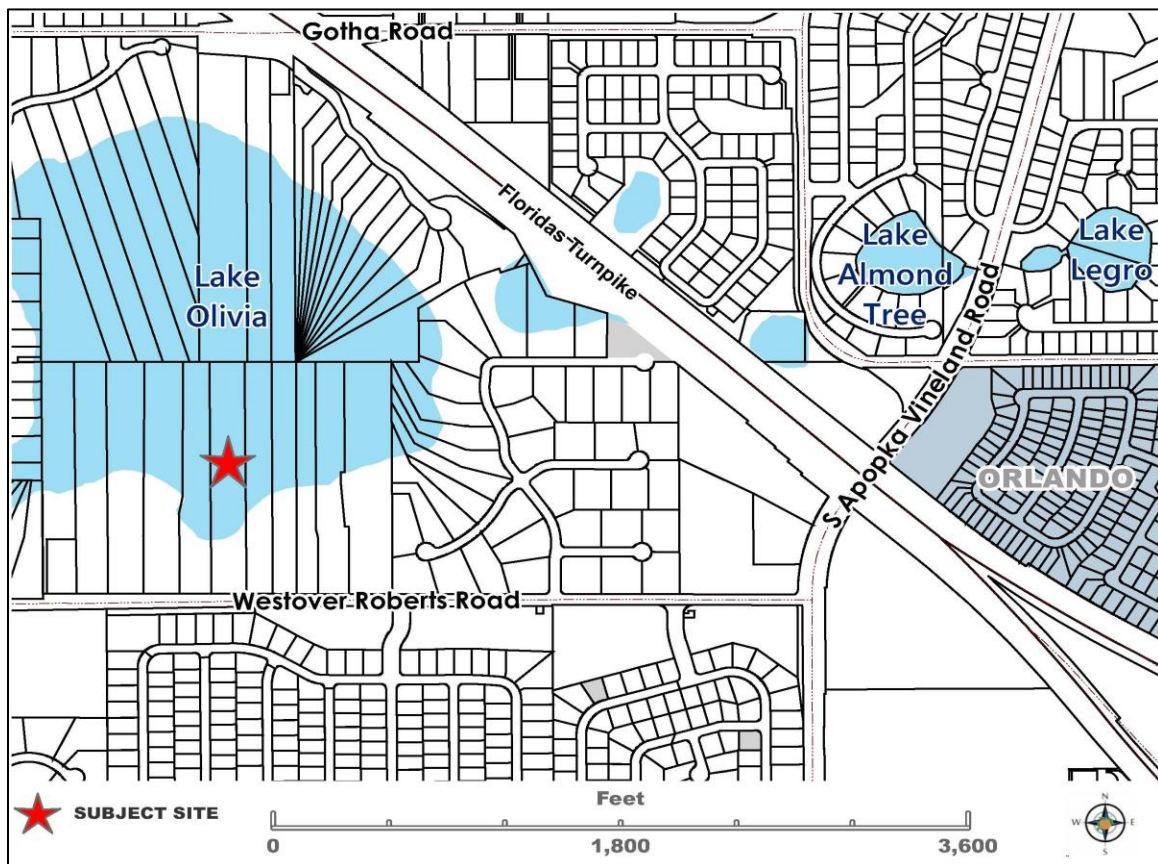
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 87

## STAFF RECOMMENDATIONS

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

## LOCATION MAP



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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-CE	Lake Olivia	R-L-D	R-CE	R-CE
Future Land Use	Gotha Rural Settlement 1/1 & WB	Lake Olivia	LDR	Gotha Rural Settlement 1/1	Gotha Rural Settlement 1/1
Current Use	Single-family residence	Lake Olivia	Single-family residence	Single-family residence	Single-family residence

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is zoned R-CE, Rural Country Estate, which allows for single family development on one (1) acre lots and certain rural uses.

The subject property is located in the Gotha 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 areas 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 Gotha Rural Settlement, the maximum density is one (1) unit per acre for new development.

The subject property is located on Lake Olivia and consists of a 5.43 acre parcel of land created by the Town of Gotha plat, recorded in 1885. Of the total acreage, approximately 1.43 acres is uplands. The property is improved with a 15,393 sq. ft. single-family residence which was built in 2001 (B00008864), and a boat dock and boat house, built in 2002 (Permit #02-079). The current owner purchased the property in late-2020.

The existing residence has two (2) separate attached garages, a two (2) car garage integrated into the front of the main residence and an attached three (3) car garage extending south from the home toward the road. The owner is proposing to add a 70+ ft. long carport to store six (6) vehicles, which is to be attached to the south end of the three-car garage and extend further south toward the front property line with a 15 ft. front setback. Since the carport is proposed to be attached to the principal structure it requires a setback of 35 ft., therefore a variance is required.

The owner states the need for the requested carport is based upon the lack of rear parcel access. The variance will allow them to store several trailers under a carport. However, the owner could meet the setback requirements and still be able to provide at least a 50 ft. long carport, which could accommodate at least four (4) additional covered parking spaces.

The applicant provided a letter of support from the neighbor to the west of the subject property, who would be one of the most impacted neighbors. As of the preparation of this report, staff had not received any correspondence regarding this request.

## District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	12.5 Carport
Min. Lot Width:	130 ft.	183 ft.
Min. Lot Size:	1 Acre	5.4 Acres (+/- 1.43 acres upland)

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

	Code Requirement	Proposed
Front:	35 ft.	15 ft. Carport (south - variance)
Rear:	50 ft.	N/A
Side:	10 ft.	10 ft. Carport (east)/147 ft. Carport (west)

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## STAFF FINDINGS

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### 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 front setback while providing up to four (4) additional covered spaces.

#### Not Self-Created

Since the owner has other options to build a substantial carport that meets the front setback requirements, the requested variance is self-created and is based on convenience.

#### 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 house already has five (5) garage parking bays, and a four (4) car carport could be built which meets code.

#### Minimum Possible Variance

Since the applicant can still construct a carport in a manner which would meet the front setback, this is not a minimum variance.

#### 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.

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### CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations dated April 29, 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.
- C: Mohammed Issa  
11549 Lake Underhill Rd.  
Orlando, FL 32825





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**VARIANCE - 9575 WESTOVER ROBERTS ROAD**

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**1.0 Applicant 's reason for the Request:**

Design variance to permit an attached Car Canopy in front of the principal structure. This home improvement can be performed by allowing front setback of 15ft in lieu of 35ft .

This accessory structure is intended to enrich the property with multiple functions, as car parking with canopy and elevated structure for PV solar energy panels. (Green energy generating).

**2.0 Type of the proposed Construction:**

The proposed Construction is concrete made with matching design theme to the existing house. The design includes decorative Spanish clay tiles on roof front and side edges to maintain the beauty of the place.

**3.0 Project Description:**

The subject property consists of a 5.44 acres lot, built in 2001, with gross area 15,393 sqft, and living area of 8,464 sqft, with two-stories single family residence house in the Lake Olivia neighborhood. The existing home has setback over 80ft from Westover Roberts Rd. the applicant is proposing to construct an addition to the home which will include attached accessories structure in front of principle structure and closer to the street by maintaining the side setback of 10fts and reducing front setback to 15ft.

This property is zoned R-CE, Model code 01- Single Fam Residence. The Subject property is surrounded by single family residences to the East and West, Lake Olivia to the North, and Westover Roberts Rd from South.

**4.0 Proposed Area:**

The total dimensions for the proposed area of construction is 71.5 ft x 26 ft ( 1,859 SQ. FT. )



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VARIANCE - 9575 WESTOVER ROBERTS ROAD

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**5.0 Variance in setback:**

Based on the area zoning, the setback from all sides are as per Table 1 :

Table 1 – Setback Requirements vs. Proposed		
	Required Setback	Proposed
Front Side – South	35ft	15ft
Rear Side - North	50ft	50ft
Side – West	10ft	10ft
Side – East	10ft	10ft

Thus, the proposed variance is at the front side with 20 ft only requested.

**6.0 Design Review:**

The applicant proposal is based on the Owner's requirements of allocating space for visitors' cars as parking spots with canopy on top. This will help eliminate any blockage of car traffic at the entrance of house on any occasion.

Moreover, the Owner is interested in saving nature and help reducing the carbon footprint by going toward the Green solar Energy, the existing house roofing is Spanish clay type with architectural design which is not as efficient to mount solar panels and carried many challenges and issues. Thus, we intent to use the proposed area as an elevated solar structure for panel mounting subject to approval, taking into consideration front of house area is facing towards the South which makes it ideal for directing the solar panels.

The existing home was built without taking into consideration any parking area for the visitors at the front yard. The proposed home addition provides needed updates to this home and the front yard is the only feasible and logical area for expansion.



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**VARIANCE - 9575 WESTOVER ROBERTS ROAD**

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The West front area of the house is containing underground field and septic tank for sewerage, and next to it is natural gas tank supplying the home requirements. Which makes the proposed area is the only available area for expansion.

Taking the Solar calculation into our consideration which provide the house with 50-60% from the required energy the proposed dimensions successfully allow feasibility for this project to become meaningful.

The proposed Structure is intended to be open from all sides to the surrounding area and closed from the top only with Suitable Canopy design (details will be submitted on constructure Permit application).

**7.0 Neighbors Sharing:**

The owner met the next-door neighbors and shared with them the proposed concept and they expressed their acceptance as an added value for the neighborhood and a great enhancement toward the Green renewable Energy. We attached a written acceptance from one of the closest neighbors to the property as a supporting document.



VARIANCE - 9575 WESTOVER ROBERTS ROAD

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### 9.0 Existing Site Photos

The followings Photos for the existing site condition and shows the proposed area.





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VARIANCE - 9575 WESTOVER ROBERTS ROAD

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**10.0 Perspective Design**

- Top View of proposed structure:







VARIANCE - 9575 WESTOVER ROBERTS ROAD

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- Front (West) Elevation:



- Solar Concept View:





## VARIANCE - 9575 WESTOVER ROBERTS ROAD

**11. Summery:**

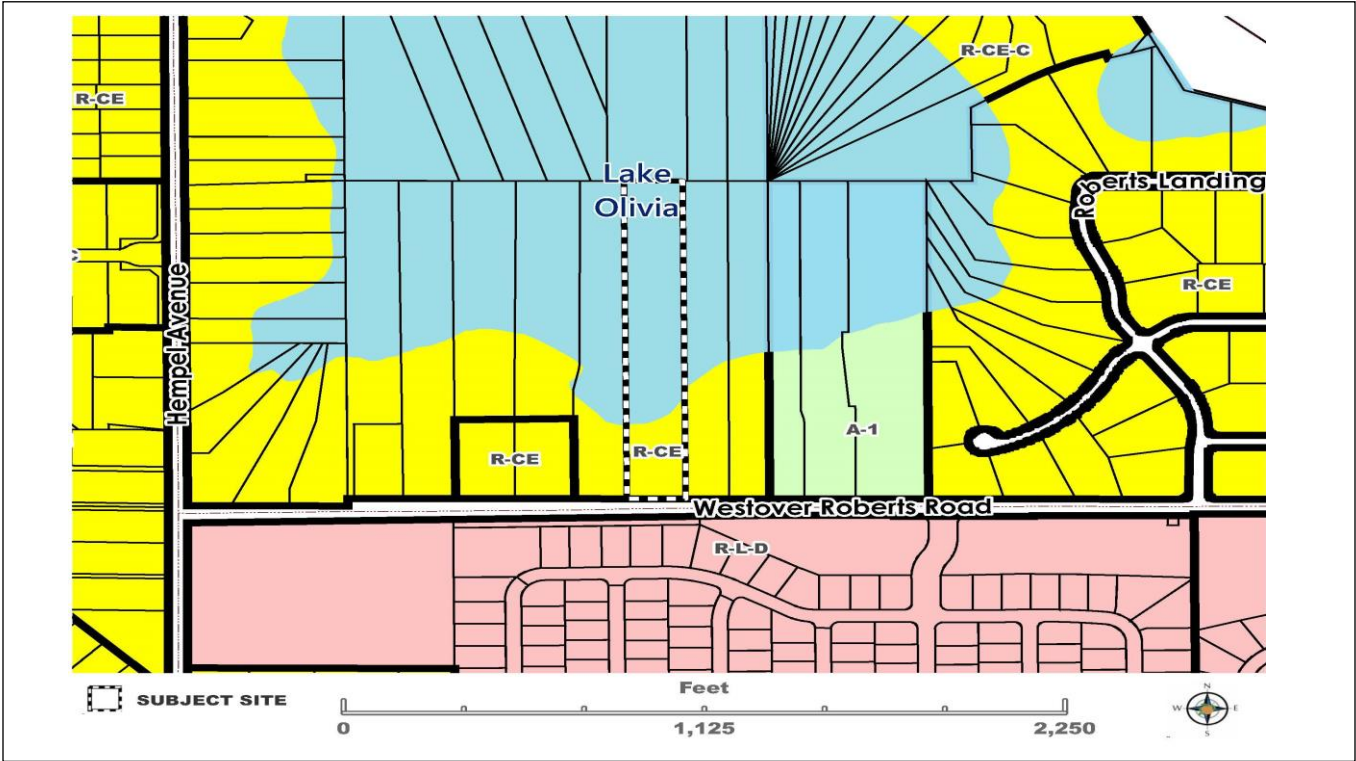
Based on the Orange County Code the following standards for the approval of variances are considered.

Standards for Variance Approval	Requested Variance
<b>Special Conditions and Circumstances –</b> Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.	The Existing home has no guests parking space to serve visitors unlike most other homes in that area, also the roofing architectural layout has special details does not allow to allocate solar panels on the roof
<b>Not Self-Created –</b> The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance, i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.	The property was platted, and the home was built in the current location prior to the current property owner purchasing the property, which make it hardship to the owner and daily struggle to keep guest's cars parked while keeping traffic in and out.
<b>No Special Privilege Conferred –</b> Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.	Approval of the requested variances will not result in any special privilege being conferred.
<b>Deprivation of Rights –</b> Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.	Denial of the variances would deny the applicant the ability to make any of these improvements to the property from car canopy to using green energy.
<b>Minimum Possible Variance –</b> The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.	The requested Variances are the minimum possible to be able to allow the applicant to add roofed car parking and Taking the Solar calculation into our consideration which provide the house with 50-60% from the required energy the proposed dimensions successfully allow feasibility for this project to become meaningful.
<b>Purpose and Intent –</b> Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.	The design of the car canopy should not have a negative impact on the neighborhood. And will add beauty to the front yard considering applying the same finishing to the existing principal home.

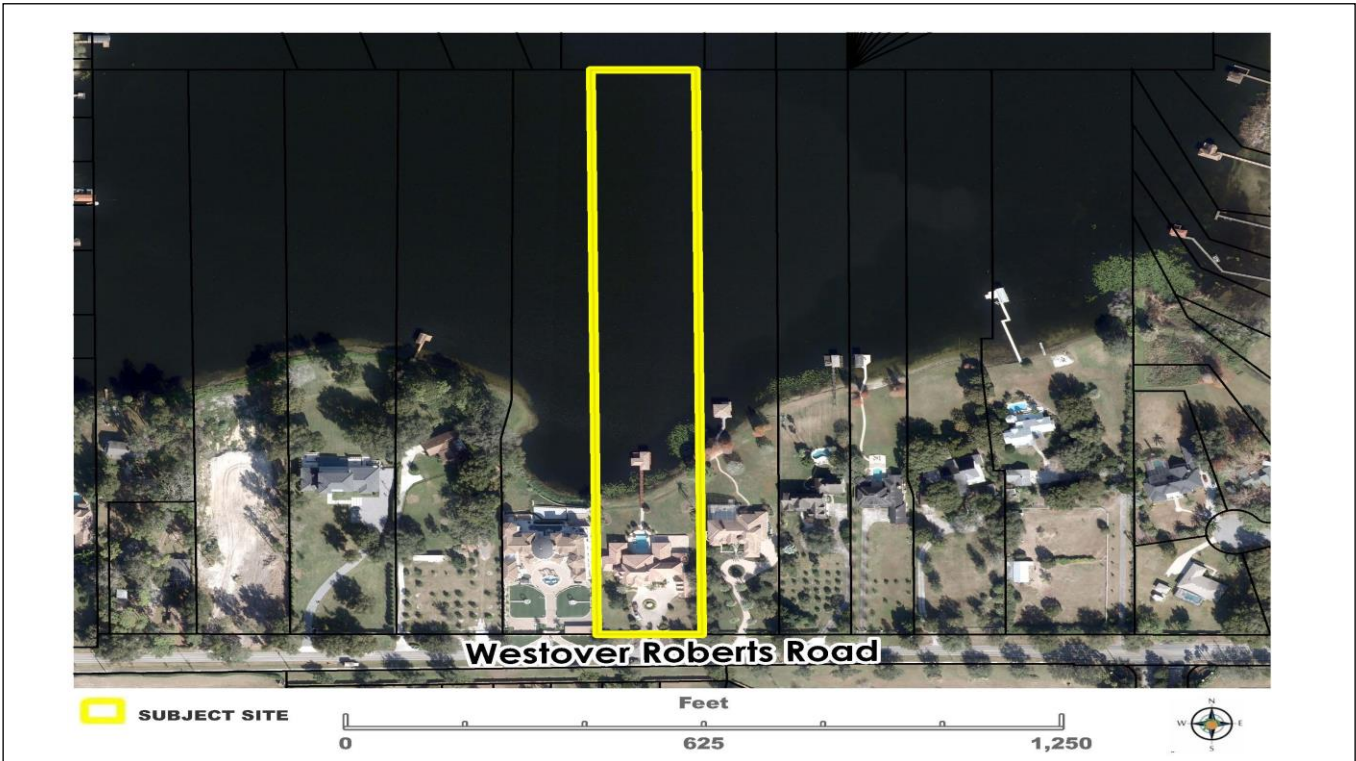
**12. Architectural AutoCAD Drawings:**

Please find the attached Arch. AutoCAD drawings for Front Elevation and Side Elevation with Detailed Dimensions for the Proposed Structural addition.

ZONING MAP

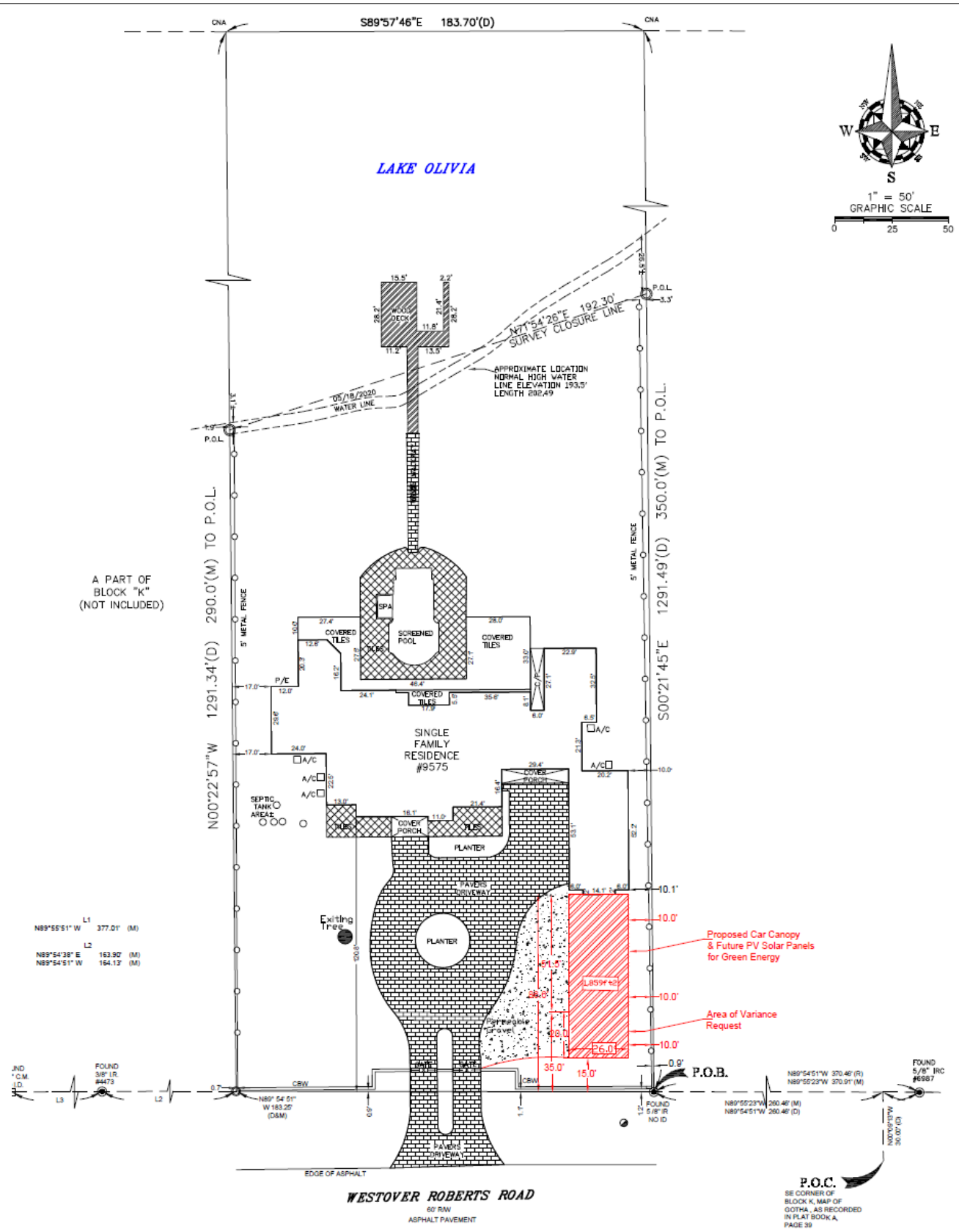


AERIAL MAP



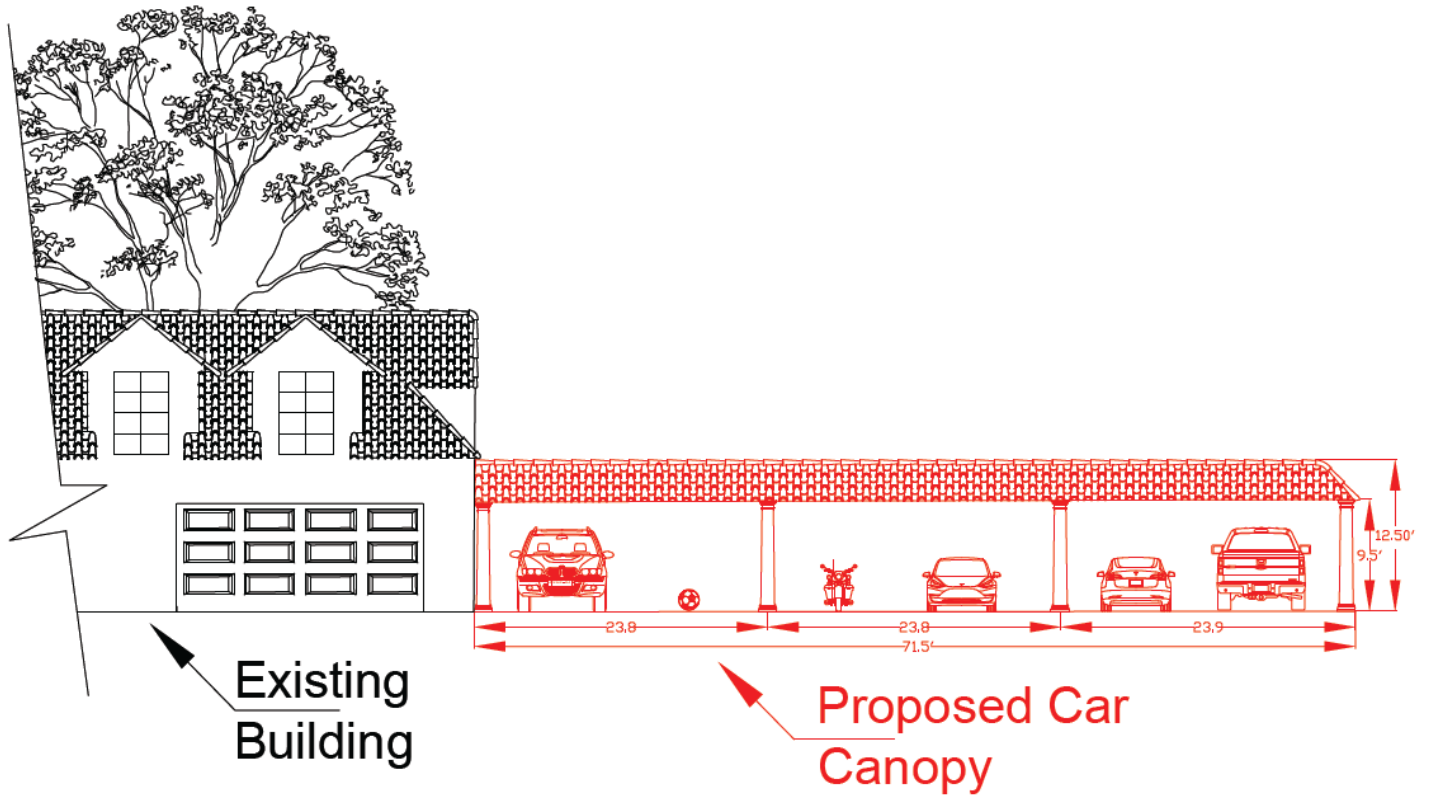


## SITE PLAN

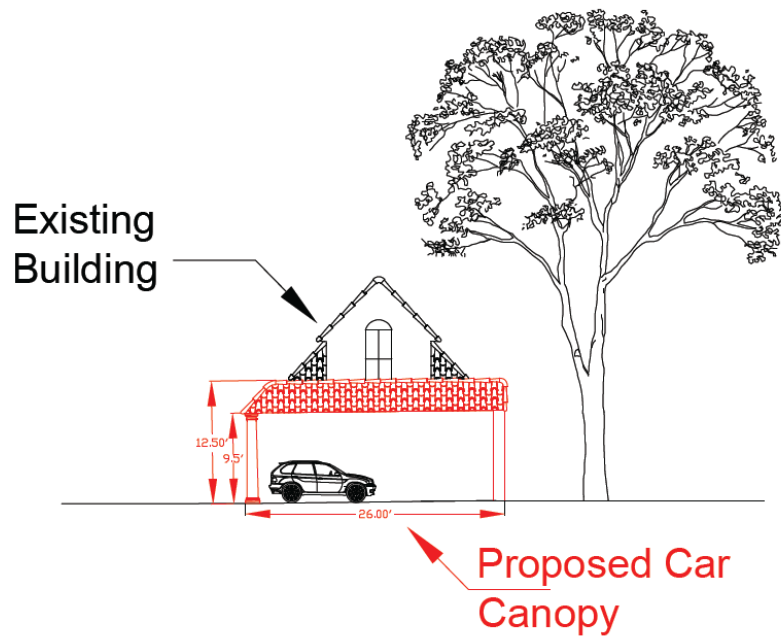




## ELEVATIONS



Side view



Front View

## SITE PHOTOS



**Subject property looking north**



**Existing garages looking northeast**



## SITE PHOTOS



**Proposed carport location looking east**



**Proposed carport location looking south**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 03, 2021**

Case Planner: **David Nearing, AICP**

Case #: **VA-21-06-036**

Commission District: **#6**

## GENERAL INFORMATION

APPLICANT(s): MADISON LANDING (SCOTT BAKER)

OWNER(s): RIO GRANDE 1 LLC

REQUEST: Variance in the R-3 zoning district to allow multi-family development with a ratio of 0.92 parking spaces per unit in lieu of 1.5 spaces for each efficiency and one bedroom unit, and 2 spaces for each 2 and 3 bedroom unit.

PROPERTY LOCATION: 5808 S. Rio Grande Avenue, Orlando, Florida, 32809, west side of S. Rio Grande Ave., approximately 400 ft. north of W. Oak Ridge Rd.

PARCEL ID: 22-23-29-7268-57-001

LOT SIZE: 1.92 acres

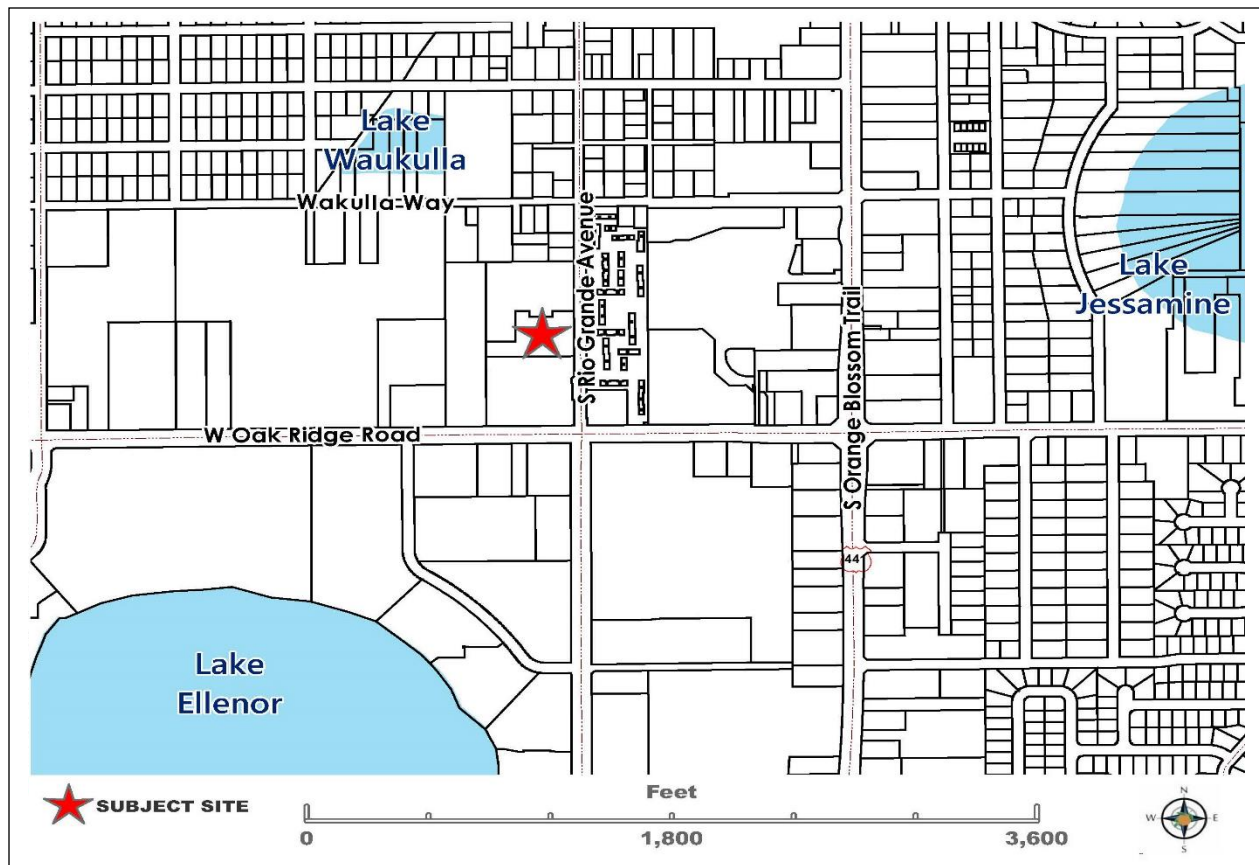
NOTICE AREA: 700 ft.

NUMBER OF NOTICES: 146

## STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

## LOCATION MAP





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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-3	R-3	I-2/I-3	R-3	I-2/I-3
Future Land Use	HDR (Senior Housing)	HDR (Senior Housing)	IND	MDR	IND
Current Use	Phase II, Senior affordable housing apartment complex	Phase I, Senior affordable housing apartment complex	Vacant	Apartments	Industrial

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The property is located in the R-3, Multiple-family Residential zoning district, which allows single-family homes and multi-family development.

The subject property is vacant and is 1.92 acres in size, which comprises a portion of Lots 40, 57 and 58, Block 1, of the Property Colony Plat, recorded in 1956. Most recently, the property was created in 2020 via a lot split which separated it from the 3.47 acre property to the north. The subject site, along with the adjacent property located to the north are Phases II and I, respectively, of the Madison Landing senior affordable housing project development. The subject site is currently used as a staging yard for the adjacent Phase I of the development, currently under construction (B20902428), which will contain 110 units and 96 parking spaces. As stated, the subject property includes Phase II, proposing 96 units and 94 parking spaces. A total of 206 units and 190 parking spaces are proposed for both phases.

The subject site and the Phase I site to the north have a history of Planning and Zoning Applications as follows:

2016:

- Future Land Use Amendment (2016-2-S-6-1), on the subject site and the Phase I site to the north, from IND, Industrial, to HDR, High Density Residential (Senior Housing).
- Rezoning (RZ-16-10-026), on the subject site and the Phase I site to the north, from IND-2/IND-3 to restricted R-3, with 4 restrictions, including one that limited the number of units to 196 units.
- Special Exception request (SE-16-09-118), on the subject site and the Phase I site to the north, to allow the height of the buildings to exceed 50 feet through a Special Exception, which was the method used to accomplish this at that time. However, before the application could be brought in front of the BZA, Chapter 38 was amended to eliminate the Special Exception process for added height, and it then required a variance. In December 2016, the BZA recommended approval of a variance to allow 72 feet in height.

2020:

- Variance approval (VA-20-03-010) to allow a height of 86 ft. in lieu of 35 ft. and to allow for 177 parking spaces in lieu of 343 parking spaces for both Phase I and Phase II.

- Variance approval (VA-20-07-039) for an amendment to the previously granted variances to allow a height of 86 ft. in lieu of 35 ft. and to allow for 177 parking spaces in lieu of 343 parking spaces for both Phase I and Phase II. The amendment modified condition of approval #1, and approved updated site plan and elevations.

2021:

- Rezoning (RZ-21-04-022) on the subject site (Phase II), to amend the restricted R-3 zoning district to remove the restriction tied to the number of units. As a result of this amendment the southern parcel has 3 restrictions tied to the zoning, although none are applicable to this variance request.

With the recent rezoning and removal of the restriction on number of units for Phase II, 10 additional units are now being proposed, which is consistent with the Future Land Use designation of High Density Residential (Senior Housing) which allows a density of up to 50 units per acre. Phase I contains 110 units on 3.47 acres, or 31 units per acre. With the restriction of 196 units, there was a maximum of 86 units on 1.92 acres available for the Phase II development, equating to a density of 44 units per acre. The additional 10 units increased the Phase II density to 50 units per acre and the overall density for both phases at 38 units per acre.

The additional units will be accommodated within the existing building envelope, and the approved plans provided 190 parking spaces even though the variance was approved for 177. The number of units and parking spaces remain unchanged for Phase I. The additional Phase II units include 5 – one bedroom units and 5 – two bedroom units. With 10 additional units, the number of required parking spaces is increased. As a result, a new variance request has been submitted for the number of parking spaces provided per unit for Phase II. The request is to modify the parking variance approved to allow for an approved ratio of required parking in lieu of a specific number of spaces. No changes to the site plans, landscape plans, or building plans are required or proposed.

#### **Parking requirements for Phase I:**

Unit Type	Parking Requirement	Number of Units Provided	Required # of Spaces	Parking Ratio
Efficiencies and one-bedroom	1.5 spaces/unit	55	83 per code 48 with variance ratio	0.87
3 units or more with 2 and 3 bedrooms	2 spaces/unit	55	110 per code 48 with variance ratio	0.87
Total			193 per code 96 with variance ratio	0.87

#### **Parking requirements for Phase II:**

Unit Type	Parking Requirement	Number of Units Provided	Required # of Spaces	Parking Ratio
Efficiencies and one-bedroom	1.5 spaces/unit	48	72 per code 47 with variance ratio	0.98
3 units or more with 2 and 3 bedrooms	2 spaces/unit	48	96 per code 47 with variance ratio	0.98
Total			168 per code 94 with variance ratio	0.98

The ratio of provided parking spaces per unit for the overall development will actually increase with this request from 0.9 to 0.92, since more parking was initially provided beyond the approved parking reduction. The revised parking calculations and the Phase II parking ratio, as modified, have been reviewed by County Transportation Planning staff, and they are in support of the request as the ratio is increasing.

As was discussed at the March 5th and June 4th 2020 BZA meetings, the County's parking standards do not differentiate between general multi-family development and age restricted multi-family development. The BZA recognized that those who live in age restricted communities have less need for personal vehicles. Based on a parking needs analysis provided by the applicant, which included an evaluation of eight (8) comparable sites which they have developed around the State, on average, a parking ratio of 0.78 spaces per unit would be sufficient. The applicant proposes to provide 190 parking spaces for the 206 units, which equates to a ratio of 0.92, which is a higher ratio than the 0.9 ratio that was previously approved. This equates to a ratio of 0.87 for Phase I and 0.98 for Phase II.

#### **District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	85 ft.
Min. Lot Width:	85ft.	540 ft.
Min. Lot Size:	15,000 sq. ft.	83,635 sq. ft./ 1.92 ac.

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

	Code Requirement	Proposed
Front:	20 ft.	23 ft. (east)
Rear:	30 ft.	210 ft. (west)
Side:	10 ft.	96 ft. (south) 96 ft. (north)

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### **STAFF FINDINGS**

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#### **VARIANCE CRITERIA**

##### **Special Conditions and Circumstances**

The special condition and circumstance particular to this project is the parking data submitted tied to the parking demands of senior affordable housing projects. Typical parking requirements are excessive for this type of development. Furthermore, the demand for public transit will be greater for this complex than typical multi-family development.

##### **Not Self-Created**

The request is not self-created since the owner is requesting to provide only the parking necessary to serve the development.



### **No Special Privilege Conferred**

Granting the parking variance will not confer any special privilege since meeting the literal interpretation of the code would be unnecessary, based upon the actual parking demand of other comparable projects. In addition, the parking ratio requested is an increase above what was previously approved.

### **Deprivation of Rights**

Without the reduction in parking, the applicant would be providing an unnecessary number of spaces.

### **Minimum Possible Variance**

The parking variance is the minimum necessary to meet actual parking demand.

### **Purpose and Intent**

Approval of this request will be harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the nearby area since the number of parking spaces provided will meet demand.

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### **CONDITIONS OF APPROVAL**

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1. Development shall be in accordance with the site plan dated April 14, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Scott Baker  
PO Box 3000  
Orlando, FL 32801

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COVER LETTER

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D. Scott Baker, Esq.  
[sbaker@zkslawfirm.com](mailto:sbaker@zkslawfirm.com)

April 13, 2021

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

Re: Madison Landing Phase 2 - Parking Variance Request

Dear Zoning Division:

The attached variance application requests a reduction in parking requirements for Madison Landing Phase 2, a planned affordable housing project for elderly residents of Orange County. In 2020, the BZA granted an evidence-based reduction of parking requirements for Madison Landing Phase 1, which is currently under construction. The developer now requests BZA approval of a similar reduction for Phase 2.

At completion, Phase 1 will contain 110 units. BZA approved a Phase 1 parking ratio of 0.90 spaces per unit, reflecting historical data and analysis provided by the application which showed an average parking requirement of 0.78 spaces per unit of affordable elderly housing. The applicant undertook to collect data on actual affordable elderly parking needs because the Orange County Code does not provide a parking requirement specifically for affordable elderly projects, which due to their nature generate significantly less parking requirements than other residential uses.

Phase 2 is proposed to contain 96 units. The applicant requests approval of a plan that provides 0.98 spaces per unit, which is well above the parking provided in Phase 1 and the actual need of 0.78 spaces per unit documented in other affordable elderly projects in Florida.

The following exhibits are attached in support of this request:

Attachment A:	BZA Application
Attachment B:	Application of Variance Criteria
Attachment C:	Site Plan
Attachment D:	Parking Needs Analysis

Sincerely,

*D. Scott Baker*

D. Scott Baker

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One Landmark Center, Suite 600 315 E. Robinson St Orlando, FL 32801  
Phone 407-425-7010 Fax 407-425-2747 [www.zkslawfirm.com](http://www.zkslawfirm.com)

**ATTACHMENT B**

**Madison Landing Phase 2 - Affordable Elderly Apartments  
Orange County BZA Variance Criteria**

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

The property is located in the Alternative Mobility Area (AMA), which was established to maximize the use of existing public infrastructure. LYNX Transportation has fourteen (14) bus stops located within 1,320' of the site (1/4 mile). This would be considered a special condition which exists to this particular land. Because of the site's unique location to the large number of bus stops, it is expected that the parking space requirements for this site will be even lower than what is shown in the Parking Needs Analysis provided by the applicant.

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

Reduced parking space requirements for affordable elderly apartments or even elderly apartments do not exist in the Orange County land development code (LDC). By contrast, most newly adopted City or County LDC regulations account for the reduced parking demand from elderly or affordable elderly apartments.

Per LDC Sec. 38-1476. - Quantity of off-street parking, there are only (5) classified uses for residential, which do not include elderly or affordable elderly apartments. They are as follows:

- |   |                            |
|---|----------------------------|
| 1. Apartments of three (3) dwelling units or more dwelling unit (efficiencies and one-bedroom)  | 1½ spaces for each         |
| 2. Apartments of three (3) dwelling units or more unit (two (2) and three (3) bedrooms)   | 2 spaces for each dwelling |
| 3. Boardinghouses, lodging houses, and rooming-bedrooms houses and assisted living facilities (such as senior living facilities), including nursing homes | 1 space for each 2         |
| 4. Residential dwelling units, single-family and duplex unit  | 2 spaces for each dwelling |
| 5. Student housing  | 1 space per bedroom        |

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

This variance request is unique because the LDC does not specifically deny any affordable elderly apartment use the reduction in parking; it simply does not have the use listed at all. Therefore, the granting of this variance does not confer on the applicant any special privilege that is denied by this Chapter to other lands, unless the owner of those lands has built an affordable elderly development, applied for a variance and was then denied. Based on the requirement to provide historical data, there is no reason why any other affordable elderly apartment project would not also be able to demonstrate a reduced parking demand and obtain a variance from the LDC's outdated "one size fits all" approach.

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

The literal interpretation of the LDC in this case would deprive the applicant of the right to a reasonable parking requirement that matches the proposed use. Most if not all other properties in the zoning district provide parking at a rate which has a reasonable connection to the actual demand for parking from the property. As noted above, the LDC fails to provide a reasonable parking rate for affordable elderly housing. Therefore, the current applicant is deprived the benefit of a parking rate that makes sense for the special use in question.

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.

Historical data provided by the applicant demonstrates a .78 parking space/unit ratio (or 153 total spaces) would be the minimum requirement necessary to meet actual parking demand for an affordable elderly project. However, the applicant is not seeking the greatest possible variance (the amount documented as adequate for such a use), but rather asks for a .98 parking space/unit ratio (or 94 total spaces). This figure represents the minimum variance needed to allow reasonable use of the proposed building as approved.

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

The purpose and intent of the zoning regulations for parking is to ensure the development has adequate parking spaces for the intended use. Adequate on-site parking is necessary to protect adjacent neighborhoods and roads from the negative impacts of uncontrolled or unplanned parking. Because the intended use is not listed in the zoning regulations, the County will need to rely on historical data to set the "standards" for minimum parking requirements. The applicant's historical data from previously built developments demonstrate that more than adequate parking spaces will be built and the reduction will not be injurious to the neighborhood or otherwise detrimental to the public welfare.



**ATTACHMENT D**

**PREVIOUSLY BUILT DEVELOPMENTS  
OWNED BY DEVELOPER**  
(Data documented by management company)

**PARKING NEEDS ANALYSIS**  
Based on Existing Comparable Developments  
Worst Case Analysis

Madison Point, Clearwater, FL (Same Unit Types & Amenities as Madison Landing w/ 80 Units)							
Unit Type	Total Quantity	Occupied			Percent Occupied	Per Occupied Unit	
		Units	Adults	Cars		Adults	Cars
1 BR Units	40	40	44	23	100.0%	1.10	0.58
2 BR Units	40	40	52	35	100.0%	1.30	0.88
<b>Total</b>	80	80	96	58	100.0%		
<b>Average</b>						1.20	0.73
Madison Crossing, Kissimmee, FL (Same Unit Types & Amenities as Madison Landing w/ 86 Units)							
Unit Type	Total Quantity	Occupied			Percent Occupied	Per Occupied Unit	
		Units	Adults	Cars		Adults	Cars
1 BR Units	43	43	49	24	100.0%	1.14	0.56
2 BR Units	43	43	69	37	100.0%	1.60	0.86
<b>Total</b>	86	86	118	61	100.0%		
<b>Average</b>						1.37	0.71
Madison Heights, Tampa, FL (Same Unit Types & Amenities as Madison Landing w/ 80 Units)							
Unit Type	Total Quantity	Occupied			Percent Occupied	Per Occupied Unit	
		Units	Adults	Cars		Adults	Cars
1 BR Units	40	40	46	10	100.0%	1.15	0.25
2 BR Units	40	40	60	20	100.0%	1.50	0.50
<b>Total</b>	80	80	106	30	100.0%		
<b>Average</b>						1.33	0.38
Madison Reserve, Spring Hill, FL (Same Unit Types & Amenities as Madison Landing w/ 90 Units)							
Unit Type	Total Quantity	Occupied			Percent Occupied	Per Occupied Unit	
		Units	Adults	Cars		Adults	Cars
1 BR Units	46	46	48	26	100.0%	1.04	0.57
2 BR Units	44	44	55	37	100.0%	1.25	0.84
<b>Total</b>	90	90	103	63	100.0%		
<b>Average</b>						1.14	0.70
Madison Glen, Ormond Beach, FL (Same Unit Types & Amenities as Madison Landing w/ 96 Units)							
Unit Type	Total Quantity	Occupied			Percent Occupied	Per Occupied Unit	
		Units	Adults	Cars		Adults	Cars
1 BR Units	49	48	50	26	98.0%	1.04	0.54
2 BR Units	37	34	41	24	91.9%	1.21	0.71
3 BR Units	10	8	9	7	80.0%	1.13	0.88
<b>Total</b>	96	90	100	57	93.8%		
<b>Average</b>						1.11	0.63
Madison Vines, Fort Pierce, FL (Same Unit Types & Amenities as Madison Landing w/ 92 Units)							
Unit Type	Total Quantity	Occupied			Percent Occupied	Per Occupied Unit	
		Units	Adults	Cars		Adults	Cars
1 BR Units	46	45	45	27	97.8%	1.00	0.60
2 BR Units	36	34	40	25	94.4%	1.18	0.74
3 BR Units	10	10	19	9	100.0%	1.90	0.90
<b>Total</b>	92	89	104	61	96.7%		
<b>Average</b>						1.17	0.69

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**COVER LETTER PAGE 5**

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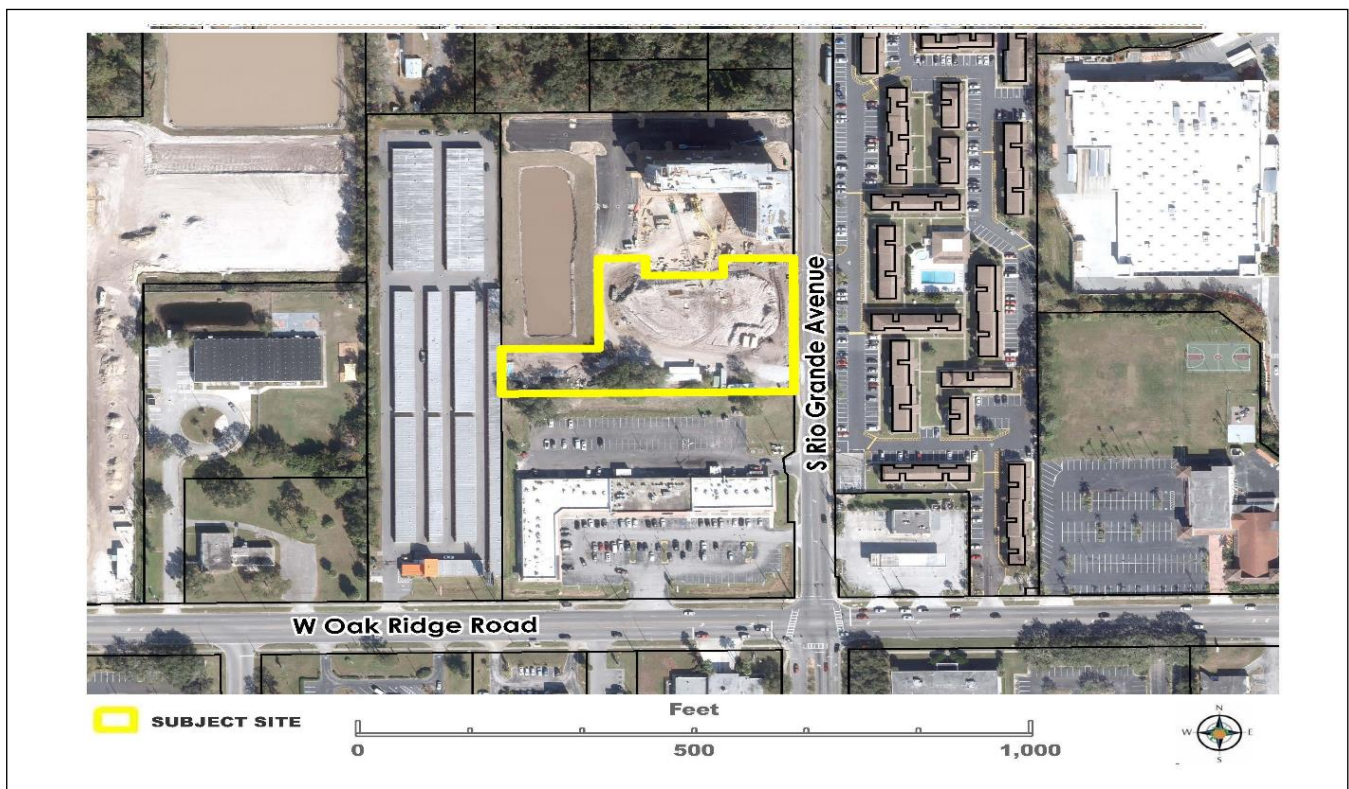
Madison Manor, Jacksonville, FL (Same Unit Types & Amenities as Madison Landing w/ 160 Units)							
Unit Type	Total Quantity	Occupied			Percent Occupied	Per Occupied Unit	
		Units	Adults	Cars		Adults	Cars
1 BR Units	80	79	82	50	98.8%	1.04	0.63
2 BR Units	56	55	65	51	98.2%	1.18	0.93
3 BR Units	24	23	28	24	95.8%	1.22	1.04
<b>Total</b>	160	157	175	125	98.1%		
<b>Average</b>						1.11	0.80
Lansdowne Terrace, Lutz, FL (Same Unit Types & Amenities as Madison Landing w/ 160 Units)							
Unit Type	Total Quantity	Occupied			Percent Occupied	Per Occupied Unit	
		Units	Adults	Cars		Adults	Cars
1 BR Units	81	78	83	43	96.3%	1.06	0.55
2 BR Units	55	55	66	32	100.0%	1.20	0.58
3 BR Units	24	21	31	16	87.5%	1.48	0.76
<b>Total</b>	160	154	180	91	96.3%		
<b>Average</b>						1.17	0.59



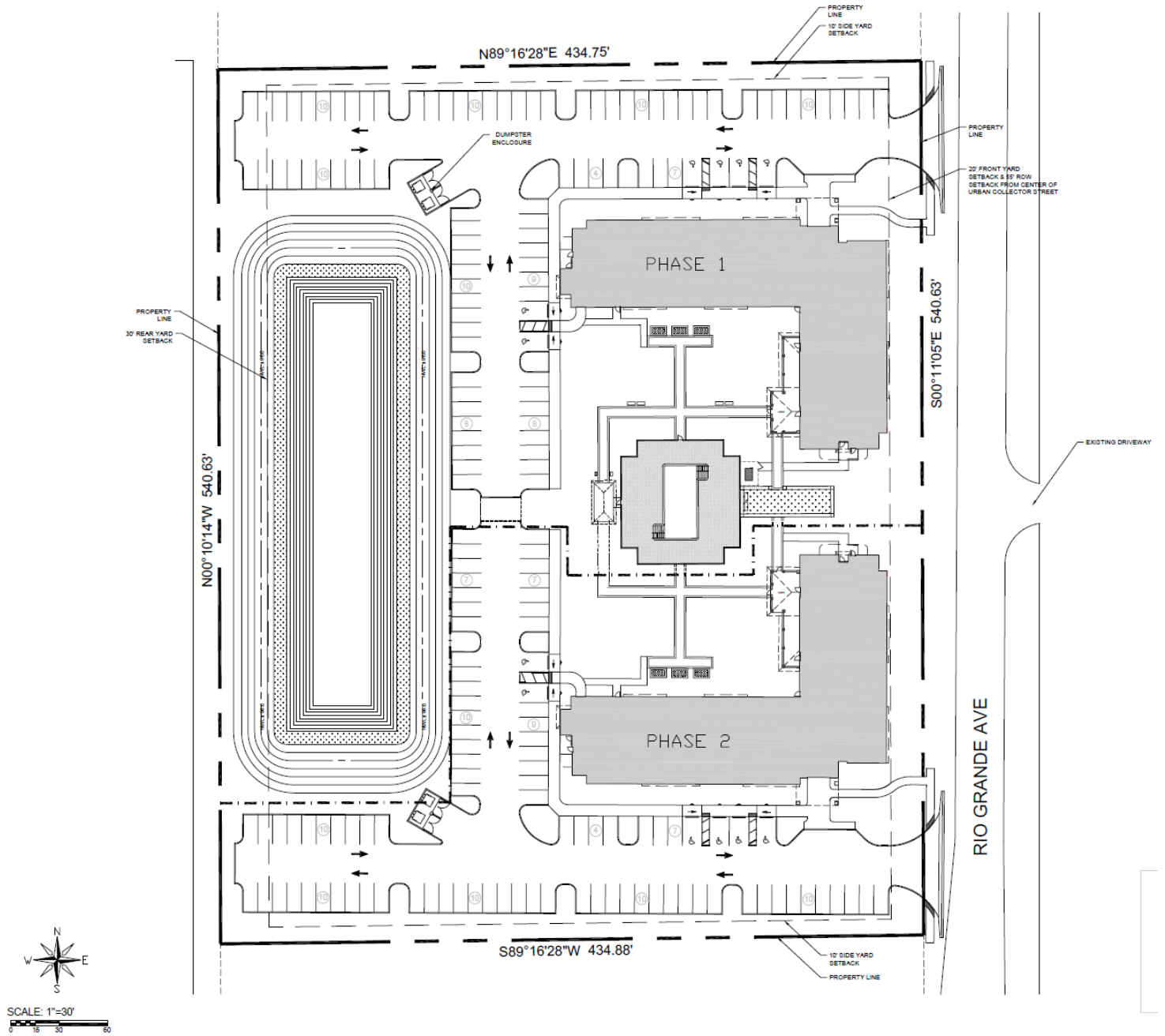
## ZONING MAP



## AERIAL MAP



# SITE PLAN





## SITE PHOTOS



**Phase I under construction, looking north**



**Phase II site, looking west**



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## SITE PHOTOS

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**Phase I Looking south**



**Phase I parking lot looking west**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 03, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-03-141**

Commission District: **#6**

## GENERAL INFORMATION

APPLICANT(s): KALEY SQUARE COMMUNITY CENTER (EREKA CLEVELAND-CREATIVE SIGNS)

OWNER(s): KALEY SQUARE COMMUNITY CENTER LLC

REQUEST: Variance in the R-2 zoning district to allow a six ft. high, 22.27 sq. ft. ground sign with a north front setback of zero ft. in lieu of 10 ft.

PROPERTY LOCATION: 1030 W Kaley Avenue, Orlando, Florida, 32805, south side of W. Kaley Ave, north side of 22nd St., east of S. Orange Blossom Trl.

PARCEL ID: 03-23-29-0180-23-010

LOT SIZE: 266 ft. x 271 ft./ +/- 1.65 acres (172,245 sq. ft.)

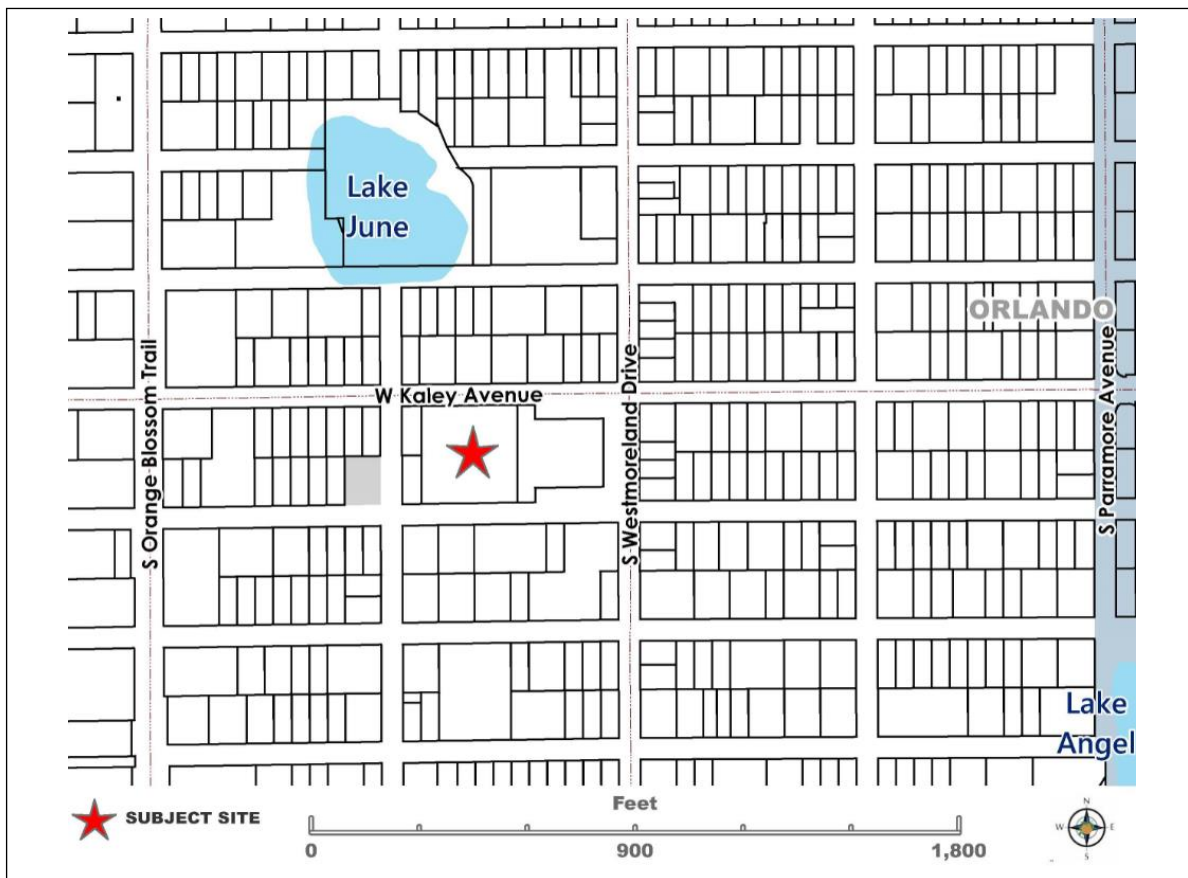
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 111

## 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



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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-2	R-2	R-2	R-2	R-2
Future Land Use	LMDR	LMDR	LMDR	PR-OS	LMDR
Current Use	Community center	Single-family residences	Single-family residences	Single-family residences	Park

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The property is located in the R-2, Multiple-family Residential zoning district, which allows single-family homes, duplexes and multi-family development, and associated accessory structures, and community centers.

The area around the subject site consists of single-family homes, parks, religious uses and commercial uses to the west along Orange Blossom Trail. The subject property is a 1.65 acre parcel that consists of 8 platted lots and a vacated right-of-way, located in the Angebilt Addition Plat, which was recorded in 1923. The site is currently developed with 5 buildings that were constructed between 1934 and 1968. The applicant purchased the property in 2014 and it is currently used as the Kaley Square Community Center.

In August, 1962, the church, known as Orlando First Church of the Nazarene, was approved for a special exception by the BZA to operate a church and other uses (Case #21). In March, 1994, the Church of the Nazarene was approved for an amendment to a special exception, by the BZA, later confirmed by the BCC, to expand the scope of the religious institution at the 1030 W. Kaley Ave. site as well as to add additional properties for church purposes across 22nd St., to the north, which included a number of lots, including Lot 8, Block 28, which is a portion of the site involved in the subject application. In February, 1999, Restore Orlando was approved for another amendment to a special exception, by the BZA, later confirmed by the BCC, to expand the church use, including the provision of a community center. In December, 2015, the Kaley Square Community Center was approved for a special exception (SE-15-12-115), by the BZA, later confirmed by the BCC, to expand the existing school facilities at the site.

In March, 2020, a sign permit (B20005290) was issued to install a six foot high, 22.27 sq. ft. sign with a 10 ft. setback from W. Kaley Ave. This sign has now been installed and not only does it not meet the 10 ft. setback required by the code and as indicated on the permit plans, the sign encroaches north into the Kaley Ave. right-of-way by 1.4 ft., requiring a variance, which could have been avoided if the sign would have been installed correctly. This permit has expired due to no final inspection having been performed. The applicant submitted for re-instatement of said permit in February 2021, but is on hold pending the outcome of the variance process. The applicant has obtained a right-of-way use agreement in 2021 with Orange County, to allow for encroachment of a portion of the sign in the right-of-way.



### District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	45 ft.	266 ft.
Min. Lot Size:	4,500 sq. ft.	+/- 1.65 ac.

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

	Code Requirement	Proposed
Front:	10 ft. (sign)	Zero ft. sign-Variance (North)

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## STAFF FINDINGS

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### VARIANCE CRITERIA

#### Special Conditions and Circumstances

There are no special conditions and circumstances particular to this property. The request could be modified to locate the sign elsewhere on the property to eliminate the need for the variance, as further indicated on the approved sign permit.

#### Not Self-Created

The request for the variance is self-created and is a self-imposed hardship, as the sign was permitted in a conforming location but was installed in a different, non-conforming location. There are other options in order to negate the need for the variance, by installing the sign as approved.

#### No Special Privilege Conferred

Granting the variance as requested will confer special privilege that is denied to other properties in the area, since the applicant has other options to relocate the sign and has failed to meet the requirements of the permit.

#### Deprivation of Rights

The applicant is not being deprived of the right to have a sign on the property as they could relocate the sign to a location that meets the setback requirements.

#### Minimum Possible Variance

The request is not the minimum, since there are other alternative locations for the sign.

#### Purpose and Intent

The purpose of the sign code is to ensure that consistent sign setbacks are provided for all properties. The granting of a variance to allow no setback from the north property line would be contrary to the purpose and intent of the code since the request is based on convenience and financial considerations and not a proven hardship.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and sign specifications dated December 9, 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 for the sign shall be finalized within 1 year 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: Ereaka Cleveland  
2301 N. Hiawassee Road  
Apopka, Florida 32703

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## COVER LETTER

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### **ORANGE COUNTY ZONING DIVISION**

201 South Rosalind Avenue, 1st Floor, Orlando, Florida 32801

Phone: (407) 836-3111 Email: [BZA@ocfl.net](mailto:BZA@ocfl.net) [www.orangecountyfl.net](http://www.orangecountyfl.net)

#### **Sign Variance Request**

**RE: Kaley Square Community Center**

**1030 W Kaley Ave Orlando, FL 32805**

#### **VARIANCE REQUEST**

This request is regarding an existing ground sign for Kaley Square Community Center located at 1030 W Kaley Ave. Due to the setback of the property line, the sign does not and cannot meet the 10 ft setback requirement. The sign is 32 sq ft, with 22.27 SF of copy area and is 6 ft tall. It is made up of an aluminum cabinet with a steel cradle that is bolted and welded to a 4" pipe. The sign currently sits right at the property line.

#### **Special Conditions and Circumstances**

Kaley Square Community Center is a non-residential establishment located in a residential district. Because of the nature of the occupancy, it is important that they have a sign and are easily identifiable by their surrounding community. Currently, their property line is setback about 12ft behind the sidewalk. Because of this, there is not enough space between their property line and the building to install a sign and meet the 10 ft setback requirement. This hardship is peculiar to this site because the neighboring properties are residential homes and do not require free standing identification.

#### **Not Self-Created**

This hardship was not self-created and results from the nature of the zoning for this area and the location of the property line that faces Kaley Ave.

#### **No Special Privilege Conferred**

Kaley Square would not be receiving special privileges with the approval of this variance. The neighboring properties do not need to have signage as they are private residences. There are other non-residential properties in the surrounding neighborhood that have ground/pylon signage.

#### **Deprivation of Rights**

Denying Kaley Square the ability to have signage will cause great hardship on their organization. Their vision is for Holden Heights to flourish as a valuable community of people living with dignity, hope, and purpose. They aim to cultivate a place of hope, connection and growth that equips residents to flourish. It is important that they are able to engage with the community and that the community is easily able to interact with them. Due to the setback of the property line and building, it will be hard for the residents in the community to identify where they are located and will, as a result, directly affect the relationship between them and the community.

#### **Minimum Possible Variance**

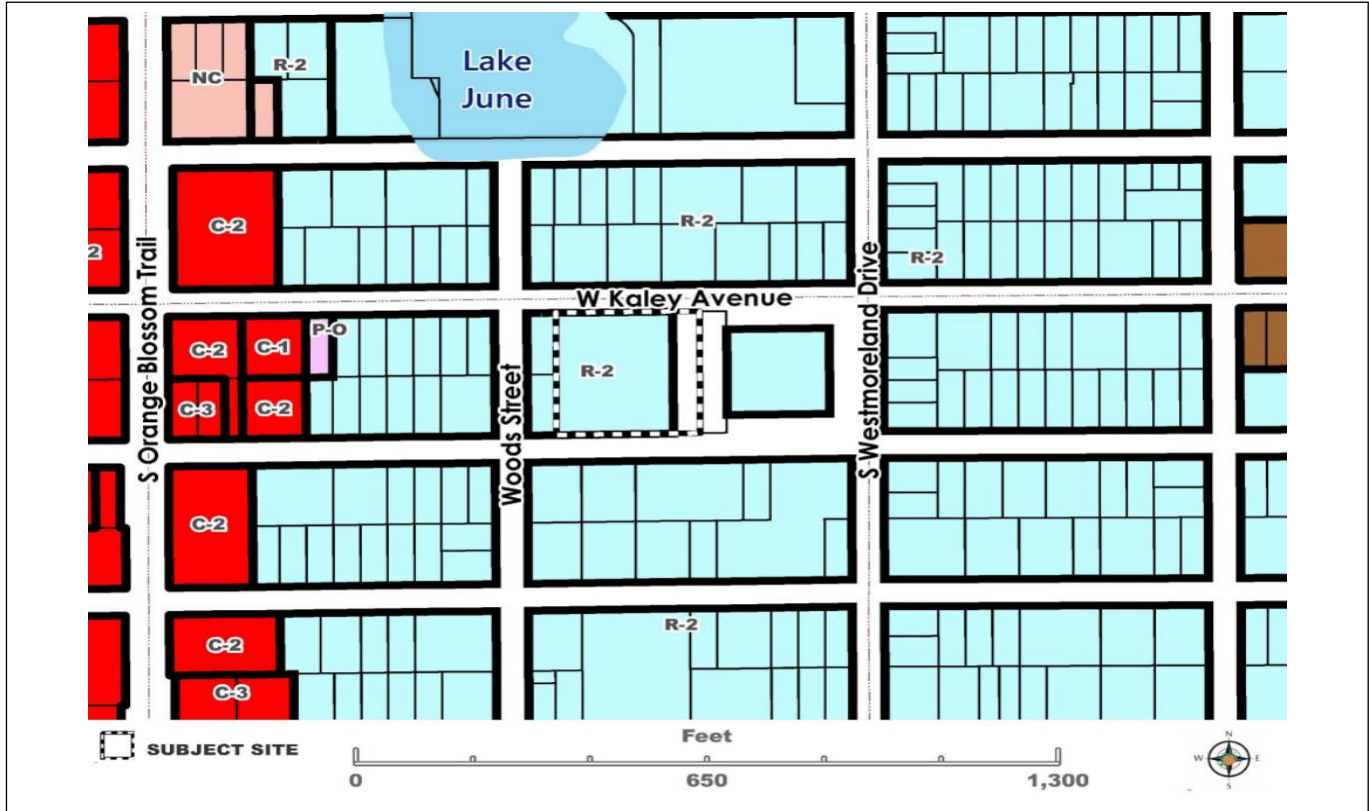
We are requesting that the sign be able to remain installed right at the property line. It currently butts up against the sidewalk that is closest to the building. It does not present a visibility issue for the traffic on Kaley Ave or for motorists entering and leaving the property. There is no other location on the property where this sign could be installed, maintain visibility, and meet the setback requirements for zoning. A ground sign would be the most sensible at this location for easy identification.

#### **Purpose and Intent**

Approval of this zoning variance will be beneficial to Kaley Square Community Center as well as the surrounding

neighborhood and emergency personnel. Not only will it enhance the aesthetics of the property, but it will provide the proper identification needed to be easily identifiable by those who need to access the property.

## ZONING MAP

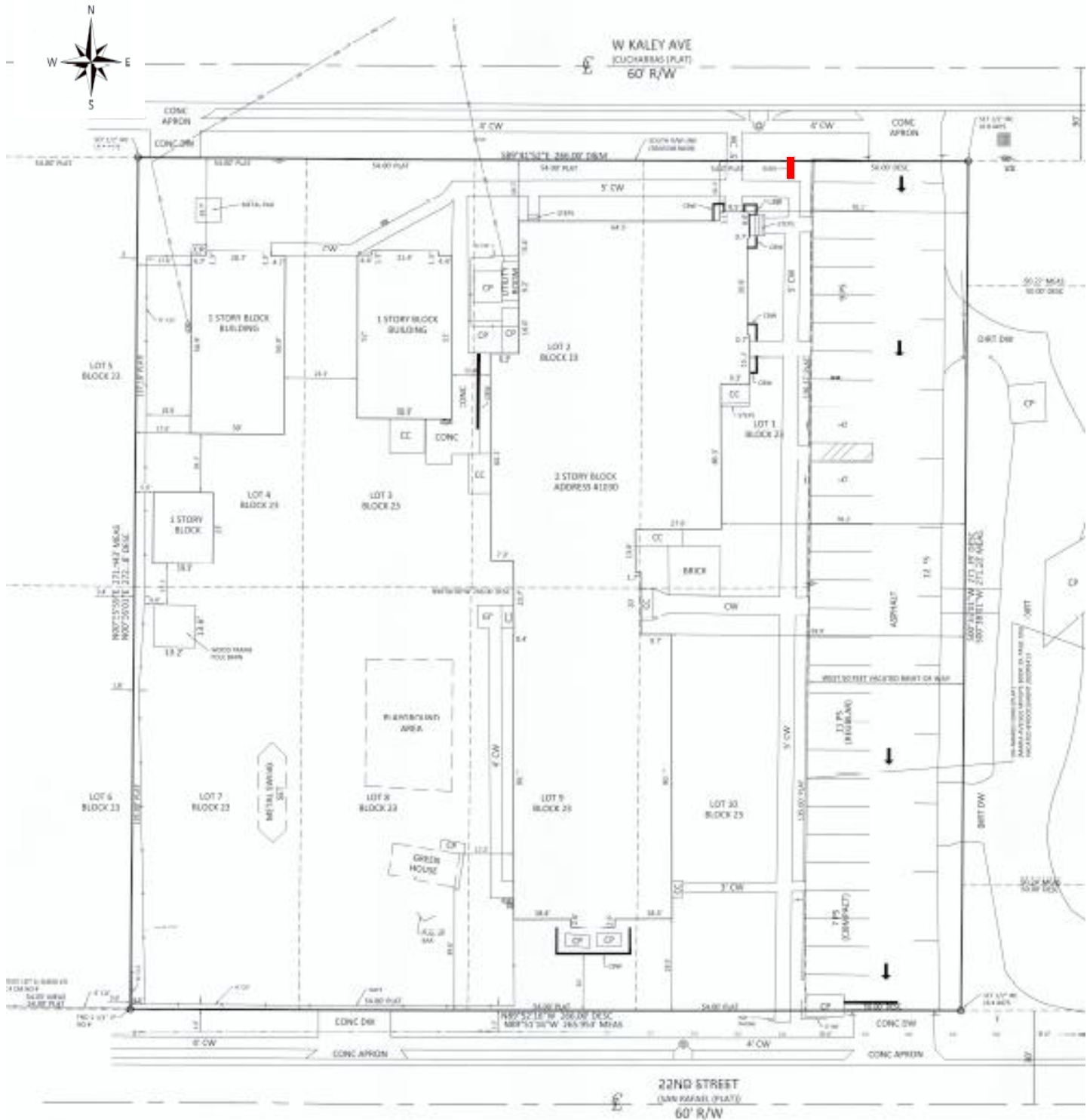


## AERIAL MAP

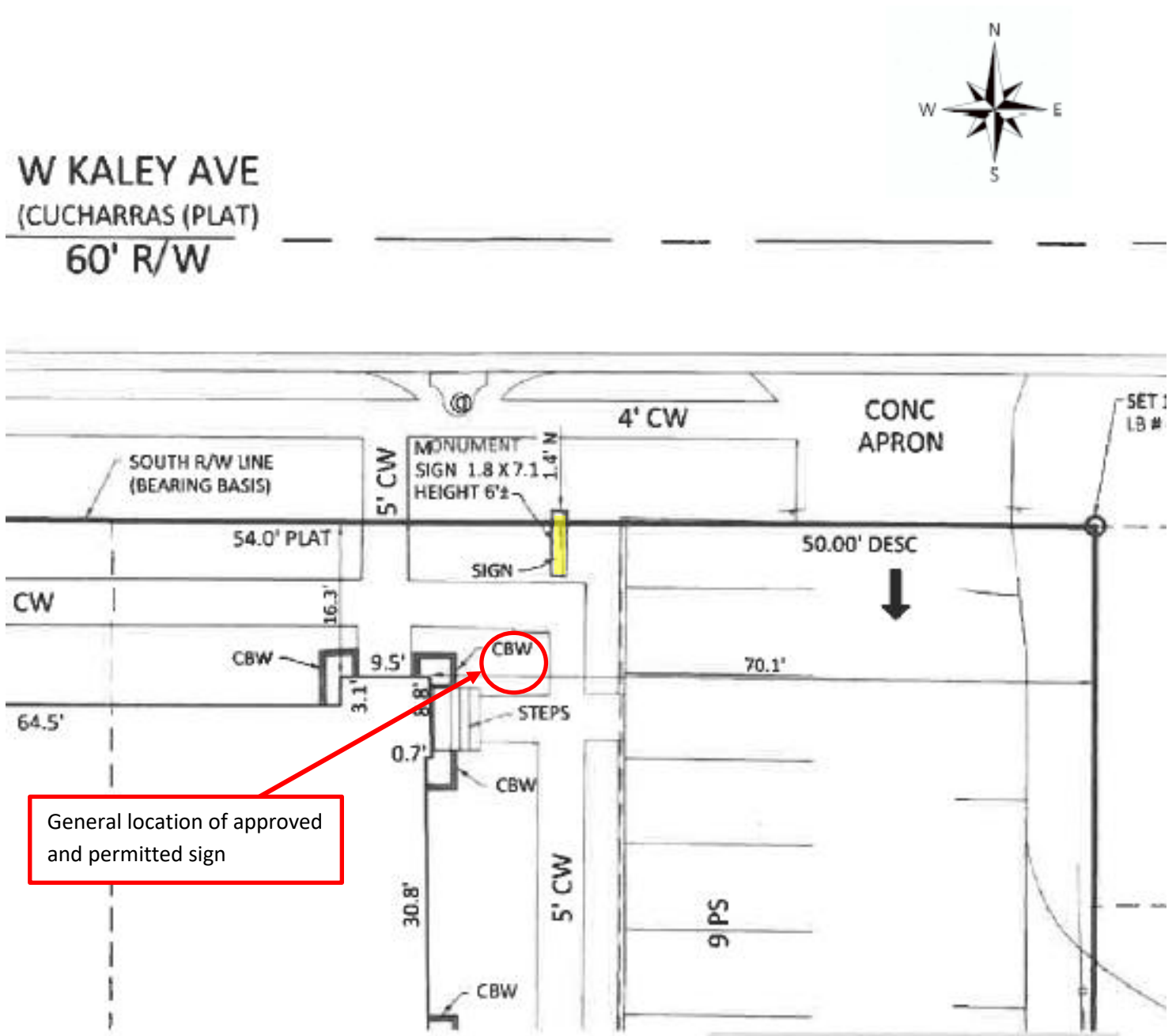


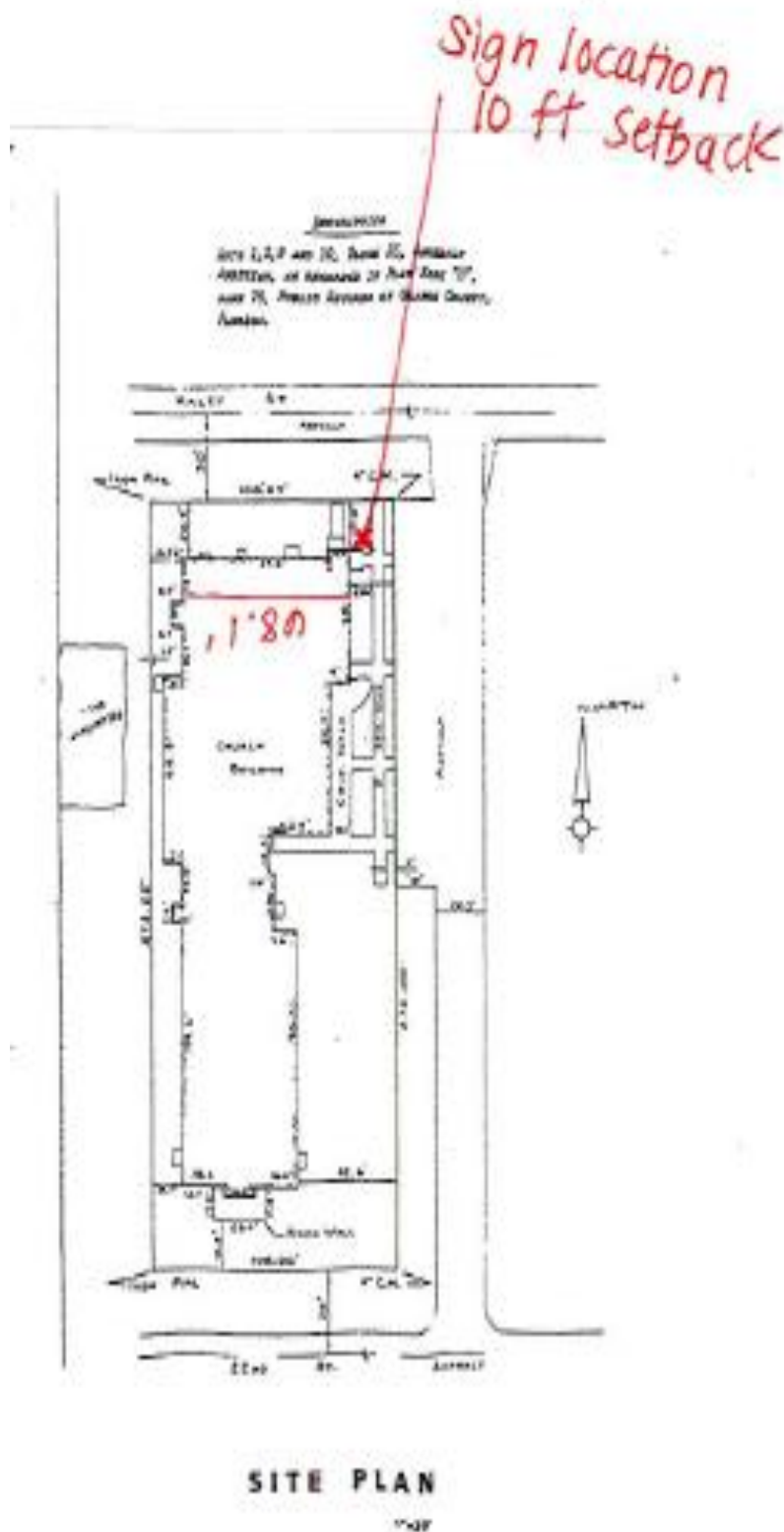


# SITE PLAN



## CLOSE UP SITE PLAN





## ELEVATION





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**SITE PHOTOS**

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**Front from Kaley Ave. facing south**



**Front from Kaley Ave. facing southeast**



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**SITE PHOTOS**

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**View of sign along Kaley Ave. facing east**



**Sign face**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 03, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-07-043**

Commission District: **#4**

## GENERAL INFORMATION

APPLICANT(s): DAVILA HOMES 1ST STREET (DEBI PLAISANCE)

OWNER(s): MIKELE INTERNATIONAL GROUP LLC

REQUEST: Variance in the R-2 zoning district to allow the construction of a 2,192 sq. ft. residence with an east street side setback of 6 ft. in lieu of 15 ft.

PROPERTY LOCATION: 333 1st Street, Orlando, Florida, 32824, northwest corner of 1st St. and Avenue C, south of E. Landstreet Rd., west of S. Orange Ave.

PARCEL ID: 36-23-29-8228-50-312

LOT SIZE: 50 ft. x 143 ft./ +/- 0.16 acres (7,146 sq. ft.)

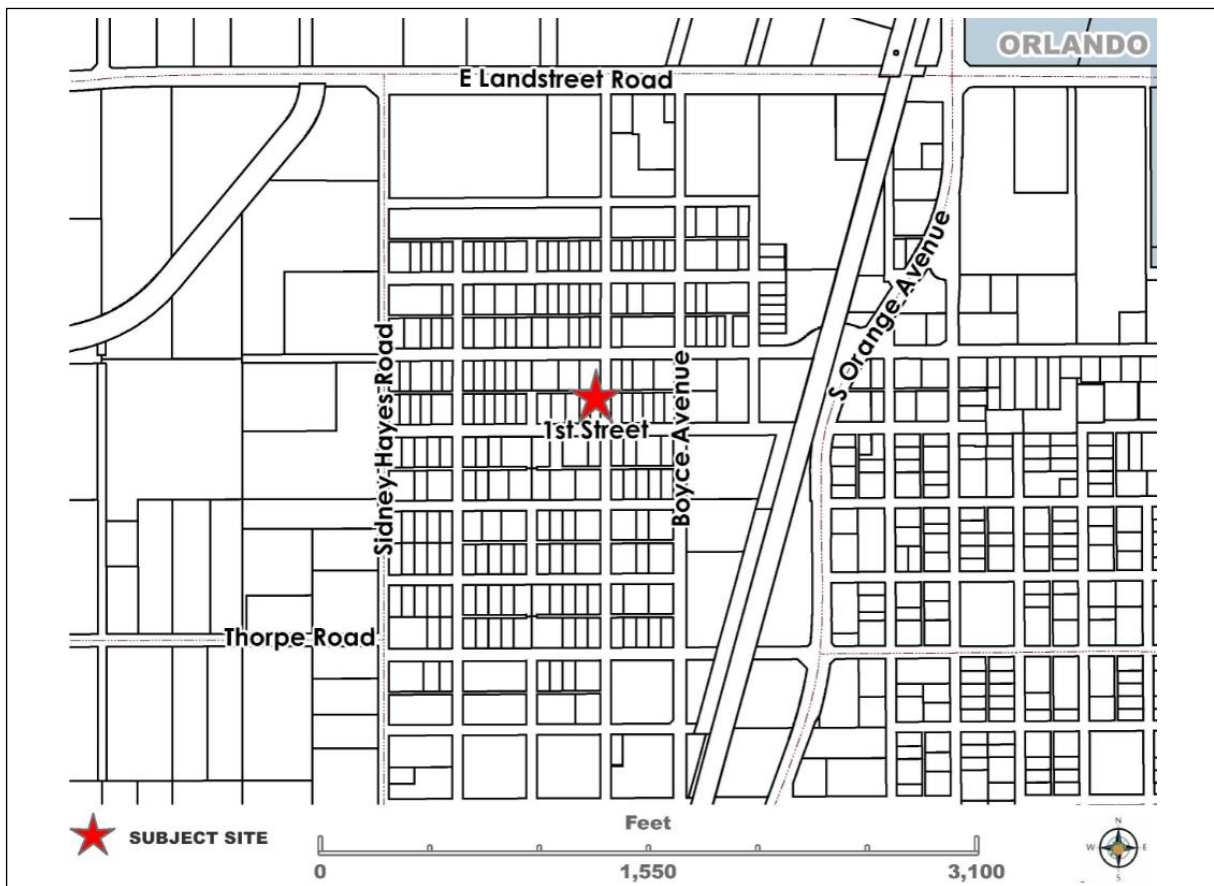
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 93

## 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



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**SITE & SURROUNDING DATA**

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	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	Duplex	Single-family residence	Single-family residence	Single-family residence

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The property is located in the R-2, Multiple-family Residential zoning district, which allows single-family homes, multifamily development, and associated accessory structures.

The area around the subject site consists of single-family homes and duplexes. The subject property is 0.16 acre lot 12, Block C, Tier 5 of the Sphaler's Addition to Taft Prosper Colony Plat, which was recorded in 1910, and is considered to be a conforming lot of record. It is a corner lot with frontage on both 1<sup>st</sup> Street to the south, and Avenue C to the east, where 1<sup>st</sup> Street is considered the front and Avenue C, an undeveloped and unopened right-of-way with a drainage ditch is the side street. The applicant purchased the property in 2021.

The applicant is proposing to construct a one story, 2,192 gross sq. ft., 37.7 foot wide house with a 6 ft. east side street setback in lieu of 15 ft., requiring a variance. There are other nearby developed parcels that comply with the required 15 ft. street side setback. In order to explore options to abandon Avenue "C", the owner approached the Orange County Roads and Drainage Division, who oppose the vacation of Avenue "C", stating that they need to retain the right-of-way for future drainage projects in the Taft area.

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.	17 ft.
Min. Lot Width:	45 ft.	50 ft.
Min. Lot Size:	4,500 sq. ft.	7,146 sq. ft.

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

	Code Requirement	Proposed
Front (1 <sup>st</sup> Street):	25 ft.	25 ft. (South)
Rear:	25 ft.	57 ft. (North)
Side:	6 ft.	6 ft. (West)
Side street (Avenue C):	15 ft.	6 ft.-Variance (East)



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## STAFF FINDINGS

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### **VARIANCE CRITERIA**

#### **Special Conditions and Circumstances**

There are no special conditions and circumstances particular to this property. The request for new construction could be modified to reduce the width to meet code. Other homes adjacent to this right-of-way in the near vicinity meet the requirements of code.

#### **Not Self-Created**

The request for the variance is self-created and is a self-imposed hardship. There are other options in order to lessen or negate the need for the variance, including the narrowing of the width of the proposed house. There is significantly more buildable area on the lot within the setback requirements that is not being utilized.

#### **No Special Privilege Conferred**

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

#### **Deprivation of Rights**

The owner is not being deprived of the right to develop the property, as they could build a single-family home in a manner that meets the setback requirements, similar to other adjacent properties.

#### **Minimum Possible Variance**

The request is not the minimum, since there are other alternative to provide plans that will not require a variance.

#### **Purpose and Intent**

Approval of the variance will be in harmony with the purpose and intent of the Zoning Regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare as the proposal abuts an unimproved right-of-way which is likely only to be used for drainage in the future.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations dated April 19, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
  2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
  3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
  4. A Permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
- C: Debi Plaisance  
4210 L B Mcleod Rd., Ste 101  
Orlando, FL 32811



April 13, 2021

**Attention: Board of Zoning Adjustment (BZA)**  
**Orange County Zoning Division**  
**201 South Rosalind Avenue, 1<sup>st</sup> Floor**  
**Orlando, FL 32801**

**RE: 333 1<sup>st</sup> Street, Orlando, FL 32824**  
**Parcel ID: 36-23-29-8228-50-312**  
**Variance Criteria Response**

Per Section 30-43 (3) of the Orange County Code stipulates specific standards for the approval of variances. Below we offer our reasoning as to why we wish to be granted a variance for Parcel ID #: 36-23-29-8228-50-312 and demonstrate our compliance to the criteria:

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

**RESPONSE:** The subject property is a standard lot as are several other adjacent lots, therefore no special conditions and/or circumstances exist, however for the subject property to be a buildable lot that correlates to the current zoning criteria for R-2, a variance would be required.

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

**RESPONSE:** The subject property is 7,146 sq ft with zoning setbacks of 25' in the front, 25' in the rear and a side street setback of 15'. Currently, there are no sewer lines, therefore the property will require a septic system. We are requesting a

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variance from the 15' side street setback to 6.33' as shown on our site plan.

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

**RESPONSE:** If granted approval for the side street setback variance, we acknowledge that we will not be entitled to any special privileges and must adhere to any and all land development code criteria for R-2 zoning.

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

**RESPONSE:** Per the interpretation of the provisions contained in this Chapter and will deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. The subject property has a side street setback of 15' due to its location next to Avenue C, which is a platted lot.

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.

**RESPONSE:** A request is being made for relief from the side street setback criteria for zoning R-2 and is the minimal request required to make the parcel buildable.

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

**RESPONSE:** Approving a variance to deviate from the Land Development Code for Zoning R-2 side street setback criteria would not be injurious to the neighborhood and would provide harmony and cohesiveness to the subdivision since it would be a developed property.

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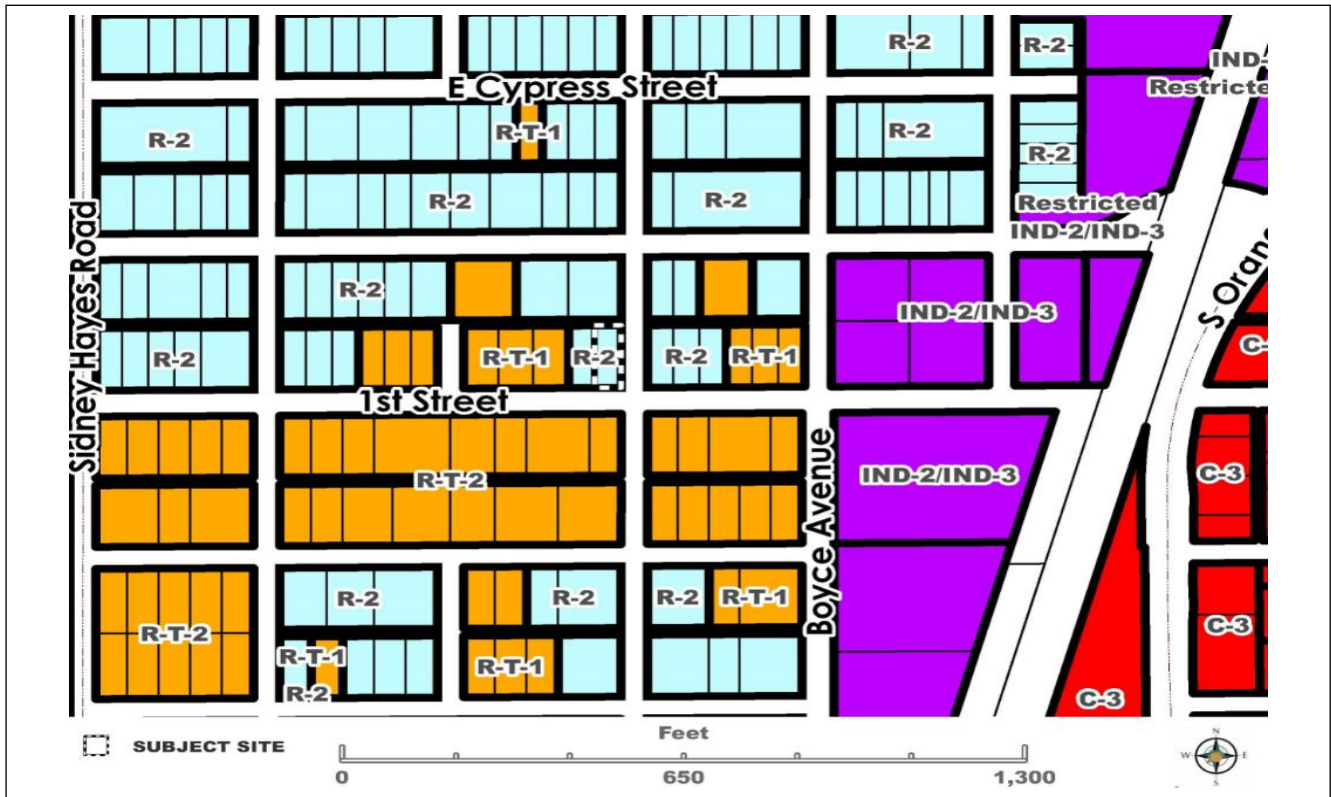
If you have any questions, please feel free to reach out to me at Davila Custom Homes at [permitting@davilacustomhomes.com](mailto:permitting@davilacustomhomes.com) and/or at 407.985.1551.

Sincerely,

*Debi Plaisancee*

Thank you,  
Debi Plaisancee | Permitting Manager  
Davila Homes Construction  
P: 407.985.1551 C: 407.725.3474  
[permitting@davilacustomhomes.com](mailto:permitting@davilacustomhomes.com)  
[www.davilacustomhomes.com](http://www.davilacustomhomes.com)

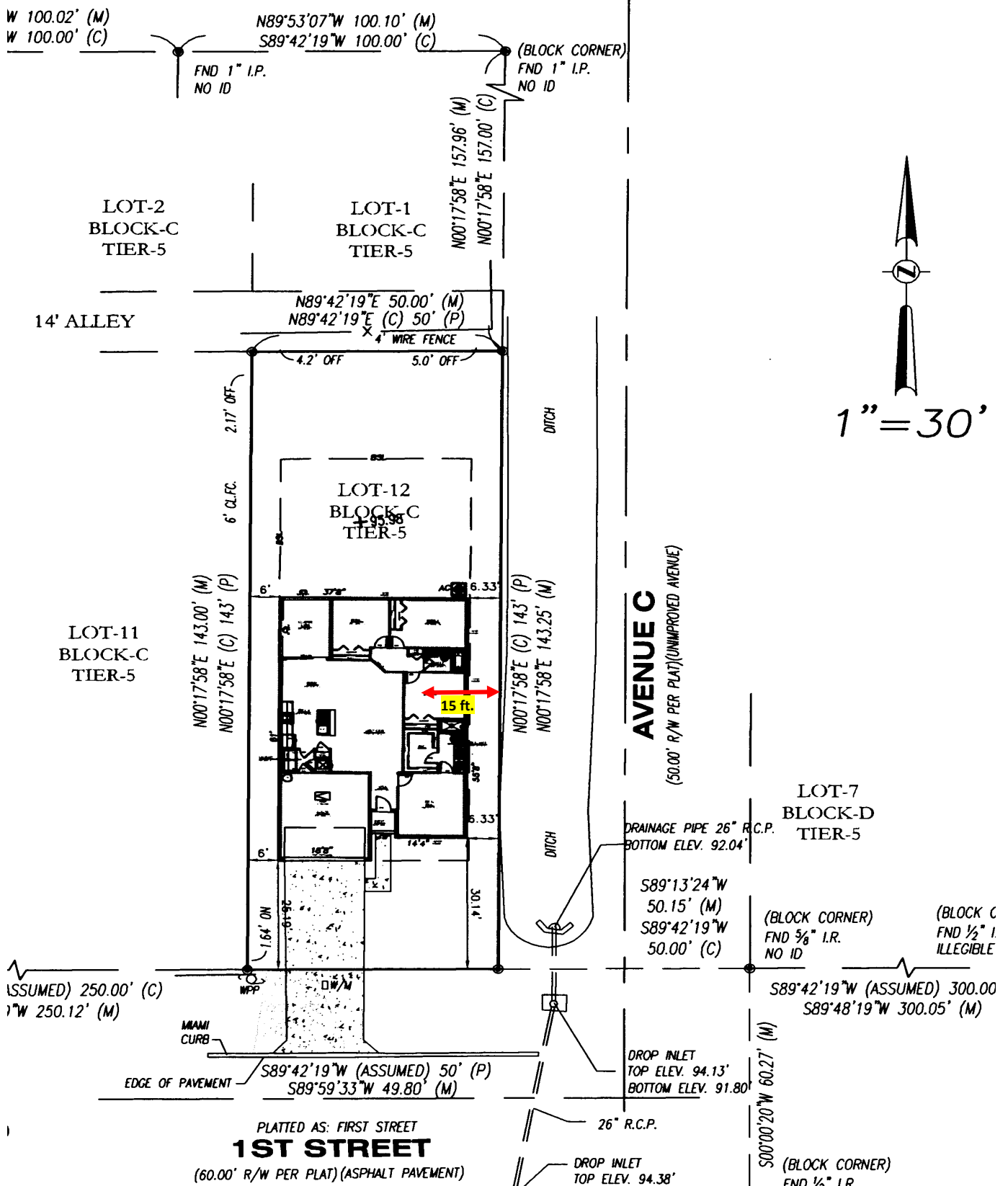
## ZONING MAP



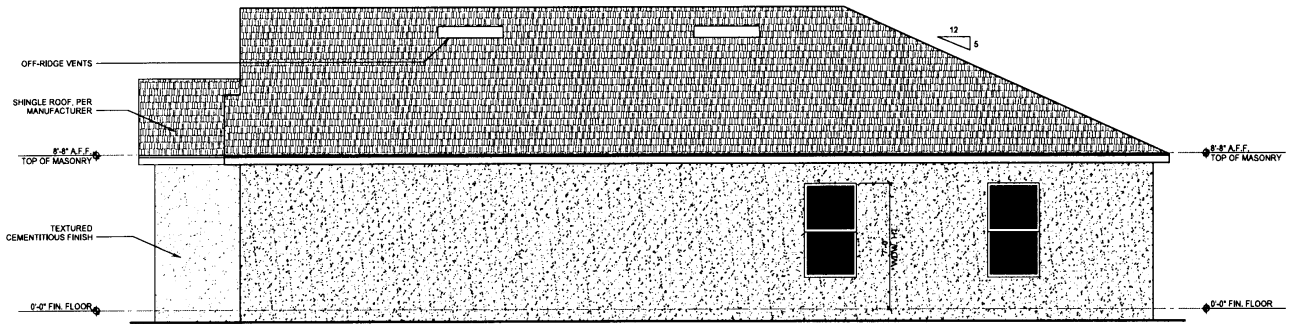
## AERIAL MAP



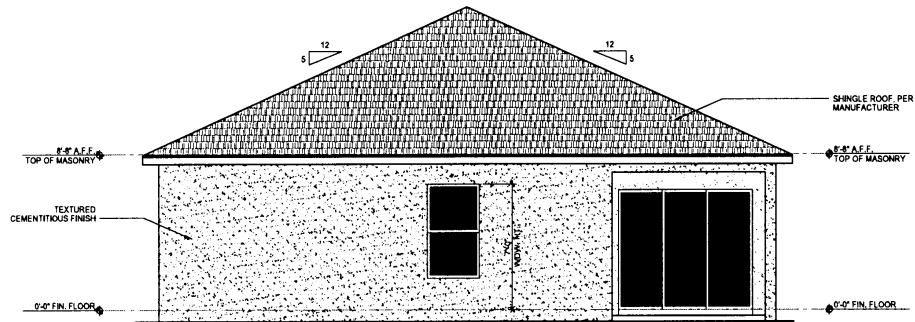
# SITE PLAN



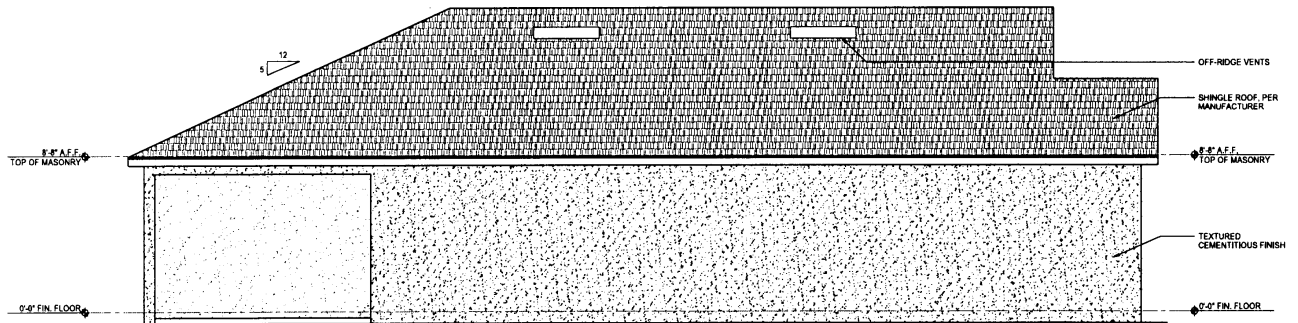
## ELEVATIONS



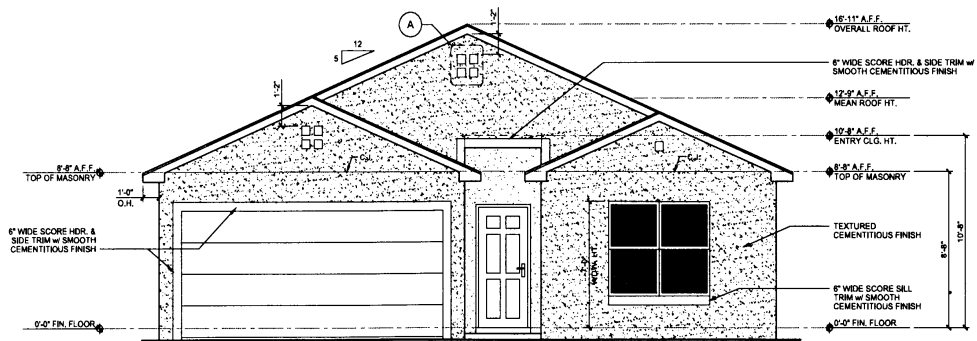
SCALE: 1/4" = 1'-0" RIGHT SIDE ELEVATION



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



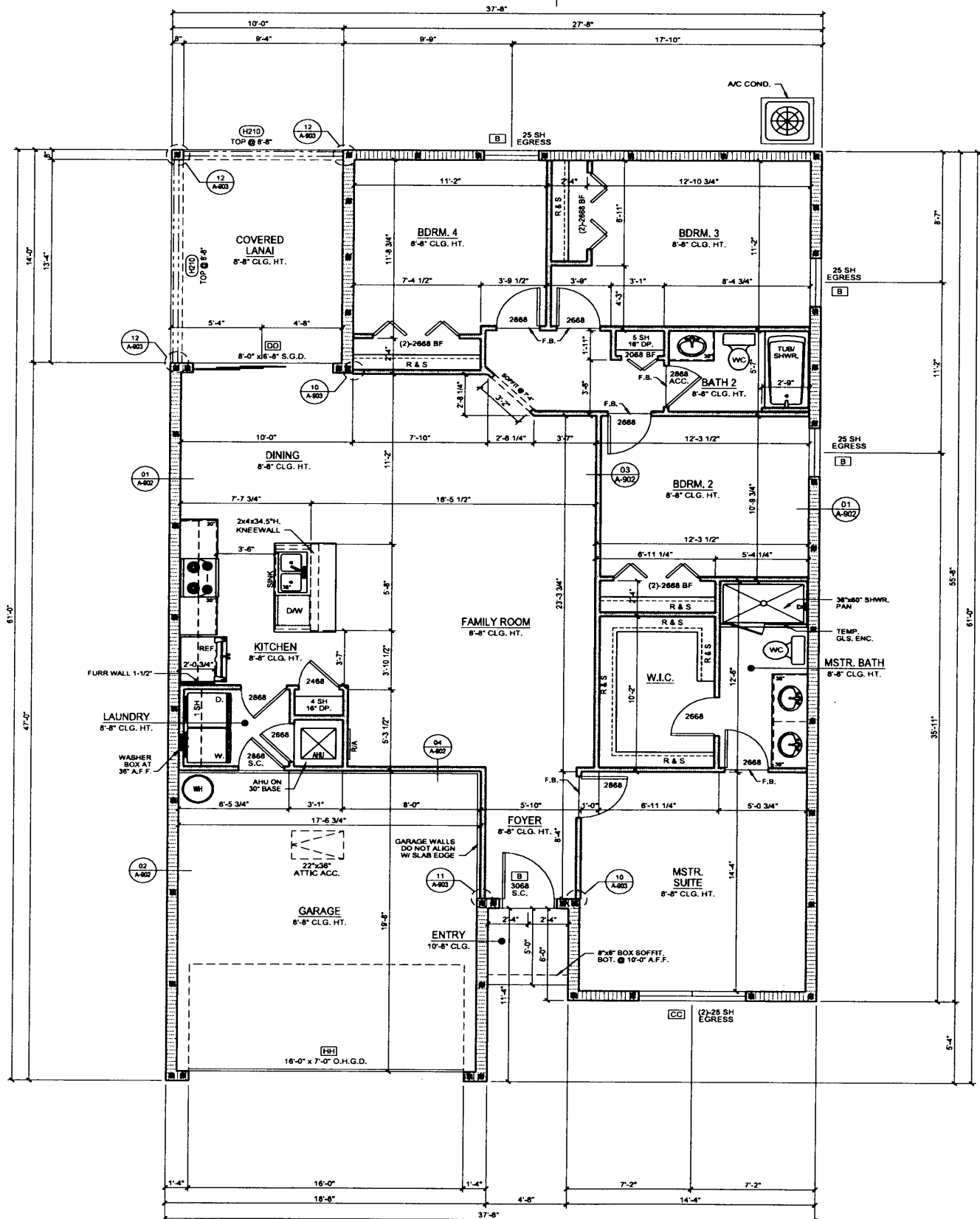
SCALE: 1/4" = 1'-0" LEFT SIDE ELEVATION



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



## FLOOR PLAN



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**SITE PHOTO**

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**Front from 1st St. facing north, Avenue C is to the right**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 03, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-07-044**

Commission District: **#1**

## GENERAL INFORMATION

APPLICANT(s): DAVILA HOMES BLACKWOOD AVENUE (DEBI PLAISANCE)

OWNER(s): GONDRAN & PORTO ASSOCIATES LLC

REQUEST: Variances in the A-1 zoning district to allow the construction of a 3,458 sq. ft. residence as follows:

- 1) To allow a lot width of 75 ft. in lieu of 100 ft.
- 2) To allow a lot size of 0.36 acres. in lieu of 0.5 acres.
- 3) To allow a west side setback of 9 ft. in lieu of 10 ft.
- 4) To allow an east side setback of 9 ft. in lieu of 10 ft.

PROPERTY LOCATION: 1784 Blackwood Avenue, Gotha, Florida, 34734, south side of Blackwood Ave., south of Old Winter Garden Rd., north of the Florida Turnpike and East-West Expressway Interchange

PARCEL ID: 29-22-28-0000-00-051

LOT SIZE: 75 ft. x 212 ft./ +/- 0.36 acres (15,882 sq. ft.)

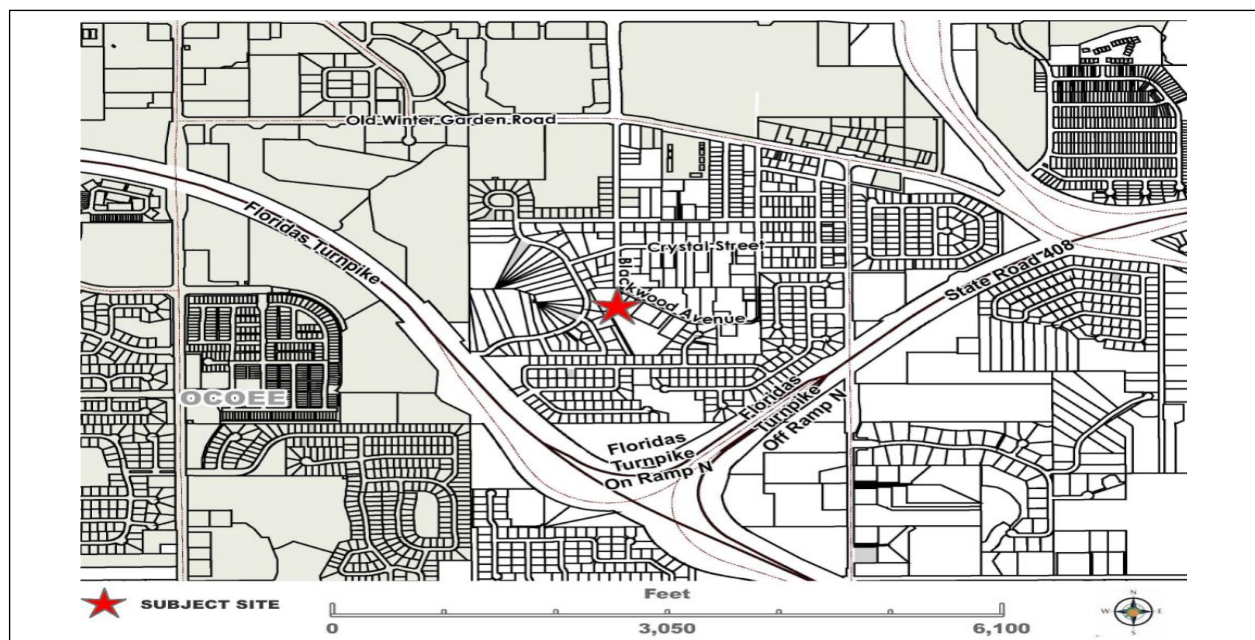
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 73

## STAFF RECOMMENDATIONS

Approval of Variances #1 and 2, and denial of Variances #3 and #4. However, should the BZA find that the applicant has satisfied the criteria necessary to grant all the variances, staff recommends that the approval be subject to conditions in this report.

## LOCATION MAP



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**SITE & SURROUNDING DATA**

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

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject 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 is comprised of single-family homes within both the A-1 and R-1A zoning districts. The subject property is a 75 ft. wide, 0.36 acre unplatted parcel that is currently vacant. The applicant purchased the property in 2019.

The A-1 district requires a minimum 100 ft. lot width and a 0.5 acre lot area. However, since the parcel has existed prior to 1957 when it was designated A-1, it appears never to have met the lot width and area requirements.

Per Orange County Code Sec. 38-1401, if two or more adjoining lots were under single ownership on or after October 7, 1957, and one of the lots has a frontage or lot area less than what is required by the zoning district, such substandard lot or lots shall be aggregated to create one conforming lot. Deeds are available but they do not prove the parcel conveying in the same configuration as present, back to 1957. Therefore variances for the 75 foot lot width in lieu of 100 ft. (variance # 1), and for the lot area of 0.36 acres, in lieu of 0.5 acres. (variance # 2) are required in order to develop the property. The applicant is proposing to construct a 3,458 gross sq. ft., 1 story house with 9 foot setbacks on the west and east sides, requiring variances from the 10 foot side setbacks required in A-1 (variances # 3 and 4).

There are two parcels to the east that are each the same size and width, and were granted variances in 1982 to construct a single-family home each on said substandard lots, but were built in conformance with the setback requirements.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	18.5 ft.
Min. Lot Width:	100 ft.	75 ft. (variance # 1)
Min. Lot Size:	1/2 ac.	0.36 ac. (variance # 2)



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

	Code Requirement	Proposed
Front:	35 ft.	35 ft.
Rear:	50 ft.	108 ft.
Side:	10 ft.	9 ft. (West-variance # 3, East-variance # 4)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances****Variances #1 and #2**

The lots on each side are developed with houses, so without size and width variances the lot would be undevelopable, which is a consideration of special conditions and circumstances.

**Variances #3 and #4**

There are no special conditions and circumstances particular to this property pertaining to setback variances since the request could be modified to meet code for proposed new construction.

**Not Self-Created****Variances #1 and #2**

The applicant is not responsible for the configuration of the parcel. The substandard aspects of the lot are not self-created, since the lot has existed for over 60 years.

**Variances #3 and #4**

The requests for variances to the side setbacks are self-created, as a different home design could be proposed in order to negate the need for the variances. There is a significant amount of boilable area on the lot that is not being utilized.

**No Special Privilege Conferred****Variances #1 and #2**

There are other developed lots with single-family homes on lots with similar size and width in the area within the A-1 and R-1A zoning districts that have been developed with single-family residences, and adjacent lots to the east that have been granted similar variances for lot width and area. No special privilege would be conferred by granting these variances.

**Variances #3 and #4**

Other lots have been developed in the area without side setback variances, and the house could be designed to meet code, thus granting these would confer special privilege.

## **Deprivation of Rights**

### **Variances #1 and #2**

Without the requested size and width variances, it will not be possible to develop the parcel.

### **Variances #3 and #4**

The applicant is not being deprived of the right to develop the property as other plans could be proposed that meet the setbacks required.

## **Minimum Possible Variance**

### **Variances #1 and #2**

The lot width and size have existed for over 60 years, therefore granting the variances will be the minimum possible.

### **Variances #3 and #4**

The requests for variances to the side setbacks for new construction of a 3,458 gross sq. ft. one story home are not the minimum possible variances since there are other alternatives to build that would not require variances. There is a significant amount of boilable area on the lot that is not being utilized.

## **Purpose and Intent**

Approval of these requests will be in harmony with the purpose and intent of the of the Code, which is to allow development of lawfully created lots and parcels, and the proposed home will not be detrimental to the neighborhood since the proposed house design will be consistent with the design of other residences in the neighborhood.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations shown on the site plan, dated April 19, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
  2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
  3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
  4. A Permit shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
- C: Debi Plaisance  
4210 L B Mcleod Rd., Ste 101  
Orlando, FL 32811



April 13, 2021

**Attention: Board of Zoning Adjustment (BZA)**  
**Orange County Zoning Division**  
**201 South Rosalind Avenue, 1<sup>st</sup> Floor**  
**Orlando, FL 32801**

**RE: 1784 Blackwood Avenue, Gotha, FL 34734**  
**Parcel ID: 29-22-28-0000-00-051**  
**Variance Criteria Response**

Dear Board of Zoning Adjustment Committee:

Davila Custom Homes, on behalf of our client, Gondran & Porto Associates LLC, kindly request a variance for our project which is located at 1784 Blackwood Ave., Gotha, FL. The project is in the A-1 zoning district and we seek a variance for the following reasons:

1. To allow a lot width of 75 ft. in lieu of 100 ft.
2. To allow a lot size of 0.36 ac. in lieu of 0.5 ac.
3. To allow side setbacks of 9 ft. in lieu of 10 ft.

Per Section 30-43 (3) of the Orange County Code stipulates specific standards for the approval of variances. Below we offer our reasoning as to why we kindly request to be granted a variance for Parcel ID #: 29-22-28-0000-00-051 and demonstrate our compliance to the criteria:

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

**RESPONSE:** The subject property is a substandard lot as are several other adjacent lots, therefore no special conditions and/or circumstances exist, however for the subject property to be a buildable lot that correlates to the current zoning criteria for A-1 with regard to lot width and lot size, a variance would be required. The lot size

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also factors into our request to allow for side setbacks of 9 ft. in lieu of 10 ft.

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

**RESPONSE:** The special conditions and circumstances of the subject property are not a result from the actions of the property owner and/or Davila Homes.

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

**RESPONSE:** If granted variance approval for the lot width, lot size, and side setbacks, we acknowledge and understand that we are not entitled to any special privileges and must adhere to any and all land development code criteria for A-1 zoning.

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

**RESPONSE:** Per the interpretation of the provisions contained in this Chapter and it will deprive the applicant of rights commonly enjoyed by other properties in the same zoning district as the lot would be unbuildable since it does not confirm to the requirements of an A-1 zoning.

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.

**RESPONSE:** This request for a zoning variance is the minimal required to make the property located at 1784 Blackwood Ave. a buildable lot.

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

**RESPONSE:** Approving a variance to deviate from the Land Development Code for the A-1 zoning district would not be injurious to the neighborhood and would provide harmony and cohesiveness to the subdivision, since it would no longer be a vacant lot but a developed property.

If you have any questions, please feel free to reach out to me at Davila Custom Homes at [permitting@davilacustomhomes.com](mailto:permitting@davilacustomhomes.com) and/or at 407.985.1551.

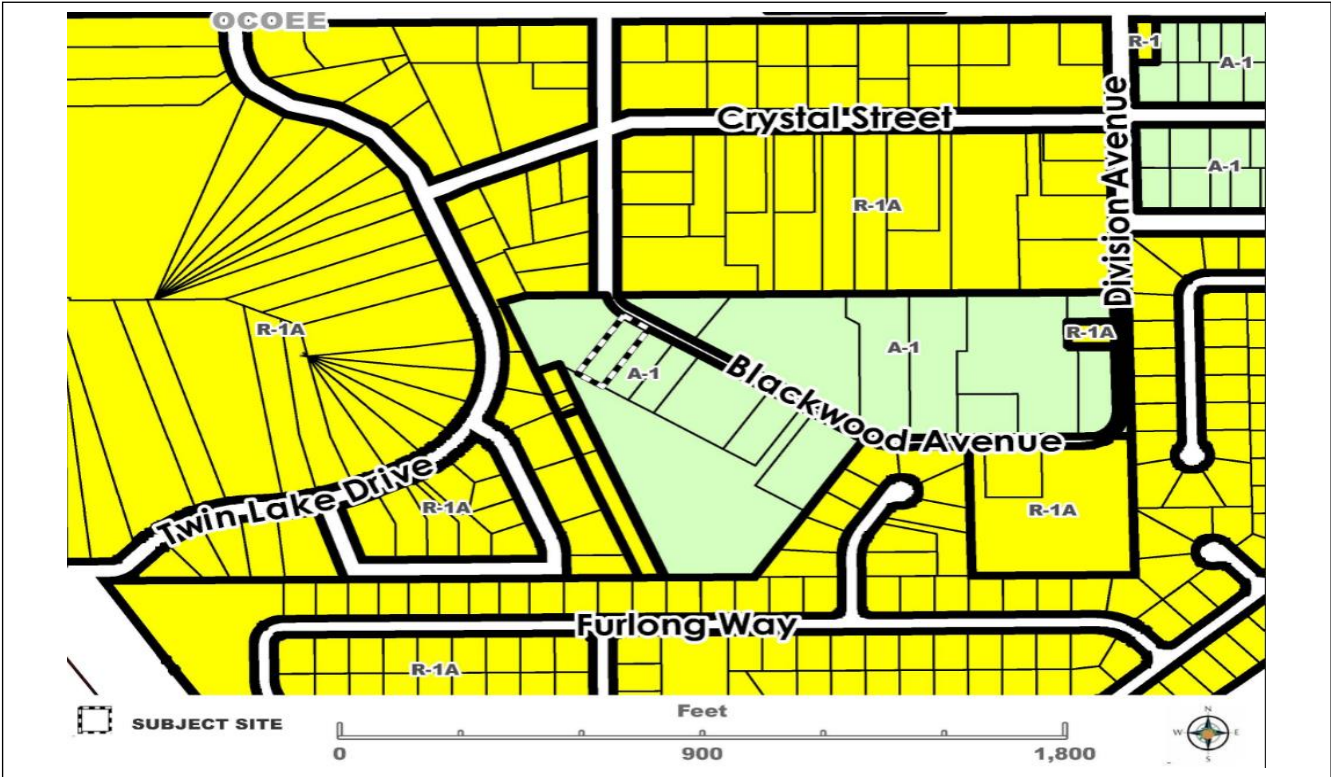
Sincerely,

*Debi Plaisance*

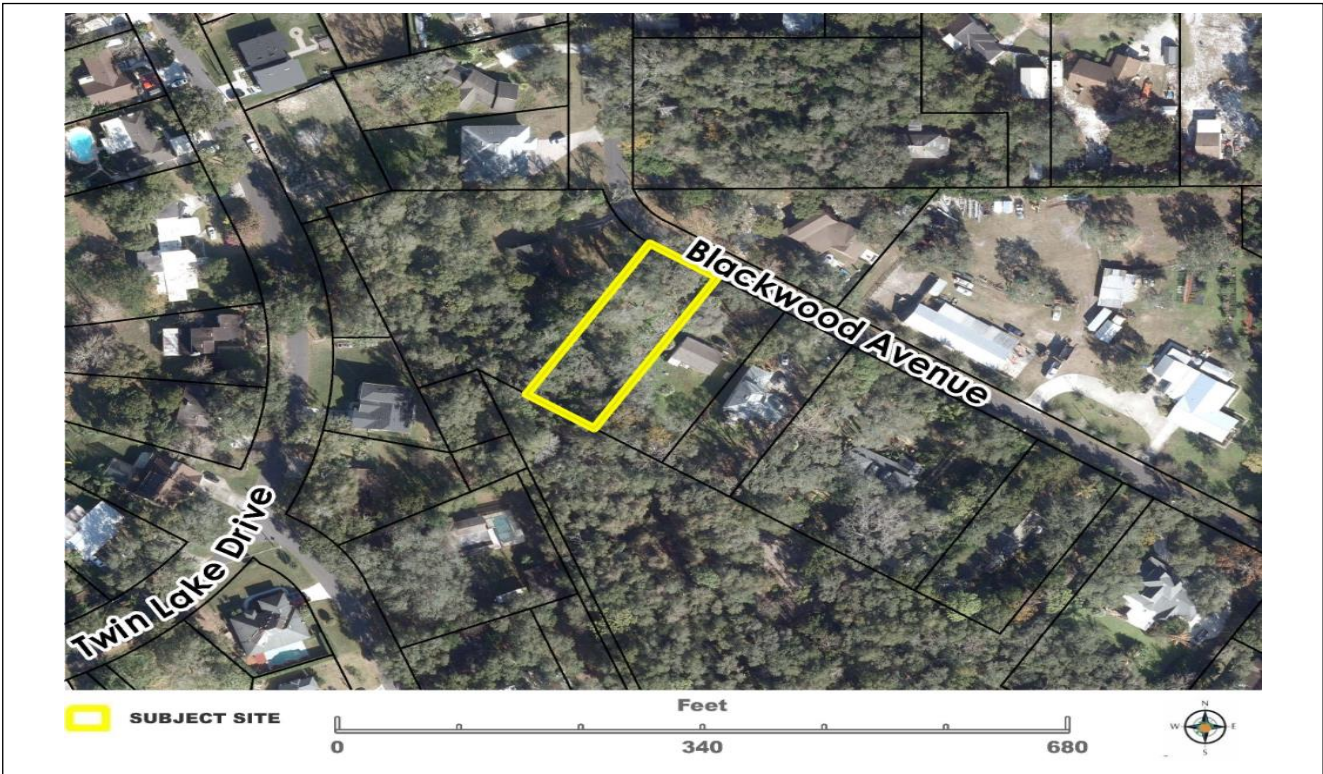
Thank you,  
Debi Plaisancee | Permitting Manager  
Davila Homes Construction  
P: 407.985.1551 C: 407.725.3474  
[permitting@davilacustomhomes.com](mailto:permitting@davilacustomhomes.com)  
[www.davilacustomhomes.com](http://www.davilacustomhomes.com)

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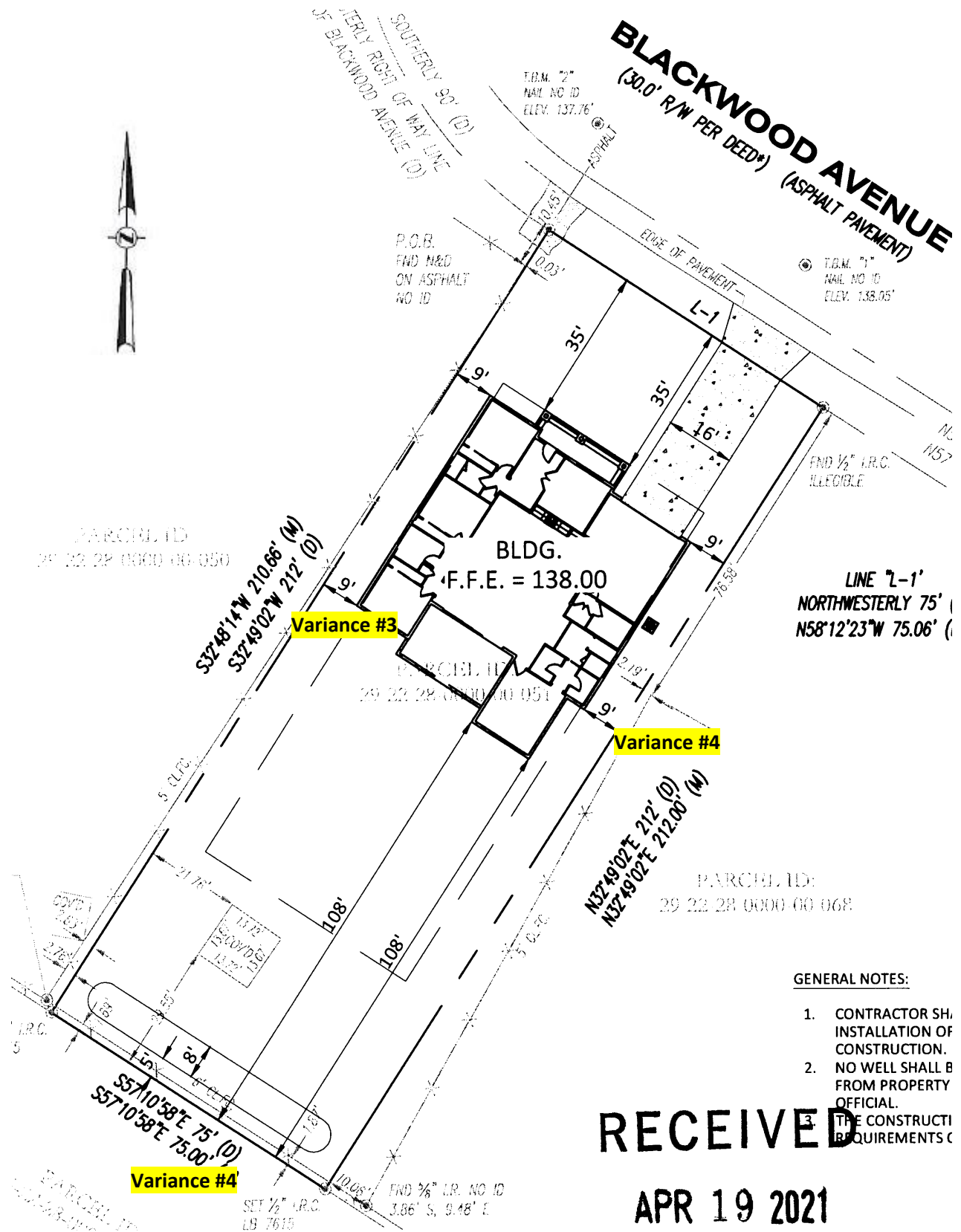
ZONING MAP



AERIAL MAP



# SITE PLAN

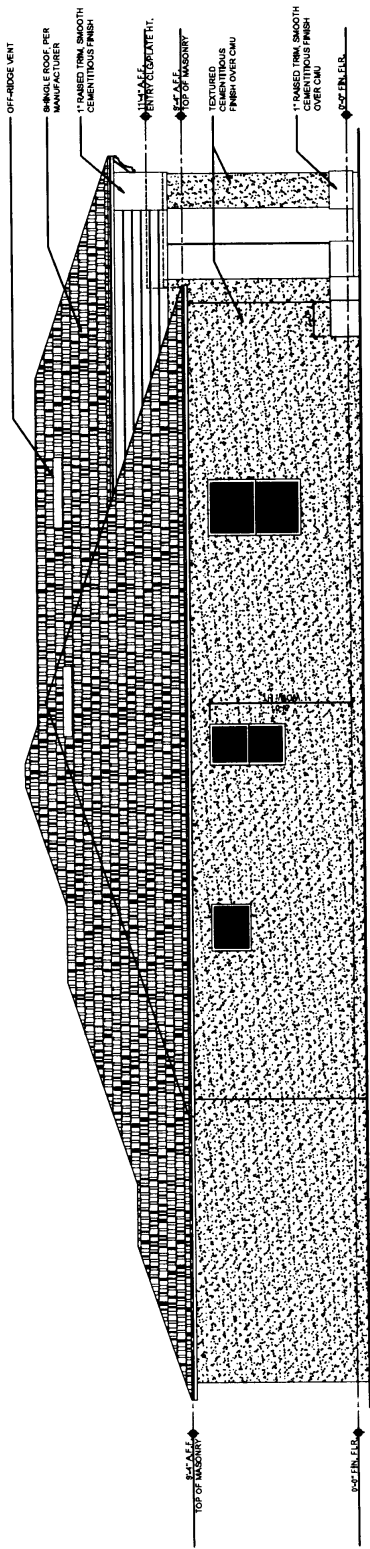


## GENERAL NOTES:

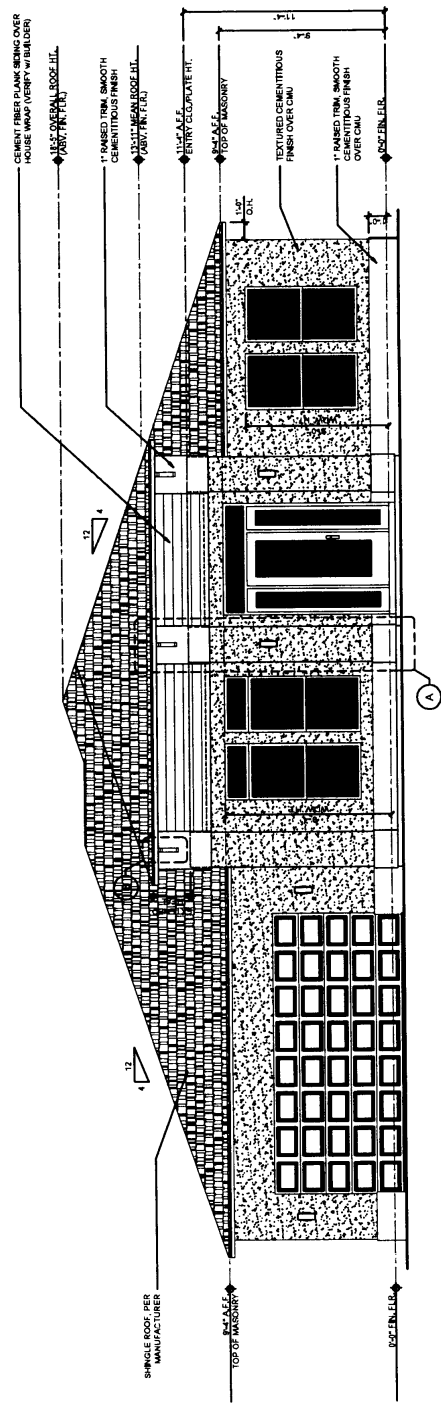
1. CONTRACTOR SHALL INSTALLATION OF CONSTRUCTION.
2. NO WELL SHALL BE FROM PROPERTY OFFICIAL.
3. THE CONSTRUCTION REQUIREMENTS C



ELEVATIONS

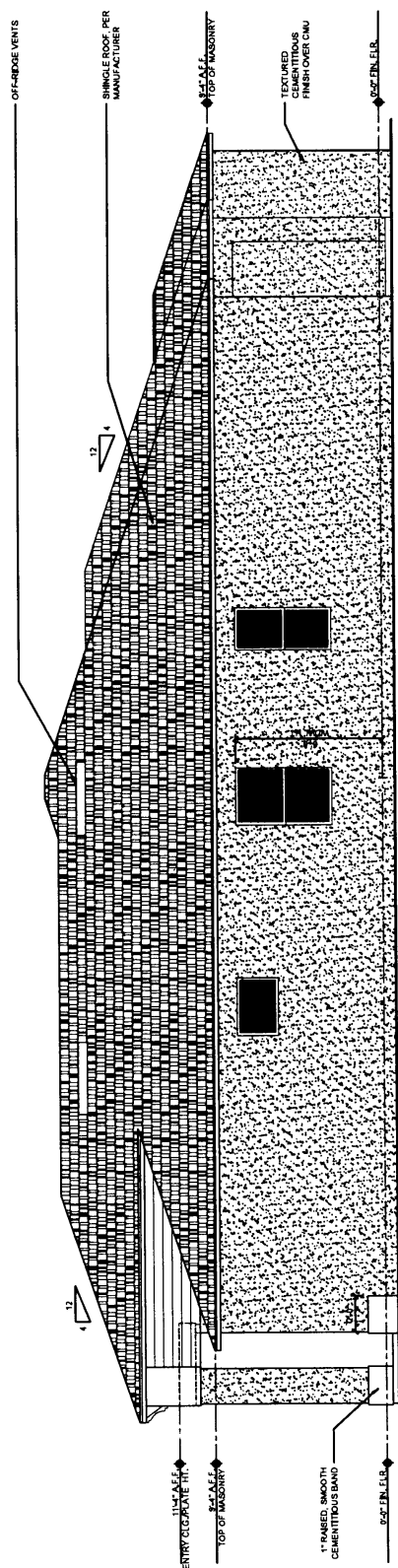


SCALE: 1/4" = 1'-0" LEFT SIDE ELEVATION

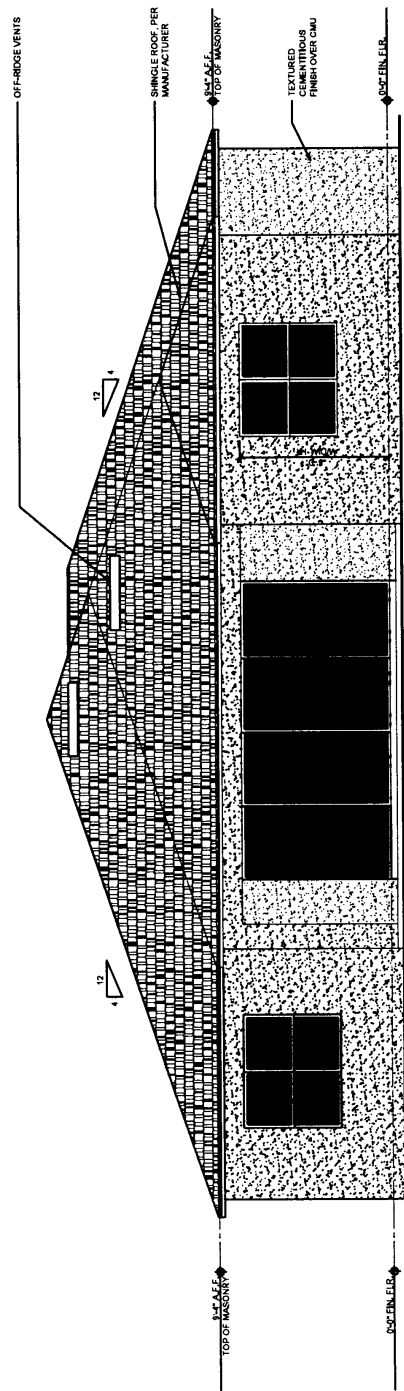


SCALE: 1/4" = 1'-0" FRONT ELEVATION

ELEVATIONS

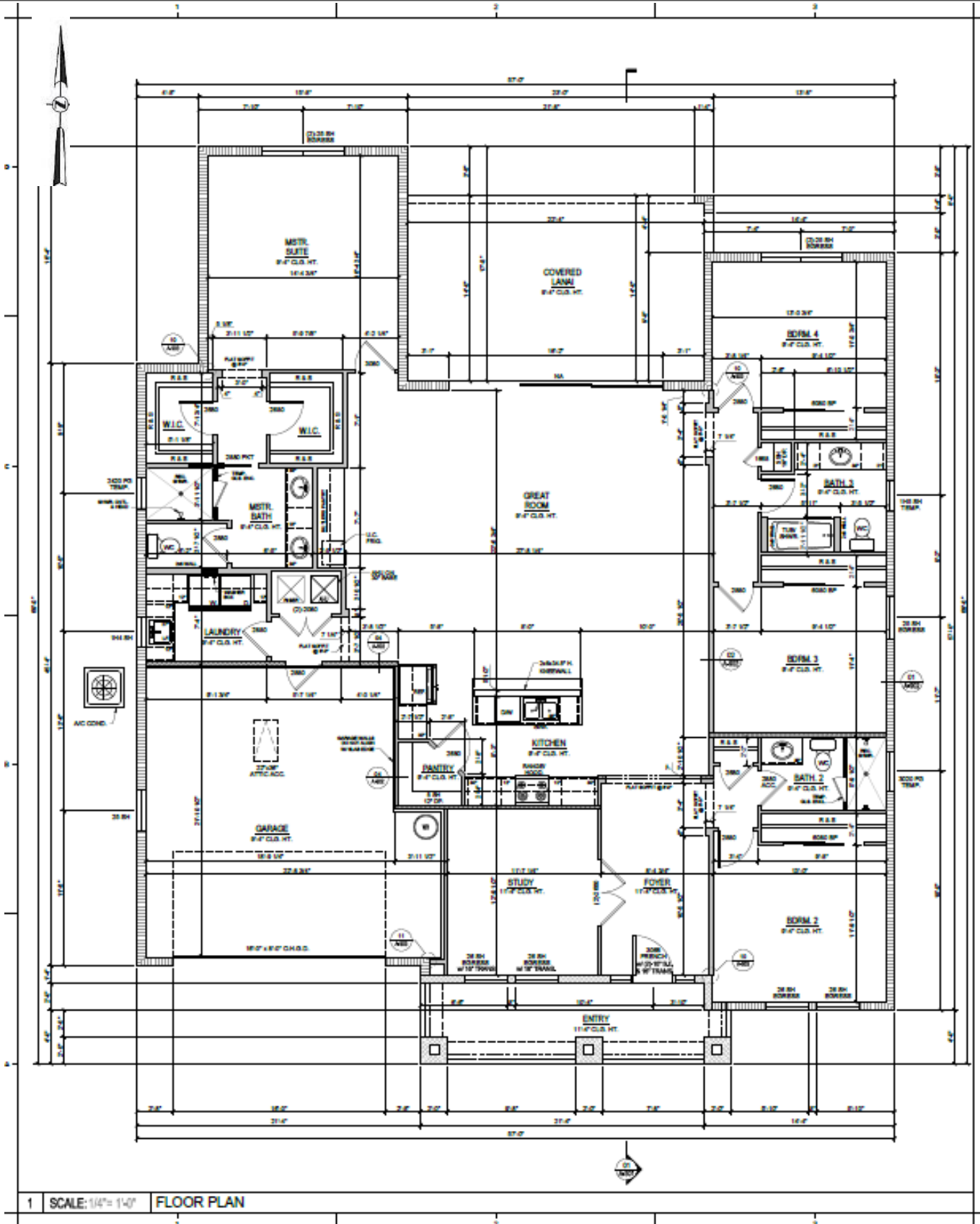


SCALE: 1/4" = 1'-0" RIGHT SIDE ELEVATION



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

# FLOOR PLAN





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**SITE PHOTOS**

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**Front from Blackwood Ave. facing south**



**Neighboring property that was granted a variance to build on similar sized lot on Blackwood Ave.  
(without setback variances) to the east**



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## SITE PHOTOS

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**Neighboring property that was granted a variance to build on similar sized lot on Blackwood Ave.  
(without setback variances) to the east**

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 03, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-07-040**

Commission District: **#3**

## GENERAL INFORMATION

APPLICANT(s): EDGAR OSWALDO SAYA

OWNER(s): JUDITH DANALDSON

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

- 1) To allow a 394 sq. ft. addition with an east rear setback of 29 ft. from the Normal High Water Elevation (NHWE) in lieu of 35 ft.
- 2) To allow an existing 2,658 sq. ft. residence to remain with an east rear setback of 17.4 ft. from the NHWE in lieu of 35 ft.

PROPERTY LOCATION: 4409 Raymar Drive, Orlando, Florida, 32839, east side of Raymar Dr. on the south side of Lake Holden, north of Holden Ave., east of S. Orange Blossom Trl.

PARCEL ID: 11-23-29-9622-00-120

LOT SIZE: 92 ft. x 114 ft./ +/- 0.24 acres (10,531 sq. ft.)

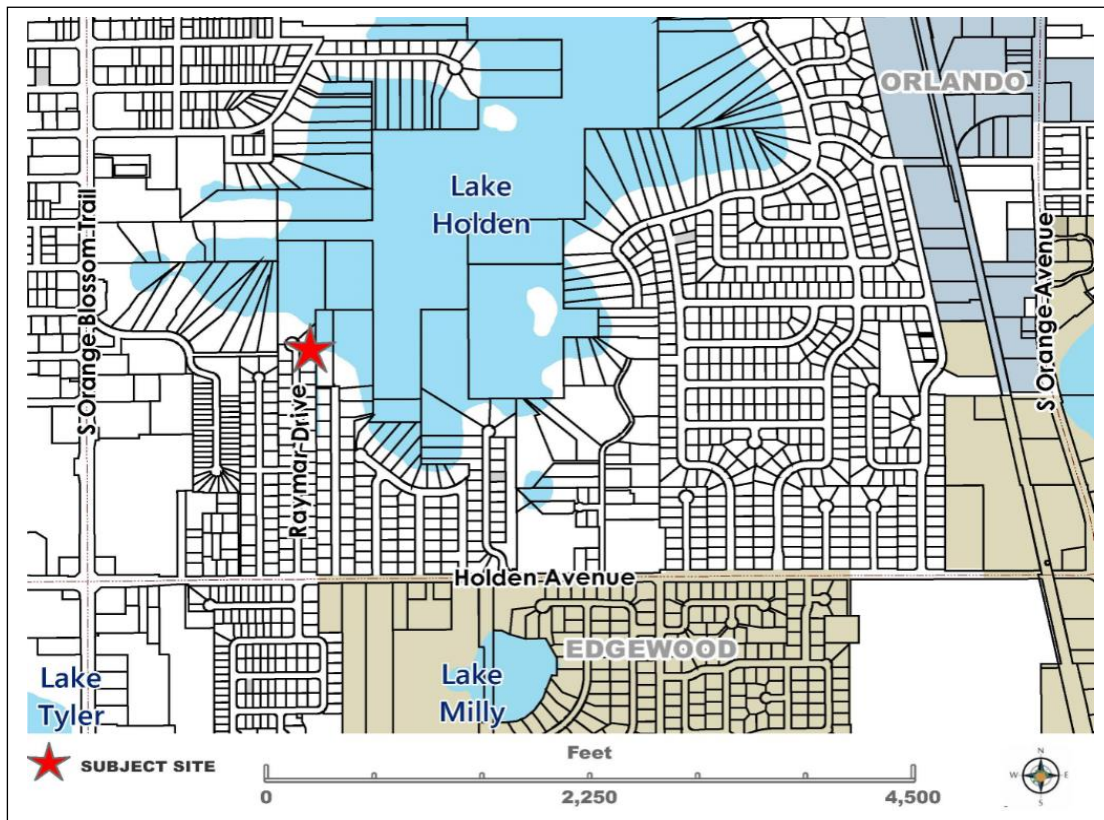
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 89

## STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

## LOCATION MAP



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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	R-1AA	R-1AA	R-1AA	R-1AA	R-1AA
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residence	Single-family residence	Single-family residence	Canal, then single-family residence, Lake Holden	Single-family residence

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**BACKGROUND AND ANALYSIS**

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**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, many of which are lakefront. The subject property is lot 12 of the Raymar Manor Addition Plat, recorded in 1964, is +/- 0.24 acres in size, and is considered to be a conforming lot of record. It is developed with a 2,658 gross sq. ft. single-family home, constructed in 1965. The applicant purchased the property in 2020. The property backs up to a canal to the east which connects to Lake Holden, and there is a Normal High Water Elevation (NHWE) line along the rear property line.

The property has a rear covered porch on the northeast part of the house that was built in 1995 (B95012946). The applicant is proposing to expand it by constructing a 12 ft. x 32.8 ft., 394 sq. ft. addition, of which 263 sq. ft. will be living space (Florida Room) and 131 sq. ft. will be a screen room. The applicant submitted a building permit (B21002854) in February of 2021, which is on hold pending this request. Although the permit has not yet been issued, the applicant has started the construction, as shown in the site photos. The existing house was built in 1965, and is located 17.4 ft. from the NHWE line. Thus, variances are being sought: to allow the Florida Room to be 29 ft., Variance #1, and for the existing house to be 17.4 ft. from the NHWE line in lieu of 35 ft., Variance #2,

The Orange County Environmental Protection Division has no objection to the requests.

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

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	11 ft. addition
Min. Lot Width:	85 ft.	92 ft.
Min. Lot Size:	10,000 sq. ft.	10,531 sq. ft.

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

	Code Requirement	Proposed
Front:	30 ft.	30 ft. (West)
Rear:	35 ft.	17.4 ft. House-Variance #2 (East) 29.4 ft. Addition-Variance #1 (East)
Side:	7.5 ft.	9 ft. (North), 7.5 ft. (South)
NHWE:	35 ft.	17.4 ft. House-Variance #2 (East) 29.4 ft. Addition-Variance #1 (East)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The special conditions and circumstance particular to the subject property is its natural constraints, which renders any site improvements impossible without variances. After taking into consideration the setbacks required by the County Code, there is no rear buildable area that remains.

**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 NHWE, making any upgrades to the residence impossible without the need for a variance.

**No Special Privilege Conferred**

Due to the configuration of the lot, and the siting of the house on the lot from 1965, granting the requested variances will not confer any special privilege conferred to others under the same circumstances.

**Deprivation of Rights**

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

**Minimum Possible Variance**

Given the placement of the home on the property, the requested variances are the minimum possible.

**Purpose and Intent**

Approval of the requested variances will allow improvements and upgrades to the site which will be in harmony with the purpose and intent of the Zoning Regulations, will not be detrimental to adjacent properties and will maintain the existing character of the neighborhood, consistent with the setbacks from over 56 years ago.



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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations dated April 16, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The exterior of the addition shall match the exterior of the existing house, including materials and color.
5. A permit shall be obtained within 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.
6. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the addition is located no closer than 29 feet, and the house is located no closer than 17.4 feet from the Normal High Water Elevation (NHWE) of Lake Holden.

C: Edgar Oswaldo Saya  
4409 Raymar Dr.  
Orlando, FL 32839



April 12, 2021

Board of Zoning Adjustments  
Attn: Nicole, Ted, Sheila  
201 S. Rosiland Ave.  
Orlando, Florida 32801  
P 407-836-5537 | 407-836-9616

**Re: Response to Permit Review Comments | "4409 Raymar" | Orange Co., Florida.**  
**Permit #: B21002854**

**VARIANCE APPLICATION:**

Nicole Palacios - PH: - [Nicole.Palacios@ocfl.net](mailto:Nicole.Palacios@ocfl.net) | Ted Kozak, Zoning Division - [ted.kozak@ocfl.net](mailto:ted.kozak@ocfl.net)

**Board Of Zoning Adjustment:**

The following Coverletter is in regards to a Variance Request for an existing project in Permitting Review { B21002854 }

The scope of the project is to construct a Florida Room, on the rear of the house. The requested Variance is for 5'-8"-6'-0" into the rear setback. 35'-0" from the MHWL is the required setback, the Variance is to request 5'-8" or allowance for 6'-0" into this setback for the proposed Florida Room addition shown on A010, and as an exhibit in this package.

Survey measures setback line from the seawall, however, the Platted property line is 15' beyond the wall, which explains why all the existing subdivision houses fall within the 35' rear setback. If the surveyor is measured the 35' setback from the platted property line point, subdivision setback would be 35' from property line. Currently, all of the properties on the canal Have a 20' setback from the seawall, and 35' from the platted property line about the canal.

**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:

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

*The 35' setback is in regard to the Rear setback on the Canal, and our subdivision meets the 50' exemption under Sec. 38-1504, for plat lawfully recorded before August 31, 1982. All houses on the street are actually built within this rear setback at approx. 20' from the canal edge. Water level in the canal is approx. 4' below the top of the canal wall. The existing lawful nonconformity is not affected by our addition. The Florida Room falls 12' behind the rear building frontage for this subdivision. It is currently a covered porch, which is being enclosed with A/C. The Normal High Water Line, is based on the location of a canal seawall, which sets the setback requirement. It shall be noted, that this affected all the properties on the street. It shall also be noted as an important fact, that the NHWL is not related to a shore edge, but falls -3' below the top of the seawall. i.e., normal high water does not encroach on the property in times of flood, because the top of seawall/retaining wall is 3' above the normal high water line. Total elevation above the NHWL is +6' { see attached pictures }*

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

*The applicant has not created a self-imposed hardship. Existing use of the property, as well as adjacent properties utilize the area within the 35' setback under a lawful nonconforming condition. NHWL location is based on the Survey locating it at the canal wall. Actual PLAT recorded property line is approx.. 15' in the canal, which explains the existing house 20' setback. All the structures are basing their 35' setback on the PLATED recorded line, out in the canal. Attached survey now takes that to the canal seawall, and starts the 35' setback from there, but the waterline is greater than 3' below the top of seawall. { see attached survey }*



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

***The existing subdivision currently has lawful nonconforming use. Our Florida Room addition falls 12' behind the sightlines of the rear of the properties. It will not protrude beyond any existing building line seen across properties, and will not be visible from the adjacent properties. It conforms to the existing neighboring properties and does not create a special condition as it relates to neighboring structures.***

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

***Adjacent Properties currently enjoy approx. 20' rear setback, as existing lawful nonconformity. The Florida Room addition falls +30' feet from the canal, which is approx. 12' behind the existing built-form façade edge across the properties. Currently there are adjacent properties with such reasonable uses.***

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

***The intrusion into the required rear setback of 35' is only 5' variance request, and does not extend across the entire rear façade. A portion of the existing 1965 house façade is 12' beyond this addition toward the canal to the rear of the property. Currently there are adjacent properties with such reasonable uses.***

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

***This Zoning Variance is in harmony with existing adjacent uses, and falls behind the existing subdivision neighboring façade lines, which is constructed at approx. 20' from the canal. The Florida Room addition which we are requesting the 5' variance will not be visible by neighboring properties because it is contained within the existing building envelope, and will not protrude into the back yard. Rather, the Florida Room is tucked within the existing building envelope, and behind the neighboring adjacent properties.***

See attached Site Plan, and site photos on subsequent pages.

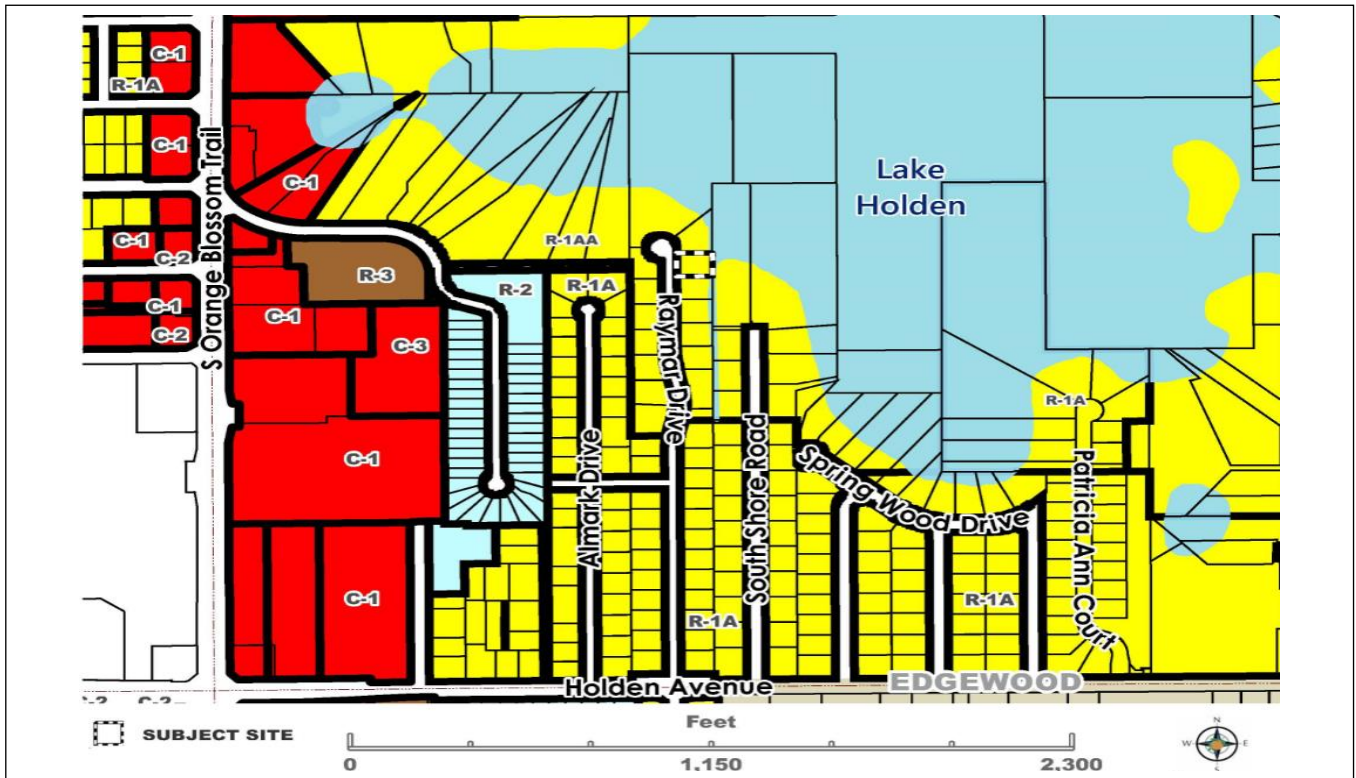
If you have any questions, please call me at: (407)325-3550

Sincerely,

*Andrew Sechler, P.A., NCARB*

Andrew F. Sechler, P.A., NCARB

## ZONING MAP

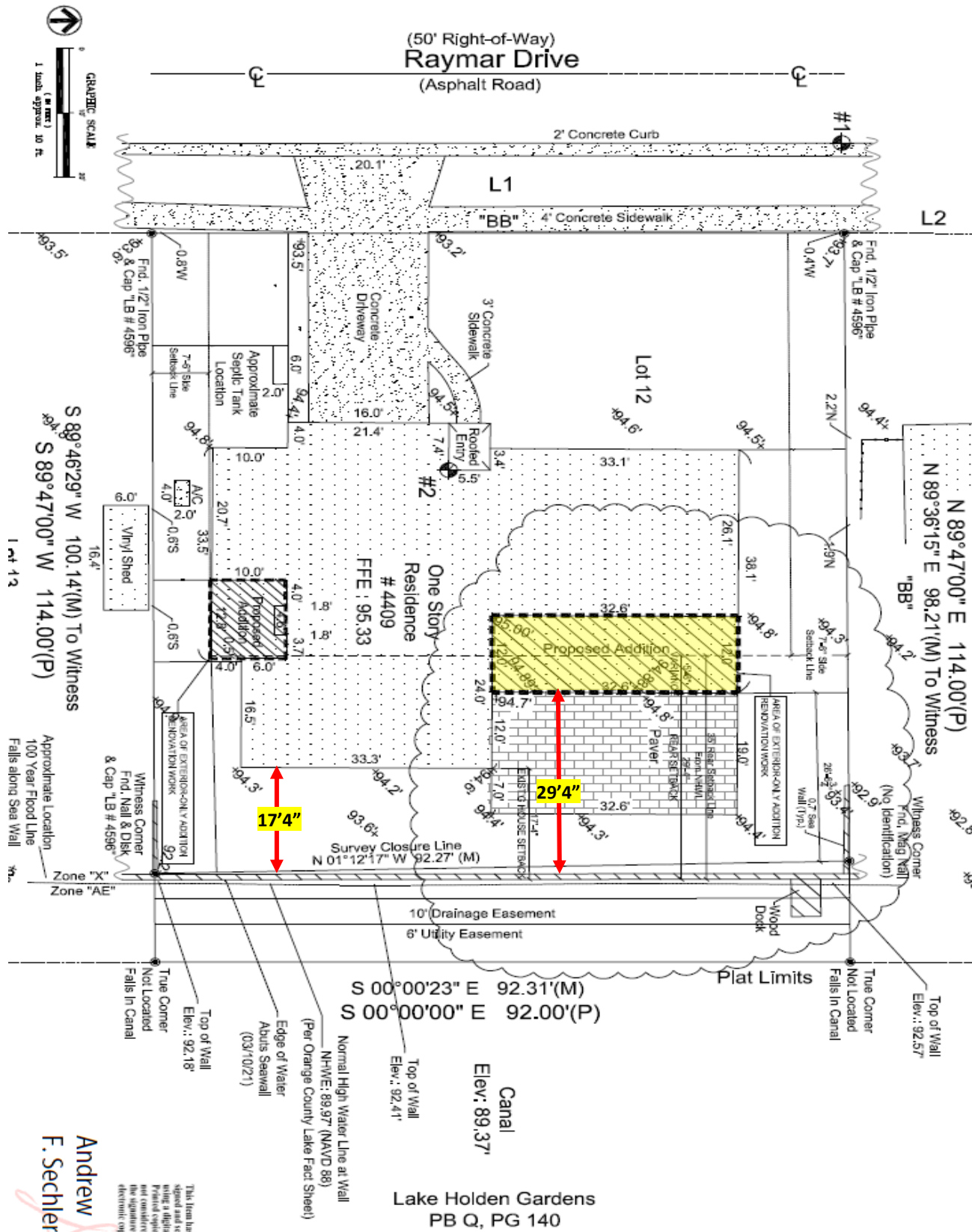


## AERIAL MAP



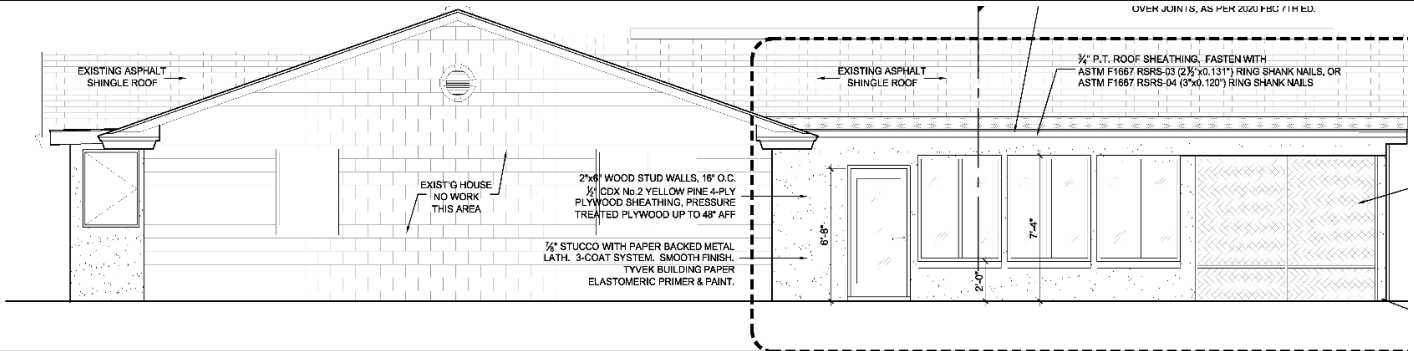


## SITE PLAN

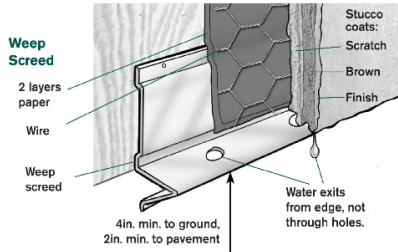


# ELEVATIONS

OVER JOINTS, AS PER 2020 FBC 7TH ED.



BUILDING ELEVATIONS - EAST ELEVATION



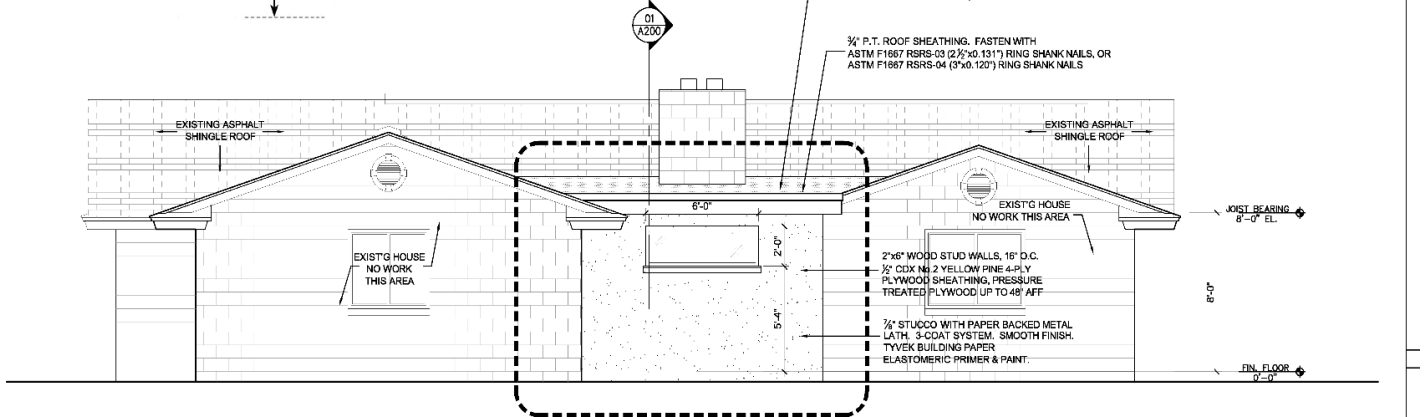
## NOTE:

PRESSURE TREATED WOOD ON ALL WOOD EXPOSED WITHIN 8" OF SOIL. PROTECTION OF WOOD AND WOOD BASED PRODUCTS AGAINST DECAY IS REQUIRED WHEN WOOD FRAMING MEMBERS REST ON CONCRETE OR MASONRY EXTERIOR FOUNDATION WALLS AND ARE LESS THAN 8 INCHES FROM THE EXPOSED GROUND. (FBC-RESIDENTIAL R317)

## AREA OF WORK

NEW 2-PLY CERTAINTED ASPHALT STICK-DOWN LOW-SLOPE ROOF. FLINTASTIC® SA PLYBASE, WITH GRANULATED TOP SHEET ASPHALTIC ROOF MEMBRANE. 1/2" P.T. PLYWOOD DECKING OVER 2"x12" P.T. ROOF BEAMS. PEEL & STICK TAPE OVER JOINTS, AS PER 2020 FBC 7TH ED.

3/4" P.T. ROOF SHEATHING, FASTEN WITH ASTM F1667 RSR5-03 (2 1/2"x0.131") RING SHANK NAILS, OR ASTM F1667 RSR5-04 (3"x0.120") RING SHANK NAILS

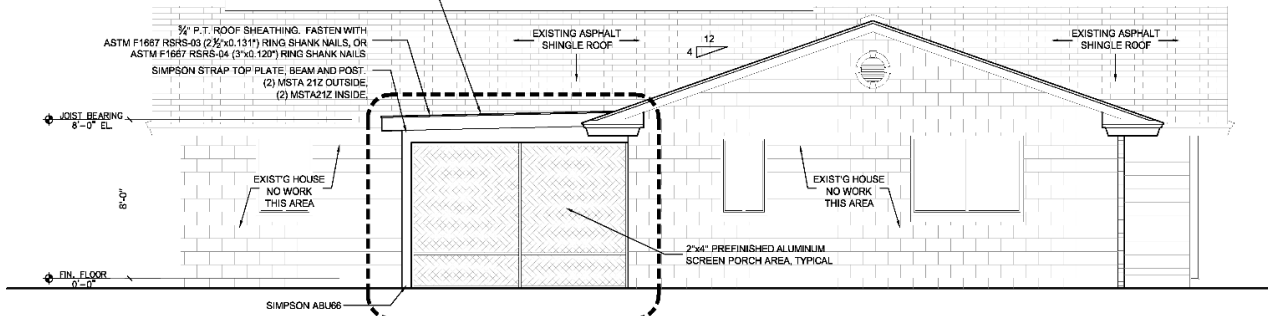


BUILDING ELEVATIONS - SOUTH ELEVATION

SCALE: 1/4"=1'-0" 22

**AREA OF WORK**  
NEW 2-PLY CERTAINTED ASPHALT STICK-DOWN LOW-SLOPE ROOF. FLINTASTIC® SA PLYBASE, WITH GRANULATED TOP SHEET ASPHALTIC ROOF MEMBRANE. 1/2" P.T. PLYWOOD DECKING OVER 2"x12" P.T. ROOF BEAMS. PEEL & STICK TAPE OVER JOINTS, AS PER 2020 FBC 7TH ED.

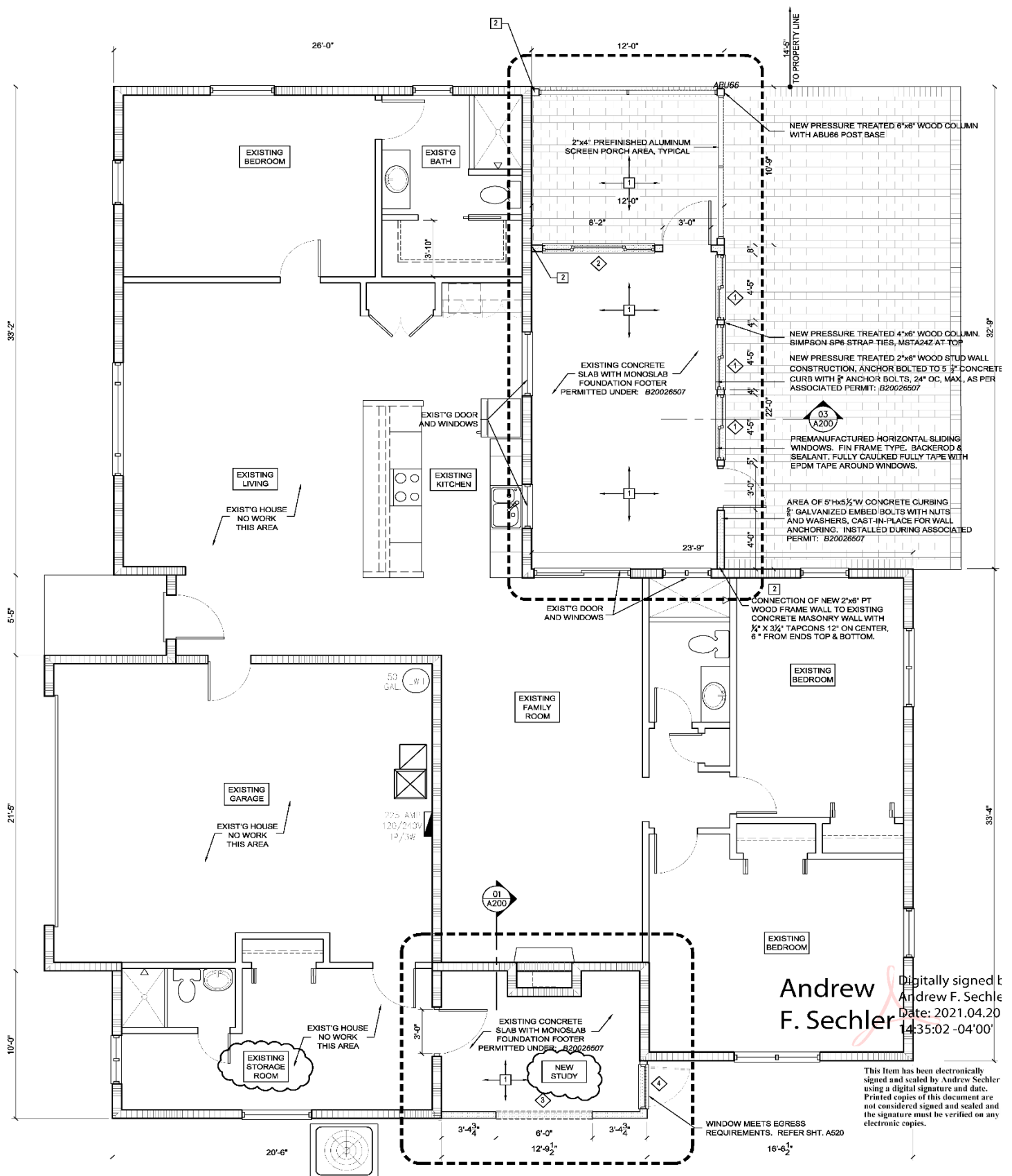
3/4" P.T. ROOF SHEATHING, FASTEN WITH ASTM F1667 RSR5-03 (2 1/2"x0.131") RING SHANK NAILS, OR ASTM F1667 RSR5-04 (3"x0.120") RING SHANK NAILS  
SIMPSON STRAP TOP PLATE, BEAM AND POST (2) MSTA21Z OUTSIDE, (2) MSTA21Z INSIDE.



BUILDING ELEVATIONS - NORTH ELEVATION

SCALE: 1/4"=1'-0" 21

## FLOOR PLAN





## SITE PHOTOS



Front from Raymar Dr. facing east



Addition facing south



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**SITE PHOTOS**

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**Addition facing south**



**Addition facing north**



# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUN 03, 2021**

Case Planner: **Nick Balevich**

Case #: **VA-21-07-041**

Commission District: **#3**

## GENERAL INFORMATION

APPLICANT(s): CYNTHIA SYPHAX

OWNER(s): MICHAEL SYPHAX, CYNTHIA SYPHAX

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

- 1) To allow the conversion of an existing 272 sq. ft. porch into living area with a west street side setback of 13.2 ft. in lieu of 15 ft.
- 2) To allow an existing 2,024 sq. ft. residence to remain with a west street side setback of 13.2 ft. in lieu of 15 ft.
- 3) To allow an existing 308 sq. ft. detached garage to remain with a west street side setback of 13.5 ft. in lieu of 15 ft.

PROPERTY LOCATION: 726 31st Street, Orlando, Florida, 32805, southeast corner of 31st St. and Lee St., south of W. Michigan St., east of S. Orange Blossom Trl.

PARCEL ID: 02-23-29-3672-04-070

LOT SIZE: 100 ft. x 136 ft./ +/- 0.31 acres (13,634 sq. ft.)

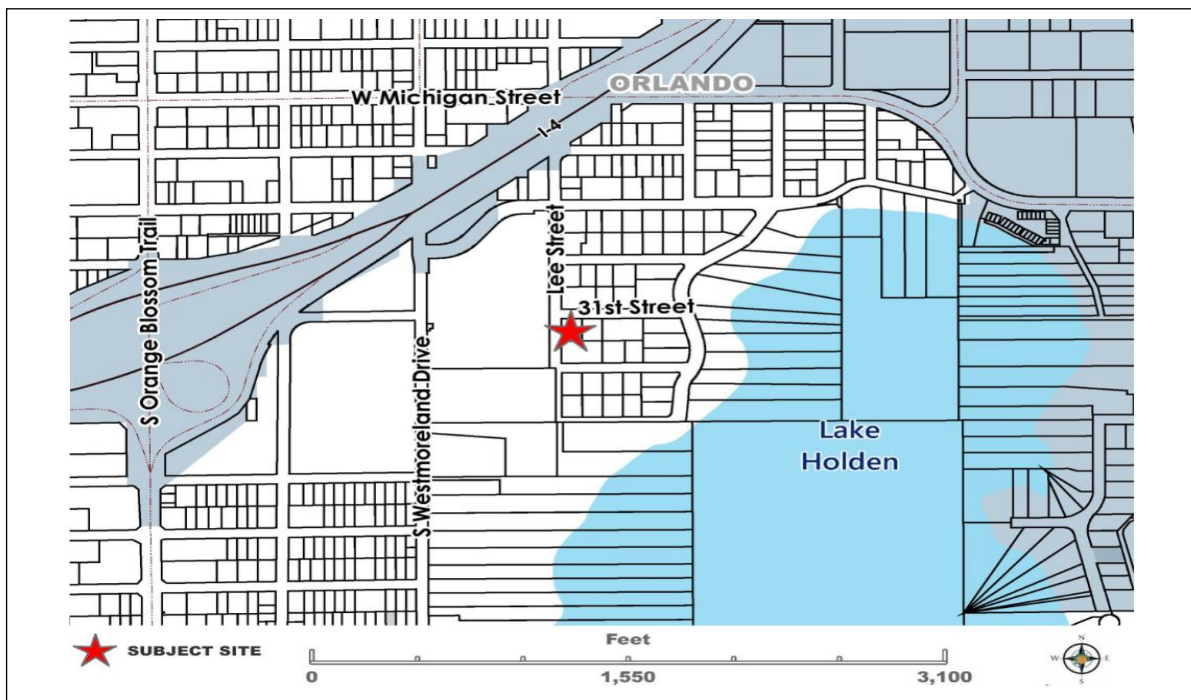
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 64

## STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

## LOCATION MAP



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**SITE & SURROUNDING DATA**

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

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**BACKGROUND AND ANALYSIS**

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**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, and a rehabilitation center to the west. The subject property is a +/- 0.31 acre lot, located in the Holden Shores Plat, recorded in 1936, and is considered to be a conforming lot of record. It is a corner lot with frontage on both Lee Street and 31<sup>st</sup> Street. The front yard is measured from 31<sup>st</sup> Street and the side street yard is Lee Street. It is developed with a 2,042 gross sq. ft. single family home, including a rear covered porch, and a 308 sq. ft. detached garage both built in 1956. There is also a 160 sq. ft. shed on the property, but staff could not locate a permit. The owner purchased the property in 2014.

The owner is proposing an addition to the existing home, to renovate an existing 11 ft. by 24.7 ft., 272 sq. ft. screen room into living space. In January, 2021 the owner applied for a building permit (B21001444) for this work, but it is on hold pending these requests, requiring variance #1. The existing house was built 13.2 feet in lieu of 15 ft. from the west property line, in 1956, which predates the zoning code. The proposed renovation will match the exterior western wall of the existing house and will not extend out any further, with a 13.2 ft. west street side setback in lieu of 15 ft. requiring variance #2. There is also an existing 308 sq. ft. detached garage which is located 13.5 feet from the west street side property line in lieu of 15 ft., requiring variance #3.

The applicant submitted 4 letters of support from the owners of the adjacent properties to the north, south and east, and an additional neighbor to the northeast.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	12 ft.
Min. Lot Width:	85 ft.	100 ft.
Min. Lot Size:	10,000 sq. ft.	13,634 sq. ft.

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

	Code Requirement	Proposed
Front (31 <sup>st</sup> Street):	30 ft.	40.1 ft. house (North)
Rear:	35 ft. (house) 5 ft. (accessory structure)	64 ft. house (South) 6.5 ft. shed, 19 ft. garage (South)
Side:	7.5 ft. (house) 5 ft. (accessory structure)	20 ft. house (East) 5 ft. shed (East)
Side street (Lee Street):	15 ft.	13.2 ft. addition (Variance #1 - West) 13.2 ft. house (Variance #2 -West) 13.5 ft. garage (Variance #3- West)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA****Special Conditions and Circumstances**

The house and detached garage were built in 1956 in its current location, which predates the zoning code setback requirements. The proposed rear home conversion and renovation will be within the existing footprint of the house and the covered porch and its conversion and renovation will not extend any further.

**Not Self-Created**

The current owners were not responsible for the siting of the home including the existing porch and garage, as the house was built in 1956. The need for the variances is not self-created.

**No Special Privilege Conferred**

Granting the variances as requested will not confer special privilege to the owners, since they will allow the renovation of a portion of a residence which has existed for over 65 years.

**Deprivation of Rights**

Without variances, the owner will be deprived of the ability to convert a covered porch to living area, and the owners will be allowed to permanently keep the house and garage as was constructed in 1956.

**Minimum Possible Variance**

Due to the existing site layout and location of improvements, and the setbacks that have been in existence for over 6 decades, the requested variances are the minimum possible.

**Purpose and Intent**

Approval of the variances will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding area. The existing house and garage improvements are not out of character with the overall area since there are other developed parcels with similar side setbacks.



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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and elevations dated April 29, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The exterior of the addition shall match the exterior of the existing house, including materials and color.
5. A permit shall be obtained for the unpermitted shed or the shed shall be removed within 180 days of final action on this application or prior to final inspection of the proposed addition by Orange County. The zoning manager may extend the time limit if proper justification is provided for such an extension.
6. Permits shall be obtained for the addition 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: Cynthia Syphax  
726 31st St.  
Orlando, FL 32805

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## COVER LETTER

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Michael K. & Cynthia Ann Syphax  
726 31<sup>st</sup> Street  
Orlando, FL 32805

April 30, 2021

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

Dear zoning officials:

We seek to obtain a variance of the minimum 15' side yard setback. It is our understanding that an existing past addition places our house at 13.2' from the west property line. Our objective is to remove an existing aluminum screened porch and enclose the concrete slab area as an additional room within the same footprint with a side yard setback at 13 feet. As suggested we would also like our garage to be accepted with a street setback of 13.0'

Variance criteria:

1. The permanent structures affected have existed prior to the screened patio date 1981.
2. The structures existed and were non-conforming, without our knowledge, when we purchased the home.
3. We only wish to continue to use our improvements as situated when purchased.
4. We only wish to improve our home without exceeding its current foot print.
5. Existing minimum side yard by survey is 13.2' rounding down to 13.0' feet as suggested makes sense.
6. I believe our plan will increase the curb appeal of our property constituting an improvement in the neighborhood.

Thank you for your consideration.

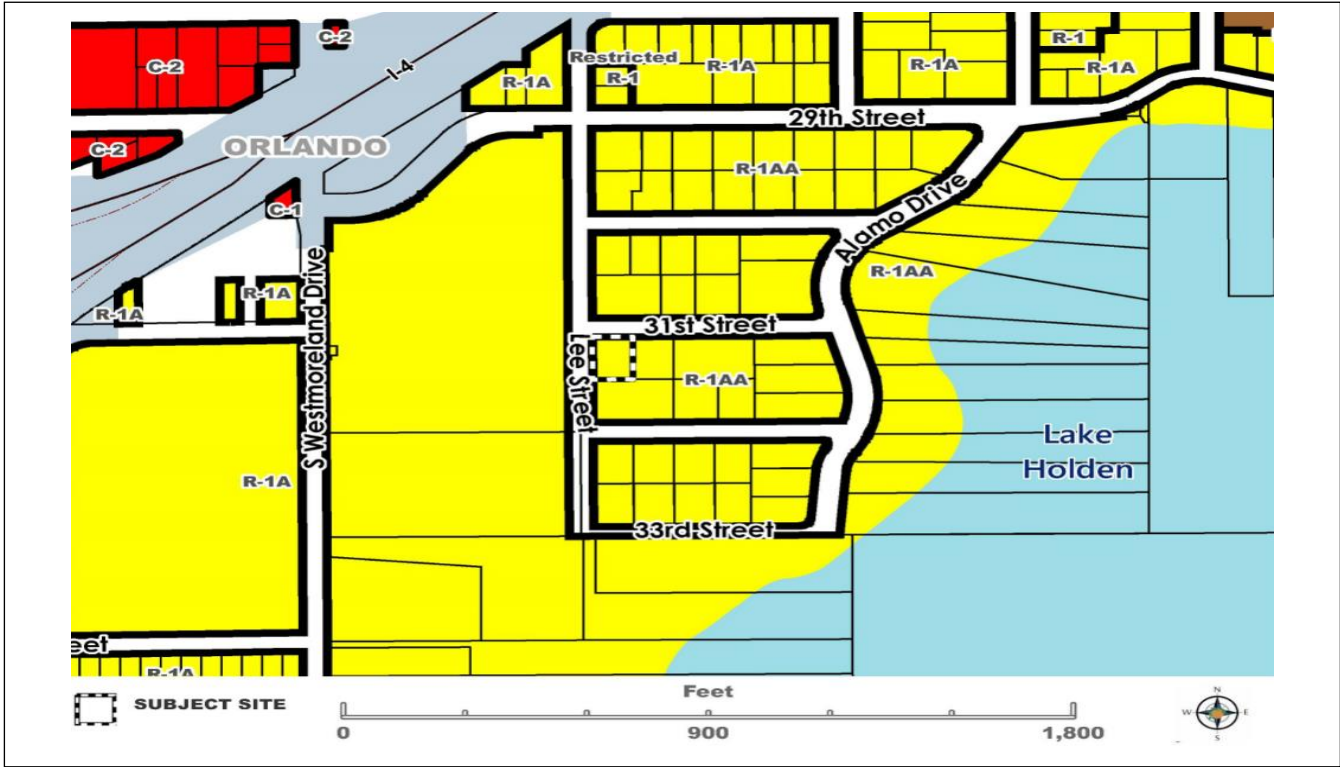
Sincerely,

Michael K. Syphax

Enclosures/attachments:

Pdf engineering/architectural plans with new as-built information.

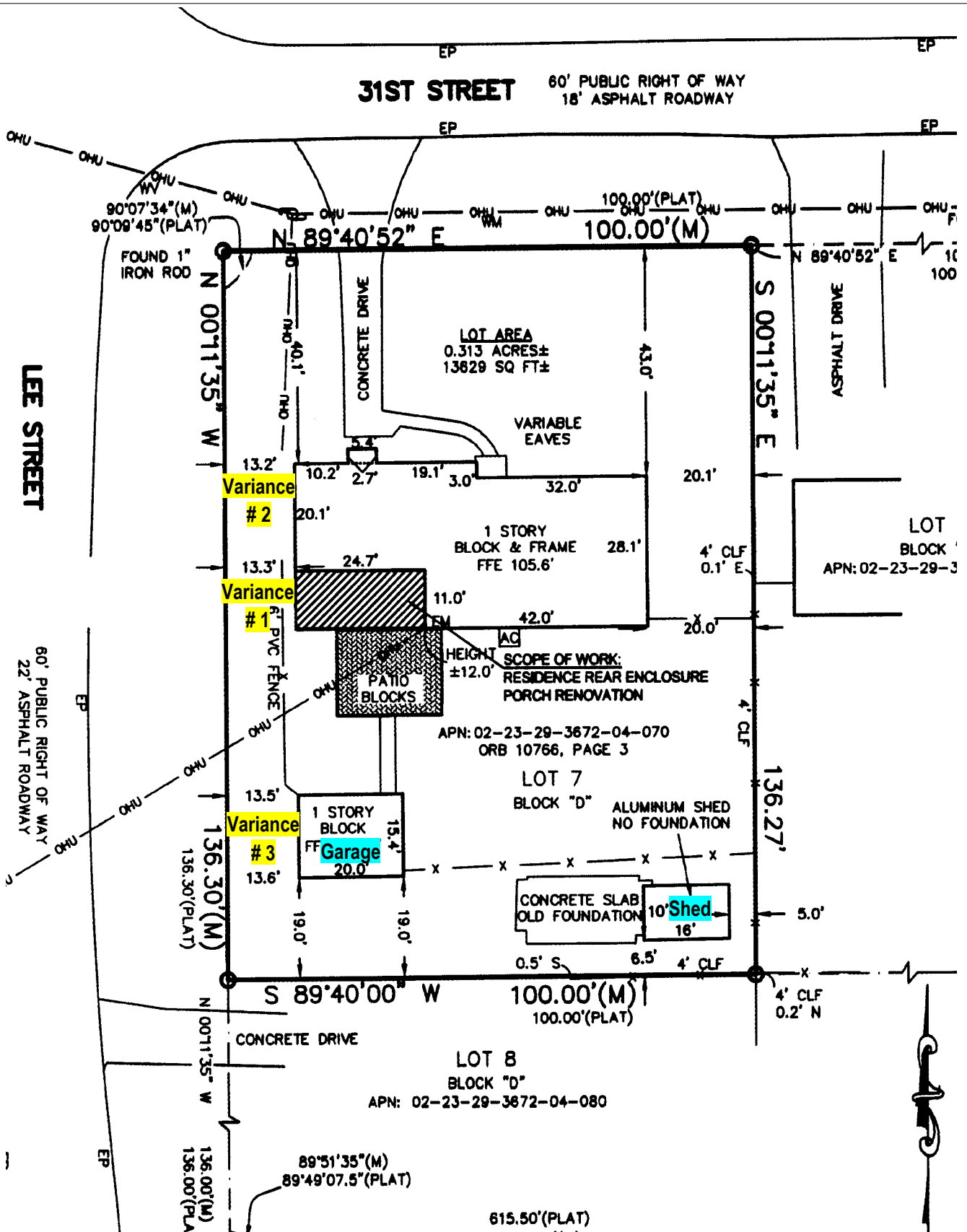
ZONING MAP



AERIAL MAP

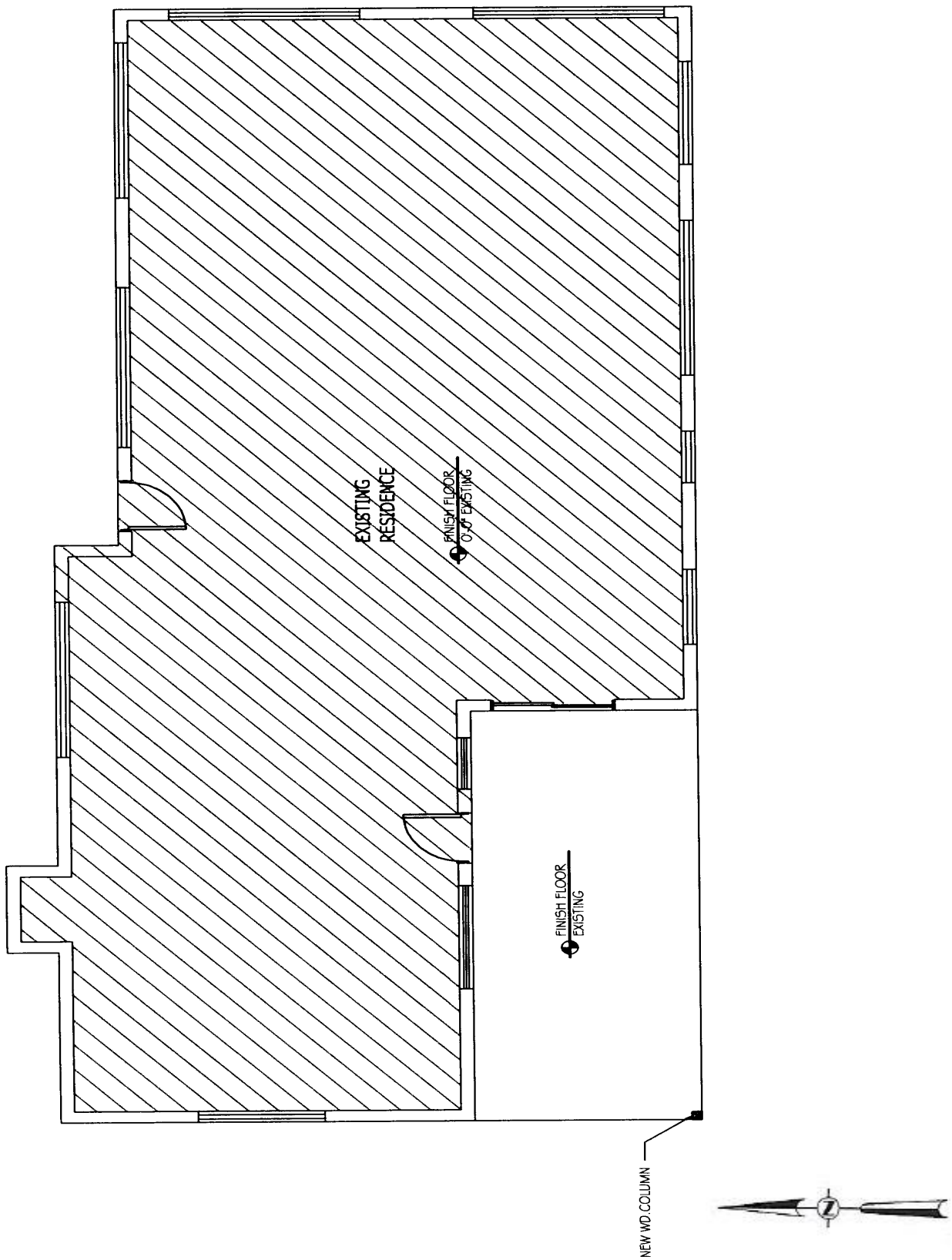


# SITE PLAN

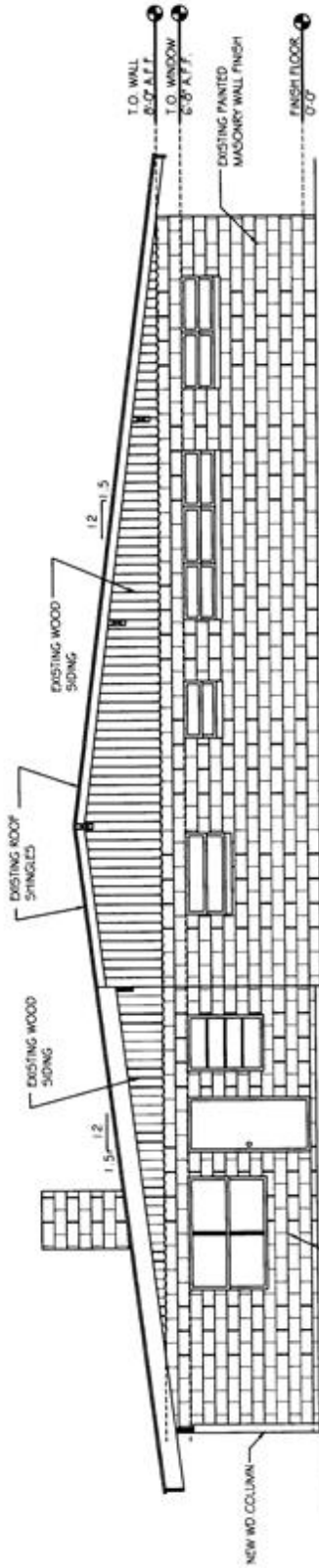




## FLOOR PLAN



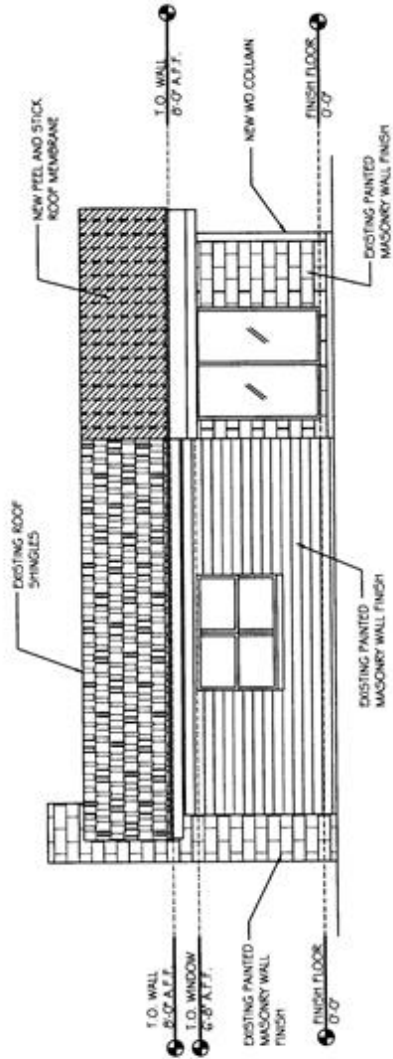
# ELEVATIONS



## NEW LEFT ELEVATION

1/8"=1'-0"

FIELD VERIFY ALL EXISTING CONDITIONS



## NEW SIDE ELEVATION

1/8"=1'-0"

FIELD VERIFY ALL EXISTING CONDITIONS



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**SITE PHOTOS**

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**Front from 31st St. facing south**



**Side from Lee St. facing east**



## SITE PHOTOS



**Location of proposed conversion facing east**



**Location of proposed conversion facing north**



## SITE PHOTOS



Existing garage and shed from Lee St. facing east



Existing shed facing south





BOARD OF ZONING ADJUSTMENT