

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
MEETING OF SEPTEMBER 6, 2018**

The Orange County Board of Zoning Adjustment meeting met at 9:00 a.m. on **September 6, 2018** in the Orange County Commission Chambers on the 1st Floor of the Orange County Administration Building, 201 South Rosalind Avenue, Orlando, Florida 32801.

BOARD MEMBERS PRESENT: Gregory A. Jackson - Chairman
Carolyn C. Karraker - Vice Chair
Jose A Rivas, Jr. – District #3
Deborah Moskowitz – District #4
Wes A. Hodge – District #5
Eugene Roberson – District #6
Jessica Rivera – At Large

STAFF PRESENT: Sean Bailey, Chief Planner, Zoning Division
Nicholas Balevich, Development Coordinator, Zoning Division
David Nearing, AICP, Development Coordinator, Zoning Division
Debra Phelps, Recording Secretary, FOS Division
Alan Robinson, Development Specialist, FOS Division

The Chairman called the meeting to order at 9:05 a.m.

Following the Pledge of Allegiance to the Flag, the following applications, as advertised, were called up for public hearing.

APPROVAL OF MINUTES:

The Chairman requested a motion approving the minutes of the August 2, 2018, Board of Zoning Adjustment meeting.

A motion was made by: Deborah Moskowitz

seconded by: Carolyn C. Karraker

and unanimously carried to **APPROVE** the minutes of the August 2, 2018 hearing.

PUBLIC COMMENT: The Chairman opened the floor to public comment, seeing none; the Chairman closed the hearing for public comment and continued with the regularly scheduled agenda.

SHELLEY MACCINI - SE-18-09-112

REQUEST:	Special Exception and Variance in the A-2 zoning district as follows: 1) Special Exception: To construct 2 story detached Accessory Dwelling Unit (ADU) 2) Variance to allow the max height of an ADU of 28 ft. in lieu of 20 ft. NOTE: Lot is vacant. ADU is proposed to be constructed with the house.
ADDRESS:	Peabody Street, Orlando FL 32833
LOCATION:	North side of Peabody St., west of Bancroft Blvd., north of S.R. 528
TRACT SIZE:	2.603-acres
DISTRICT#:	5

LEGAL: ROCKET CITY UNIT 9A Z/86 A/K/A CAPE ORLANDO ESTATES UNIT 9A
1855/292 THE E 180 FT OF TR 43

PARCEL ID#: 14-23-32-7603-00-433

NO. OF NOTICES: 26

Commentaries: None in favor and one (1) in opposition

Staff Recommendation: Staff gave a presentation on the case covering the location, alternate site layout, elevations, floorplan, and photographs. Further, staff recommended approval of the request subject to the conditions as outlined in the staff report.

The applicant stated that the Environmental Protection Division asked them to move the septic system and drainfield away from the adjacent canal, which will require them to move the ADU ten (10) feet. The alternate plan was presented to staff and displayed for the BZA to view.

The following person(s) addressed the Board:

Speaker(s): Shelley Maccini (Applicant)

No one spoke in favor or in opposition of the request at the public hearing.

BZA Discussion: The BZA acknowledged that similar cases had been approved in the area, and that the request was consistent with the neighborhood. The BZA approved the Special Exception and Variance with the staff recommendation.

BZA Action: A motion was made by Wes A. Hodge, seconded by Eugene Roberson and unanimously carried to **APPROVE** the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, to **APPROVE** the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development in accordance with the site plan dated September 6, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Construction plans shall be submitted within three (3) years of the final County approval, or this approval becomes null and void.
5. The Accessory Dwelling Unit (ADU) shall be occupied by an immediate family member for a minimum of three (3) years. The ADU may be occupied by a nonrelative three (3) years after being initially occupied by a relative or after the relative has died, whichever occurs first.
6. The exterior of the ADU shall have similar colors and design materials as the primary residence.
7. Approval of this request does not constitute approval of the use of septic tanks and wells. The use of septic tanks and wells shall be in accordance with all applicable regulations.

- 8. The applicant shall be responsible for payment of all applicable fees and assessments including, but not limited to, impact fees.
- 9. The applicant shall provide proof of the Homestead Exemption or evidence of pre-filing for the Homestead Exemption for the property prior to issuance of the Certificate of Occupancy for the ADU.

AYE (voice vote): All members present

FIRST HAITIAN CHURCH OF THE NAZARENE OF APOPKA - SE-18-09-113

REQUEST: Special Exception in the R-3 zoning district to allow the addition of a 360 sq. ft. modular office on an existing church property.

ADDRESS: 1428 Marvin C. Zanders Avenue, Apopka FL 32703

LOCATION: West of Marvin C. Zanders Ave., north of Cleveland St.

TRACT SIZE: 168 ft. x 295 ft./1.13 Acres

DISTRICT#: 2

LEGAL: E 325 FT OF S1/2 OF N1/4 OF SW1/4 OF SE1/4 (LESS E 30 FT FOR RW) OF SEC 16-21-28

PARCEL ID#: 16-21-28-0000-00-047

NO. OF NOTICES: 101

Commentaries: None

Staff Recommendation: Staff explained the inconsistency between the current zoning of the property and the Future Land Use designation assigned by the Comprehensive Plan. Based on the foregoing, the current application was before the BZA. Staff noted that with the inclusion of some added landscaping to soften the appearance of the proposed modular building, the use would be compatible with the neighborhood. Lastly, staff recommended approval of the request subject to the conditions as set forth in the staff report.

The following person(s) addressed the Board:

Speaker(s): Ronda Rieves (Applicant's Representative)

No one spoke in favor or in opposition of the request at the public hearing.

BZA Discussion: The BZA found that with the conditions recommended by staff, the use would be compatible with the neighborhood.

BZA Action:

A motion was made by Gregory A. Jackson, seconded by Wes A. Hodge and unanimously carried to **APPROVE** the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions:

- 1. Development in accordance with the site plan dated June 11, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
- 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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
- 4. The modular office/storage unit shall be fitted with skirting from the ground to the bottom of the unit.
- 5. Foundation plantings consisting of low-maintenance drought tolerant plantings such as Indian Hawthorn or Hollies shall be planted around the foundation skirting of the office/Storage unit.
- 6. Screening foliage, such as Podocarpus or Loropetalum shall be planted along the front of the modular unit facing Marvin C. Zanders Avenue. The plantings shall be five (5) gallon in size at planting, and planted thirty (30) inches on center.

AYE (voice vote): All members present

MARY HOMAN - SE-18-09-114

REQUEST: **Special Exception and Variance** in the R-CE zoning district as follows:
1) Special Exception to allow a 962 sq. ft. addition to an existing Accessory Dwelling Unit.
2) Variance to allow a total of 3,326 sq. ft. of living area in lieu of 1,500 sq. ft.

ADDRESS: 5400 Lake Street, Mount Dora FL 32757

LOCATION: West of Lake St., north of Lake Ola Dr.

TRACT SIZE: 182 ft. x 557 ft.

DISTRICT#: 2

LEGAL: MAROTS ADDITION TO TANGERINE MTG E/506 THAT PART OF LOTS 1 & 2 & THE E1/2 OF LOT 3 DESC AS FROM THE NE COR OF LOT 1 RUN S ALONG THE E LINE OF LOT 1 FOR 190 FT E 30 FT FOR POB TH S 182.75 FT W 504.5 FT N 182.75 FT E 504.5 FT TO POB & TANGERINE TERRACE ON

PARCEL ID#: 08-20-27-5512-01-019

NO. OF NOTICES: 44

Commentaries: Three (3) in favor and none in opposition

Staff Recommendation: Staff explained the site, previous approval, showed site photographs, and went over the background of the case. Further, staff recommended approval for the case based on the size of the lot and the location of the proposed addition.

The following person(s) addressed the Board:

Speaker(s): Mary Homan (Applicant)

No one spoke in favor or in opposition of the request at the public hearing.

BZA Discussion: The Board discussed the need for the variance, and staff clarified that if the structure were detached, a variance would not be required as it met the accessory structure size requirements.

The BZA stated that the square footage deviation was large; however, due to the size of the lot, they agreed the variance was reasonable and approved the request to include the staff recommendation.

BZA Action: A motion was made by Gregory A. Jackson, seconded by Carolyn Karraker and unanimously carried to **APPROVE** the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, to **APPROVE** the Variance request, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is

subject to the following conditions:

1. Development in accordance with the site plan dated August 9, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The Accessory Dwelling Unit (ADU) shall be occupied by an immediate family member for a minimum of three (3) years. The ADU may be occupied by a nonrelative three (3) years after being initially occupied by a relative or after the relative has died, whichever occurs first.

AYE (voice vote): All members present

ROBERT BURKHART - VA-18-09-115

REQUEST: Variance in the R-3 zoning district to validate an existing shed located 4 ft. from the side (north) property line in lieu of 5 ft.
This is the result of code enforcement action.

ADDRESS: 2335 Dickson Avenue, Orlando FL 32806

LOCATION: East side of Dickson Ave., along the west shore of Crystal Lake, approximately 400 ft. east of S. Fern Creek Ave., via Page Ave.

TRACT SIZE: 100 ft. x 119 (AVG) Above NHWE/.27 Acres High & Dry

DISTRICT#: 3

LEGAL: BUFFS SUB J/113 LOT 5 & LOT 4 (LESS S 20 FT)

PARCEL ID#: 06-23-30-1016-00-050

NO. OF NOTICES: 88

Commentaries: One (1) in favor and none in opposition

Staff Recommendation: Staff noted that the subject property is a lakefront lot which contains a 100 year floodplain. When the applicant purchased the property, the front half of the shed was in place exactly as currently situated. The applicant's mistake was adding onto the shed without first attempting to obtain a permit. To this point, the request is in part not self-imposed, and in part self-imposed. However, sheds were a common improvement, thus, approving the request was not granting a special privilege, and the request was minor in nature. Further, requiring the relocation to meet the setback would actually result in more of the shed being located within the 100-year floodplain than currently does so. Finally, staff could not support the request because while the location of the original portion of the shed, which was in existence when the applicant purchased the property, was not the result of any action by the applicant, the location of the portion of the shed constructed by the applicant was the result of the applicant's action, thereby, self-imposed. Lastly, staff stated should the BZA find that the applicant satisfied the criteria for the granting of a variance; conditions in the staff report should be applied.

The following person(s) addressed the Board:

Speaker(s): Robert Burkhart (Applicant)

Kurt Fasnacht (Orange County Code Enforcement Officer)

The applicant acknowledged that they made a mistake in not first obtaining the permit, and upon being informed by the Code Enforcement officer, attempted to correct their error.

The Code Enforcement officer noted that the applicant had been very cooperative, and did begin the process of attempting to correct the situation as soon as they were informed of said errors.

No one spoke in favor or in opposition of the request at the public hearing.

BZA Discussion: The BZA concluded that the request was minimal, and that a request for a variance would have likely been recommended for approval had the applicant approached the Board before constructing the addition. Further, the BZA appreciated the applicant's cooperation in correcting the error. Based on the foregoing, the Board recommended approval including the conditions as outlined in the staff report.

BZA Action: A motion was made by Jose A. Rivas, Jr., seconded by Carolyn Karraker and unanimously carried to **APPROVE** the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development in accordance with the site plan and elevations dated July 12, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain a permit for the shed within 120 days of final action by Orange County on this application, or this approval becomes null and void.

AYE (voice vote): All members present

PHYLLIS SMITH - VA-18-09-116

REQUEST:	Variances in the R-1A zoning district as follows: 1) To permit two accessory structures to remain with a separation distance of 4 ft. in lieu of 10 ft. 2) To validate two existing sheds located 1 ft. off the rear (northerly) property line in lieu of 5 ft. 3) To validate 2 existing sheds located 40 ft. from the centerline of a major urban collector in lieu of 55 ft. Note: One of the structures is constructed completely of metal. The applicant hired a contractor to install the newer structure. The contractor was to have obtained the necessary permits, but failed to do so. This is the result of code enforcement action. A survey was provided, however, it was found to be in error.
ADDRESS:	7701 Pine Hollow Court, Orlando FL 32822
LOCATION:	Northerly side of Pine Hollow Ct., at the south east corner of Curry Ford Rd. and Pine Branch Drive
TRACT SIZE:	88 ft. x 110 ft. (AVG)/.223 Acres

DISTRICT#: 3
LEGAL: HIDDEN HOLLOW 8/44 LOT 64 (LESS RD R/W)
PARCEL ID#: 02-23-30-3550-00-640
NO. OF NOTICES: 121

Commentaries: One (1) in favor and one (1) in opposition

Staff Recommendation: Staff explained the history of the subject property including the platting of the subdivision in 1979, with a dedication of thirty (30) feet for Curry Ford Road, and a subsequent condemnation proceeding which took an additional fifteen (15) feet of all lots on the south side of Curry Ford Road. This condemnation had actually been missed by the applicant's surveyor earlier this year when the original survey was submitted still showing the fifteen (15) feet, which had been condemned in 1982. As a result, not only were the applicant's sheds one (1) foot off of the property line, but the fence, which had been properly permitted in 2015, based on an erred survey, was actually located two (2) feet inside of the Curry Ford Road right-of-way. Since the condemnation had taken place long before the applicant purchased the property, they were unaware that the lot was shorter than reflected in the survey. Staff further indicated that it was recommending approval of Variance requests #1 and #2, however, the smaller shed should meet the setbacks, thus, Variance request #3, was not needed.

The following person(s) addressed the Board:

Speaker(s): Phyllis Smith (Applicant)

No one spoke in favor or in opposition of the request at the public hearing.

BZA Discussion: The BZA found that given the circumstances, agreed with the staff recommendation as amended since Variance requests #1 and #2, were not self-imposed; and, deemed Variance request #3, to be unnecessary.

BZA Action: A motion was made by Jose A. Rivas, Jr., seconded by and unanimously carried to **APPROVE** the Variance requests #1 and #2, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended; and, deemed the Variance Request #3, as **UNNECESSARY**:

1. Development in accordance with the site plan dated July 16, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Prior to issuance of permits for the unpermitted structures on the subject property, the applicant shall either: obtain a permit to relocate the existing fence located in the Curry Ford Road right-of-way (r-o-w) back onto the subject property; or obtain right-of-way utilization permit from the Orange County Public Works Department.
5. The applicant shall obtain permits for all unpermitted structures within 180 days of final action on this application by Orange County, or this approval becomes null and void.

AYE (voice vote): All members present

CANCALA ASSOCIATES, LLC - SE-18-09-117

REQUEST: **Special Exception** in the A-2 zoning district to allow a retention pond in conjunction with a commercial business.

ADDRESS: East Colonial Drive, Orlando FL 32833

LOCATION: Southeast corner of E. Colonial Dr. and 3rd St.

TRACT SIZE: 315 ft. x 150 ft.

DISTRICT#: 5

LEGAL: BITHLO J/17 THAT PART OF BLK 1203 LYING SWLY OF SR 50 IN 22-22-32 SW1/4 & THAT PORTION OF N 45 FT OF FIFTH AVE LYING S OF BLK 1203 (LESS THAT PORTION LYING WITHIN RW OF SR 50) & BEG 15 FT E OF NW COR OF NW1/4 RUN E 150 FT S 215 FT W 150 FT N 215 FT TO PO

PARCEL ID#: 22-22-32-0712-12-132

NO. OF NOTICES: 63

Commentaries: None

Staff Recommendation: Staff gave a presentation on the case covering the location, split zoning, site layout, and photographs. Furthermore, staff recommended approval of the request subject to the conditions as outlined in the staff report.

The following person(s) addressed the Board:

Speaker(s): Greg Crawford (Applicant's Representative)

No one spoke in favor or in opposition of the request at the public hearing.

BZA Discussion: The BZA determined the case was straightforward and agreed with the staff recommendation.

BZA Action: A motion was made by Wes A. Hodge, seconded by Deborah Moskowitz and unanimously carried to **APPROVE** the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions:

1. Development in accordance with the site plan dated July 16, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall install landscaping in front of the retention pond along 3rd Street. The landscaping shall comply with Sec. 24.4 (a)(1) which requires a seven (7) foot wide landscape strip with a shade tree every forty (40) feet, and a continuous hedge.
5. Per the Environmental Protection Division, a Conservation Area Determination will be required prior to issuance of a building permit or other authorization to allow construction

activities on site.

AYE (voice vote): All members present

Absent: Jessica Rivera (due to temporary absence)

TOBY BEST (Homes In Partnership) - VA-18-09-118

REQUEST: **Variances** in the R-1AAAA zoning district as follows:
1) Variance to allow 6.3 ft. side setbacks in lieu of 10 ft.
2) Variance to allow a 46 ft. lot width in lieu of 110 ft.
3) Variance to allow a minimum lot size of 0.18-acres in lieu of 0.5-acres.
4) Variance to allow 1,061 sf. ft. of living area in lieu of 1,500 sf. ft.

ADDRESS: 2911 Donald Avenue, Zellwood FL 32798

LOCATION: East side of Donald Ave., north of N. Orange Blossom Trl., south of W. Ponkan Rd.

TRACT SIZE: 52 ft. x 152 ft.

DISTRICT#: 2

LEGAL: BECKS ADDITION TO ZELLWOOD Q/124 S 52.6 FT OF LOT 4 BLK A (LESS THE N 6 FT OF E 23 FT OF W 75 FT OF S 52.6 FT OF LOT 4 BLK A)

PARCEL ID#: 27-20-27-0560-01-045

NO. OF NOTICES: 33

Commentaries: One (1) in favor and one (1) in opposition

Staff Recommendation: Staff gave a presentation on the case covering the location, site layout, elevations, floorplan, and photographs. In addition, staff recommended approval of the request subject to the conditions as listed in the staff report.

The following person(s) addressed the Board:

Speaker(s): The applicant waived the right to speak and agreed with the staff recommendation.
Andrea Ledford (Neighbor in favor)

Material was submitted to the Board by the neighbor to be entered into the record prior to the close of the public hearing.

No one spoke in opposition of the request at the public hearing.

BZA Discussion: The BZA stated that this was a good project with interesting circumstances and provided an opportunity to address the standards objectively, and therefore, concurred with the staff recommendation.

BZA Action: A motion was made by Gregory A. Jackson, seconded by Wes A. Hodge and unanimously carried to **APPROVE** the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development in accordance with the site plan dated July 31, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. The applicant shall obtain a demolition permit prior to issuance of a building permit.

AYE (voice vote): All members present

ARACELIA CUEVAS - VA-18-09-119

REQUEST: **Variances** in the R-2 zoning district as follows:
1) Variance to validate a completely enclosed porch 24 ft. from the rear (east) property line in lieu of 25 ft.
2) Variance to validate a lanai with a permanent roof 14 ft. from the rear property line in lieu of 25 ft.
This is the result of code enforcement action.

ADDRESS: 8262 Fort Thomas Way, Orlando FL 32822

LOCATION: Southerly corner of the intersection of Fort Thomas Way and Fort Jefferson Blvd.

TRACT SIZE: 75 ft. x 109 ft. (AVG)/.19 ac.

DISTRICT#: 3

LEGAL: STONEBRIDGE PHASE 1 30/30 LOT 18 BLK B

PARCEL ID#: 14-23-30-8325-02-180

NO. OF NOTICES: 116

Commentaries: Three (3) in favor and none in opposition

Staff Recommendation: Staff explained the history of the property which began with a permit issued in 2004, to construct a screen porch. The porch permit was finalized in 2010. At that time, the applicant hired a contractor to enclose the screen porch who had indicated the original permit was sufficient, which was not correct. Thereafter, the applicant's now ex-husband began constructing an accessory structure in the rear yard without a permit, for which a code violation was issued. That violation was dropped after construction ceased. Further, a lanai was added to the rear of the residence at or around the same period without a permit. The applicant was cited for the work in 2018, along with other improvements made to the property without permits. Lastly, staff recommended denial; however, should the BZA grant the requested variances, staff recommended that conditions in the staff report be attached.

The following person(s) addressed the Board:

Speaker(s): Aracelia Cuevas (Applicant)

Sandra Castano (Translator on behalf of the Applicant)

Kurt Fasnacht (Orange County Code Enforcement Officer)

No one spoke in favor or in opposition of the request at the public hearing.

Through an interpreter, the applicant indicated that they did not know the name of the contractor, as that was eight (8) years ago. Further, the applicant stated that they used the lanai to entertain their large family.

A representative of the Code Enforcement Division indicated that with the exception of the unpermitted enclosure of the screen porch and the unpermitted lanai, all other violations had been resolved.

BZA Discussion: The Board discussed at length the issue of the violations and unpermitted work. Other points of discussion included a need for the applicant to obtain approval of the improvements from their HOA, and the inconsistent color of the roof materials. After a series of votes from recommending partial approval and denial to full denial and/or approval with amended conditions had failed due to lack of a majority vote, at that point the BZA considered the application denied.

BZA Action: A motion was made by Jose A. Rivas, Jr., seconded by Wes A. Hodge, to APPROVE Variance request #1 and DENY Variance request #2, with amended conditions, which **FAILED** on a 3 in favor and 4 opposed vote.

A second motion was made by Eugene Roberson, seconded by Wes A. Hodge to APPROVE Variance request #1 and DENY Variance request #2, with additional amended conditions, which then **FAILED** on a 3 in favor and 4 opposed vote.

A third motion was made by Deborah Moskowitz, seconded by Gregory A. Jackson to DENY both Variance requests, which also **FAILED** on a 2 in favor and 5 opposed vote. A final motion was made by Wes A. Hodge, seconded by Jose A. Rivas, Jr., to APPROVE both Variance requests with additional amended conditions, which **FAILED** on a 3 in favor and 4 opposed vote, in that the Board was unable to make a legally effective recommendation due to lack of the required majority vote.

AYE (voice vote): Jose A. Rivas, Jr., Wes A. Hodge, and Carolyn Karraker

NAY (voice vote): Eugene Roberson, Gregory A. Jackson, Deborah Moskowitz, Jessica Rivera

RECESSED AT 11:30 A.M. AND RECONVENED AT 11:39 A.M.

SANDRA CASTANO - SE-18-09-120

REQUEST: **Special Exception and Variances** in the R-1A zoning District as follows:
1) Special Exception to allow a 600 sq. ft. detached Accessory Dwelling Unit.
2) Variance to allow an existing swimming pool to remain in front of the principal structure in lieu of along the side or behind.
3) Variance to allow an existing swimming pool to remain 24 ft. from the front property line in lieu of 25 ft.
4) Variance to allow an existing shed to remain 4 ft. from the rear property line in lieu of 5 ft.

ADDRESS: 5774 Chipola Circle, Orlando FL 32839
LOCATION: West of Chipola Cir., north of W Oak Ridge Road
TRACT SIZE: 101 ft. x 165 ft. (AVG)
DISTRICT#: 3
LEGAL: FLORIDA SHORES Q/142 LOT 22 BLK G
PARCEL ID#: 22-23-29-2792-07-220
NO. OF NOTICES: 208

Commentaries: Seven (7) in favor and one (1) in opposition

Staff Recommendation: The applicant would like to construct an Accessory Dwelling Unit for her son at the rear of the property. The swimming pool and shed were existing and the variances were needed to validate the existing structures. Staff explained the site, showed site photographs, and presented their recommendation of approval subject to the conditions as listed in the staff report.

The following person(s) addressed the Board:

Speaker(s): Sandra Castano (Applicant)

No one spoke in favor or in opposition of the request at the public hearing.

BZA Discussion: The BZA determined the requests were compatible with the area and approved all of the requests along with conditions in the staff recommendation.

BZA Action: A motion was made by Jose A. Rivas, Jr., seconded by Deborah Moskowitz and unanimously carried to **APPROVE** the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, **APPROVE** the Variance requests, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development in accordance with the site plan dated July 20, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.

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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The Accessory Dwelling Unit (ADU) shall be occupied by an immediate family member for a minimum of three (3) years. The ADU may be occupied by a nonrelative three (3) years after being initially occupied by a relative or after the relative has died, whichever occurs first.
5. The swimming pool shall meet the barrier requirements outlined in the Florida Building Code (R4501.17).
6. The applicant shall provide three (3) parking spaces on site.
7. The applicant shall remove the existing 120 sq. ft. shed on the property before final approval of the ADU.
8. The applicant shall be responsible for payment of all applicable fees and assessments including, but not limited to, impact fees.

AYE (voice vote): All members present

ALMELLIA BROWN - VA-18-09-121

REQUEST: Variance in the R-1A zoning district to permit conversion of an existing screen room into living space with a rear setback of 21 ft. in lieu of 30 ft.
ADDRESS: 4554 Cal Court, Orlando FL 32808
LOCATION: South side of Cal Ct., approximately 250 ft. west of San Jose Blvd.
TRACT SIZE: 80 ft. x 98 ft./ .18 Acres
DISTRICT#: 6
LEGAL: SAN JOSE SHORES 4/97 LOT 50
PARCEL ID#: 17-22-29-7802-00-500
NO. OF NOTICES: 114

Commentaries: Five (5) in favor and none in opposition

Staff Recommendation: Staff explained that the property was platted in 1971. As such, the rear setback was thirty (30) feet. Were the property platted after March 1997, the rear setback would only be twenty-five (25) feet, and the request would be for a much lesser variance. The front of the house is at the minimum twenty-five (25) foot setback line, leaving no room to allow the applicant to expand to accommodate a growing family. Staff indicated there had been several similar variances granted in the same neighborhood in the past including one earlier in 2018, across Cal Court from the subject property, and therefore, granting the variance would not be conferring any special privilege. Further, the applicants were not requesting to expand the footprint of the structure, thus, this was the least variance needed. Furthermore, a sizable rear yard would remain, making the request consistent with the purpose and intent of the Code. Finally, staff recommended approval subject to the conditions as listed in the staff report.

The following person(s) addressed the Board:

Speaker(s): The applicant waived the right to speak and agreed with the staff recommendation.

No one spoke in favor or in opposition of the request at the public hearing.

BZA Discussion: The BZA found that due to the size and depth of the lot, and the fact that there was not any other location on the lot to expand the home, the granting of the request was warranted to include the conditions as recommended in the staff report.

BZA Action: A motion was made by Eugene Roberson, seconded by Wes A. Hodge and unanimously carried to **APPROVE** the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development in accordance with the site plan dated July 18, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.

AYE (voice vote): All members present

HUDSON FORTUNE - SE-18-07-077

REQUEST: **Special Exception and Variances** in the R-CE-2 zoning district as follows:
1) Special Exception: To allow an existing 1 story detached Accessory Dwelling Unit (ADU) to remain.
2) Variance to allow an ADU on a lot with 2.11 acres in lieu of 3 acres.
3) Variance to allow a minimum lot width of 199 ft. in lieu of 250 ft.
This is the result of code enforcement action.

ADDRESS: 11111 Tindall Road, Orlando FL 32832

LOCATION: North of Tindall Rd., southwest of Lake Hart

TRACT SIZE: 200 ft. x 460 ft.

DISTRICT#: 4

LEGAL: W 199.23 FT OF E 387.83 FT OF S 492 FT OF W 889.33 FT OF GOVT LOT 2 IN SEC 28-24-31 (LESS S 30 FT FOR R/W)

PARCEL ID#: 28-24-31-0000-00-031

NO. OF NOTICES: 33

Commentaries: Fifty-five (55) in favor and ten (10) in opposition

Staff Recommendation: Staff explained the area, outlined the zoning district, provided site photographs, and presented a history background on the case. Additionally, staff recommended approval subject to the conditions as set forth in the staff report.

The following person(s) addressed the Board:

Speaker(s): David Fortune (Applicant)
Kevin Maw (Neighbor in favor)
Mary Gill (Neighbor in favor)
Dan Canty (Neighbor in favor)
Tyler Hiatt (Neighbor in favor)
Karen Fortune (Daughter on behalf of the Applicant)

Caroline Randall (Neighbor opposed)

Kurt Fasnacht (Orange County Code Enforcement Officer)

The applicant explained the expansion and conversion of the existing accessory building into an Accessory Dwelling Unit and desired to keep the structure to allow a living unit for their daughter. Material was submitted to the Board by the Code Enforcement Officer to be entered into the record prior to the close of the public hearing.

BZA Discussion: The BZA discussed the alterations made to the original structure and the homestead exemption on the property. Further, the Board discussed the location of the structure and the facts of the case. The BZA determined the ADU met the Special Exception and Variance Criteria and approved the requests to include the conditions as recommended in the staff report.

BZA Action: A motion was made by Jessica Rivera , seconded by Wes A. Hodge and carried to **APPROVE** the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and, to **APPROVE** the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development in accordance with the site plan dated May 8, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The applicant shall obtain a permit for the ADU within ninety (90) days of final approval or this approval becomes null and void.
5. The Accessory Dwelling Unit (ADU) shall be occupied by an immediate family member for a minimum of three (3) years. The ADU may be occupied by a nonrelative three (3) years after being initially occupied by a relative or after the relative has died, whichever occurs first.
6. The applicant shall be responsible for payment of all applicable fees and assessments including, but not limited to, impact fees.

AYE (voice vote): Jessica Rivera, Wes A. Hodge, Gregory A. Jackson, and Carolyn Karraker

NAY (voice vote): Jose A. Rivas, Jr., Eugene Roberson, and Deborah Moskowitz

IGLESIA HISPANA EL CAMINO LA VERDAD Y LA VIDA, INC. - SE-18-07-090

REQUEST: **Special Exception** in the A-1 zoning district to allow a private school (with 55 students) in an existing building on an existing Church property.

ADDRESS: 6837 Lakeville Road, Apopka FL 32703

LOCATION: Between N. Hiawasse Rd. and Lakeville Rd, south of the Apopka Expressway
TRACT SIZE: 9.022-acres
DISTRICT#: 2
LEGAL: LAKEVILLE B/57 LOTS 111 THROUGH 125 & UNNUMBERED PT W OF LOT 125 (LESS PT TAKEN FOR RD R/W PER 4518/4455) INCLUDING VAC ST LYING BETWEEN LOTS 118 & 119 & BETWEEN LOTS 114 & 115 VAC ON O.R. 3479/2354 & (LESS R/W TAKEN PER OR 6250/5391) ALL IN BLK A
PARCEL ID#: 25-21-28-4936-11-110
NO. OF NOTICES: 76
Commentaries: None

Staff Recommendation: Staff gave a presentation on the case covering the location, parking, site layout, floorplan, and photographs. Further, staff recommended approval subject to the conditions as outlined in the staff report.

The following person(s) addressed the Board:

Speaker(s): The applicant was not present at the public hearing.

No one spoke in favor or in opposition of the request at the public hearing.

BZA Discussion: The BZA discussed the case and concurred with the staff recommendation.

BZA Action: A motion was made by Gregory A. Jackson, seconded by Carolyn Karraker and unanimously carried to **APPROVE** the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions:

1. Development in accordance with the site plan dated August 9, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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 Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. If the school converts to a charter school then all requirements of the new school siting ordinance (Ordinance No. 2017-06) shall be met.
5. This approval is for a maximum of fifty-five (55) children, any expansion shall require Board of Zoning Adjustment approval.
6. No more than four (4) outdoor special events per calendar year and the hours of such events shall be limited from 8:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of thirty (30) days prior to the date of each event.
7. All driving aisles and required handicapped spaces shall be paved.

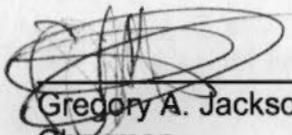
8. Applicant shall obtain a permit to relocate the shed as shown on the site plan.

AYE (voice vote): All members present

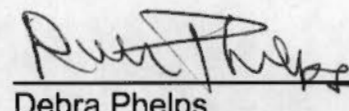
ADJOURN:

There being no further business, the meeting was adjourned at 1:27 p.m.

ATTEST:



Gregory A. Jackson
Chairman



Debra Phelps
Recording Secretary