

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
MEETING OF NOVEMBER 1, 2018**

The Orange County Board of Zoning Adjustment meeting met at 9:00 a.m. on **November 1, 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
Deborah Moskowitz – District #4
Wes A. Hodge – District #5
Eugene Roberson – District #6
Jessica Rivera – At Large

BOARD MEMBERS ABSENT: Jose A Rivas, Jr. – District #3

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 9:02 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 October 4, 2018, Board of Zoning Adjustment meeting.

A motion was made by: Deborah Moskowitz

seconded by: Wes A. Hodge

and unanimously carried to **APPROVE** the minutes of the October 4, 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.

YVONNE LINDSAY FOR FUTURE STARS ACADEMY - SE-18-10-129

REQUEST: **Special Exception** in the P-O zoning district to allow a private school with up to 20 children from grades K through 6th in 1 classroom. This is not a charter school.

ADDRESS: 1101 N. Pine Hills Road, Orlando FL 32808

LOCATION: Northeast corner of N. Pine Hills Rd. and Dolores Dr., approximately .2 miles north of Balboa Dr.

TRACT SIZE: 104 ft. x 132 ft. (AVG); 0.32 acres

DISTRICT#: 6

LEGAL: PINE HILLS MANOR NO 4 S/94 LOT 6 BLK D
PARCEL ID#: 19-22-29-6980-04-060
NO. OF NOTICES: 146

Commentaries: None in favor and five (5) in opposition

Staff Recommendation: Staff outlined the case, explained the request, went over the proposed plan, and submitted the traffic study provided by Transportation Planning. Lastly, 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): Yvonne Lindsay (Applicant)

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

BZA Discussion: The BZA agreed that the change of use would reduce the amount of students and would be compatible and approved the request. As a result, the Board concurred with the staff recommendation.

BZA Action: A motion was made by Eugene Roberson, seconded by Jessica Rivera 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 October 2, 2019 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 a 4 ft. high vinyl fence at the southeast corner adjacent to the proposed parking spaces.
5. Hours of operation shall be limited to 8:00 AM to 6:00 PM, Monday through Friday.
6. The applicant shall submit construction plans through the commercial site plan review process and/or obtain a business tax receipt within 2 years of final approval or this approval is null and void.
7. If the school converts to a charter school then all requirements of the school siting ordinance (Ordinance No. 2017-06) shall be met.
8. No more than twenty (20) children shall be permitted without further approval by the BZA.
9. The applicant shall install a landscape buffer adjacent to Pine Hills Rd which includes a continuous hedge and shade trees every forty (40) feet per section 24-4 (a)(1).

AYE (voice vote): All members present

Absent: Jose A Rivas, Jr.

MIKE FITZPATRICK - VA-18-10-135

REQUEST: Variance in the P-D zoning district to allow placing a generator 1.5 ft. from the side (northerly) property line along side of a new home in lieu of 10 ft.

ADDRESS: 8361 Torcello Isle Drive, Windermere FL 34786

LOCATION: Easterly side of Torcello Dr., approximately 625 ft. southwesterly of Reams Rd.

TRACT SIZE: 51 ft. x 165 ft. (AVG)

DISTRICT#: 1

LEGAL: WINDERMERE ISLE 91/135 LOT 37

PARCEL ID#: 34-23-27-9175-00-370

NO. OF NOTICES: 22

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

Staff Recommendation: Staff noted that the subject property was part of a Planned Development, noting the required setbacks and the fact that the homes could be up to 3-stories tall. It was also noted that the houses in this community had a width, which virtually filled the building footprint width. Further, staff provided a history of how the Zoning Code dealt with permanent generators, noting that in 2016, the setback for generators alongside the residence was reduced from 30 feet to 10 feet. Staff then explained the noise level which the newer generators such as that proposed had dropped significantly from the older models, and even more so than portable generators. Finally, staff concluded that sufficient area exists behind the pool cage to locate the generator in accordance with code.

The following person(s) addressed the Board:

Speaker(s): Ronald Belin, Owner

Mike Fitzpatrick, Applicant's Representative

The applicant provided the BZA with two (2) letters of support. One was from the owner of the home to the south of the subject property, the other was from the owner of the home two (2) lots to the north. They also provided an approval letter from the HOA. The representative of the company selling the generator explained that if the generator was located to the rear of the pool cage, there would be a loss of voltage unless special and much more expensive steps were taken. Finally, they explained that numerous jurisdictions in the Central Florida area have both reduced the setback to five (5) feet separation between generators and neighboring residences, or removed all regulations, instead treating them like other mechanical equipment such as a/c compressors and pool pumps.

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

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

BZA Discussion: The BZA discussed the issues of location, carbon dioxide, and whether this could have exposed a flaw in the code revision that may need to be re-examined. After considerable discussion, a motion and second to recommend denial failed due to a tie vote. A subsequent motion and second to recommend approval also failed. With no revised motion for either approval or denial, the BZA declared a deadlock moving the application forward with a de facto denial.

BZA Action: A motion was made by Carolyn Karraker, seconded by Gregory A. Jackson and carried to **DENY** the Variance request. The motion **FAILED** with a tie vote (3 in favor, 3 opposed, and 1 absent).

Another motion was made by Carolyn Karraker, seconded by Wesley Hodge and carried to **APPROVE** the Variance request. The motion **FAILED** with a **DE FACTO DENIAL** in that the Board was unable to make a legally effective recommendation due to lack of the required majority vote (3 in favor, 3 opposed, and 1 absent) with a tie or split vote.

AYE (voice vote): Wesley A. Hodge, Eugene Roberson, Jessica Rivera

NAY (voice vote): Carolyn Karraker, Gregory A. Jackson, Deborah Moskowitz

Absent: Jose A Rivas, Jr.

CHARLES MARCH - VA-18-11-137

REQUEST: **Variances** in the R-2 zoning district as follows:
1) To allow an existing accessory structure with a 4 ft. rear setback in lieu of 5 ft.
2) To allow an existing accessory structure with a 2.6 ft. side setback in lieu of 5 ft.
Note: This is the result of Code Enforcement action.

ADDRESS: 8120 Bucksaw Drive, Orlando FL 32817

LOCATION: South side of Bucksaw Dr., south of Bates Rd., east of N. Goldenrod Rd.

TRACT SIZE: 62 ft. x 108 ft.; 0.151 acres

DISTRICT#: 3

LEGAL: PINEWOOD VILLAGE 11/54 LOT 13

PARCEL ID#: 13-22-30-7102-00-130

NO. OF NOTICES: 71

Commentaries: Four (4) commentaries in favor and none in opposition

Staff Recommendation: Staff gave a presentation on the case covering the location, site plan, and photographs. Staff recommended denial of this request; however, if the BZA approved the request, the conditions as described in the staff report should be imposed.

The following person(s) addressed the Board:

Speaker(s): Charles March (Applicant)

Kurt Fasnacht (Orange County Code Enforcement Officer)

The applicant stated they hired a company, and the company said they would pull permits, but would not provide said permits when asked. The applicant stated they started construction in 2006, and located the shed where it is because of existing trees.

Code Enforcement stated that an active case had started in 2007, when they observed the construction. The Code Enforcement Board heard the case on December 19, 2007, and established a compliance date of February 17, 2008. The applicant did not comply, documents were sent out, and a fine began accruing daily.

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

BZA Discussion: The BZA inquired as to why other parts of the backyard could not be utilized to meet setbacks. The applicant stated that the permit could not be approved until the easement was vacated. The vacation of the easement took two (2) meetings and over 120 days, during which time Code Enforcement proceeded with the violation. The applicant then stated that they thought everything was lifted after an inspector came out, and they did not know the permit was not approved and that the lien was accruing.

The BZA felt that the applicant initially tried to address the issues, but later quit working towards a resolution. The BZA also confirmed that one (1) lien letter was sent to the applicant. Therefore, the Board denied the request.

BZA Action: A motion was made by Jessica Rivera, seconded by Deborah Moskowitz and unanimously carried to **DENY** the Variance requests in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3) (3 in favor, 2 opposed and 2 absent).

AYE (voice vote): Jessica Rivera, Deborah Moskowitz, Carolyn Karraker

NAY (voice vote): Eugene Roberson and Gregory A. Jackson

Absent: Wesley A. Hodge (temporarily absent) and Jose A Rivas, Jr.

FARRELL DUNCAN - VA-18-11-138

REQUEST: **Variance** in the A-1 zoning district to allow an accessory structure to remain 4 ft. from the side property line in lieu of 5 ft.

ADDRESS: 15102 State Road 438, Winter Garden FL 34787

LOCATION: Southwest corner of W. Oakland Ave. and Tildenville School Rd.

TRACT SIZE: 155 ft. x 340 ft./1.2 acres

DISTRICT#: 1
LEGAL: COMM 663.2 FT W AND 552.2 FT N OF SE COR OF SEC TH CONT N 583 FT FOR POB TH CONT N 170.89 FT +/- TO S R/W LINE OF SR 438 TH E 9.78 FT +/- TH S 10 FT TH E 334.15 FT TO W R/W LINE OF TILDENVILLE SCHOOL RD TH S 160.68 FT +/- TH W 340.97 FT TO POB IN SEC 21-2

PARCEL ID#: 21-22-27-0000-00-035

NO. OF NOTICES: 66

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

Staff Recommendation: Staff noted that the subject property was a part of a rural enclave surrounded by the City of Winter Garden. Since the property was over one (1) acre in size, and being zoned A-1, the applicant was entitled to up to 2,000 sq. ft. of accessory floor area. They did not exceed this amount, even with the carport/storage building. Staff further noted that the subject property was laid out with the home and detached accessory structures concentrated in the southwest corner of the property. While the applicant could relocate the carport/storage structure to the north side of the detached garage, because that structure was mostly open on three (3) sides, the contents would be visible from the public right-of-way. Further, the neighbor to the south was not utilizing the majority of their rear yard, and their home was located far to the east of the structure near Tildenville School Road. Having multiple detached accessory structures on an agriculturally zoned property was very common. Lastly, 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): Nick Asma (Applicant's representative)

A representative for the applicant indicated their agreement with both the staff recommendation and the conditions of approval.

There being no one in attendance to speak in favor or opposition, the public hearing was closed.

BZA Discussion: The BZA determined to concur with the staff recommendation.

BZA Action: A motion was made by Carolyn Karraker, seconded by Eugene Roberson 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 September 4, 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 carport within 120 days of final action on this application by Orange County or this approval becomes null and void.

AYE (voice vote): All member present

Absent: Jose A Rivas, Jr.

SCOTT STUART - SE-18-11-139

REQUEST: **Special Exception** in the A-1 zoning district to allow a woodchipper and yard trash processing facility.
ADDRESS: 3601 Planck Road, Apopka FL 32712
LOCATION: North of Ponkan Rd., west of Golden Gem Rd.
TRACT SIZE: 250 ft. x 250 ft./1.4 ac. of an overall 40 ac. parcel
DISTRICT#: 2
LEGAL: SW1/4 OF NE1/4 SEC 23-20-27
PARCEL ID#: 23-20-27-0000-00-051
NO. OF NOTICES: 96

Commentaries: None in favor and four (4) in opposition

Staff Recommendation: Staff explained the history of the site that being a Class III landfill, which was closed in 2012. The adjacent land uses consisted of another Class III landfill, sand mines, some agricultural operations, and the County Highway Department. There was one residential property abutting the southwest corner of the site. Further, 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): Scott Stuart (Applicant)
Robert Coschignano (Neighbor opposed)
William Bryant (Neighbor opposed)
Marvin Barrett (Neighbor opposed)

The applicant described the nature of the operation as using a portable grinder 3 to 4 days a week for 6 to 7 hours, intermittently, to grind tree trimmings generated by the Company's landscape business. They would not be accepting materials from any other sources, and the public would not be allowed to enter the site to either purchase mulch or drop off materials.

There were three (3) persons present to speak in opposition to the project. One expressed concern based on the clearing of property adjacent to theirs which was now used as a sand mine. Another resident was on the board of a large residential community located over 1/2 mile south of the subject property, and the other representing the owners of an adjacent property. All were concerned with noise, odor, and increased truck traffic.

No one spoke in favor to this request at the public hearing.

BZA Discussion: The BZA discussed the case, noting that perhaps a Community Meeting may be in order for this case. An agreement was made between the applicant and the Board to continue this request to the schedule a Community Meeting.

BZA Action: A motion was made by Gregory A. Jackson, seconded by Wes A. Hodge and unanimously carried to **CONTINUE** to the January 3, 2019 BZA Meeting.

AYE (voice vote): All members present

Absent: Jose A Rivas, Jr.

LINETTE SALAS GONZALEZ - VA-18-11-140

REQUEST: **Variances** in the R-T-1 zoning district to allow a new manufactured home as follows:
1) To allow a front setback of 23 ft. in lieu of 25 ft.
2) To allow a rear setback of 20 ft. in lieu of 25 ft.
ADDRESS: 6925 Salinas Drive, Orlando FL 32822
LOCATION: North of Salinas Dr., west of Mediterranean Rd.
TRACT SIZE: 136 ft. x 100 ft. (AVG)
DISTRICT#: 3
LEGAL: LYNNWOOD ESTATES 4/127 LOT 3 BLK G & IN LYNNWOOD ESTATES 1ST ADDITION PB 5/60 ELY 5 FT OF LOT 42 BLK D
PARCEL ID#: 15-23-30-5304-07-030
NO. OF NOTICES: 143

Commentaries: Two (2) in favor and none in opposition

Staff Recommendation: The applicant was proposing to construct a new mobile home on an existing lot. The front corner of the house encroaches on the setback and the back of the house encroaches five (5) feet into the rear setback. If the property were platted after 1997, no variances would be required as the setback would be twenty (20) feet. Staff explained that a variance was merited due to the shape of the lot and the existing trees on site. Finally, staff recommended approval of the request subject to the conditions as listed in the staff report.

The applicant agreed with staff's presentation and no one spoke in favor or in opposition of the project.

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 opposition to this request at the public hearing.

BZA Discussion: The BZA agreed the request was reasonable and approved the request with the staff recommendation.

BZA Action: A motion was made by Deborah Moskowitz, seconded by Carolyn Karraker 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 September 21, 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

Absent: Jose A Rivas, Jr.

WILLIAM DAVIS - VA-18-11-142

REQUEST: Variance in the R-1AA zoning district to enclose existing screen porch (with existing structural roof) to make living space 35 ft. from NHWE in lieu of 50 ft.

ADDRESS: 2424 Overlake Avenue, Orlando FL 32806

LOCATION: South side of Overlake Ave., east of Bayfront Pkwy., east of S. Bumby Ave.

TRACT SIZE: 80 ft. x 160 ft. (AVG)/.239 Acres

DISTRICT#: 3

LEGAL: WATERFRONT ESTATES 1ST ADDITION U/68 LOT 3 BLK E

PARCEL ID#: 07-23-30-9052-05-030

NO. OF NOTICES: 113

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

Staff Recommendation: Staff explained that the house was built in 1959, and was located 51 feet back from the front property line, as opposed to 30 feet, which is the normal setback in R-

1AA. The applicant purchased the home in June of this year. The variance was not self-imposed in that the house was purchased 'as is'. The applicant would be constructing a small amount of additional floor area; however, this addition would not encroach any closer to the Normal High Water Elevation (NHWE). This location was the only logical place where an addition could be constructed due to the lot width and the placement of the home. As such, 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): William Davis (Applicant)

The applicant noted that they had provided letters of support from most of the neighbors on the street. Staff confirmed that and apologized for the omission.

There being no one in attendance to speak on this application, the public hearing was closed.

BZA Discussion: The BZA found that this application warranted a recommendation of approval to include the stipulated conditions.

BZA Action: A motion was made by Deborah Moskowitz, 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 September 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. 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 sunroom is no closer than thirty-six (36) feet and the existing residence forty-five (45) feet from the Normal High Water Elevation of the canal leading to Lake Conway.
5. The exterior of the sunroom shall match or compliment the exterior of the existing residence with respect to color.

AYE (voice vote): All members present

Absent: Jose A Rivas, Jr.

WENDY HOFFMAN-PERSONS - VA-18-11-145

REQUEST: Variance in the R-1A zoning district to allow a cumulative total of 696.2 sq. ft. of accessory structures in lieu of 500 ft.

ADDRESS: 2222 Rose Blvd., Orlando FL 32839

LOCATION: South side of Rose Blvd. east of Texas Ave., north of W Oak Ridge Rd.

TRACT SIZE: 75 ft. x 135 ft.; 0.232 acres

DISTRICT#: 6

LEGAL: ORANGE BLOSSOM TERRACE R/144 LOT 6 BLK F
PARCEL ID#: 22-23-29-6208-06-060
NO. OF NOTICES: 126

Commentaries: Two (2) commentaries in favor and none in opposition

Staff Recommendation: Staff gave a presentation on the case covering the location of the property, site plan, and photographs of the site. Further, staff recommended approval of the request subject to the conditions as described in the staff report.

The following person(s) addressed the Board:

Speaker(s): Brian Paul (Applicant's representative)

The applicant agreed with the staff presentation but asked to not be required to provide an improved surface from the street to the garage, and proposed to provide an improved surface leading from the road to the fence that enclosed the rear yard.

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

BZA Discussion: The BZA questioned condition #4, which required to provide an improved surface from the street to the garage. The BZA approved the variance with the staff recommendation to include an amended condition #4, to read, "An improved surface leading from the road to the fence that encloses the rear yard shall be required."

BZA Action: A motion was made by Eugene Roberson, seconded by Deborah Moskowitz 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 as amended:

1. Development in accordance with the site plan dated September 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. An improved surface leading from the road to the fence that encloses the rear yard shall be required.
5. The applicant shall obtain a permit for the existing shed.

AYE (voice vote): All members present

Absent: Jose A Rivas, Jr.

KENNETH PATTERSON - SE-18-11-146

REQUEST: **Special Exception and Variances** in the R-1A zoning district as follows:

- 1) Special Exception: To allow a religious use facility.
- 2) Variance: To allow a front setback of 10 ft. in lieu of 25 ft.
- 3) Variance: To allow unpaved parking spaces in lieu of paved.
- 4) Variance: To allow 22 parking spaces to be located off-site in lieu of on-site.
- 5) Variance: To allow a building setback of 45 ft. from the centerline of an

urban minor arterial street in lieu of 60 ft.

6) Variance: To allow a paving setback of 39 ft. from the centerline of an urban minor arterial street in lieu of 55 ft.

ADDRESS: 4421 S. Rio Grande Avenue, Orlando FL 32839
LOCATION: Northeast corner S. Rio Grande Ave., and 45th St.
TRACT SIZE: 96 ft. x 144 ft.; 0.317 acres
DISTRICT#: 6
LEGAL: OHIO HOMESITES FIRST UNIT K/120 THE N1/2 OF LOTS 13 & 14 BLK E
PARCEL ID#: 10-23-29-6152-05-131
NO. OF NOTICES: 140
Commentaries: None

Staff Recommendation: Staff explained the site, showed site photographs, submitted the traffic study, and went over the requested parking agreement. Furthermore, 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): Kenneth Patterson (Applicant) agreed with the staff recommendation and was available for any questions.

No one was present at the public hearing to speak for or against this request.

BZA Discussion: The BZA felt the request was compatible at this location and approved the special exception and variances with the staff recommendation.

BZA Action: A motion was made by Eugene Roberson, 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 further, 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 September 27, 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 combine parcel ID's 10-23-29-6152-05-131 and 10-23-29-6152-05-132 through the property appraiser's office.
5. 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.

6. On-site grass parking spaces may be allowed. However, all required handicapped spaces and driving aisles shall be paved.
7. No outdoor speakers or other audio amplification.
8. Signage shall be in accordance with 31.5-75, Orange County Code.
9. Construction plans shall be submitted within three (3) years of final approval or this approval becomes null and void.
10. A six (6) foot high vinyl fence shall be constructed along the north and east property lines. The fence on the north property line shall terminate ten (10) feet from the westerly property line. The fence on the east property line shall be limited to four (4) feet tall in the required front yard setback.
11. Prior to the issuance of permits for the project, the applicant must provide a signed, notarized, and recorded shared parking agreement, accompanied by a written detailed description of the activities which take place on each property on which days of the week and at what times.

12. Landscape buffers shall be provided as shown on the site plan dated September 27, 2018.

AYE (voice vote): All members present

Absent: Jose A Rivas, Jr.

LISA REMBERT - VA-18-11-147

REQUEST: Variance in the R-2 zoning district to allow a front setback of 21 ft. in lieu of 25 ft.

ADDRESS: Old Winter Garden Road, Orlando FL 32835

LOCATION: North side of Old Winter Garden Rd., east of S. Apopka Vineland Rd.

TRACT SIZE: 90 ft. x 100 ft. (AVG); 0.211 acres

DISTRICT#: 6

LEGAL: JOSLIN GROVE PARK O/86 LOTS 22 23 & 24 BLK D & VAC RD R/W E OF LOT 24 BLK D (LESS R/W PER 3259/1679)

PARCEL ID#: 27-22-28-4052-04-220

NO. OF NOTICES: 107

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

Staff Recommendation: Staff gave a presentation on the case covering the location of the property, site plan, and photographs of the site. Additionally, 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): The applicant waived the right to speak and agreed with the staff recommendation.

BZA Discussion: The BZA noted the indentation of the property and recognized that this issue was not self-created. As a result, the BZA approved the variance with the staff recommendation.

BZA Action: A motion was made by Eugene Roberson, 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 dated September 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.

AYE (voice vote): All members present

Absent: Jose A Rivas, Jr.

CHRIS BROSCHE - VA-18-11-148

REQUEST: Variance in the IND-2/IND-3 zoning district to allow for a cement silo with a height of 63 ft. in lieu of 50 ft.

ADDRESS: 6731 Edgewater Drive, Orlando FL 32810

LOCATION: North side of Edgewater Drive, West of Magnolia Homes Road, south of railroad

TRACT SIZE: 127 ft. x 195 ft. (AVG)

DISTRICT#: 2

LEGAL: BEG 149.6 FT N 59 DEG W OF SE COR OF SW1/4 OF NE1/4 TH CONT N 59 DEG W 119.46 FT N 12 DEG E 224.45 FT TO SLY R/W OF SCL RR TH S 73 DEG E 189.92 FT S 29 DEG W 259.24 FT TO POB SEC 32-21-29 (LESS RD R/W ON S)

PARCEL ID#: 32-21-29-0000-00-237

NO. OF NOTICES: 75

The following person(s) addressed the Board:

Speaker(s): The applicant at the public hearing **WITHDREW** this case.

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

BZA Discussion: The applicant submitted documentation before the Board reflecting the actual height of the structure was 37 feet not 63 feet; therefore, the variance was not required. The applicant stated the correct height on the record; and, the BZA recognized the variance was not required since the proposed structure met the code requirement.

BZA Action: A motion was made by Gregory A. Jackson, seconded by Wes A. Hodge and unanimously carried to **WITHDRAW** this case from a public hearing.

AYE (voice vote): All members present

Absent: Jose A Rivas, Jr.

CRAIG SWARTHOUT - VA-18-11-150

REQUEST: Variance in the R-1A zoning district to allow a cumulative total of 906 sq. ft. of accessory structures in lieu of 500 ft.

ADDRESS: 1915 Dorris Drive, Orlando FL 32807

LOCATION: East side of Dorris Dr., approximately .2 miles north of E. Colonial Drive

TRACT SIZE: 120 ft. x 511 ft. (1.4 Acres)

DISTRICT#: 5

LEGAL: W 541 FT OF S 120 FT OF N 218 FT OF SE1/4 OF SW1/4 (LESS W 30 FT RD R/W) OF SEC 14-22-30 SEE 2427/1746

PARCEL ID#: 14-22-30-0000-00-112

NO. OF NOTICES: 89

Commentaries: None

Staff Recommendation: Staff gave a presentation on the case covering the location of the property, site plan, and photographs of the site. 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): Craig Swarthout (Applicant)

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

BZA Discussion: The BZA determined to approve the variance with the staff recommendation.

BZA Action: A motion was made by Wes A. Hodge, 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 dated September 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.

AYE (voice vote): All members present

Absent: Deborah Moskowitz and Jose A Rivas, Jr.

MATTHEW MORRISON - VA-18-11-151

REQUEST: **Variance** in the R-1AA zoning district to allow a fence within 50 ft. of the NHWE that is 6 ft. tall in lieu of 4 ft. tall. Property abuts a canal that connects to Lake Conway.

ADDRESS: 2400 Rob Lane, Orlando FL 32806

LOCATION: North side of Gatlin Ave., at the southeast corner of S. Bumby Ave. and Rob Ln.

TRACT SIZE: 90 ft. x 176 ft. (AVG) (.36 Acres)

DISTRICT#: 3

LEGAL: WATERFRONT ESTATES 4TH ADDITION U/89 LOT 1 BLK F SEE 2344/843

PARCEL ID#: 07-23-30-9064-06-010

NO. OF NOTICES: 75

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

Staff Recommendation: Staff explained that the subject property was on a canal which fed into Lake Conway. As a result, any fencing within 50 feet of the Normal High Water Elevation (NHWE), was to be no higher than 4 feet in height. There was an existing six (6) foot tall wooden fence which had been installed with a valid permit; however, since its installation, the code had changed to ensure that neighbors do not block one another's views with fencing. Nonetheless, the applicant was at the end of the canal, and could not block anyone's view. In addition, without a fence with a height greater than four (4) feet, the applicant's right to privacy would be violated. Lastly, staff recommended approval of the request subject to the conditions

as described in the staff report.

The following person(s) addressed the Board:

Speaker(s): The applicant had advised staff that they had a prior engagement which they could not miss, and given the hour, they had to leave.

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

BZA Discussion: The BZA found that the need for a variance had been adequately demonstrated. Therefore, the Board concurred with the staff recommendation.

BZA Action: A motion was made by Carolyn Karraker, seconded by Jessica Rivera 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 September 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.

AYE (voice vote): All members present

Absent: Jose A Rivas, Jr.

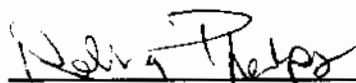
ADJOURN:

There being no further business, the meeting was adjourned at 12:37 p.m.

ATTEST:



Gregory A. Jackson
Chairman



Debra Phelps
Recording Secretary