

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
MEETING OF FEBRUARY 4, 2021**

The Orange County Board of Zoning Adjustment meeting met at 9:00 a.m. on **February 4, 2021** 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: Thomas Moses - District #1
John Drago - District #2
Juan Velez - District #3
Deborah Moskowitz (Chair) - District #4
Wes A. Hodge (Vice Chair) - District #5
Charles J. Hawkins, II - District #6
Roberta Walton - At Large

STAFF PRESENT: Ted Kozak, AICP, Chief Planner, Zoning Division
Nick Balevich, Planner II, Zoning Division
David Nearing, AICP, Planner II, Zoning Division
Joy Carmichael, Assistant County Attorney
Debra Phelps, Recording Secretary, FOS Division
Shamaka Daniels, Development Specialist, FOS Division

The Chair called the meeting to order at 9:01 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 Chair requested a motion approving the minutes of the January 7, 2021, Board of Zoning Adjustment meeting.

A motion was made by: Juan Velez

seconded by: Wes A. Hodge

and unanimously carried to **APPROVE** the minutes of the January 7, 2021 hearing.

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

VINE STREET, LLC (REBECCA WILSON) - VA-21-02-139

REQUEST: **Variances** in the R-2 zoning district to allow for conversion of an existing 877 sq. ft. structure to residential as follows:

- 1) To allow 2,400 sq. ft. of lot area in lieu of 4,500 sq. ft.
- 2) To allow for a minimum living area of 877 sq. ft. in lieu of 1,000 sq. ft.
- 3) To allow a residence to be located 4 ft. from the south rear property line in lieu of 25 ft.
- 4) To allow a residence to be located 3 ft. from the west side property line in lieu of 6 ft.
- 5) To allow a residence to be located 12.8 ft. from the north front property line in lieu of 25 ft.

ADDRESS: 2218 Vine St., Orlando, FL 32806
LOCATION: South side of Vine St., west of S. Bumby Ave., north of Curry Ford Rd.
TRACT SIZE: 40 ft. x 60 ft./ 0.06 acres (2,400 sq. ft.)
DISTRICT#: 3
LEGAL: CONWAY PARK N/41 E 60 FT OF LOTS 31 & 32 BLK E
PARCEL ID#: 31-22-30-1684-05-313
NO. OF NOTICES: 138

Commentaries: Two (2) in favor and one (1) in opposition.

Staff Recommendation: Staff briefly described the property to include the year the parcel was platted, the year the existing structure was constructed, the history of how the property was conveyed and utilized prior to 2014, and the circumstances which resulted in the current parcel configuration. Staff further presented the plans and elevations for the proposed conversion to a residence. Lastly, 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): Rebecca Wilson (Applicant)

No one was present to speak in favor or in opposition to the requests at the public hearing.

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

BZA Action: A motion was made by Juan Velez, seconded by John Drago and unanimously carried to recommend **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development shall be in accordance with the site plan and elevations dated December 30, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit to convert the structure to residential shall be obtained within 2 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

AYE (voice vote): All members present

SUGEY LIBRADO - VA-20-12-114

REQUEST: **Variance** in the A-2 zoning district to allow a 400 sq. ft. existing addition located 41 ft. from the south rear property line in lieu of 50 ft.
This is the result of Code Enforcement action.

ADDRESS: 10644 Kirby Smith Rd., Orlando, FL 32832

LOCATION: South side of Kirby Smith Rd., east of Narcoossee Rd.

TRACT SIZE: 0.49 acres (21,775 sq. ft.)

DISTRICT#: 4
LEGAL: COMM NW COR OF SE1/4 OF SEC 17-24-31 RUN S00-00-00W 30.46 FT TO S R/W LINE OF KIRBY SMITH RD TH N89-11-06E 847.58 FT TO POB TH N89-49-19E 105.10 FT S00-04-40W 208.07 FT N89-55-09W 105.11 FT N00-04-51E 207.60 FT TO POB
PARCEL ID#: 17-24-31-0000-00-025
NO. OF NOTICES: 26
Commentaries: None

Staff Recommendation: Staff discussed the proposal covering the location of the property, survey, site plan, floor plans and elevations, and photographs of the site. Lastly, staff recommended denial; however, should the BZA grant the variance request, staff recommended that the approval be subject to the conditions as outlined in the staff report.

The following person(s) addressed the Board:

Speaker(s): Sugey Librado (Applicant)
Megan Marshall (Code Enforcement Officer)

No one was present to speak in favor or in opposition to the request at the public hearing.

BZA Discussion: The BZA inquired about if the applicant could revise the design of the said addition, which the applicant indicated could be done. However, they would need to have the architect redesign the drawings and hire a contractor to perform the work which would include partial demolition of the addition. Based on the foregoing, the BZA recommended approval of this request subject to the conditions as set forth in the staff report.

BZA Action: A motion was made by Deborah Moskowitz, seconded by Juan Velez and unanimously carried to recommend **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development shall be in accordance with the site plan and elevations dated December 18, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 180 days of final action on this application by Orange County, or this approval is null and void. The Zoning Manager may extend the time limit if proper justification is given for such an extension.
5. The exterior of the addition shall match the exterior of the existing residence.

AYE (voice vote): All members present

BONNIE KINNEY - VA-21-02-133

REQUEST: **Variances** in the R-2 zoning district as follows:
1) To allow an existing 1,536 sq. ft. residence to remain with a lot width of 44 ft. at the front building line in lieu of 45 ft.

- 2) To allow a 306 sq. ft. addition to a residence with a rear setback of 7 ft. in lieu of 25 ft.

ADDRESS: 2675 Newbolt Dr., Orlando, FL 32817
LOCATION: Southwest side of Newbolt Dr., southwest of N. Econlockhatchee Trl., east of SR 417
TRACT SIZE: 0.19 acres (8,363 sq. ft.)
DISTRICT#: 5
LEGAL: ARBOR RIDGE WEST UNIT 8 29/125 LOT 407
PARCEL ID#: 18-22-31-0209-04-070
NO. OF NOTICES: 122

Commentaries: Fifteen (15) in favor and none in opposition.

Staff Recommendation: Staff described the proposal to include the location of the property, lot size, site plan and elevations, and photographs of the site. Further, staff recommended approval of Variance request #1, subject to the conditions in the staff report; and, denial of the Variance request #2. However, should the BZA grant Variance request #2, staff recommended that the approval be subject to the conditions as identified in the staff report.

The following person(s) addressed the Board:

Speaker(s): Bonnie Kinney (Applicant)
Kevin Kinney (Son on behalf of applicant)

No one was present to speak in favor or in opposition to the requests at the public hearing.

BZA Discussion: The BZA concluded that the special conditions and circumstances particular to this property was a direct result of extreme uniqueness of the lot shape; the applicant was not responsible for the current configuration and location of the preexisting house when purchased; without the approval of variances, the applicant would be deprived of their right to construct the required home addition; the unique lot size was established by the plat, and hence, approving the variances would be the minimum required; and, the purpose and intent was satisfied with the approval of the variances since the proposal was consistent with the neighborhood. For these reasons, the BZA recommended approval of the requests subject to the conditions as listed in the staff report.

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

1. Development shall be in accordance with the site plan dated November 25, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 1 year of final action on this application by Orange County, or this approval is null and void. The Zoning Manager may extend the time limit if proper justification is given for such an extension.
5. The exterior of the addition shall match the materials and colors of the existing. Painted block

shall not be permitted.

AYE (voice vote): All members present

BOLIVAR PLUAS (RONALD SIKES) - VA-21-02-135

REQUEST: Variance in the R-1 zoning district to allow an existing ADU to be located 3.9 ft. from a proposed new east rear property line resulting from a proposed subdivision in lieu of 5 ft.

ADDRESS: 427 1st St., Ocoee, FL 34761

LOCATION: East side of 1st St. and west side of Whittier Ave., north of E. Silver Star Rd. and south of Nay Ave.

TRACT SIZE: 125 ft. x 270 ft./ 0.77 acres (33,750 ft.)

DISTRICT#: 2

LEGAL: HILLCREST HEIGHTS M/98 LOTS 6 7 12 & 13 & S 25 FT OF LOTS 8 & 11 BLK D

PARCEL ID#: 17-22-28-3624-04-060

NO. OF NOTICES: 121

Commentaries: None

Staff Recommendation: Staff described the proposal to include the location of the property, history of the site including the original platted lot configuration, current parcel size, proposed subdivision plan, and photographs of the site. Staff further stated that the City of Ocoee had no objection to the request. Lastly, staff recommended denial; however, should the BZA grant the variance request, staff recommended that the approval be subject to the conditions as outlined in the staff report.

The following person(s) addressed the Board:

Speaker(s): Ronald Sikes (Applicant)
Joanna Pluas (daughter on behalf of the applicant)

No one was present to speak in favor or in opposition to the request at the public hearing.

BZA Discussion: The BZA concluded that the special conditions and circumstances particular to this lot was a direct result of the existence of the current structures being located within the border of the lot prior to any adopted zoning regulations; the applicant was not responsible for the current location of each structure on the lot because the structures were built prior to any established zoning district; approval of this variance would not confer any special privilege to the applicant as compared to others in the same area and zoning district in order to maintain the current larger structure as a single family residence and the smaller structure as an accessory dwelling unit which was permitted in the R-1 zoning district; without approval of this variance, the applicant would be deprived of their right to enjoy the use of the existing accessory dwelling unit; this request would be the minimum variance required to allow the applicant to own and maintain the accessory dwelling unit in its current location; and, the purpose and intent was satisfied with the variance approval to cure lot configurations for residents to lawfully possess an accessory dwelling unit. Finally, the BZA recommended approval of this request subject to the conditions as described and condition #4, as amended, in the staff report.

BZA Action: A motion was made by John Drago, seconded by Thomas Moses and carried to recommend **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended:

1. Development shall be in accordance with the site plan dated December 4, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).

2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from

a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. The applicant shall complete the proposed subdivision within two (2) years of final action by Orange County on this application, or the approval shall be null and void. The Zoning Manager may extend the time limit if proper justification is given for such an extension.

AYE (voice vote): Thomas Moses, John Drago, Roberta Walton, Charles J. Hawkins, II; and Deborah Moskowitz

NAY (voice vote): Juan Velez and Wes A. Hodge

ROGER ANDERSON - VA-21-02-137

REQUEST: **Variance** in the R-2 zoning district to allow an existing 8 ft. high masonry wall in the front yard in lieu of 4 ft.
This is the result of Code Enforcement action.

ADDRESS: 9304 E. Colonial Dr., Orlando, FL 32825

LOCATION: East of Dearmont Ave., south of E. Colonial Dr.

TRACT SIZE: 1.3 acres

DISTRICT#: 3

LEGAL: COLONIAL LAKES 1ST ADDITION 35/138 LOT 1 & BEG NE COR LOT 1 TH RUN E 74.51 FT S 40 FT W 74.58 FT N 40 FT TO POB

PARCEL ID#: 19-22-31-0000-00-002

NO. OF NOTICES: 109

Commentaries: None

Staff Recommendation: Staff explained the history of the property to include the location of the property and the location of the existing 8 ft. high wall used for screening, the survey and the existing easements, wall detail, and photographs of the site. Staff noted the owner received a permit for the wall in 2001, but no final inspection was scheduled and the permit subsequently expired. Staff received a letter from the adjacent HOA in support of the variance. Lastly, 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): Roger Anderson (Applicant)
Megan Marshall (Code Enforcement Officer)

No one was present to speak in favor or in opposition to the request at the public hearing.

BZA Discussion: The BZA concluded that given the number of years that the wall existed wherein the County had permitted, and the support of the adjacent HOA, the BZA was in agreement with the staff recommendation.

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

1. Development shall be in accordance with the survey and elevations dated January 22, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).

2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. A permit shall be obtained within 1 year of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. Prior to issuance of a permit, the applicant shall provide an executed Acknowledgement of Easement Form to the Public Works Department.

AYE (voice vote): All members present

CARRIGAN REALTY, INC. (CUTTER SMYTH) - VA-21-02-142

REQUEST: **Variance** in the A-2 zoning district to permit a mobile home with 784 sq. ft. of living area in lieu of 850 sq. ft.
This is the result of Code Enforcement action.

ADDRESS: 401 N. Fort Christmas Rd., Christmas, FL 32709

LOCATION: East side of N. Fort Christmas Rd., north of E. Colonial Dr. and south of Christmas Cemetery Rd.

TRACT SIZE: 3.65 acres

DISTRICT#: 5

LEGAL: COMM NW COR OF NE1/4 SEC 28-22-33 TH S00-19-21W ALONG W LINE OF NE1/4 OF SAID SEC 28 922.68 FT TH S89-08-23E 30 FT TO PT ON E R/W LINE OF NORTH FORT CHRISTMAS ROAD AND THE POB TH S89-27-47E 620.22 FT TH S00-30-58W 302 FT TH N89-26-42W 319.12 FT TH N00-14-

PARCEL ID#: 28-22-33-0000-00-006

NO. OF NOTICES: 19

Commentaries: Two (2) in favor and one (1) in opposition.

Staff Recommendation: Staff explained the history of the property, location of the property, site plan, details of the existing mobile home and accessory structure, and photographs of the site. Further, staff recommended denial; however, should the BZA grant the variance request, staff recommended that the approval be subject to the conditions as outlined in the staff report.

The following person(s) addressed the Board:

Speaker(s): Cutter Smyth (Applicant's representative)

Bob Carrigan (in Favor)

Miriam Williams (Opposed)

Jason Trochessett (Opposed)

Ron Cartis (Opposed)

Illena Trochessett (Opposed)

Megan Marshall (Code Enforcement Officer)

BZA Discussion: The BZA recognized that the owner had no control over the mobile home size and the request was the minimum required. The BZA recommended approval of this request subject to the four (4) conditions in the staff report and added Condition #5, which states "This approval is for the existing mobile home only. Any replacement unit shall comply with the minimum living area in effect for a residence for this zoning district at that time."

BZA Action: A motion was made by Wes A. Hodge, seconded by Juan Velez and unanimously

carried to recommend **APPROVAL** of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended:

1. Development shall be in accordance with the site plan dated December 9, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the shed and mobile home shall be obtained within 1 year of final action on this application by Orange County, or this approval is null and void. The Zoning Manager may extend the time limit if proper justification is given for such an extension.
5. This approval is for the existing mobile home only. Any replacement unit shall comply with the minimum living area in effect for a residence for this zoning district at that time.

AYE (voice vote): All members present

RECESSED AT 11:18 A.M. AND RECONVENED AT 11:32 A.M.

**WINDERWEEDLE, HAINES, WARD AND WOODMAN, PA. (NICOLE CAROLAN) –
VA-21-02-136**

REQUEST:	Variances in the R-1A zoning district as follows: 1) To allow an existing 5,949 sq. ft. house to remain at 23.7 ft. from the NHWE in lieu of 50 ft. 2) To allow an existing 1,408 sq. ft. garage to remain with a south side setback of 3.1 ft. in lieu of 7.5 ft. 3) To allow an existing 120 sq. ft. accessory structure (covered wood deck) to remain with a north side setback of 3.5 ft. in lieu of 5 ft. This is the result of Code Enforcement action.
ADDRESS:	5595 Hansel Ave., Orlando, FL 32809
LOCATION:	East of Hansel Ave., north of Hoffner Ave., on the west side of Lake Conway.
TRACT SIZE:	0.71 acres (31,010 sq. ft.)
DISTRICT#:	3
LEGAL:	SUB OF HARNEY HOMESTEAD C/53 BEG 1642.55 FT N OF CENTER OF SEC RUN N 77-06 E 397 FT TO LAKE CONWAY RUN N 75 FT S 77-06 W 397 FT S 75 FT TO BE & BEG 1642.55 FT N OF CENTER OF SEC RUN N 77 DEG E 225 FT TO POB TH N 77 DEG E 200 FT TO LAKE RETURN TO POB RUN S
PARCEL ID#:	24-23-29-3400-00-016
NO. OF NOTICES:	409
<u>Commentaries:</u>	Four (4) in favor and two (2) in opposition.

Staff Recommendation: Staff described the proposal to include the location of the property, site plan, and photographs of the site. Lastly, staff recommended approval of Variance requests #1 and #2, subject to the conditions in the staff report; and, denial of the Variance request #3. However, should the BZA grant Variance request #3, staff recommended that the approval be subject to the conditions as identified in the staff report.

The following person(s) addressed the Board:

Speaker(s): Trippe Cheek (Applicant's representative)

Beverly Norberg (in Favor)

Megan Marshall (Code Enforcement Officer)

There was no one in attendance to speak in opposition to the requests at the public hearing.

BZA Discussion: The BZA inquired as to how difficult it would be to move the covered wood deck. The BZA also recognized that the most affected neighbor to the north was in support of the request. Further, the BZA discussed the addition of a 6th condition pertaining to any future replacement of the accessory structure to meet code requirements. Based on the foregoing, the BZA recommended approval of the variances, subject to the five (5) conditions in the staff report, and added Condition #6, which states "Approval of variance #3 is for the existing structure only. Any modification or replacement shall comply with minimum setbacks for the zoning district."

BZA Action: A motion was made by Juan Velez, seconded by John Drago and unanimously carried to recommend **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended:

1. Development shall be in accordance with the site plan and elevations dated December 18, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).

2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. Permits shall be obtained for all unpermitted work within 1 year of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that: the 2 story attached rear deck is located no closer than 34.2 feet, and the house is located no closer than 23.7 feet from the Normal High Water Elevation (NHWE) of Lake Conway.

6. Approval of variance #3 is for the existing structure only. Any modification or replacement shall comply with minimum setbacks for the zoning district.

AYE (voice vote): All members present

TD LAKE BUENA VISTA HOTEL, LLC (JAMES L. MOORE) - VA-21-03-140

REQUEST: **Variances** in the C-1 zoning district as follows:

- 1) To allow a laundry room expansion with an east front setback of 15.7 ft. in lieu of 25 ft.
- 2) To allow the existing hotel building to remain with an east front setback of 22.9 ft. in lieu of 25 ft.

ADDRESS: 12490 S. Apopka Vineland Rd., Orlando, FL 32836
LOCATION: West side of S. Apopka Vineland Rd., south of Winter Garden Vineland Rd.
TRACT SIZE: 3.84 acres
DISTRICT#: 1
LEGAL: LIVENGOD PARK AT VINELAND Q/64 BEG 30 FT N OF SW COR OF NW1/4 RUN N 299.4 FT E 300.17 FT S 10 DEG E 60.58 FT E 225 FT S 10 DEG E 233.06 FT W 576.54 FT TO POB & NLY 30 FT OF VAC RD ON S BEING PT OF TRACT 2
PARCEL ID#: 22-24-28-5112-00-021
NO. OF NOTICES: 27

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

Staff Recommendation: Staff described the proposal to include the location of the property, site plan, and photographs of the site. Further, staff recommended approval subject to the conditions as outlined in the staff report.

The following person(s) addressed the Board:

Speaker(s): James L. Moore (Applicant's representative)

No one was in attendance to speak in favor or in opposition to the requests at the public hearing.

BZA Discussion: The BZA confirmed that the industry standard was to have on-site laundry. The BZA discussed the objection stated by the neighbor to the north, of impeded visibility, and recognized that the requested structure was further back from the front than the existing wall which would be removed. Based on the foregoing, the BZA recommended approval of these requests subject to the conditions as listed in the staff report.

BZA Action: A motion was made by Thomas Moses, seconded by Roberta Walton and unanimously carried to recommend **APPROVAL** of the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development shall be in accordance with the site plan and elevations dated December 9, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 3 years of final action on this application by Orange County, or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

AYE (voice vote): All members present

REQUEST: **Variances** in the PD zoning district as follows:
1) To allow an 8 ft. high wall within the 50 ft. setback from the Normal High Water Elevation (NHWE) in lieu of 4 ft. high.
2) To allow a west side setback of 0.5 ft. for a pergola in lieu of 5 ft.
3) To allow an east side setback of 2 ft. for a pergola in lieu of 5 ft.
4) To allow an east side setback of 0.5 ft. for a summer kitchen in lieu of 5 ft.
5) To allow an east side setback of zero for pool deck in lieu of 5 ft.
6) To allow a west side setback of zero for a pool deck in lieu of 5 ft.

ADDRESS: 8102 Firenze Blvd., Orlando, FL 32836

LOCATION: South side of Firenze Blvd. on the north side of Big Sand Lake, 750 ft. west of The Esplanade.

TRACT SIZE: 0.26 acres (11,326 sq. ft.)

DISTRICT#: 1

LEGAL: VIZCAYA PHASE 1 45/29 LOT 19D BLK D

PARCEL ID#: 34-23-28-8880-04-190

NO. OF NOTICES: 136

Commentaries: Three (3) in favor and one (1) 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 denial; however, should the BZA grant the variance request, staff recommended that the approval be subject to the conditions as outlined in the staff report.

The following person(s) addressed the Board:

Speaker(s): Sergir Divine (Applicant's representative)

Thiago Braga (in Favor)

No one was in attendance to speak in opposition to the requests at the public hearing.

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

BZA Discussion: The BZA had discussions regarding the jurisdiction of the Board pertaining to the improvements encroaching into the environmental swale easement that was owned and maintained by the Vizcaya Master Property Owner's Association; the purpose and need for the wall, which was originally to mitigate the effects caused by the abandoned property next door; and, confirmed that the deterioration had been alleviated by the new neighbor. The BZA further discussed the possibility of approving the requests with a condition that any modification or replacement shall comply with minimum setbacks. Finally, the BZA made a motion to recommend approval of the requested variances, which failed with a tie vote. A second motion was made to recommend approval of Variance requests #1, #5, and #6, subject to the five (5) conditions in the staff report, and approval of Variance requests #2, #3, and #4, subject to an additional condition that any modification or replacement shall comply with minimum setbacks, which also failed with a tie vote. Lastly, a third motion was made to continue the public hearing and gather further information to the May 6, 2021, BZA Meeting which passed by a unanimous vote.

BZA Action: A motion was made by Thomas Moses, seconded by Roberta Walton and Wes A. Hodge voting AYE by voice vote; and, Deborah Moskowitz, John Drago and Juan Velez voting No by voice vote (Charles J. Hawkins, II was absent) to recommend **APPROVAL** of the Variance requests, and **FAILED** with a **TIE** vote.

A second motion was made by Wes A. Hodge, seconded by Thomas Moses and Roberta Walton voting AYE by voice vote; and, Deborah Moskowitz, John Drago, and Juan Velez voting No by voice vote (Charles J. Hawkins, II was absent) to recommend **APPROVAL** of the Variance requests #1, #5, and #6, subject to the five (5) conditions in the staff report, and **APPROVAL** of Variance requests #2, #3, and #4, subject to an additional condition that any modification or replacement shall comply with minimum setbacks, and **FAILED** with a **TIE** vote.

Another motion was made by John Drago, seconded by Juan Velez and unanimously carried to **CONTINUE** to the May 6, 2021, BZA Meeting.


AYE (voice vote): All members present
Absent: Charles J. Hawkins, II

ADJOURN:

There being no further business, the meeting was adjourned at 1:12 p.m.

ATTEST:


Deborah Moskowitz
Chair


Debra Phelps
Recording Secretary

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

**Addendum I
WebEx Meeting Chat**

February 4, 2021	from Ted Kozak to pete zachman (privately): Good morning, are you here for a particular case?	9:00 AM
February 4, 2021	from Ted Kozak to pete zachman (privately): are you wishing to speak today?	9:08 AM
February 4, 2021	from Roberta Alfonso to host (privately): Fyi, I am back from SS :-)	10:02 AM
February 4, 2021	from Ted Kozak to Roberta Alfonso (privately): great!	10:04 AM
February 4, 2021	from Wes Hodge (privately): I need to step away for a moment	10:20 AM
February 4, 2021	from Ted Kozak to Wes Hodge (privately): ok thank you	10:20 AM
February 4, 2021	from Roberta Alfonso to host (privately): Mic not working, I don't think	11:09 AM
February 4, 2021	from Roberta Alfonso to host (privately): For Dave, I can't hear him	11:09 AM
February 4, 2021	from Roberta Alfonso to host (privately): Also can barely hear chair, fyi	11:14 AM
February 4, 2021	from Roberta Alfonso to host (privately): Just worried about the recording :-)	11:14 AM
February 4, 2021	from Ted Kozak to Roberta Alfonso (privately): Ok thank you	11:14 AM
February 4, 2021	from Ted Kozak to Roberta Alfonso (privately): I'm going to mention it soon to her	11:15 AM
February 4, 2021	from Roberta Alfonso to host (privately): Cool, thx	11:15 AM
February 4, 2021	from Roberta Alfonso to host (privately): Very, very low	11:16 AM
February 4, 2021	from Ted Kozak to Roberta Alfonso (privately): I'm told its fine everywhere else	11:27 AM
February 4, 2021	from Ted Kozak to Roberta Alfonso (privately): and that it could be your computer's volume? I don't know	11:27 AM
February 4, 2021	from Roberta Alfonso to host (privately): Okay, thanks - so long as it is working for our records, no prob for me :-)	11:32 AM
February 4, 2021	from Roberta Alfonso to host (privately): wokring great now, btw, haha!	11:32 AM

February 4, 2021	from Ted Kozak to Thiago Braga (privately): Good morning are you here to speak on a case? If so, please give me your address	11:33 AM
February 4, 2021	from Thiago Braga (privately): I'm the neighbor of Brian sanz	11:34 AM
February 4, 2021	from Ted Kozak to pete zach (privately): Good morning are you here to speak on a case? if so, please give me your address	11:34 AM
February 4, 2021	from Thiago Braga (privately): I'm the owner of 8044 firenze blvd	11:34 AM
February 4, 2021	from Thiago Braga (privately): only here if you need me	11:35 AM
February 4, 2021	from Ted Kozak to Thiago Braga (privately): Ok, thank you	11:35 AM
February 4, 2021	from Ted Kozak to Thiago Braga (privately): You can speak if you want. Just let me know if you do	11:36 AM
February 4, 2021	from Thiago Braga (privately): I would speak in favor. if possible	11:51 AM
February 4, 2021	from Ted Kozak to Thiago Braga (privately): ok yes	11:53 AM
February 4, 2021	from Roberta Alfonso to host (privately): Exactly, well said.	12:30 PM
February 4, 2021	from Roberta Alfonso to host (privately): de facto denial	1:00 PM
February 4, 2021	from Roberta Alfonso to host (privately): must vote on this motion, first	1:03 PM
February 4, 2021	from Roberta Alfonso to host (privately): or withdraw	1:03 PM
February 4, 2021	from Roberta Alfonso to host (privately): So add'l COA for 2,3,4	1:04 PM
February 4, 2021	from Roberta Alfonso to host (privately): They may prefer denial	1:08 PM
February 4, 2021	from Roberta Alfonso to host (privately): and appeal	1:08 PM