

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
MEETING OF SEPTEMBER 3, 2015**

The Orange County Board of Zoning Adjustment meeting met at 9:00 a.m. on **September 3, 2015** 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: Zachary Seybold - Chairman
Carolyn C. Karraker
Gregory A. Jackson
Deborah Moskowitz
Eugene Roberson
Charles Norman

BOARD MEMBERS ABSENT: Tony Rey - Vice Chairman

STAFF PRESENT: Rocco Relvini, AICP, Chief Planner, Zoning Division
Nicholas Balevich, Development Coordinator, Zoning Division
David Nearing, AICP, Development Coordinator, Zoning Division
Debra Phelps, Recording Secretary, FOS Division

The Chairman called the meeting to order at 9:08 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 6, 2015, Board of Zoning Adjustment meeting.

A motion was made by Carolyn C. Karraker, seconded by Deborah Moskowitz, and unanimously carried to **APPROVE** the minutes of the August 6, 2015, Board of Zoning Adjustment meeting.

Board member Gregory A. Jackson left the public hearing at 9:50 a.m. and returned at 10:54 a.m.

WAWA, INC. - VA-15-08-062

REQUEST: Variances in the PD and A-2 zoning district to construct ground signs as follows:
1) To construct 48 sq. ft. ground sign off-site on property zoned A-2 in lieu of an on-site; and
2) To construct 2 ground signs in lieu of 1 ground sign, one on property zoned P-D and one on property zoned A-2 as noted above.
(Note: On May 5, 2015 the Board of County Commissioners and the owner entered an agreement for ingress egress across a portion of an Orange County owned retention pond and for signage along Young Pine Rd. According to Page 17 of the Access Easement Agreement, the applicant may apply for a sign variance to allow off-site ground sign to be approved by a public hearing).

ADDRESS: 10052 Curry Ford Road, Orlando FL 32825

LOCATION: Southwest corner of Curry Ford Rd. and Young Pine Rd.

TRACT SIZE: 1.9 acres

DISTRICT#: 4

LEGAL: YOUNG PINES COMMERCIAL 70/47 LOT 1

PARCEL ID#: 08-23-31-0000-00-009 and 08-23-31-3749-00-010

Chief Planner Rocco Relvini explained the location of the subject property and the request. Mr. Relvini gave a presentation and indicated that Wawa Inc. was developing a store on this site. The applicant was proposing two (2) ground signs, one of the ground signs being an off-site sign. Pursuant to Orange County Signage Code, only one (1) ground sign is permitted based on a parcel with less than 400 feet of road frontage. Therefore, since the parcel did not have more than 400 feet of road frontage, it qualified for only one (1) ground sign. Mr. Relvini reported that staff could not support this request as it would establish a precedent; and further, stated if this request was approved, it would allow signage that staff had not allowed in the past to other developers. Further, Mr. Relvini advised that this request could have adverse implications, if approved; and, pointed out that many commercial businesses preferred to have two (2) ground signs but due to the sign code had accepted the one (1) ground sign restriction.

It was advised by Mr. Relvini that on May 5, 2015, the Board of County Commissioners (BCC) approved an agreement between Orange County and Wawa for access through an Orange County owned parcel to the east. The said agreement did not guarantee Wawa any additional signage; however, the Orange County Board of Zoning Adjustment process does allow the applicant to apply for a variance request with respect to additional signage. Mr. Relvini also provided additional information of said access agreement, which simply acknowledged that the applicant could request a sign variance; however, did not imply any BCC support specific to said sign variance.

Further, Mr. Relvini advised that this request violated the intent of the Sign Regulations in Chapter 31.5, which allowed only one (1) ground sign for the on-site property. Nonetheless, the applicant was requesting two (2) ground signs; one sign on the subject property which was on Curry Ford Road, and, one sign on Young Pine Road which would be an easement over an Orange County owned retention pond to the subject property. Mr. Relvini stated that approval of a variance to permit the applicant an off-site sign may prompt the adjacent McDonalds which shared the cross access easement to feel entitled to a similar variance on Young Pine Road.

Finally, Mr. Relvini pointed out that this request did not meet any of the Zoning Variance Criteria as outlined in Section 30-43, Orange County Code. As such, staff recommended denial of the request. Lastly, Mr. Relvini stated if the BZA approved this request, the conditions in the staff report should be imposed.

Rebecca Wilson, 215 North Eola Drive, Orlando, Florida 32801, attorney for the applicant, addressed the Board conducting a PowerPoint presentation which was submitted into the record and provided reasons for granting these variances to include as follows: special conditions and circumstances; not self-created; no special privilege conferred; deprivation of rights; minimum possible variance; and, purpose and intent. Ms. Wilson indicated there were numerous special circumstances about this case and outlined those circumstances

concerning the unique parcel layouts, location, and right-of-ways; limitations to reduce the size and height of the signage; improved traffic flow; neighborhood improvements; and, neighborhood outreach. Ms. Wilson further explained how the applicant would be responsible for maintaining the retention pond; beautifying the landscaping; and, having to pay for the traffic signal at Curry Ford Road and River Ridge Drive which would be a great improvement to the area and cost savings to Orange County. Lastly, Ms. Wilson indicated the signage would be consistent with the intent of Orange County Signage Code to display the gas pricing requirements described in an excerpt that, "consumers rely on these signs to compare prices between competing gasoline retailers," and, "signs shall display the current and accurate unit sales price," as adopted by the Board of County Commissioners.

David Lloyd Blair, 2743 Osprey Creek Lane, Orlando, Florida 32825, a resident in favor, addressed the Board stating he represented the Curry Ford Road East Homeowners Association wherein the residents were strongly in favor of the request in regards to community safety, improved landscaping, and the service conveniences of Wawa. Mr. Blair further stated that the community was in desperate need of a traffic light because of the numerous car accidents and even a fatal death on this dangerous road.

No one spoke in opposition to the request.

John Smogor, Orange County Planning Administrator, 201 S. Rosalind Avenue, Orlando, Florida 32801, addressed the Board and elaborated on the intent of Orange County Signage Code and what was considered a right-of-way as defined by Orange County. Mr. Smogor further explained that the applicant's request was not in line with the Orange County Signage Code since signage was already permitted for the on-site property; and, the request exceeded the requirements under the Orange County Comprehensive Plan.

Ms. Wilson responded in rebuttal to the BZA raising the issue relative to the broad interpretation of the Orange County Signage Code. Additionally, Ms. Wilson asserted that the definition to right of ways was unclear for access easements and private roads as a right of way for the retention pond was identified on a site plan. Further, Ms. Wilson conveyed that right of ways were not just exclusive to road frontages; and, therein would imply consideration for the same usage to be enjoyed by others. Ms. Wilson reiterated the uniqueness of the two (2) subject properties; one zoned as PD and the other zoned as A-2 should constitute special conditions and circumstances.

The BZA asked the applicant if an off-premise directional sign that displayed the business name only could be considered through a special exception request to achieve WAWA's objective. The applicant stated it would not be sufficient for advertisement due to the lack of no gas pricing that was commonly displayed on their signage as Wawa was well known for this type of practice. The BZA briefly consulted with the Orange County Zoning and Planning staff and had mixed positions about this case. Some of the BZA members expressed an appeal for the display of gas prices on the signage; and, acknowledged that special circumstances did exist relative to the specific location of the subject properties. In the final analysis, most of the BZA concluded the granting of the variances would give this applicant an unfair advantage over other commercial businesses and would set a new precedent.

Therefore, the BZA denied the request with a vote of three (3) in favor and two (2) opposed to both of the variance requests.

A motion was made by Deborah Moskowitz, seconded by Chuck Norman, Zachary Seybold voting AYE by voice vote, Carolyn Karraker and Eugene Roberson, Jr. voting No by voice vote, (Tony Rey was absent and Gregory A. Jackson was temporarily absent) and 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).

MARCELO SILVEIRA - VA-15-08-064

REQUEST:	Variance in the R-1A zoning district to allow existing addition to remain 22 ft. from the rear property line in lieu of 30 ft. (Note: The addition was constructed in 2002 by a prior owner without obtaining building permits. The current owner owned the property for approximately 3 months prior to submitting the subject application. This is a result of code enforcement action).
ADDRESS:	2442 Pepper Mill Blvd., Orlando FL 32837
LOCATION:	South side of Pepper Mill Blvd., approximately 1/2 mile west of SOBT, between Viti St. and Medan St.
TRACT SIZE:	99 ft. x 110 ft.
DISTRICT#:	4
LEGAL:	PEPPER MILL SECTION FOUR 12/111 LOT 328
PARCEL ID#:	21-24-29-6836-03-280

Development Coordinator David Nearing explained the location of the subject property and the request. Mr. Nearing presented a brief overview of the property and outlined that the applicant was requesting a variance in the R-1A zoning district to allow an existing addition to remain twenty-two (22) feet from the rear property line in lieu of thirty (30) feet. The addition consisted of what appeared to be an extension of the permanent roofline overhang, and an enclosure of a screen room at the southeasterly corner of the home. Mr. Nearing also noted that this application was the result of code enforcement action.

It was pointed out by Mr. Nearing that the addition was constructed without permits in 2002 by a previous owner. The applicant discovered the need for permits after he purchased the property in March 2015, and applied for permits to perform renovations to the house.

Mr. Nearing advised that the lot was oddly configured, with the rear lot line running at a fifty (50) degree angle toward the front property line. Due to the shape of the lot, a large portion of the rear yard was unusable to permit an addition because of the narrowness of the lot. Further, the applicant was not responsible for the conversion. Mr. Nearing indicated that maintenance for some type of visual buffer would ensure privacy to not only the subject property, but also the adjacent lots. Furthermore, Mr. Nearing had identified six (6) past variances that were granted for the rear yard setback within approximately a one-quarter (1/4) mile of the subject property.

Mr. Nearing stated that no correspondence for or against the application had been received by staff. Finally, Mr. Nearing stated that staff recommended approval of the request subject to the conditions as outlined in the staff report.

Marcelo Silveira, 2442 Peppermill Blvd., Orlando, Florida 32837, applicant, addressed the Board and agreed with the staff recommendation to include all of the conditions.

There was no one present to speak for or against this application at the public hearing.

The BZA had no discussion regarding the request; and, noted that the need for the variance was not the result of any action by the applicant. Further, the BZA acknowledged that the property was very oddly shaped which had created a hardship. Therefore, the BZA concurred with the staff recommendations.

A motion was made by Deborah Moskowitz, seconded by Carolyn Karraker (Tony Rey was absent and Gregory A. Jackson was temporarily absent) 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 site plan dated June 11, 2015, 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. The exterior of the addition shall match the exterior of the existing of the existing residence;
4. A minimum five foot tall fence or hedge shall be maintained around the rear yard; and,
5. The applicant shall obtain a permit for the addition within 180 days of final County action, and shall receive final sign-off on the permit within 90 days of issuance or this approval becomes null and void.

VEDIC CULTURAL SAMAJ OF CENTRAL FLA INC - SE-15-09-074

REQUEST: Special Exception and Variance in the R-1A zoning district to expand religious use as follows:
1) Special Exception: To construct a 2,667 sq. ft religious use addition; and,
2) Variance: To allow addition 15 ft. from rear property line in lieu of 30 ft.
(Note: On October 2, 2014 the BZA approved the conversion of a 3,000 sq. ft. residence into religious use for a capacity of 36 persons. This is a 2,667 sq. addition to the church use building. No increase in membership is being requested, therefore there will be no increase in parking).

ADDRESS: 6083 North Lane, Orlando FL 32808

LOCATION: Northeast corner of North Lane and N. Powers Dr.

TRACT SIZE: 120 ft. x 233 ft.

DISTRICT#: 2

LEGAL: E 80 FT OF S 150 FT OF SW1/4 OF SW1/4 OF SE1/4 (LESS S 30 FT FOR RD R/W) OF SEC 01-22-28

PARCEL ID#: 01-22-28-0000-00-039

Chief Planner Rocco Relvini explained the location of the subject property and the request. Mr. Relvini gave a brief presentation and indicated that on October 2, 2014, the BZA approved a Special Exception to convert the residence on site to a religious use. This application was proposing to add a 2,667 square foot addition onto the main religious use building. The addition required a rear yard setback as well. It was noted by Mr. Relvini that the new addition would be used for prayer meetings while the existing building was converted to office and meeting space.

Mr. Relvini advised that the site required a minimum of ten (10) parking spaces wherein the site plan reflected ten (10) parking spaces; hence, the site complied with the parking requirements. Further, the BZA granted the unpaved parking spaces in the October, 2014 BZA approval.

It was also reported by Mr. Relvini that the subject site was surrounded by other religious and educational uses as well as single family homes. Therefore, the proposed use was compatible with the surrounding uses. Mr. Relvini indicated that the most affected property owner to the north submitted a letter of support to the requested variance. Staff had no objections to this request since the area had numerous religious uses that were larger than this project. In particular, the adjacent uses to the north and south of the subject property were religious uses. Based on the foregoing, Mr. Relvini stated staff recommended approval of the request subject to the conditions as set forth in the staff report.

The applicant was not present at the public hearing.

No one spoke in favor or in opposition to this request.

The BZA discussed the case and concluded the request was reasonable and did not adversely impact anyone. Therefore, the BZA concurred with staff's recommendation to include two (2) additional conditions addressing outdoor special events and outdoor lighting.

A motion was made by Gregory A. Jackson, seconded by Chuck Norman (Tony Rey was absent) 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 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 site plan dated Received June 23, 2015 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. Previous conditions of October 2, 2014, apply except as otherwise overruled by these conditions;
4. Construction plans shall be submitted within three (3) years or this approval becomes null and void;
5. No more than four (4) outdoor special events between the hours of 9:00 a.m. to 8:00 p.m.; and,
6. Any outdoor lighting shall have cutoff fixtures and be directed downwards.

TOM HENRY'S PIZZERIA 314 - VA-15-09-075

REQUEST: Variance is C-1 zoning district to allow on-site consumption of beer and wine (2 COP License) 847 ft. from religious use to the southeast (Tabernaculo De Amor Church) in lieu of 1000 ft.
(Note: The Pastor of the Tabernaculo De Amor Church submitted a letter of no objection to this request).

ADDRESS: 4970 Pine Avenue, Winter Park FL 32792

LOCATION: West side of N. Pine Ave., 500 ft. north of Aloma Ave.

TRACT SIZE: 110 ft. x 135 ft.

DISTRICT#: 5

LEGAL: SUBURBAN HOMES O/138 LOTS 21 & 22 BLK 5

PARCEL ID#: 02-22-30-8368-05-210

Chief Planner Rocco Relvini explained the location of the subject property and the request. Mr. Relvini indicated the applicant operated a family restaurant one block north of Aloma Avenue. The applicant was proposing to sell beer and wine excluding liquor with meals. On April 21, 2014, the Zoning Division conducted a distance measurement and found the restaurant was 847 feet away from the Tabernaculo De Amor Church to the southeast. The required distance separation was 1000 feet; therefore, a variance was required.

Mr. Relvini noted that the most affected property owner was a church; however, the applicant submitted a letter of no objection from the said church. In addition, staff received fifty-one (51) commentaries in favor of the request.

Further, Mr. Relvini stated that the restaurant was closed from Tuesday to Saturday at 9:00 pm.; closed on Sundays at 7:00 p.m.; and, closed all day on Mondays. This business was a small family-owned pizzeria that only desired to sell beer and wine with meals.

Mr. Relvini advised that staff had no objection provided this approval was for this applicant only. Finally, staff recommended approval of the request subject to the conditions as set forth in the staff report.

Tim Henry, 4970 North Pine Avenue, Winter Park, Florida 32792, applicant, addressed the Board affirming that there would be no bar area but just a seating service area for meal orders. Mr. Henry further agreed with the staff recommendations.

No one spoke in favor or in opposition to the request.

The BZA discussed the case and concluded this request would not adversely impact anyone; and further, stated the applicant was a good neighbor and vested into the community. Therefore, the BZA concurred with the staff recommendations.

A motion was made by Zachary Seybold, seconded by Deborah Moskowitz (Tony Rey was absent) 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 application package 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. Approval is for a 2COP license only and for Tom Henry's Pizzeria 314 use only. Any other tenant will require BZA approval unless the tenant's location complies with the alcohol distance measurements; and,
3. 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.

HARVEY D TOTZKE III - VA-15-09-076

REQUEST: Variances in the R-1A zoning district for accessory buildings and uses as follows:
1) To permit a total of 600 sq. ft. of accessory structure floor area in lieu of 500 sq. ft. (520 sq. ft. proposed; 80 sq. ft. existing);
2) To construct a 520 sq. ft. accessory building (metal storage shed); and,
3) To construct storage shed not made out of materials commonly used for single family construction (proposing a metal roof and metal siding).

ADDRESS: 1807 Deanna Drive, Apopka FL 32703

LOCATION: Northeast corner of Deanna Dr. and Ulysses Dr., approximately 150 ft. east of N. Lake Pleasant Rd.

TRACT SIZE: 87 ft. x 95 ft.

DISTRICT#: 2

LEGAL: ADAMS RIDGE UNIT 1 11/4 LOT 113

PARCEL ID#: 12-21-28-0022-01-130

Development Coordinator David Nearing explained the location of the subject property and

the request. Mr. Nearing presented a brief overview of the property and outlined that the applicant was requesting approval of Variances in the R-1A zoning district for accessory buildings and uses as follows: 1) To permit a total of 600 sq. ft. of accessory structure floor area in lieu of 500 sq. ft. (520 sq. ft. proposed; 80 sq. ft. existing); 2) To construct a 520 sq. ft. accessory building as a metal storage shed; and, 3) To construct a storage shed not made out of materials commonly used for single family construction which proposed a metal roof and metal siding.

Mr. Nearing advised that the applicant had several older accessory buildings in the rear yard which had already been removed. The smaller structure was to be used primarily for the storage of yard equipment. Mr. Nearing noted that the applicant had already purchased the new structure before discovering the limitations to the size and materials of a new shed during the permitting process. Due to the height and size of the new structure, staff was not in support of permitting the unit to be constructed with metal sidings; and, therefore, staff recommended that the applicant should add an exterior paneling to mimic the exterior of the principal residence.

Further, Mr. Nearing pointed out that the request represented an increase of twenty percent (20%) over what would normally be permitted. This request was within the limits of prior approvals for similar cases by the BZA. Additionally, there was an existing five (5) foot tall board-on-board fence surrounding the rear yard which acted as a partial visual buffer from off-site views. Mr. Nearing stated that staff recommended, if approved, that the property owner would be required to maintain this buffer, be it a sight-tight (opaque) fence or a solid wall of shrubbery.

Mr. Nearing reported that the applicant had obtained and submitted letters of support from the five (5) property owners who had the most direct visual impact from the new shed. However, the owners of five (5) properties in the subdivision (one person owned two (2) properties) were opposed. Mr. Nearing stated staff recommended approval of the request for Variances #1 or #2, but denial of Variance #3. Mr. Nearing pointed out that in the past the BZA had acknowledged consistency in its treatment of oversized structures with respect to exterior finishes. More specifically, permitting the use of a metal roof would not look out of place as the roof would resemble a residential metal roof. Finally, Mr. Nearing stated should the BZA concur with staff's recommendation, it was recommended that the conditions as listed in the staff report be attached to the approval.

Harvey Totzke, 1807 Deanna Drive, Apopka, Florida 32703, applicant, addressed the Board and indicated that he was in complete agreement with the staff recommendation, noting that he even accepted the requirement to use an exterior surface similar to that of their house. There being no one in attendance to speak for or against the request, the public hearing was closed.

The BZA discussed the case, noting that if the first request was approved, the second request would not be needed. The third request would require action; however, since the applicant was agreeing with the conditions as proposed by staff, denying the third request would not pose an unnecessary hardship on the applicant. There was further discussion

among the BZA in regards to the height of the fence; and, whether the fence should be a minimum of five (5) feet tall or six (6) feet tall. The BZA agreed that five (5) feet would be acceptable. It was recommended by the BZA that a new condition be added reflecting should the existing eighty (80) square footage shed ever be destroyed or removed, then it could not be replaced without approval of the BZA. Based on the foregoing, the BZA approved Variance #1; deemed Variance #2 as unnecessary; and, denied Variance #3.

A motion was made by Gregory A. Jackson, seconded by Deborah Moskowitz (Tony Rey was absent) and unanimously carried to deem Variance Request **#2** as **UNNECESSARY**; to **DENY** Variance Request **#3** in that there was no unnecessary hardship shown on the land; further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3).; and further, to **APPROVE** the Variance Request **#1** 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 site plan dated "Received July 15, 2015" 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. Prior to the issuance of a final completion by the Building Division, the applicant shall install earth tone colored siding on all four sides of the proposed storage building. The roof may remain metal;
4. The storage sheds shall be for storage of personal property and other traditional residential activities. No commercial enterprise shall be operated or take place within these structures;
5. There shall be no more than a total of 600 sq. ft. of accessory structure floor area maintained on the subject property. Any structure exceeding that amount shall be removed within sixty (60) days of final County approval, or the application shall be null and void;
6. A minimum five (5) foot tall opaque fence or hedge shall be maintained around the rear yard; and,
7. If the eighty (80) sq. ft. shed is ever removed or destroyed, it can not be replaced without approval of the BZA.

REQUEST: Special Exception in A-2 zoning district to construct an Accessory Dwelling Unit (ADU) for applicant's father.
(Note: The Wedgefield HOA has requested that the proposed ADU be attached to the main house by an open air breezeway).

ADDRESS: Robertson Street, Orlando FL 32833

LOCATION: South side of Robertson St., approximately 125 ft. south of Reynolds Prkwy., in the Wedgefield community.

TRACT SIZE: 150 ft. x 300 ft.

DISTRICT#: 5

LEGAL: CAPE ORLANDO ESTATES UNIT 11A 3/107 LOT 6 BLK 5

PARCEL ID#: 27-23-32-1181-05-060

Development Coordinator David Nearing explained the location of the subject property and the request. Mr. Nearing presented a brief overview of the property and outlined that the applicant was requesting a Special Exception in A-2 zoning district to construct a detached Accessory Dwelling Unit (ADU) for the applicant's father within the Wedgefield area. Mr. Nearing noted that initially, the HOA had indicated if the BZA recommended approval, the HOA would likely require the two (2) units to be attached by way of an open air covered breezeway. However, the final approval by the HOA did not require the connection, and the HOA approved the plans as presented to the BZA.

Mr. Nearing advised the BZA that the applicant was informed with respect to the conditions being imposed which limited the occupancy of the ADU to family members only, and prohibited the unit from ever being used as a rental property. As of the writing of the staff report, no correspondence in opposition to the request had been received from the adjacent property owners. The ADU would include a one-car attached garage to provide the additional parking space required for the unit.

It was noted by Mr. Nearing that staff received two (2) correspondences in support and none in opposition to the request. Further, noted by Mr. Nearing was that one of the neighbors who had supported the request stated they preferred that the two (2) units not be attached. Lastly, Mr. Nearing stated staff recommended approval of the request subject to the conditions as outlined in the staff report.

Tamara Edgington, 2215 Cluster Oak Drive, Suite 2, Clermont, Florida, representative on behalf of the applicant, addressed the Board stating the applicant was in agreement with the staff recommendation and all of the conditions. Ms. Edgington further stated that the applicant had met all of the other guidelines and was proposing for the most minimum request as possible.

There being no one to speak for or against the request, the public hearing was closed.

The BZA had no discussion regarding this case, feeling that it was very straight forward. Therefore, the BZA concurred with the staff recommendation.

A motion was made by Zachary Seybold, seconded by Carolyn Karraker (Tony Rey was absent) 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 site plan dated July 15, 2015, 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. The applicant shall obtain a permit for the Accessory Dwelling Unit within three (3) years of final County action on this request, or this approval becomes null and void;
4. The exterior of the Accessory Dwelling Unit shall be compatible with or compliment the exterior of the principle residence;
5. The Accessory Dwelling Unit shall only be occupied by a relative, and shall never be used as a rental unit;
6. 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; and,
7. The owner shall be responsible for the payment of all applicable fees for the Accessory Dwelling Unit, including impact fees.

INDIA PENTECOSTAL CHURCH OF CENTRAL FLORIDA INC - SE-15-09-078

REQUEST: Special Exception and Variances in the R-CE zoning district as follows:
1) Special Exception: Phase I consisting of a new 500 seat sanctuary and to retain four existing modular units for use as a 65 child day care center for an additional five years;
2) Special Exception: Phase II to temporarily relocate the day care to an existing multipurpose building and replace the modular buildings with a permanent 4,500 sq. ft. building for the day care center;
3) Variance: To permit grassed parking for part of the site in lieu of paved; and,
4) Variance: To permit the steeple to extend to a height of 65 ft. in lieu of 45 ft.
(Note: Proposed parking to consist of 66 paved spaces and 110 grassed w/paved drive aisles. Construction for Phase I to commence October, 2016. Construction for Phase II to commence July, 2021. The Zoning Manager may allow a steeple to extend to a height 10 ft. taller than the structure is permitted (45 ft.). However, the applicant desires a steeple 65 ft. in height.)

ADDRESS: 11551 Winter Garden Vineland Road, Orlando FL 32836

LOCATION: North side of Winter Garden Vineland Rd., approximately 1,400 ft of a mile

east of E. Buena Vista Dr., and east of the Grand Cypress golf course.

TRACT SIZE: 332 ft. x 650 ft.

DISTRICT#: 1

LEGAL: WILLIS R MUNGERS LAND SUB E/22 LOT 52 (LESS PT TAKEN ON S FOR R/W PER OR 5005/550 CI95-6694)

PARCEL ID#: 16-24-28-5844-00-520

Board member, Eugene Roberson of District #6, abstained from this case and filed the appropriate Conflict of Interest form.

Development Coordinator David Nearing explained the location of the subject property and the request. Mr. Nearing presented a brief overview of the property and outlined that the applicant was requesting Special Exceptions and Variances in the R-CE zoning district as follows: 1) Special Exceptions to permit a two (2) phased addition to the existing church to add a new 500 seat sanctuary and to retain four (4) existing modular units for use as a sixty-five (65) child day care center for an additional five (5) years in Phase I, and to replace the modular buildings with a permanent 4,500 square footage building for the day care center in Phase II; and, 2) Variances to permit grassed parking for part of the site in lieu of paved, and to permit the steeple to extend to a height of sixty-five (65) feet in lieu of forty-five (45) feet.

Mr. Nearing indicated that the proposed parking would consist of sixty-six (66) paved spaces and 110 grassed spaces with paved drive aisles. Mr. Nearing noted that construction for Phase I, was to commence in October, 2016. Construction for Phase II, was to commence in January, 2021. Further, Mr. Nearing pointed out that the Zoning Manager may allow a steeple to extend to a height of ten (10) feet taller than the structure was permitted at forty-five (45) feet. Thus, the applicant desired a steeple sixty-five (65) feet in height.

It was also reported by Mr. Nearing that given there were no other structures of any size in the area with which to compare the proposed steeple, a sixty-five (65) foot tall spire would not appear out of place since the site had numerous tall trees along with minimal surrounding development except for the Grand Cypress Golf course. The steeple would actually create a landmark and add to the rural character of the area. Furthermore, the existing steeple was currently estimated to be forty-five (45) feet in height.

Mr. Nearing advised that the four (4) existing modular units had been well maintained and appeared to be in good condition. These units were located behind the existing sanctuary which would be converted to a multipurpose/administrative office building. The continued use of the units would not pose any apparent health risk or life safety issues. Approval of a precise phasing plan would allow the applicant the flexibility to modify their plans by accelerating construction of Phase II, while protecting the County by imposing a specific performance date. Lastly, Mr. Nearing stated that the use of the grassed parking would be for only a portion of the required parking. Based on the foregoing, staff thereby recommended approval of the request subject to the conditions as listed in the staff report.

John Webb, 925 S. Denning Drive, Winter Park, Florida 32789, agent on behalf of the applicant, addressed the Board and indicated that they were in agreement with all of the proposed conditions; and, acknowledged that the Church's building committee was in attendance but chose not to speak.

There being no one in attendance wishing to speak for or against the request, the public

hearing was closed.

Because Commissioner Roberson worked frequently with the engineer on this project, was familiar with the Church, and his construction firm may actually bid on the project if approved, he chose to recuse himself from the case. Commissioner Roberson took no part in any discussion and abstained from voting.

The BZA discussed the case and conditions, noting that the hours for conducting special events were different from the hours normally required. The BZA decided that the hours in condition #6 should be amended to 9:00 a.m. to 8:00 p.m. instead of 8:00 a.m. to 9:00 p.m. It was also agreed upon by the BZA that any new outdoor lighting for the building or parking area should be of a low level shielded style of light often referred to as "dark Skies" type lighting which was identified as a new condition #14. Therefore, the BZA concurred with the staff recommendation as amended and included a new condition #14, regarding outdoor lighting.

A motion was made by Carolyn Karraker, seconded by Deborah Moskowitz (Tony Rey was absent and Eugene Roberson abstained), and unanimously carried to **APPROVE** the Special Exception requests 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, 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 site plan dated July 15, 2015, 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. The day care shall be capped at sixty-five (65) students. No increase shall be permitted without review and approval by the BZA;
4. The modular units may be used for an additional five (5) years. No further extension to this time period shall be granted;
5. No outdoor speakers or other audio amplification shall be used;
6. No more than four (4) outdoor special events shall take place during any calendar year.

- These events shall not commence before 9:00 a.m., nor extend beyond 8:00 p.m.;
7. Signage shall be in accordance with 31.5-75, Orange County Code, "Signs advertising non-residential uses in residential districts.";
 8. Lighting for the outdoor recreational areas shall be prohibited;
 9. Parking spaces may be unpaved. However, handicapped spaces and all driving aisles shall be paved;
 10. The project is approved for two (2) phases as follows: Phase I shall consist of: 500 seat Sanctuary; Site Improvements for Phases I and II; and, Continued use of the four (4) modular units for a sixty-five (65) student day care facility for up to five (5) years from the date of final County action. Permits for Phase I shall be obtained within two (2) years of final County action or this approval shall be null and void. Phase II shall consist of: Construction of a permanent site built 4,500 sq. ft. building for the sixty-five (65) student day care facility; Demolition of the four (4) modular units; and, Temporary housing of the day care in the administrative office building while the permanent facility is being constructed. Construction of Phase II shall commence by January 1, 2021. The Zoning Manager may grant an extension of up to six (6) months to this timeframe;
 11. Construction plans shall be submitted within three (3) years of final County action, or this approval becomes null and void;
 12. Maximum height of the sanctuary roofline shall not exceed thirty-five (35) feet. The steeple may be up to a total of sixty-five (65) feet in height measured from finished grade at the front of the building;
 13. Any expansions of the use shall require BZA approval; and,
 14. Any new or replacement outdoor lighting shall be of a shielded low impact ("dark skies") type of lighting.

CHURCH OF SCIENTOLOGY - SE-15-10-079

REQUEST: Special Exception in P-O zoning district to allow a religious use and instruction (counseling, reading, video, and office use) for up to 60 persons. (Note: Applicant to occupy 4,400 sq. ft. of first floor office space of an existing office building. No new construction is proposed).

ADDRESS: 850 Courtland Street, Orlando FL 32804

LOCATION: South side of Courtland St., approximately 100 ft. east of Adanson St.

TRACT SIZE: 150 ft. x 145 ft.

DISTRICT#: 5

LEGAL: SUNSHINE GARDENS L/79 LOTS 8 9 & 10 BLK B

PARCEL ID#: 02-22-29-8472-02-080

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated the applicant was requesting approval of a Special Exception to allow for a religious use and instruction for up to sixty (60) people. No new construction was proposed. The applicant intended to occupy space in an existing office building. All square footage was accounted for in the parking calculations at the time of site plan approval. It was noted by Mr. Balevich that no new parking spaces were required when

a new use occupied an existing space.

Mr. Balevich advised that the applicant had stated this was not a traditional church since the majority of the activities would be individual or small group training sessions, with only occasional Sunday services. Mr. Balevich further stated that the applicant would be using this property for two (2) to three (3) years until they could move into a larger permanent space.

Mr. Balevich advised that staff had no objections to this request since the request constituted a reasonable use of the space, and was less intense than other uses that could be permitted there. Staff received no commentaries in favor of the application and none in opposition. Therefore, staff recommended approval of the request subject to the conditions as listed in the staff report.

Lee Sheldon, 1830 East Colonial Drive, Orlando, Florida 32803, on behalf of the applicant, addressed the Board expressing the need of a Special Exception for this religious use. Mr. Sheldon agreed with the staff recommendation.

Abbul Aitboukil, 830 Courtland Street, Orlando, Florida 32804, real estate broker for the applicant, addressed the Board stating he managed the building and supported the intent of the request.

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

The BZA discussed the case and concluded that the request was a low intensity use for a professional office property in comparison to a church going into a residential area. The BZA also acknowledged that the parking spaces were paved and not grassed, therefore, it would have zero impact in the surrounding area. Finally, the BZA concurred with the staff recommendation.

A motion was made by Zachary Seybold, seconded by Deborah Moskowitz (Tony Rey was absent) 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 site plan dated "July 15, 2015" 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; and,
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.

JONATHAN KEPHART - VA-15-10-080

REQUEST: Variance in the R-CE zoning district to allow accessory structure (horse barn) containing 3,535 sq. ft. in lieu of 3,000 sq. ft.
(Note: This is a result of code enforcement action).

ADDRESS: 9420 Morton Jones Road, Gotha FL 34734

LOCATION: South side of Morton Jones Rd., east of Hempel Ave., north of the Florida Turnpike.

TRACT SIZE: 9.72 acres

DISTRICT#: 1

LEGAL: TOWN OF GOTHA A/39 THE SE1/4 OF BLK I

PARCEL ID#: 33-22-28-3100-09-502

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated the applicant was requesting a variance to allow an accessory structure containing 3,535 square feet in lieu of 3,000 square feet. According to the application, the applicant hired a contractor who: went over budget, did substandard work, did not pay subcontractors, and did not pull permits. Further, the applicant was not aware that the contractor built the structure larger than allowed.

Mr. Balevich pointed out that the proposal was compatible with the rural character of the area. Further, staff had no objections to this request because: a) the request would not adversely impact any quality of life circumstances; b) the structure exceeded all required setbacks; c) no privacy rights were being affected; and, d) approval of the request did not go against the public's best interests.

Staff received two (2) commentaries in favor of the application and none in opposition. Lastly, Mr. Balevich stated if the BZA approved the request, the conditions as listed in the staff report should be imposed.

Jonathan Kephart, 2115 Langley Park Court, Orlando, Florida 32835, the applicant, addressed the Board and stated that they picked a poor contractor who did not pull permits, took their money, did not pay the subcontractors, and the contractor turned himself in after the filing of an OPD investigation by the applicant. Mr. Kephart indicated they would provide engineered plans and would make sure everything was brought up to code.

Stephanie Dunfee, 9420 Morton Jones Road, Gotha, Florida 34734, lessee of the property, addressed the Board and verified that construction had stopped in November.

No one spoke in opposition at the hearing.

The BZA confirmed that the building was built without permits; however, it was too late to reduce the square footage. The BZA asserted that the request was for a nineteen percent (19%) variance, and recognized that the applicant was trying to do the right thing. In addition, the BZA acknowledged that this issue was not the applicant's own doing.

Therefore, the BZA approved the request with the staff recommendation.

A motion was made by Carolyn Karraker, seconded by Eugene Roberson (Tony Rey was absent) 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 site plan dated "July 24, 2015" 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. Prior to the Final Inspection for the barn, the applicant shall install a row of understory trees twenty (20) feet on-center and six (6) feet high at planting, in front of the existing barn; and,
4. The applicant shall obtain a permit for the structure within 180 days or this approval becomes null and void.

QUANG LAM - SE-15-09-081

REQUEST: Special Exception in the R-2 zoning district to construct a single family residence with an attached Accessory Dwelling Unit (ADU) for applicant's father-in-law.
(Note: The ADU is for the father-in-law of the contract purchaser of the property, who will reside in the principal residence).

ADDRESS: E Crystal Lake Avenue, Orlando FL 32806

LOCATION: South side of E. Crystal Lake Ave. between S. Shine Ave. and S. Fern Creek Ave., approximately 250 ft. north of E. Michigan St.

TRACT SIZE: 54 ft. x 102 ft.

DISTRICT#: 3

LEGAL: FLOYD KING SUB J/49 LOTS 7 & 8 (LESS W 91.10 FT THEREOF) BLK B

PARCEL ID#: 01-23-29-2816-02-071

Development Coordinator David Nearing explained the location of the subject property and the request. Mr. Nearing presented a brief overview of the property and outlined that the applicant was requesting approval of a Special Exception in the R-2 zoning district to construct a single family residence with an attached Accessory Dwelling Unit (ADU) for the use of the applicant's father-in-law. Mr. Nearing noted that the ADU would be for the father-in-law of the contract purchaser of the property who would reside in the principal residence. Mr. Nearing described the site photographs and indicated that the applicant would meet all of the required setbacks for both the principal residence and the ADU. The proposed architecture would blend the ADU into the overall design to create an appearance of one

continuous unit. Mr. Nearing pointed out that being zoned R-2, having two (2) units on one (1) lot was not uncommon. Moreover, the lot to the north across East Crystal Lake Avenue was a duplex.

Staff had not received any correspondence in opposition and one (1) commentary in support from the property owner across East Crystal Lake Avenue to the request. Lastly, Mr. Nearing stated staff recommended approval of the request subject to the conditions as outlined in the staff report.

Quang Lam, 1320 W. Pine Street, Orlando, Florida 32805, the applicant, addressed the Board and stated he was in complete agreement with the staff recommendation.

There being no one in attendance to speak for or against the request, the public hearing was closed.

The Board asked what would be the difference between the applicant constructing an ADU and a duplex. Staff explained that a duplex would require variances for lot width and lot area. The ADU would fit so well because the architect designed it to be deeper than wider; and, as a result, would fit within all of the setbacks. Finally, the BZA concluded that the request was consistent with the character of the surrounding area; and, concurred with the staff recommendation to include the conditions.

A motion was made by Chuck Norman, seconded by Carolyn Karraker (Tony Rey was absent) 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 site plan dated July 15, 2015, 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. The applicant shall obtain a permit for the Accessory Dwelling Unit within three (3) years of final County Action or this approval becomes null and void;
4. The exterior of the Accessory Dwelling Unit shall match the exterior architecture, materials and colors of the proposed principal residence;

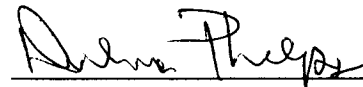
5. The accessory dwelling unit shall be used by family members only and shall not be rented out;
6. If a septic tank and/or well will be required, approval of this request does not constitute approval of the use of septic tanks and wells. The use of septic tanks and wells shall be in accordance with all applicable regulations; and,
7. The owner shall be responsible for the payment of all applicable fees for the Accessory Dwelling Unit, including impact fees.

ADJOURN:

There being no further business, the meeting was adjourned at 12:47 p.m.

ATTEST:


Zachary Seybold
Chairman


Debra Phelps
Recording Secretary