

ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
MEETING OF AUGUST 6, 2015

The Orange County Board of Zoning Adjustment meeting met at 9:00 a.m. on **August 6, 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
Tony Rey- Vice Chairman
Carolyn C. Karraker
Gregory A. Jackson
Deborah Moskowitz
Eugene Roberson
Charles Norman

STAFF PRESENT: Art Interiano, Assistant Manager, 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 9:03 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 July 2, 2015, Board of Zoning Adjustment meeting.

A motion was made by Tony Rey, seconded by Eugene Roberson, and unanimously carried to **APPROVE** the minutes of the July 2, 2015, Board of Zoning Adjustment meeting.

Assistant Manager, Art Interiano made an announcement regarding two presentations in the near future relative to the following: 1) changes to the Chapter 38; and, 2) a discussion for the Board of County Commissioners (BCC) relative to changes to the Sign Codes at the September 22, 2015 BCC Meeting.

ALBERT MEDIA HOLDINGS - VA-15-08-069

REQUEST: Variance in the C-2 zoning district to permit new billboard with an overall height of 69 ft. in lieu of 40 ft.
(Note: The proposed location of the billboard is at the flyover of SR 436 (Semoran Blvd.) and E. Colonial Drive. The applicant is requesting to use the elevation of the highest point of the flyover (roadway) as the base elevation from which to measure the maximum height (40 ft.) of the billboard. Proposed billboard will have digital panels).

ADDRESS: 801 N Semoran BLVD, Orlando, FL 32804

LOCATION: Southeast corner of the Intersection of SR 436 and E. Colonial Dr.

TRACT SIZE: 70 ft. x 129 ft. (Leased area)

DISTRICT#: 3

LEGAL: W1/2 OF SW1/4 OF SW1/4 OF SEC 22-22-30 (LESS N 30 FT THEREOF) & (LESS S 480 FT & E 50 FT & E 60 FT THEREOF) & (LESS W 180 FT OF N 50 FT OF S 530 FT THEREOF) & (LESS W 150 FT OF E 210 FT OF N 130 FT OF S 610 FT THEREOF) & (LESS THAT PORTION OF W 150 FT OF

PARCEL ID#: 22-22-30-0000-00-071

The BZA Chairman announced that this case was **WITHDRAWN** by the applicant on July 23, 2015 via electronic mail prior to the public hearing. No further action was required by the BZA.

PRIMROSE SCHOOL- DR. PHILLIPS - SE-15-08-060

REQUEST: Special Exception in the R-CE zoning district to construct a 12,222 sq. ft. child day care facility for up to 200 children.

ADDRESS: Conroy Windermere RD, Orlando, FL 32835

LOCATION: Southwest corner of Conroy Windermere Rd. and Cleveland St., approximately 1/3 of a mile west of Dr. Phillips Blvd.

TRACT SIZE: 1.64 ac.

DISTRICT#: 1

LEGAL: WINDERMERE HEIGHTS 1ST SECTION K/125 LOTS 1 & 24 & E 44.53 FT OF LOTS 2 & 23 BLK A & N1/2 OF VAC ST ON S OF LOT 24 (LESS R/W ON N)

PARCEL ID#: 15-23-28-9340-01-010

The BZA Chairman announced that this case was **WITHDRAWN** by the applicant on August 5, 2015 via electronic mail prior to the public hearing. No further action was required by the BZA.

The Board recessed at 9:11 a.m. and reconvened at 10:02 a.m.

CONGREGATION OF LIBERAL JUDAISM - SE-15-08-061

REQUEST: Special Exception in R-1A zoning district to increase charter school enrollment to 140 students from previously approved 60 students.
(Note: Ages will be 5 to 10 years old (Kindergarten thru grade 5. No construction is proposed).

ADDRESS: 928 Malone DR, Orlando FL 32804

LOCATION: South side of Malone Dr., west of Adanson St., north of Lee Rd.

TRACT SIZE: 5.4 acres

DISTRICT#: 2

LEGAL: WILLIS R MUNGERS LAND SUB E/23 LOT 31

PARCEL ID#: 03-22-29-5844-00-310

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich presented a brief overview of the property and stated the applicant was requesting a Special Exception to increase charter school enrollment to 140 students from previously approved sixty (60) students.

Mr. Balevich reported that on July 14, 2015, the applicant held a Community Meeting at the site to discuss the concerns. Approximately eleven (11) people were in attendance including staff, and noted that most were from the adjacent residences. Many of the attendees spoke in favor of the school, but some felt that the proposed number of students was too intense. The main issue was parking on the neighborhood streets and cars stacking into the neighborhood during drop off and pick up times.

As a result of the Community Meeting, the applicant had agreed to restrict all student pick up and/or drop off to the rear parking lot at all times, and NOT to use the front covered area during bad weather as permitted by BZA approval on June 5, 2008; and, to post a sign on the property stating all parking for the school shall be on site and not in the public street.

Mr. Balevich indicated that the applicant had stated they would operate buses to accommodate approximately ninety percent (90%) of the students. In addition, the applicant had provided to staff parking calculations, stating that the religious facility would be used at opposite times and/or days than the school, and therefore, there was excess parking.

It was suggested by Mr. Balevich that a discussion was needed regarding the following BZA conditions of June 5, 2008: *Condition # 3, Install six-foot high PVC fence along west property line, excepting within the front yard setback, which is limited to four (4) feet in height, and, except in any area where there may exist a conflict with a legal private easement* (Staff inspected the site and there is not a continuous six-foot high PVC fence along west property line); *Condition # 4, Clean/clear west side yard area of overgrown/dead vegetation, tree parts, vines, bamboo, etc. within thirty (30) days of BZA approval. Sod this area, plant evergreen shade trees along west property line forty (40) feet on center. "Install automatic irrigation system to ensure growth and viability."* (Staff inspected the site and did not find evergreen shade trees along west property line planted forty (40) feet on center); *Condition # 5, Grassed areas shall not be used for vehicular parking. The retention pond shall be permanently roped off from the rear paved parking lot.* (The applicant has agreed to install and maintain wheel stops to prevent parking in grassed retention area. Staff has no objection to this); and, *Condition # 6, Church/school student pick up/drop off restricted to the rear parking lot, weather permitting (use of the front covered area during bad weather was permitted by BZA);* (The applicant has agreed to restrict all student pick up/drop off to the rear parking lot at all times, regardless of the weather).

Staff received five (5) commentaries in favor and none in opposition to the request. Mr. Balevich stated staff recommended approval of the request subject to the conditions as outlined in the staff report.

Susan McKenna, 1621 Hillcrest Avenue, Winter Park, Florida 32789, president of the church, addressed the Board and stated that the applicant intend to start with 105 students, and they would provide two (2) buses, which would transport the majority of the students, so there were very few parents dropping off students. Ms. McKenna further stated it was the previous school that had cars stacking onto the street, however, this tenant would not do so. Ms. McKenna added that the applicant requested to continue to allow buses to use the front covered area during bad weather.

Ms. McKenna stated the applicant believed that they were in full compliance with the 2008 conditions as PVC fencing was installed where gaps existed so that all fencing along the west property line was six (6) feet high. In addition, Ms. McKenna reported that there was significant landscaping; and further, noted the applicant had not received any complaints from the neighbors so they felt the intent of the 2008 approval had been met.

Ms. McKenna indicated the retention area only held water during heavy rains, and that the

applicant parked in this area during high holidays. Ms. McKenna stated that the applicant could add more parking barriers to prevent access, but asked to continue without adding any fencing and/or landscaping.

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

Discussions ensued between the BZA and the applicant which confirmed the number of buses and the location of the playground. Further, the BZA had concerns about the students accessing the building during inclement weather and agreed to modify the 2008 condition to allow only buses to use the front covered area during bad weather; however, students arriving by car would still need to use the rear drop-off area. The BZA addressed the buffering and felt it was necessary to comply with the condition to have a buffer along the west property line. Therefore, the BZA concluded to approve the variance with the amended condition, "The applicant shall provide a minimum six (6) foot high visual buffer along the west property line. The type and location shall be at the Zoning Manager's discretion."

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

1. Development in accordance with site plan dated "June 17, 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 BZA conditions of June 5, 2008 and June 7, 2001 still apply unless modified by these conditions;
4. Applicant shall provide a minimum 6 ft. high visual buffer along the west property line (the type and location at the Zoning Manager's discretion);
5. Applicant shall install a ground sign not exceeding 4 ft. in height on site stating all parking for the school shall be on site and not in the public street;
6. Wheel stops shall be installed/maintained to prevent parking in grassed retention area;
7. Applicant shall comply with these conditions prior to operating the school; and,
8. Use permits shall be obtained within two (2) years or this approval is null and void.

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 RD, 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#: 08-23-31-3749-00-010

Assistant Manager, Art Interiano stated there was an error in the legal notices regarding this case; therefore, the request was continued by the BZA and would be re-advertised for the September 3, 2015 BZA Hearing.

A motion was made by Deborah Moskowitz, seconded by Carolyn Karraker and unanimously carried to **CONTINUE** to the September 3, 2015 BZA Hearing.

CHARLOTTE AND CHARLES HORNSBY - VA-15-08-063

REQUEST: Variances in the R-1AA zoning district as follows:
1) To validate and add onto an existing front porch 24 ft. from the front property line in lieu of 30 ft.;
2) To reconstruct existing carport 29 ft. from the front property line in lieu of 30 ft.;
3) To reconstruct same carport 31 ft. from the Normal High Water Elevation of Lake Holden in lieu of 35 ft.; and,
4) To add an additional 811 sq. ft. of accessory structure for a total of 1,211 sq. ft. of accessory floor area in lieu of 500 sq. ft.
(Note: Of the additional 811 sq. ft., 523 sq. ft. consists of enclosed structure with the remaining 288 sq. ft. being covered walkway).

ADDRESS: 3221 Alamo DR, Orlando FL 32805

LOCATION: West side of Lake Holden, east of Alamo Dr., north of 33rd St.

TRACT SIZE: .37 ac. upland, 1.97 ac. Submerged

DISTRICT#: 3

LEGAL: HOLDEN SHORES Q/43 LOTS 14 & 15 & LAND & WATER ON E TO PT 573 FT W OF E LINE OF SE1/4 OF SW1/4 02-23-29 BLK A

PARCEL ID#: 02-23-29-3672-01-140

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 variances in the R-1AA zoning district as follows: 1) to validate and add onto an existing front porch twenty-four (24) feet from the front property line in lieu of thirty (30) feet; 2) to reconstruct an existing carport twenty-nine (29) feet from the front property line in lieu of thirty (30) feet; 3) to reconstruct the same carport thirty-one (31) feet from the Normal High

Water Elevation of Lake Holden in lieu of thirty-five (35) feet; and, 4) to add an additional 811 sq. ft. of accessory structure for a total of 1,211 sq. ft. of accessory floor area in lieu of 500 sq. ft.

Of the additional 811 square feet, the applicant was proposing 523 square feet consisting of an enclosed structure identified as a hobby and laundry room. The remaining 288 sq. ft. consisted of a covered walkway extending from the rear of the existing residence to the back of the accessory structure. The total accessory coverage included the carport to be replaced. Mr. Nearing noted that if the walkway was completely enclosed (weatherproofed) to the existing structure, the hobby/laundry room would actually be considered an addition to the house rather than an accessory structure, and thus, no variances would be needed.

Mr. Nearing indicated that according to the Orange County Property Appraiser's information, the house was constructed in 1940, predating zoning in Orange County by eighteen (18) years. The setback variance was actually to allow an extension of the front porch to match an existing front porch along the front elevation of the home. Additionally, noted by Mr. Nearing was that the carport was currently in the only logical place on the lot where it could be located without being located in the front of the residence. Further, the residence had no garage.

Mr. Nearing pointed out that the lot was actually 2.34 acres in total size, with over 1.9 acres submerged, and an actual depth of over 750 feet, again mostly submerged. Despite the lot size, only about 1/3 of an acre was actually above water on an irregularly shaped lot. The carport required two (2) variances as it was on the narrowest part of the lot. Mr. Nearing advised that the applicant did not create the lot which was platted in 1936.

Finally, Mr. Nearing stated staff recommended approval of the request subject to the conditions as outlined in the staff report.

Wes Hoaglund, 709 33rd Street, Orlando, Florida 32805, on behalf of the applicant, addressed the Board and stated that the applicants were in complete agreement with the staff recommendation and accepted all of the conditions.

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

The BZA discussed the case and recognized that the request was unique given the size and configuration of the property. Also, the BZA stated that the request was actually less intense than what would be permitted by right, if the applicant had enclosed the walkway. Furthermore, the BZA noted that there were numerous variances previously granted around Lake Holden. Therefore, BZA recommended approval of the request with the four (4) conditions recommended by staff.

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

1. Development in accordance with 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. 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,
4. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the carport is no closer than 31 ft. from the normal high water elevation of Lake Holden.

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 has owned the property for approximately 3 months. 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 Dave Nearing announced that the applicant's failed to properly post the property; thus, the BZA voted to continue this request to its September 3, 2015 BZA Meeting.

A motion was made by Deborah Moskowitz, seconded by Carolyn C. Karraker and unanimously carried to **CONTINUE** to the September 3, 2015 BZA Meeting.

PETAR MARIC - VA-15-08-065

REQUEST: Variances in the R-1A zoning district to create substandard lot as follows:
1) Lot area of 6,969 sq. ft. in lieu of 7,500 sq. ft.; and,
2) Lot width less than 75 ft.

ADDRESS: 304 Eton ST, Orlando FL 32839

LOCATION: Southeast corner of Eton St., and Aileen Dr., west of Orange Ave., north of

Oak Ridge Rd.
TRACT SIZE: 84 ft. x 101 ft.
DISTRICT#: 3
LEGAL: LAKE MARY MANOR S/34 LOT 1 BLK C & A 1/47 INT IN LOT 9 BLK A (PER DB 1012/97) & (SEE 24-23-29-4668-01-091 FOR 1/47TH INTEREST)
PARCEL ID#: 24-23-29-4668-03-010

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated the applicant was requesting variances to create a substandard sized lot with 6,969 sq. ft. of land area in lieu of 7,500 sq. ft.; and, with a lot width less than seventy-five (75) feet. The property was platted in 1952, and was combined with lot 8, creating a compliant parcel, however, in 2003 the property of Lot 1 was sold off separately, creating the substandard lot.

Mr. Balevich stated the proposal was consistent with the area, as there were similar sized lots, and smaller lots with houses in the area. Further, staff had no objections to this request because: a) the request would not adversely impact any quality of life circumstances; b) there were smaller lots in the area with houses; and, c) no privacy rights were being affected.

Staff received five (5) commentaries in favor of the application and none in opposition. Further, Mr. Balevich stated if the BZA approved this request, the conditions as listed in the staff report should be imposed.

Petar Maric, 10060 Bynum Court, Orlando, Florida 32821, applicant, addressed the Board and stated he agreed with staff's recommendation.

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

The BZA discussed the case and indicated that the issue was with the platting in the 1950s, and the applicant needed to legitimize the lot. The BZA acknowledged that there were other such variances that were approved in the neighborhood; and, all setbacks would be met. Therefore, BZA approved the variance with the conditions as recommended by staff.

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

1. Development in accordance with site plan dated, "Received June 12, 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; and,

3. All building setbacks shall be met.

GUILLERMO LINARES - VA-15-08-068

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

- 1) To validate an existing addition (wetbar and restroom) 2.89 ft from the side (north) property line in lieu of 7.5 ft.; and,
 - 2) To allow addition to remain 18.5 ft. from the rear property line in lieu of 30 ft.
- (Note: This is a result of code enforcement action. The applicant covered over 60% or the lot with impervious surface, constructed the addition, which contains a restroom and wetbar, and constructed two sheds without permits. Both sheds and the majority of unpermitted concrete surface will be removed and will be addressed by conditions if approved. The applicant has obtained letters of support from the two most impacted neighbors (north and south) of the subject property).

ADDRESS: 1706 Egan DR, Orlando FL 32822

LOCATION: West side of Egan Dr., approximately 625 ft. west of Goldenrod Rd.

TRACT SIZE: 80 ft. x 120 ft.

DISTRICT#: 3

LEGAL: AZALEA PARK SECTION TWENTY SIX V/86 LOT 4 BLK D

PARCEL ID#: 27-22-30-0428-04-040

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 variances in the R-1A zoning district to validate an existing addition to include a wet bar and restroom, 2.89 feet from the north side property line in lieu of 7.5 feet. The applicants were also requesting to allow the addition to remain 18.5 feet from the rear property line in lieu of thirty (30) feet. This request was a result of code enforcement action.

Mr. Nearing stated that the applicant covered over sixty percent (60%) of the lot with impervious surface, constructed the addition which contains a restroom and wetbar, and constructed two (2) sheds without permits. However, both sheds and the majority of the unpermitted concrete surface would be removed as addressed by conditions, if approved.

Mr. Nearing advised that the applicant had obtained letters of support from two of the most impacted neighbors which were north and south of the subject property. Mr. Nearing further explained that to the west side of the rear property line was a fifty (50) foot wide drainage facility which extended north and south, paralleling Goldenrod Road. That said, while the proposed rear yard setback represented a thirty-eight percent (38%) variance, this was mitigated by the presence of a drainage facility which provided a significant separation between the applicant's rear yard and the nearby residents to the west. Further, it was only three percent (3%) greater than past similar variances granted by the BZA. Staff identified six (6) prior variances to the rear and side yard setbacks granted in the past by the BZA which were within one-quarter (1/4) of a mile from the subject property.

Lastly, Mr. Nearing stated the side yard variance represented a variance of sixty-one percent (61%). However, the neighbor adjacent to this improvement was in support of the request. Additionally, the applicant had erected a five (5) foot board-on-board fence around the rear yard. Mr. Nearing noted to ensure privacy, should this request be approved, a condition to maintain this fence and/or allow for substitution of a hedge in the future to be maintained at a

minimum height of five (5) feet. Finally, Mr. Nearing stated staff recommended approval of the request subject to the conditions as outlined in the staff report.

Guillermo Linares, 1706 Egan Drive, Orlando, Florida 32822, applicant, addressed the Board in support of the request.

Rachel Lores, 1200 Egan Drive, Orlando, Florida 32822, translator on behalf of the applicant, addressed the Board and stated the applicant was in agreement with staff's recommendation.

Penny Carr, 7419 Nolton Way, Orlando, Florida 32822, neighbor, addressed the Board and noted that she was not in opposition to the request but actually supported it. Ms. Carr stated that she wished to have the same front yard driveway configuration as the applicant appeared to be proposing, however, she had been denied. Staff and the BZA clarified that the BZA had no power to grant such driveway configurations, and all the BZA was considering were the side and rear setbacks of the addition.

No one spoke in opposition to the request.

The BZA discussed the side yard variance request, noting that it was fairly significant. However, the BZA recognized that one of the past variances was for a side yard even smaller than that being requested. As such, the BZA concluded that the request was actually less than prior variances granted in the area, and that the two (2) most impacted neighbors had both consented to the request. Therefore, the BZA approved the request with an amendment to Condition #3, to reword the language to refer to obtaining all necessary permits rather than specific to demolition and construction permits.

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

1. Development in accordance with site plan dated June 16, 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 apply for all necessary permits within thirty (30) days of final action by Orange County, and shall complete all permit activity within ninety (90) days of obtaining permits, or this approval shall become null and void;

- 4. The existing excess paving, carport, and unpermitted sheds shall be removed or permitted prior to final inspection and sign-off on the restroom/wetbar addition by the Building Safety Division; and,
- 5. A minimum five foot tall fence or hedge shall be maintained around the rear yard.

The Board recessed at 11:50 a.m. and reconvened at 12:02 p.m.

Board Member, Tony Rey and Chuck Norman left the public hearing at 12:02 p.m.

LAKE SHERWOOD PRESBYTERIAN CHURCH - SE-15-08-070

REQUEST: Special Exception in R-CE zoning district to construct 21,000 sq. ft. religious use facility
(Note: A 300 seat sanctuary with meeting space and no outdoor events are planned)

ADDRESS: 1841 Windermere RD, Windermere FL 34786

LOCATION: East side of Windermere Rd, 200 ft. north of McKinnon Rd.

TRACT SIZE: 11 acres

DISTRICT#: 1

LEGAL: COMM SW COR OF NW1/4 OF SEC 06-23-28 TH RUN N88-58-39E 358.92 FT N06-20-51W 94.05 FT N83-39-09E 282 FT N06-20-51W 126 FT S83-39-09W 282 FT N06-20-51W 126 FT N83-39-09E 282 FT N06-20-51W 84 FT S83-39-09W 168 FT N06-20-51W 42 FT S83-39-09W 114 FT N06-20-51W

PARCEL ID#: 06-23-28-0000-00-005

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 R-CE zoning district to construct a religious use facility. This approval was for a multi-phased development consisting of Phase I, with a 300 seat sanctuary to include up to 14,500 square feet of total floor area. Phase II, would be limited to an additional 6,500 sq. ft of floor area for meeting and ancillary uses, with no increase in sanctuary seating. This request would permit a total of 21,000 sq. ft. at build-out. Mr. Nearing noted that any expansion beyond those limits would require additional approval by the BZA and BCC.

Mr. Nearing provided background on the case, noting that the subject property of eleven (11) acres in size contained a significant expanse of wetlands in which the applicant was preparing a Conservation Area Determination.

Further, Mr. Nearing advised that although the applicant had not indicated that any outdoor events were planned, it was noted from staff's experience that these events were ultimately desired. As such, staff recommended that a condition to address the number and timeframe of events be included in any approval.

Furthermore, while it was not uncommon to permit the use of grassed parking for religious use facilities, the drive aisles serving the parking spaces were typically paved to delineate the parking from drive aisles, and because the drive aisles carry traffic as opposed to the static weight of a car. It was also pointed out by Mr. Nearing that the site plan submitted by the applicant indicated that the parking ratio was one (1) parking space per every four (4) seats. The actual ratio by Orange County Code was one (1) space per every three (3) seats. Therefore, the plan failed to comply with this standard, and would need to be revised during the nonresidential permitting process.

Mr. Nearing reported that on July 20, 2015, the applicant conducted a Community Meeting with the neighbors to discuss the proposal. The meeting was attended by Orange County Commissioner Boyd, representing District 1, his staff, Zoning staff, and the applicant. Approximately ten (10) residents were in attendance along with members of the Church congregation. The meeting was well received, with those in attendance being in favor of the request.

Questions from the residents involved the following: stormwater runoff; exterior colors of the new structure; lighting in the parking lot; lighting of the signage; and, whether there would be a future school, day care, or similar ancillary use.

Staff received two (2) commentaries in favor and two (2) commentaries in opposition of the request. Finally, Mr. Nearing stated staff recommended approval of the request subject to the conditions as outlined in the staff report.

Kendell Keith, 930 Woodcock Road, Orlando, Florida 32814, agent on behalf of the applicant, addressed the Board and noted that while they were generally in agreement with the conditions proposed by staff, they requested clarification of what would constitute an outdoor event qualifying as one (1) of the four (4) permitted events in a calendar year.

Stephen Chong, 3422 Royal Ascot Run, Gotha, Florida 34734, on behalf of the applicant, addressed the Board and requested that the condition prohibiting use of sound amplification either not be imposed or be modified.

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

During a brief discussion, the BZA clarified that activity normally associated with church activities would not count as an outdoor event, and that large events were what the condition was aimed at, such as festivals. Additionally, the BZA clarified that amplification was intended to preclude loud speakers and/or amplified music, such as a band.

The BZA concluded to amend Condition #5, regarding the encouragement of the use of "dark skies" type lighting as mandatory due to the rural nature of the neighborhood. Further, the BZA determined to protect the applicant from being responsible for replacing any trees along Windermere Road which were not on the subject property by clarifying that Condition #14, was only intended for trees on the subject property. Lastly, the BZA concurred with staff's recommendation as amended.

A motion was made by Carolyn Karraker, seconded by Eugene Roberson, Zachary Seybold, Gregory A. Jackson, voting AYE by voice vote, Deborah Moskowitz voting No by voice vote, (Tony Rey and Chuck Norman were absent) and carried to **APPROVE** the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions:

1. Development in accordance with site plan dated June 17, 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. Parking spaces may be unpaved. However, handicapped spaces and all driving aisles shall be paved;
4. Access, drainage, roadway improvements and concurrency management shall be determined by the Public Works Department. The applicant will be required to provide all improvements deemed necessary by County Transportation Staff;
5. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, Exterior Lighting Standards. Use of "Dark Skies" type lighting shall be required;
6. Prior to the issuance of permits the applicant shall complete a Conservation Area Determination;
7. There shall be no impacts or encroachments to any Orange County Conservation Areas unless approved by Orange County;
8. Development shall comply with Chapter 24 (Landscaping);
9. No more than 4 outdoor events shall take place in any calendar year. These events shall not commence before 9 a.m. nor extend beyond 8 p.m.;
10. No outdoor speakers or other audio amplification;
11. The exterior colors of the building shall be muted tones, such as earth tones or pastels;
12. The applicant shall submit construction plans through the commercial site plan review process within 3 years or this approval is null and void. Construction plans shall reflect that the parking ratio is one parking space per 3 seats, not 4 seats as depicted on the submitted plans (Sec. 38-1476(a));
13. 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;
14. Unless determined to be diseased or in decline, the mature oak trees on the subject property along Windermere Road shall be preserved. Any trees lost to decline or diseases shall be replaced by a Live Oak or similar species; and,
15. Any expansions of the Church facilities, including establishment of such ancillary uses as schools day care centers shall require BZA approval.

RANDY LAZARUS FOR CLASSIC HOMES - VA-15-08-071

REQUEST: Variance in the R-1A zoning district to construct single family residence on a 50 ft. wide lot in lieu of a 75 ft. wide lot.
(Note: The proposed home will comply with all building setbacks).

ADDRESS: 1115 Venetian Avenue, Orlando FL 32804

LOCATION: North side of Venetian Ave., approximately 1,000 ft. west of Edgewater Dr.

TRACT SIZE: 50 ft. x 204 ft.

DISTRICT#: 2

LEGAL: UNIVERSITY HEIGHTS N/59 LOT 3 BLK I & THAT PART OF OCCUPIED PLATTED LAKE BEING BOUNDED ON S BY NLY LOT LINE OF LOTS 3 ON W BY NLY EXTENSION W LINE OF LOT 3 ON E BY NLY EXTENSION OF E LINE LOT 3 ON N BY CENTERLINE OF LAKE FAIRVIEW

PARCEL ID#: 10-22-29-8828-09-030

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated the applicant was requesting a variance for a lot width of fifty (50) feet in lieu of seventy-five (75) feet; and, noted the property was platted in 1926. It was reported by Mr. Balevich that the same parties were owners of the lots to the east and west of this lot. Orange County Code required the aggregation of substandard adjoining lots that were under the same ownership.

Mr. Balevich pointed out that the proposal was consistent with the area, as there were similar sized lots and smaller lots with houses in the area. Therefore, staff had no objections to this request because: a) the request would not adversely impact any quality of life circumstances; and, b) there were smaller lots in the area with houses.

Staff received no commentaries in favor and three (3) commentaries in opposition of the request. Lastly, Mr. Balevich stated if the BZA approved this request, the conditions as listed in the staff report should be imposed.

Randy Lazarus, P.O. Box 485, Mt. Dora, Florida 32756, representative on behalf of the applicant, addressed the Board and stated that the applicant desired to build an upscale structure on the subject property. Mr. Lazarus added that the new septic regulations were more stringent, and there was no guarantee that a seventy-five (75) foot wide lot could be buildable.

The following residents addressed the Board in opposition to the request:

Rick Goehring, 1112 Venetain Avenue, Orlando, Florida 32804;

Gary Hudson, 1113 Venetain Avenue, Orlando, Florida 32804;

Paul Garland, 1114 Venetain Avenue, Orlando, Florida 32804;

Bonnie Vermillion, 1103 Venetain Avenue, Orlando, Florida 32804;

George Stimmel, 1108 Venetain Avenue, Orlando, Florida 32804; and,

Tyler Korn, 1114 Venetain Avenue, Orlando, Florida 32804.

All of the residents in attendance were against the variance. The residents felt that the applicant would ask for more variance requests for the additional fifty (50) foot wide lots. One speaker stated that the applicant had options to purchase all of the adjacent lots. The residents expressed concerns with respect to the request not being consistent with all of the other neighborhood lakefront properties which they felt should be the standard applied to the

subject property which is on the lakefront. Additionally, the residents reported that the request would pose a public safety issue because even with drainage, standing water existed in this very low area as the water flows down to this particular point; and, even without the rain, the ground was soggy and had mucky sand.

Mr. Lazarus readdressed the Board in rebuttal stating that the applicant had no intentions of submitting variance requests for the lots to the west. Further, Mr. Lazarus stated that there was no guarantee of a lot split into two (2) seventy-five (75) foot wide lots and/or if the lots would be buildable, and it would be financially costly to proceed with all of the required studies. The BZA confirmed that other variances had been granted in the area; however, the lots were platted rather than created by a lot split. The BZA asked about doing a lot split to create a seventy-five (75) foot wide lot, but were made aware that there would be lot size issues for septic tanks.

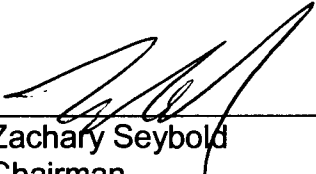
In addition, the BZA asserted that the subject property was different from the other lots that were granted variances because the other lots were not lakefront properties. The BZA also discussed the difference between a developer speculating on a lot under contract, as opposed to a homeowner. As a result, the BZA concluded that the variance could be injurious to the neighborhood; a public safety issue; and, it did not meet the minimum possible variance.

A motion was made by Gregory A. Jackson, seconded by Deborah Moskowitz (Tony Rey and Chuck Norman were absent) and unanimously carried to **DENY** the Variance request 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).


ADJOURN:

There being no further business, the meeting was adjourned at 1:20 p.m.

ATTEST:



Zachary Seybold
Chairman



Debra Phelps
Recording Secretary