

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
MEETING OF OCTOBER 1, 2015**

The Orange County Board of Zoning Adjustment meeting met at 9:00 a.m. on **October 1, 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: Tony Rey - Vice Chairman
Carolyn C. Karraker
Gregory A. Jackson
Deborah Moskowitz
Eugene Roberson
Charles Norman

BOARD MEMBERS ABSENT: Zachary Seybold – 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 9:00 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 September 3, 2015, Board of Zoning Adjustment meeting.

A motion was made by Carolyn Karraker, seconded by Deborah Moskowitz, (Zachary Seybold was absent) and unanimously carried to **APPROVE** the minutes of the September 3, 2015, Board of Zoning Adjustment meeting.

Board member, Gregory A. Jackson arrived at the public hearing at 9:07 a.m.

E.J. MCNALLY - VA-15-10-083

REQUEST: Variances in the A-2 zoning district as follows:
1) To construct a single family residence 23.5 ft. from the Normal High Water Elevation of Lake Whippoorwill in lieu of 50 ft.; and,
2) To allow existing accessory building to remain with 2,442 sq. ft. in lieu of 2,000 sq. ft.
(Note: The subject property is adjacent to a canal. The applicant will remove existing house).

ADDRESS: 12324 Kirby Smith Road, Orlando FL 32832

LOCATION: West side of Kirby Smith Rd., north of Tyson Rd.

S-T-R: 20-24-31-NE-A

TRACT SIZE: 4.75 acres

DISTRICT#: 4

LEGAL: S 160 FT OF N 465 FT OF SE1/4 OF NE1/4 OF SEC 20-24-31

PARCEL ID: 20-24-31-0000-00-037

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated the applicant was requesting variances to construct a single family residence 23.5 feet from the Normal High Water Elevation of Lake Whippoorwill in lieu of fifty (50) feet; and, to allow an existing accessory building to remain with 2,442 square feet in lieu of 2,000 square feet. The property backed up to Lake Whippoorwill to the rear and a canal which was connected to Lake Whippoorwill on the south side. The portion of the proposed house requiring the variance from the Normal High Water Elevation was located adjacent to the canal on the south side of the property. Mr. Balevich further noted that the Orange County Environmental Protection Division reviewed the request and had no objection.

Mr. Balevich stated that staff had no objections to this request because: a) the request would not adversely impact any quality of life circumstances; b) the Orange County Environmental Protection Division had no objection; c) no neighbors objected to the request; and, d) the remaining setback of 23.5 feet was still a significant setback.

Staff received two (2) commentaries in favor within the same block of the neighborhood and no commentaries in opposition to the request. Further, Mr. Balevich stated if the BZA approved this request, the conditions as outlined in the staff report should be imposed.

E.J. McNally, P.O. Box 818, Windermere, Florida 34786, applicant, addressed the Board stating he was in agreement with staff's recommendation; and, expressed his appreciation to staff for assisting him through the process. Mr. McNally agreed with staff's recommendation. No one spoke in favor or in opposition to this request.

The BZA indicated that they were familiar with this area, and the request did not ask for any special privilege. Further, the BZA confirmed other variances were granted in the area including another variance for setbacks from the Normal High Water Elevation, and indicated the request was reasonable. Therefore, the BZA concurred with staff's recommendation.

A motion was made by Deborah Moskowitz, seconded by Carolyn Karraker (Zachary Seybold was absent), 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 date-stamped "Received August 10, 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 existing home shall be removed within ten (10) days of issuance of certificate of occupancy for the new home;
4. 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;
5. Prior to the issuance of any permits, the applicant shall obtain a flood plain permit; and,
6. 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 house is no closer than 23.5 from the normal high water elevation of Lake Whippoorwill.

TOBY BEST - VA-15-10-084

REQUEST: Variances in the A-1 zoning district as follows:
1) To construct single family residence on a substandard sized lot (8,305 sq. ft. in lieu of 21,780 sq. ft. and 55 ft. of lot width in lieu of 100 ft.; and,
2) To allow for an 8 ft. side setback in lieu of 10 ft. on both side yards.

ADDRESS: 10521 5th Avenue, Ocoee FL 34761

LOCATION: North side of 5th Ave., east of Angola St.

S-T-R: 05-22-28-SW-C

TRACT SIZE: 55 ft. x 152 ft.

DISTRICT#: 2

LEGAL: OAK LEVEL HEIGHTS L/31 LOT 19 BLK H

PARCEL ID: 05-22-28-6052-08-190

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated the applicant was requesting variances to construct a single family residence on a substandard sized lot of 8,305 square feet in lieu of 21,780 square feet; to allow for a fifty-five (55) foot lot width in lieu of 100 feet; and, to allow for an eight (8) foot side setback in lieu of (ten) 10 feet on both side yards. The property was platted in 1925.

Further, Mr. Balevich pointed out that the proposal was consistent with the neighborhood as there were similar sized lots with houses in the area; and, houses with smaller side setbacks in the area.

Staff had no objections to this request because of the following reasons: a) the request would not adversely impact any quality of life circumstances; b) there were similar sized lots in the area with houses; and, c) the remaining setback of eight (8) feet was a reasonable side setback. Staff received no commentaries in favor or in opposition to the request. Finally, Mr. Balevich stated if the BZA approved the request, the conditions as listed in the staff report should be imposed.

Tony Best, 235 East 5th Street, Apopka, Florida 32703, applicant, addressed the Board and stated he agreed with staff's recommendation.

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

The BZA had a brief discussion and stated that this case was fairly straightforward. In

addition, the BZA recognized the request was consistent with the character of the community and would be an improvement to the surrounding area. Therefore, the BZA concurred with staff's recommendation.

A motion was made by Gregory A. Jackson, seconded by Deborah Moskowitz (Zachary Seybold was absent), 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 date-stamped "Received August 10, 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. All other building setbacks shall be met.

The Board recessed at 9:16 a.m. and reconvened at 9:37 a.m., due to a traffic issue delaying the arrival of applicant, Cristi S. Nemeth; Public Hearing #SE-15-10-085, scheduled to be heard within the first hour of public hearings.

CRISTI S. NEMETH - SE-15-10-085

REQUEST:	Special Exception and Variance in the A-2 zoning district as follows: 1) Special Exception: To establish a pet spa and kennel for up to 50 dogs and 10 cats and up to 29 outdoor kennel runs; and, 2) Variance: To allow unpaved parking driving aisle and parking spaces in lieu of paved.
ADDRESS:	4754 N Fort Christmas Road, Christmas FL 32709
LOCATION:	South side of N. Ft. Christmas Rd., east of Chuluota Rd.
S-T-R:	02-22-32-NW-B,02-22-32-SW-C
TRACT SIZE:	14.75 acres
DISTRICT#:	5
LEGAL:	COMM AT NW COR OF SW1/4 TH S 01 DEG E 120.55 FT E 782.63 FT TO POB N 05 DEG E 748.30 FT E 411.54 FT S 01 DEG E 745.46 FT W 494.7 FT TO POB & COMM NW COR OF SW1/4 TH S 01 DEG E 120.55 FT E 782.63 FT N 05 DEG E 748.30 FT TO POB CONT N 05 DEG E 922.35 FT S 6
PARCEL ID:	02-22-32-0000-00-018

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 establish a pet spa and kennel; and, a Variance to allow unpaved parking driving aisle and parking spaces in lieu of paved. The proposed building would be located at the rear of the property with 7,635 square feet under roof, and 5,346 square feet under air. Further, the applicant was proposing to have four (4) groomers, five (5) pet handlers, and support staff, with up to fifty (50) dogs and ten (10) cats; and, up to twenty-nine (29) outdoor kennel runs.

Mr. Balevich pointed out that history had indicated such uses have caused disruptions to adjacent property owners due to barking dogs. Therefore, staff recommended careful consideration of this request; however, if the neighborhood supported this project, then staff would recommend approval.

Staff received five (5) commentaries in favor and four (4) commentaries in opposition to the request. Further, Mr. Balevich stated if the BZA approved the request, the conditions as outlined in the staff report should be imposed.

Cristi Nemeth, 2837 Bancroft Blvd., Orlando, Florida 32833, applicant, addressed the Board and conducted a graphic presentation which was submitted into the record and addressed the following items: building location was one quarter mile from the road; proposed a pre-cast wall along the road; wall and insulation type for the building; traffic concerns; and, noise prevention measurements.

Ms. Nemeth indicated that the subject property was currently a sheep farm but wanted to build their residence in the front of the property and the kennel at the back of the property; and, to build both at the same time. Further, Ms. Nemeth stated the area around the building site was heavily wooded providing natural landscape buffers in all directions. Moreover, Ms. Nemeth explained that the kennels were not standard; consisted of roofed patio areas only for the dogs to relieve themselves; and, that the dogs were not outside all of the time.

A brief discussion ensued between the BZA and applicant wherein the BZA asked if there would be a wall adjacent to the kennel building. The applicant stated that since they felt the dense trees would suffice as a noise barrier, no plans had been made as such.

The BZA discussed changing the layout by placing the kennel building in front of the house; however, this would shift the impacts of the project to the houses to the north.

Jeanne Curtin, 1375 Fort Christmas Road, Chuluota, Florida 32766, resident in favor, addressed the Board stating she lived about a mile away and referenced other businesses in the area including horse boarding facilities; and further, stated that the kennel would be compatible to the surrounding area.

Doug Kellogg, 4625 Fort Christmas Road, Christmas, Florida 32769, resident in opposition, addressed the Board stating he lived about one-quarter (1/4) of a mile away and had concerns pertaining to noise, and, that the use belonged in a commercial area rather than this area with a one (1) house per ten (10) acres future land use.

Ms. Nemeth addressed the BZA in rebuttal stating an employee would be on site 24/7 to monitor keeping the dogs quiet. In addition, Ms. Nemeth indicated that they were professionally trained to identify any negative dog behaviors to include a temperament test

which would be done within an extensive screening and consultation conducted with a dog owner to identify any known behaviors of a dog while observing the dog during the evaluation stage prior to the acceptance of boarding.

The BZA further discussed the case and was concerned about the odor from waste and noise of barking dogs, and asked the applicant about the waste disposal and the potential of incessant barking dogs. The applicant stated they would have a dumpster on site, and agreed to locate it to the west side of the kennel building at the furthest point away from the adjacent property. The applicant addressed the issue of noise by stating the dogs would get daily exercise causing them to be tired and quiet; the facility would have calm music playing throughout the kennels which studies have shown to help soothe and bring comfort to the dogs; and, should there be an incessant dog barker, the applicant would be willing to bring a dog to their own house. Nonetheless, one of the Board members felt the request was not conducive to the area due to the location of an abandoned house on a lot adjacent to the subject property and could possibly be in close proximity of the kennels; and therefore, had concerns with noise and the waste dumpster.

After much debate concerning the issues of noise and waste disposal, the BZA had a majority vote of five (5) in favor and one (1) opposed to approve the requests with thirteen (13) conditions, as amended, to include additional conditions as follows: Conditions #9, #10, and #12, reflecting extra measures imposed related to noise; Condition #11, reflecting the dog kennels to match the exterior design of the main house; and, Condition #13, addressing the relocation of the waste dumpster to the west side of the kennel building.

A motion was made by Gregory A. Jackson, seconded by Tony Rey, Eugene Roberson, Carolyn Karraker, Chuck Norman voting AYE by voice vote, Deborah Moskowitz voting No by voice vote, (Zachary Seybold was 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; and, to **APPROVE** the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development in accordance with site plan date-stamped "received August 10, 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 submit construction plans within three (3) years or this approval is null and void;
4. Noise and sound shall be regulated by Orange County Codes: Sec. 5-42 and Sec. 15-182 to 15-187;
5. The site shall be restricted to a maximum of fifty (50) dogs and (ten) 10 cats;
6. There shall be no more than twenty-nine (29) outdoor kennel runs;
7. All animal shall be kept indoors between the hours of 9:00 p.m. to 8:00 a.m.;
8. Parking spaces may be unpaved. However, handicapped spaces shall be paved;
9. The exterior walls of the kennel building shall have steel thermal insulated panels on all sides except the front entrance;
10. All music and/or sound emanating from the property shall be subject to the requirements of Orange County Code Chapter 15, Noise and Vibration Control regulations;
11. Proposed kennel building shall be designed to match the residential design of the main house;
12. A six (6) foot high pre-cast wall shall be constructed along the north property line along North Fort Christmas Road; and,
13. The kennel dumpster shall be located on the west side of the kennel building.

YOLANDA VIDAL - SE-15-10-086

REQUEST: Special Exception and Variances in the R-1A zoning district as follows:
1) Special Exception: To allow detached Accessory Dwelling Unit (ADU) to remain;
2) Variance for ADU: To allow detached ADU on a 10,528 sq. ft. lot in lieu of 11,250 sq. ft. (1 1/2 times the minimum lot area);
3) Variance for ADU: To allow detached ADU with 384 sq. ft. of living area in lieu of 400 sq. ft.;
4) Variance for ADU: To allow detached ADU to remain at 5.22 ft. from side (west) property line in lieu of 7.5 ft.;
5) Variance for ADU: To allow detached ADU to remain 5.3 ft. from rear (north) property line in lieu of 10 ft.;
6) Variance for Storage Area: To allow storage area attached to ADU to remain 3.89 ft. from rear (north) property line in lieu of 5 ft.;
7) Variance for Shed: To allow existing shed to remain 2.59 ft. from rear (north) property line in lieu of 5 ft.; and,
8) Variance for Shed: To allow existing shed to remain 1.3 ft. from side (east) property line in lieu of 5 ft.
(Note: This is a result of code enforcement action. The ADU, storage area and smaller shed were located on the subject property when the applicant purchased the property in January 2006. Application states the detached ADU is occupied by the applicant. The main house is occupied by the applicant's family).

ADDRESS: 1131 Largo Drive, Orlando FL 32839

LOCATION: North side of Largo Dr., approximately 225 ft. east of Makama Dr., between S. OBT and Lake Jessamine

S-T-R: 15-23-29-SE-D

TRACT SIZE: 75 ft. x 140 ft.

DISTRICT#: 3

LEGAL: LAKE JESSAMINE SHORES R/41 LOT 18 BLK C

PARCEL ID: 14-23-29-4528-03-180

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 the owner of the subject property; and, indicated that she had purchased the land approximately eleven (11) years ago. In addition, Mr. Nearing pointed out that one of the deciding factors in the applicant's selection of the property was actually the existing second unit which was considered an Accessory Dwelling Unit (ADU), as it contained a full kitchen. However, the applicant was informed by the Code Enforcement Division that the ADU was not properly permitted; and, as a result, the request was submitted by the applicant for a Special Exception to validate the ADU.

Mr. Nearing reported that through the application process, staff also discovered the following variances would be needed as follows: a) Variance for ADU: To allow detached ADU on a 10,528 square feet lot in lieu of 11,250 square feet (1 1/2 times the minimum lot area); b) Variance for ADU: To allow detached ADU with 384 square feet of living area in lieu of 400 square feet; c) Variance for ADU: To allow detached ADU to remain at 5.22 feet from side (west) property line in lieu of 7.5 feet; d) Variance for ADU: To allow detached ADU to remain 5.3 feet from rear (north) property line in lieu of ten (10) feet; e) Variance for Storage Area: To allow storage area attached to ADU to remain 3.89 feet from the rear (north) property line in lieu of five (5) feet; f) Variance for Shed: To allow existing shed to remain 2.59 feet from the rear (north) property line in lieu of five (5) feet; and, g) Variance for Shed: To allow existing shed to remain 1.3 feet from side (east) property line in lieu of five (5) feet.

It was noted by Mr. Nearing that the applicant was the occupant of the ADU as the principal home was occupied by the applicant's daughter, son who was mentally challenged, mother, and brothers, one of which had sustained lasting brain damage. In addition, staff had not received any objections from neighboring property owners; and, the applicant provided letters of support from the neighbor abutting the subject property's west property line and a neighbor to the south across Largo Drive which included a total of three (3) letters in favor from neighbors to the request.

Mr. Nearing advised that there was an existing six (6) foot tall fence around the rear yard of the subject property. It was recommended that if approved, a condition be added which would require this visual barrier to be maintained in some form such as an opaque fence and/or shrubbery. Finally, staff recommended approval of the request subject to the conditions as outlined in the staff report.

Yolanda Vidal, 1131 Largo Drive, Orlando, Florida, 32839, applicant, addressed the Board stating the structure appeared to be sound with no safety concerns; and, expressed the desire to follow the proper protocol pertaining to the appropriate permitting process. Finally, Ms. Vidal stated she was in agreement with all of the conditions proposed by staff.

No one was in attendance to speak for or against the application, and the public hearing was closed.

A brief discussion ensued between the BZA and the applicant wherein the BZA directed the applicant to the Building Safety Division for the procedures in obtaining a permit; and, had emphasized the importance to adhere to all of the conditions relative to the BZA approval. Therefore, the BZA concluded that the request was reasonable and compatible with the surrounding neighborhood; and, concurred with the staff's recommendation.

A motion was made by Tony Rey, seconded by Carolyn Karraker (Zachary Seybold 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, 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 August 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 applicant shall obtain a permit for the ADU and sheds within 180 days of final County action or this approval becomes null and void;
4. The accessory dwelling unit shall be used by family members only and shall not be rented out;
5. The applicant shall be responsible for payment of all applicable fees and assessments, including, but not limited to, impact fees; and,
6. The applicant shall maintain screening around the rear yard of the subject property consisting of an opaque screen a minimum of six (6) ft. in height which may be a solid fence or shrubbery.

The Board recessed at 10:48 a.m. and reconvened at 10:57 a.m.

GEORGE JOHNSON - VA-15-10-087

REQUEST: Variance in the P-D zoning district to construct a sunroom addition (glassed in) 16 ft. from the rear property line in lieu of 20 ft.
(Note: The applicant has obtained letters of support from HOA and

neighbors.)
ADDRESS: 14010 Kestrel Drive, Orlando FL 32837
LOCATION: West side of Kestrel Dr., approximately 400 ft. south of Falcon Trace Blvd.
S-T-R: 34-24-29-NE-A
TRACT SIZE: 76.5 ft. x 110 ft.
DISTRICT#: 4
LEGAL: FALCON TRACE UNIT 7 45/3 LOT 71
PARCEL ID: 34-24-29-2669-00-710

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 P-D zoning district to construct a sunroom addition to be glassed in within sixteen (16) feet from the rear property line in lieu of twenty (20) feet. The subject property was located in the South Chase PD.

Mr. Nearing advised that the applicant obtained approval of the Falcon Trace HOA which was a sub-association of the overall development. In addition, the applicant had submitted to staff letters of support obtained from three (3) of the most impacted neighbors. Mr. Nearing indicated that staff received one (1) correspondence in opposition to the request from an individual located over 450 feet from the subject property.

Mr. Nearing advised that the proposed variance represented a twenty percent (20%) variance not a ten percent (10%) variation from the required setback as noted in the staff report. To that end, as pointed out by Mr. Nearing, were the applicant simply requesting a screen room with no glass, the screen room would be permitted to extend fifty percent (50%) into the setback. Nevertheless, because the room would be glassed-in, it was treated as living space and must meet the setbacks.

It was also noted by Mr. Nearing that the requested variance was within the range of past requests approved by the BZA. Therefore, staff recommended approval of the request subject to the conditions as outlined in the staff report.

Samuel Butler, 5035 Pueblo Street, Orlando, Florida 32819, a representative on behalf of the applicant, addressed the Board stating that the applicant had been unexpectedly called out of town. Mr. Butler indicated that the HOA had approved the request and a number of neighbors were in favor of the request; and, stated the only opponent lived approximately 450 feet away from the property and would not be visually impacted. Further, Mr. Butler described a photograph which was submitted into the record explaining that the graphics provided to staff with the initial submittal had changed; and, more specifically, the applicant had changed the roofline to a gabled style. Staff advised the applicant that the roofline had no bearing on the case since the only issue was the setback.

No one was in attendance to speak for or against the request, and the public hearing was closed.

The BZA discussed the case and had no questions for the applicant as the request was found to be within the scope of prior approvals and found to be favorable with the community. Therefore, the BZA concurred with staff's recommendation.

A motion was made by Deborah Moskowitz, seconded by Carolyn Karraker (Zachary Seybold 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 August 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. The exterior of the sunroom addition shall be compatible or complimentary to the exterior of the existing of the existing home.

Board member, Gregory A. Jackson left the public hearing at 11:17 a.m. and returned at 11:24 a.m.

SOUTH ORLANDO CHRISTIAN ACADEMY - SE-15-10-088

REQUEST: Special Exception in the C-1 and P-O zoning districts to construct a new 2,200 sq. ft., addition to an existing school and to increase the enrollment from 250 students to 295 students.

(Note: Private Schools are a permitted use in the C-1 zoning district but require a Special Exception in the P-O zoning district. The site has split zoning with C-1 and P-O. The new addition is partially within the P-O zoned portion of the site and requires a special exception for private school use.)

ADDRESS: 5815 Makoma Drive, Orlando FL 32839

LOCATION: North side of W. Oak Ridge Rd. between Makoma and Tomoka Drives, approximately 450 ft. east of S. Orange Blossom Trail

S-T-R: 22-23-29-NE-A

TRACT SIZE: 1.73 acres

DISTRICT#: 3

LEGAL: FLORIDA SHORES Q/142 LOTS 10 THROUGH 13 BLK H (LESS S 12 FT THEREOF FOR RD RW)

PARCEL ID: 22-23-29-2792-08-100

Chief Planner Rocco Relvini explained the location of the subject property and the request. Mr. Relvini gave a general analysis of the expansions to the religious uses and indicated that the applicant was proposing a 2,200 square foot addition modular unit onto a school building to be used as classrooms for an additional forty-five (45) students. The request would increase the student body from 250 students to 295 students. The site was large enough to accommodate the expansion. In addition, the subject property required sixteen (16) parking

spaces wherein the site was already providing sixteen (16) parking spaces. With that said, the parking requirements were being met accordingly.

Mr. Relvini advised that the school was predominantly surrounded by commercial, office, and residential uses; thereby, the request was compatible with the surrounding uses. As noted by Mr. Relvini, it had been the policy of the BZA to place a time limit on the use of modular units. Additionally, Mr. Relvini pointed out that the east property line was in need of additional landscaping.

Staff had not received any commentaries in favor or in opposition to the request. Mr. Relvini stated that staff recommended approval of the request subject to the conditions as set forth in the staff report.

Donaldo A. Campo, 5815 Makoma Drive, Orlando, Florida 32859, representative on behalf of the applicant, addressed the Board and gave a brief presentation describing the intent of the request due to the expansion of the community. Lastly, Mr. Campo agreed with staff's recommendation.

Craig Hackebeil, 2426 Bancroft Blvd., Orlando, Florida 32833, general contractor on behalf of the applicant, addressed the Board and pointed out that the intent of the request was to construct a permanent fixed addition and not to place a modular unit on the site as identified in Condition #5, of the staff report. Staff acknowledged and noted the correction.

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

The BZA discussed the case and determined the request was reasonable for the community and would not adversely impact anyone. Therefore, the BZA concurred with staff's recommendation as amended, to remove Condition #5, of the staff report.

A motion was made by Tony Rey, seconded by Deborah Moskowitz (Zachary Seybold was absent and Gregory Jackson was temporarily 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 August 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;
3. No more than 295 students shall be permitted without further approval of the BZA;

4. If applicable, 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;
5. Landscaping shall be provided along the eastern property line in accordance with Chapter 24, Orange County Code; and,
6. Construction plans shall be submitted within two (2) years or this approval becomes null and void.

CENTRO CRISTIANO RESTAURACION INC - SE-15-10-089

REQUEST: Special Exception in the R-1 zoning district to permit a day care for up to 60 children, ages infant to 5 years old, to be located within an existing religious use building.
(Note: There will be no exterior construction associated with this application.)

ADDRESS: 1600 N Chickasaw Trail, Orlando FL 32825

LOCATION: West side of N. Chickasaw Tr., approximately 950 ft. south of E. Colonial Dr.

S-T-R: 23-22-30-NE-A

TRACT SIZE: 5.45 acres

DISTRICT#: 3

LEGAL: S1/2 OF S1/2 OF NE1/4 OF NE1/4 OF SEC 23-22-30 LYING E OF CANAL R/W (LESS E 50 FT THEREOF)

PARCEL ID: 23-22-30-0000-00-090

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 to permit the existing religious use to establish a day care center for up to sixty (60) children in the R-1 zoning district. The new day care would be known as the Bridge Academy. Further, the church would use the existing classrooms in its sanctuary for the day care. Mr. Nearing also pointed out that no new construction was required for this use.

In addition, Mr. Nearing stated that the applicant was proposing to set hours of operation between 6:00 a.m. and 6:00p.m. However, Mr. Nearing advised that if the request was approved, staff recommended the hours of operation be extended to 7:00 p.m., for purposes of avoiding compliance issues when parents were running late. Further, in light of the applicant's active youth ministries, a fenced playground facility already existed on the premises for use by the day care attendees.

Mr. Nearing indicated that the site was nearly 5.5 acres in size; and, added since most day cares only allow for half of their attendees to be outdoors at any one time, there would be minimal impacts from the playground area. As such, the closest property to where the children would play was currently vacant. Furthermore, at such a time when the property could be developed, the day care would be in operation and visible to anyone wishing to purchase a home on the vacant lot.

Staff received thirteen (13) commentaries in opposition and none in favor to the request. Mr. Nearing stated staff recommended approval of the request subject to the conditions as listed in the staff report.

George Pluguez, 1600 N. Chickasaw Trail, Orlando, Florida 32825, agent on behalf of the applicant, addressed the Board stating the applicant was in agreement with the staff recommendation and accepted the six (6) conditions.

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

Nicole Lee Ortiz, 7925 Richwood Drive, Orlando, Florida 32825;

Vincent Ortiz, 7925 Richwood Drive, Orlando, Florida 32825;

Ashley Williams, 7915 Richwood Drive, Orlando, Florida 32825; and,

Gwen Hartmann, 7824 Richwood Drive, Orlando, Florida 32825.

Residents of the adjacent Richwood Drive neighborhood were in attendance to oppose the request. The residents stated that numerous issues from the current church operation were adversely impacting their community to include traffic; safety concerns; noise; and, allegedly some unmet conditions of approval from its original Special Exception.

Mr. Pluguez addressed the Board in rebuttal stating most activities of the children would be inside of the church. Mr. Pluguez indicated that the applicant was considering a security guard during operating hours. Lastly, Mr. Pluguez indicated that most of the activity for drop off of the children would be to the north of the property.

Discussions ensued between the BZA, applicant, and staff relative to questions regarding possible outstanding conditions from the approval of the original Special Exception for the church. The applicant responded that he was not aware of any outstanding condition at this time. After a brief discussion, the Acting Chairman recommended a continuance of the case to allow staff to review past approvals and conditions to determine what, if anything, was outstanding; and, to give the applicant an opportunity to meet with the neighbors to resolve any issues if they choose to do so. Therefore, the BZA voted to continue this request to an undetermined BZA Meeting date.

A motion was made by Tony Rey, seconded by Carolyn Karraker (Zachary Seybold was absent), and unanimously carried to **CONTINUE** to an undetermined BZA Public Hearing date.

DR. HORTON INC - VA-15-10-091

REQUEST: Variances in the P-D zoning district to permit a reduction in the rear yard setback from 20 ft. to 18.5 ft. for lots 124 thru 136 inclusive.

ADDRESS: 2342 Beacon Landing Circle, Orlando FL 32824

LOCATION: North side of Beacon Landing Circle in the Ginn Property PD, north of SR 417 and west of Wyndham Lakes Boulevard

S-T-R: 29-24-30-SE-D

TRACT SIZE: 50 ft. x 110 ft. (each lot)

DISTRICT#: 4

LEGAL: BEACON PARK PHASE 3 82/40 LOT 124

PARCEL ID: 29-24-30-0331-01-240; 29-24-30-0331-01-250; 29-24-30-0331-01-260; 29-24-30-0331-01-270; 29-24-30-0331-01-280; 29-24-30-0331-01-290; 29-24-30-0331-01-300; 29-24-30-0331-01-310; 29-24-30-0331-01-320; 29-24-30-0331-01-330; 29-24-30-0331-01-340; 29-24-30-0331-01-350; and, 29-24-30-0331-01-360.

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 a homebuilder in the Beacon Park community and the owner of the thirteen (13) subject lots of record. The applicant was requesting variances in the P-D zoning district to permit a reduction in the rear yard setback from twenty (20) feet to 18.5 feet for, Lots 124 through 136, inclusive. Mr. Nearing noted that the applicant was not the original developer and/or designer, and had purchased the lots as platted.

Mr. Nearing reported that some of the lots were irregularly shaped, not being a perfect rectangle. As a result, the rear lot lines were at such an angle that were some of the units the builder had to offer were placed on these lots, the unit would meet the setback in one corner, but would fail to do so in the other. Due to this, not all of the homes offered by the builder would fit on the subject lots. Therefore, the variances would allow the builder to offer a perspective buyer any of the homes on the available lots.

It was also pointed out by Mr. Nearing that each of the units backed up to a dedicated common open space wherein on the opposite side of this open space were the rear yards of other lots. Due to the separation caused by the open space between the rear yards, the minimal reduction in setbacks would be virtually imperceptible, and would permit the builder to offer all of the units on the subject lots.

Staff had not received any objections to the request from the existing residents in the community. Finally, Mr. Nearing stated staff recommended approval of the request subject to the conditions as outlined in the staff report.

Christopher Wrenn, 8640 Aspen Avenue, Orlando, Florida 32817, representative on behalf of the applicant, addressed the Board and indicated that staff's analysis was correct, and that the request would give them the flexibility needed to market the lots. Lastly, Mr. Wrenn stated the applicant was in agreement with the conditions as presented by staff.

No one was in attendance to speak for or against the request, and the public hearing was closed.

The BZA discussed the case and felt that the request was very straight forward, and determined the hardship of the land was not of the applicant's own doing. Therefore, the BZA concurred with staff's recommendation.

A motion was made by Deborah Moskowitz, seconded by Tony Rey (Zachary Seybold 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 August 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. The setback variance shall be for the construction of the principal residence, and shall not be extended to the future construction of any additions to the residence, which shall require separate variance(s).

CHRIS HARRISON - SE-15-11-092

REQUEST: Special Exception in the R-2 zoning district to construct 2 quadruplexes within 100 ft. of single family use to the east and west, and Variance to construct 2 quadruplexes 14 ft. from the side (east and west) property lines in lieu of 30 ft.

ADDRESS: 2233 E Kaley Avenue, Orlando FL 32806

LOCATION: North side of E. Kaley Ave., 400 ft. west of S. Bumby Ave.

S-T-R: 06-23-30-NW-B

TRACT SIZE: 1 acre

DISTRICT#: 3

LEGAL: CLOVERLAWN H/87 W 50 FT OF LOT 25 & E 62.5 FT LOT 24 BLK C (LESS S 15 FT PER DB 410/341)

PARCEL ID: 06-23-30-1432-03-231 and 06-23-30-1432-03-251

Chief Planner Rocco Relvini explained that the applicant agreed to continue this request to the next BZA Meeting to allow sufficient time to meet with the adjacent neighbors and to possibly adjust the site plan.

Chris Harrison, 1693 Anna Catherine Drive, Orlando, Florida 32828, addressed the Board and concurred with staff's recommendation to continue the case for a possible alteration of the site plan and work with the neighbors on a solution that everyone would agree on.


The BZA voted to continue this request to its November 5, 2015 BZA Meeting.

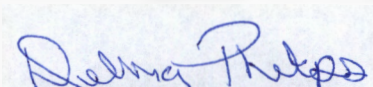
A motion was made by Tony Rey, seconded by Chuck Norman (Zachary Seybold was absent), and unanimously carried to **CONTINUE** to the November 5, 2015 BZA Hearing.

ADJOURN:

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

ATTEST:



Zachary Seybold
Chairman

Debra Phelps
Recording Secretary