

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
MEETING OF NOVEMBER 5, 2015**

The Orange County Board of Zoning Adjustment meeting met at 9:00 a.m. on **November 5, 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: 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 9:05 a.m.

Following the Pledge of Allegiance to the Flag, the following applications, as advertised, were called up for public hearing.

APPROVAL OF MINUTES:

The Chairman requested a motion approving the minutes of the October 1, 2015, Board of Zoning Adjustment meeting.

A motion was made by Carolyn C. Karraker, seconded by Deborah Moskowitz, (Tony Rey was temporarily absent) and unanimously carried to **APPROVE** the minutes of the October 1, 2015, Board of Zoning Adjustment meeting.

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, west, north and south and Variance to construct 2 quadruplexes 18 ft. from the side (east and west) property lines in lieu of 30 ft.

ADDRESS: 2233 E Kaley Avenue, Orlando, Florida 32806

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

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#: 06-23-30-1432-03-251

Chief Planner Rocco Relvini explained the location of the subject property and the request. Mr. Relvini indicated that on, October 1, 2015, the BZA continued this request to allow the applicant an opportunity to meet with the adjacent neighbors to discuss the project and to possibly adjust the site plan. The applicant was proposing a 4-unit structure on each lot which included two (2) lots; therefore, there would be two (2) quadruplexes for a total of eight (8) dwelling units. The Comprehensive Plan Future Land Use Map designation was Low-Medium Residential allowing up to ten (10) units per acre. The request was for eight (8) units on one (1) acre of land. Mr. Relvini reported that the request was consistent with the Comprehensive Policy Plan Future Land Use Map designation.

Mr. Relvini advised that the applicant had increased the building setback on both sides from fourteen (14) feet to eighteen (18) feet. The zoning code required thirty (30) feet side setback when constructing a three (3) or four (4) unit structure adjacent to a single family residential district. Further, the rear yard setback proposed was seventy-six (76) feet. The Special Exception request applied to all four (4) sides of the property since the single family district was on all four (4) sides.

It was noted by Mr. Relvini that the applicant had met with the adjacent neighbors and the residents did not object to this request since the applicant redesigned the site plan to provide an eighteen (18) foot side setback. The previous plan showed a fourteen (14) foot side setback. Further, staff recommended a six (6) foot high vinyl fence to be constructed along the north, east, and west property lines.

Staff received four (4) commentaries in favor and three (3) commentaries 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.

Chris Harrison, 1693 Anna Catherine Drive, Orlando, Florida 23828, applicant, addressed the Board to explain the amended site plan and expressed his appreciation to staff for their input concerning the request. Mr. Harrison agreed with staff's recommendation.

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

The BZA discussed the case and concluded the request was consistent with the Comprehensive Plan and was reasonable for this area. Therefore, the BZA concurred with staff's recommendation as amended to include an additional condition #7, addressing that a six (6) foot high vinyl fence shall be constructed along the north, east, and west property lines.

A motion was made by Zachary Seybold, 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, 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 October 13, 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. Structures shall be limited to 2 stories in height;
4. Any fee simple sales of the units and land shall constitute a subdivision and is required to go through the preliminary subdivision plan process;
5. Minimum side building setback from the east and west lines shall be eighteen (18) feet (does not apply to in between the structures);
6. Construction plans shall be submitted within two (2) years or this approval becomes null and void; and,
7. A six (6) foot high vinyl fence shall be constructed along the north, east and west property lines in accordance with the site plan.

Board member, Tony Rey arrived at the public hearing at 9:21 a.m.

PARK SQUARE HOMES - VA-15-11-097

REQUEST: Variance in the P-D zoning district to construct single family residence 19.4 ft. from rear property line in lieu of 20 ft.
ADDRESS: 8454 Via Vittoria Way, Orlando, Florida 32819
LOCATION: Northwest corner of Sand Lake Rd. and Dallas Dr. in the Granada Properties PD, behind the Dellagio Shopping Center.
TRACT SIZE: 57 ft. x 120 ft.
DISTRICT#: 1
LEGAL: DELLAGIO, A SUBDIVISION OF DR PHILLIPS, FLORIDA 83/111 LOT 49
PARCEL ID#: 27-23-28-2020-00-490

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 variance in the P-D zoning district to construct a single family residence 19.4 feet from the rear property line in lieu of twenty (20) feet.

Mr. Nearing stated as a result of a design issue in the street network caused by the required radius of a corner, the typical unit which the builder was constructing in this community would not fit on the property without a variance as the issue was only specific to the rear right corner

setback of the unit. The proposed variance would only affect the southeast corner of the home. Given the size of the reduction, it would be virtually imperceptible. In addition, the builder was the HOA for this community.

Mr. Nearing reported also that staff had not received any correspondence regarding this application. Finally, staff recommended approval of the request subject to the conditions as outlined in the staff report.

Jose Chaves, 5200 Vineland Road, Orlando, Florida 32819, representative of the applicant, addressed the Board indicating the request was minimal and that the applicant was in agreement with the staff recommendation and the conditions as presented.

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

The BZA discussed the case and found that this request was the minimum necessary, and was not self-created. Therefore, the BZA concurred with the staff's recommendation.

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

1. Development in accordance with site plan dated September 9, 2015, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing; and,
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

ROBERT GODERIS - VA-15-11-099

REQUEST: Variance in the R-1A zoning district to construct a 1,200 sq. ft. accessory structure in lieu of 500 sq. ft.
(Note: The Wedgefield HOA has approved the proposed architecture and location of the accessory structure.)

ADDRESS: 3212 Decker Avenue, Orlando, Florida 32833

LOCATION: West side of Decker Ave., 200 ft. north of Northrop St., in the Wedgefield Community

TRACT SIZE: 1 acre

DISTRICT#: 5

LEGAL: CAPE ORLANDO ESTATES UNIT 12A 4/66 LOT 23 BLK 9

PARCEL ID#: 10-23-32-1184-09-230

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 variance in the R-1A zoning district to construct an accessory structure containing 1,200 square feet of floor area in lieu of 500 square feet.

Mr. Nearing stated that the Wedgefield HOA had approved the proposed architecture and location of the accessory structure. Mr. Nearing also noted that while the area was zoned R-1A, every lot was at least one (1) acre in size, and that the entire area of the lots in this section of the Wedgefield community actually had a Future Land Use of one (1) home per ten (10) acres. In addition, the property to the west of the site was a conservation area.

Mr. Nearing showed the outcome of research on the adjacent and nearby properties which revealed that three (3) similar variances had been granted with greater or near the same floor area within two (2) blocks of the subject property. Immediately across Decker Avenue to the northeast of the subject property, a 1,440 square foot accessory structure was approved in December, 2012. Another of the same size was approved immediately to the rear of that unit in 1990, and another to the north across the canal was approved at 1,074 square feet in 2005.

While zoned R-1A, all of the lots in this section of the Wedgefield community were platted at one (1) acre. This generally gave the area a more rural appearance; thus, the larger accessory structures would be compatible with this character.

Staff received one (1) correspondence in opposition to this request. Lastly, Mr. Nearing stated that staff recommended approval of the request subject to the conditions as outlined in the staff report.

Debbie Goderis, 20831 Nettleton Street, Orlando, Florida 32833, applicant, addressed the Board and indicated that the garage would be constructed 200 feet from the front property line, and would back up to a conservation area. Ms. Goderis agreed with the staff's recommendation and the conditions as presented by staff.

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

The BZA discussed the case and concluded that if the property were zoned R-CE which would be consistent with the lot sizes in this area, an accessory structure of 1,000 square feet would be permitted. Further, given that several variances had been granted in the past, a larger structure would not look out of character within the area. Therefore, the BZA concurred with the staff's recommendation.

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

1. Development in accordance with site plan dated September 11, 2015, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject

to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing;

2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development;
3. The exterior of the accessory structure shall match the exterior of the proposed residence; and,
4. The building permit shall not be issued until after, or simultaneously with, the issuance of the building permit for the principal structure, and may not be finalized until the CO for the principal residence has been issued.

BENJAMIN PAULUHN - SE-15-11-101

REQUEST: Special Exception in P-D zoning district to allow an attached Accessory Dwelling Unit (ADU) for applicant's mother within proposed main house. (Note: The most impacted property owners submitted letters of no objection).

ADDRESS: 6224 Virginia Anne Lane, Mount Dora, Florida 32757

LOCATION: West side of Virginia Anne Lane, south of Beauclaire Ave.

TRACT SIZE: 2 acres

DISTRICT#: 2

LEGAL: BEAUCLAIRE ESTATES OF MOUNT DORA PHASE 2 68/47 LOT 12

PARCEL ID#: 05-20-27-0654-00-120

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 P-D zoning district to allow an attached Accessory Dwelling Unit (ADU) for the applicant's mother within the proposed main house.

The proposed ADU would be 880 square feet in size, and would contain two (2) bedrooms, being in full compliance with the requirements of the Orange County Code.

Mr. Nearing noted that the applicant was planning on constructing a new home, and would be modifying the proposed floor plan to convert an area shown as a media center into the kitchen and living area for the ADU to accommodate the applicant's mother. This configuration would allow for the ADU to be totally imperceptible from the exterior of the home.

It was also pointed out by Mr. Nearing that the neighbors to the north and south of the subject property had both submitted letters of support. In addition, the home would be over 375 feet from the neighboring property to the west, which was a citrus grove.

Staff received four (4) correspondences in favor of this request. Finally, Mr. Nearing stated that

staff recommended approval of the request subject to the conditions as outlined in the staff report.

Benjamin Pauluhn, 6224 Virginia Anne Lane, Mount Dora, Florida 32757, applicant, addressed the Board stating his mother-in-law needed to relocate because of health care reasons yet she was in need of her own space providing some independence while still being close to the family. Mr. Pauluhn further stated that he was in agreement with the staff recommendation and all conditions as proposed by staff.

There was no one in the audience to speak for or against the request at the public hearing

The BZA discussed the case and found that given the size of the subject property, and the fact that the ADU was attached, it would blend well into the surrounding area. Therefore, the BZA concurred with the staff's recommendation.

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 September 14, 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. 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;
4. The accessory dwelling unit shall be used by family members only and shall not be rented out; and,
5. The applicant shall be responsible for all applicable fees and assessments including, but not limited to, impacts fees.

REQUEST: Variance in the R-1A zoning district to construct a single family residence 20 ft. from rear property line in lieu of 30 ft.
(Note: The rear property line has a irregular angle).

ADDRESS: 5330 Adanson Street, Orlando, Florida 32810

LOCATION: West side of Adanson St., 1/4 mile north of Lee Rd.

TRACT SIZE: .21 acres

DISTRICT#: 2

LEGAL: ALBERT LEE RIDGE 3RD ADDITION U/142 LOT 9 BLK F

PARCEL ID#: 02-22-29-0066-06-090

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 variance in the R-1A zoning district to construct a single family residence twenty (20) feet from the rear property line in lieu of thirty (30) feet. The property had a very irregularly shaped rear property line, forming a "V" shape point toward the front property line. As a result, the applicant lost over thirty (30) feet of usable rear yard. Mr. Nearing pointed out that the alternative would be to file for a variance to the front setback, which would not fit with the streetscape for the remainder of the neighborhood; and noted, that the streetscape generally complied with the required front setback.

It was advised by Mr. Nearing that the subject property abutted to a commercially zoned property on the south and west side, and that this commercial property was fully developed as a motel. Additionally, there was a six (6) foot tall masonry wall along the entire rear yard of the commercial property abutting to the subject property.

Staff did not receive any commentaries regarding this request. Lastly, Mr. Nearing stated that staff recommended approval of the request subject to the conditions as outlined in the staff report.

Jose Prieto, 5267 Mauna Loa Lane, Orlando, Florida 32812, applicant, addressed the Board indicating he was in agreement with the staff recommendation and the conditions as proposed by staff.

There was no one in the audience to speak for or against the request at the public hearing.

The BZA discussed the case and found that the irregular shape of the rear lot did render the lot unusable without the variance, and that the applicant did not create the irregularity. Therefore, the BZA concurred with the staff's recommendation.

A motion was made by Gregory A. Jackson, seconded by Chuck Norman 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 September 14, 2015, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be

- reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing; and,
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

MICHAEL HEAVENER - SE-15-11-104

REQUEST: Special Exception in the A-1 zoning district to construct a detached Accessory Dwelling Unit (ADU) for applicant's mother and father.
(Note: The applicant has submitted 5 letters in support from adjacent neighbors)

ADDRESS: 8831 Eden Park Road, Orlando, Florida 32810

LOCATION: East side of Eden Park Rd., 1/4 mile south of Maitland Blvd.

TRACT SIZE: 5.75 acres

DISTRICT#: 2

LEGAL: S 359.46 FT OF NW1/4 OF NE1/4 LYING W OF RD & S 259.46 FT OF W 1014 FT OF NW1/4 OF NE1/4 E OF RD (LESS R/W) IN SEC 29-21-29

PARCEL ID#: 29-21-29-0000-00-028

Chief Planner Rocco Relvini explained the location of the subject property and the request. Mr. Relvini indicated that the applicant owned 5.75 acres of land. The applicant was proposing a detached 1,219 square foot Accessory Dwelling Unit (ADU) for his elderly mother and father. Further, no variances were required.

Mr. Relvini reported that the area surrounding this subject parcel had been and continues to be developed as smaller platted lots ranging in width from fifty (50) feet to seventy-five (75) feet of urban-type densities and subdivisions. This parcel was one of the last remaining agricultural zoned parcels in the area that had not been subdivided or urbanized. Furthermore, a 5.75 acre parcel with a small ADU and single family home on it was still below the allowable densities for this area. The ADU would be approximately 380 feet from the lakes edge and thirty (30) feet from the south property line. It was also noted by Mr. Relvini that there was existing thick vegetation along the south side of the subject parcel.

Staff did not object to this application as it complied with all of the standards and met the intent of the ADU regulations; and, because of the resulting density of two (2) homes per 5.75 acres. Mr. Relvini stated the applicant was advised that impact fees would be assessed for the proposed ADU.

Mr. Relvini stated that the applicant had submitted letters of support obtained from his neighbors. Finally, staff recommended approval of the request subject to the conditions as set forth in the staff report.

Michael Heavener, 8831 Eden Park Road, Orlando, Florida 32810, applicant, addressed the Board and explained his parents' medical conditions to include their needs, living situation, and

support of family. Mr. Heavener stated he was in agreement with all of the conditions with the exception of condition #3, which did not allow the dwelling unit to be rented out as he wanted the ability to rent out the ADU once his parents passed away. Mr. Heavener advised the BZA that the parcel was 5.75 acres in size and his resulting density was two (2) dwelling units per 5.75 acres of land; and further, stated that the surrounding area was allowed to have up to four (4) houses per acre.

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

A discussion ensued between the BZA, applicant, and staff with regards to Section 38-1426(c.2), Orange County Code, resulting in a mutual agreement relative to the density of zoning. However, the BZA had stipulated that if this request was for a smaller lot in an urban area, then, the house would be prohibited from being rented out. Therefore, the BZA concurred with staff's recommendation as amended relative to condition #3, stating the accessory dwelling unit shall comply with Section 38-1426(c.2), Orange County Code.

A motion was made by Gregory A. Jackson, seconded by Carolyn Karraker 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 Received September 22, 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 accessory dwelling unit shall comply with Section 38-1426(c.2), Orange County Code;
4. Applicant shall be responsible for all development fees, including but not limited to, impact fees; and,
5. Construction plans shall be submitted within two (2) years or this approval becomes null and void.

RICK LOPEZ - VA-15-11-105

REQUEST: Variance in the R-2 zoning district to allow 936 sq. ft. accessory building to remain in lieu of 500 sq. ft.
ADDRESS: 705 E Oak Street, Apopka, Florida 32703
LOCATION: North side of Oak St., east of N. Christiana St., south of E. Votaw Rd.
TRACT SIZE: 150 ft. x 160 ft.
DISTRICT#: 2
LEGAL: SUB STEWART HOMESTEAD MISC 3/398 DESC: THE EAST 150.41 FT OF THE WEST 333.75 FT OF THE SOUTH 547 FT LOT 4 & (LESS THE NORTH 370.62 FT & LESS THE SOUTH 20 FT FOR R/W)
PARCEL ID#: 02-21-28-8308-00-043

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated the applicant was requesting a variance to allow an accessory structure to remain on the subject property containing 936 square feet in lieu of 500 square feet. Further, the applicant was proposing to construct a new single family home on the property. The accessory structure was existing, and the applicant planned to remove the smaller 140 sq. ft. shed from the subject property. As noted by Mr. Balevich, the existing concrete foundation did not count towards the accessory square footage.

Mr. Balevich stated 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) the structure exceeded all required setbacks; c) no privacy rights were being affected; and, d) approval of the request did not go against the public's best interests.

Staff received one (1) commentary in favor and none in opposition to the request. Mr. Balevich stated if the BZA approved the request, the conditions as set forth in the staff report should be imposed.

Rick Lopez, 1606 Jeanette Street, Apopka, Florida 32712, the applicant, addressed the Board and stated that a house was built on the subject property in the mid 1970s, and the accessory building was built in 1979, after which the house burnt down in 2004. Mr. Lopez stated that he intended to build a new house on the subject property and use the accessory building as a garage. Lastly, Mr. Lopez agreed with staff's recommendation.

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

The BZA discussed the case and stated that the building was there when the current property owner purchased the subject property; thus, a hardship was not self-created, and they were just voting to allow it to remain. Therefore, the BZA concurred with the staff's recommendation.

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

1. Development in accordance with site plan date-stamped "Received September 15, 2015", and all other applicable regulations. Any deviations, changes, or modifications to the plan

are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing;

2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development; and,
3. The applicant shall obtain a permit for the structure within 180 days, or this approval becomes null and void.

PATRICK AND PATRICIA MORLEY - VA-15-11-108

REQUEST: Variance in the R-1A zoning district to construct an accessory building (travel trailer shelter) 10.5 ft. from side street (Lotafun Ave.) property line in lieu of 15 ft.
ADDRESS: 342 Ololu Drive, Winter Park, Florida 32789
LOCATION: South end of Ololu Dr., north side of Lotafun Ave., east of N. Wymore Rd.
TRACT SIZE: .46 acres
DISTRICT#: 5
LEGAL: JUSTAMERE CAMP REPLAT H/73 & KILLARNEY CIRCLE K/22 DESC AS: COMM AT SW COR LOT 97 KILLARNEY CIRCLE S34-06-25E 81.23 FT FOR POB; S77-53-46E 66 FT, N59-03-43E 145 FT TO SHORE LINE OF LAKE, TH S53-37-04E 76.11 FT (SHORELINE MEAS SELY 78 FT), TH S41-02-33W 27

PARCEL ID#: 02-22-29-4068-01-190

Development Coordinator David Nearing explained the location of the subject property and the request. Mr. Nearing presented a brief overview of the property and outlined that the applicant was requesting a variance in the R-1A zoning district to permit construction of an accessory building as a travel trailer shelter, 10.5 feet from a side street line of Lotafun Avenue property line in lieu of fifteen (15) feet. The property was irregularly shaped and while the majority of the property fronts on Lotafun Avenue, it was accessed and addressed off of Olalu Drive.

Mr. Nearing described that the applicant currently had a seven (7) to eight (8) foot tall hedge along their Lotafun Avenue frontage which currently screened the trailer and was already being stored in the location to be covered by the shelter. It was also noted by Mr. Nearing that if this request was approved by the BZA, staff recommended that a condition was included to retain the hedge, or to replaced by an eight (8) foot tall opaque fence should the hedge ever be removed for as long as the shelter was present.

Mr. Nearing indicated that few, if any, of the homes along Lotafun Avenue had been constructed to meet the front setback as most homes were located well within this setback. Moreover, the unit two doors to the east of the subject property was actually granted a variance in 2004 to build up to five (5) feet from the front property line in lieu of twenty-five (25) feet; therefore, the reduced setback of the shelter would not appear out of place.

The applicant had provided to staff four (4) letters of support from the adjacent neighbors. Mr. Nearing reported that staff had received two (2) correspondences in opposition to this request; however, these homes were owned by persons who resided in Orlando and Altamonte Springs of which neither home was a homesteaded property. Lastly, Mr. Nearing stated that staff recommended approval of the request subject to the conditions as outlined in the staff report.

Steve Krone, 320 Oak Hill Drive, Altamonte Springs, Florida, the architect on behalf of the applicant, addressed the Board and describing the construction of the new structure, the similar setbacks in the area, and intent of the applicant. Further, Mr. Krone stated that the applicant would maintain the hedge and accepted the staff recommendation along with the conditions as presented by staff.

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

The BZA discussed the case and found that the request was reasonable and would be consistent with the pattern of development on the street. However, the BZA amended Condition #3, regarding the replacement fence should the hedge ever be removed, changing the required height from seven (7) to eight (8) feet, to eight (8) feet.

A motion was made by Zachary Seybold, seconded by Tony Rey 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 September 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 owners shall maintain the existing 7-8 ft. tall hedge along the properties south property line, or it shall be replaced by an eight (8) foot tall opaque fence. The screen shall be maintain for the life of the accessory structure; and,
4. The accessory shelter shall not be enclosed by any other material than screening.

SHERRI FRAGOMENI - VA-15-12-109

REQUEST: Variances in the R-CE zoning district as follows:
1) To construct accessory building containing 1,250 sq. ft. in lieu of 1,000 sq. ft.; and,
2) To construct accessory building 22.5 ft. in height in lieu of 20 ft.
(Note: Existing shed to be removed).

ADDRESS: 9875 Kilgore Road, Orlando, Florida 32836

LOCATION: East side of Kilgore Rd., north of Darlene Dr.

TRACT SIZE: 1 acre

DISTRICT#: 1

LEGAL: BEG 140 FT N OF SE COR OF S1/2 OF N1/2 OF SE1/4 OF SE1/4 RUN N 118.73 FT S 83 DEG W 397.33 FT M/L TO ELY R/W KILGORE RD SELY ALONG RD 110.72 FT N 86 DEG E 347.11 FT M/L TO POB IN SEC 04-24-28

PARCEL ID#: 04-24-28-0000-00-043

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated the applicant was requesting variances to allow an accessory structure containing 1,250 square feet in lieu of 1,000 square feet, and 22.5 feet in height in lieu of twenty (20) feet. The lot was 0.97-acre. Mr. Balevich pointed out that if the property was 0.03-acre larger, the allowable size of an accessory building could be up to 2,000 square feet; therefore, Variance #1, would not be necessary.

It was also reported by Mr. Balevich that the accessory structure would be located at the rear of the property, over 250 feet from the front property line, and would not be visible from the road. Additionally, the accessory structure would also be over thirty-five (35) feet from the rear property line. As such, the existing vegetation along the rear of the property provided an adequate buffer. Further, Mr. Balevich noted that the applicant had planned to remove the existing shed on the subject property.

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) the structure exceeded all required setbacks; c) existing vegetation along the rear of the property provided a buffer; and, d) the proposed amount of variance requested was minimal and reasonable.

Staff received no commentaries in favor and one (1) commentary in opposition to this request. Mr. Balevich stated if the BZA approved the request, staff recommended that the conditions as outlined in the staff report should be imposed.

Sherri Fragomeni, 9875 Kilgore Road, Orlando, Florida, applicant, addressed the Board and stated that she was improving the property, and had removed a dilapidated stable. Ms. Fragomeni described the design of the building structure; and, noted that she was providing a rear setback seven (7) times greater than was required by code along with more landscaping to be added along the rear property line. Further, Ms. Fragomeni also re-iterated that if she had 0.03-acre more, then she would be allowed to have a 2,000 square foot accessory structure.

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

The BZA discussed the case and confirmed that the existing small shed would be removed. Further, the BZA concluded that the request was compatible with the surrounding area.

Therefore, the BZA concurred with staff's recommendation.

A motion was made by Carolyn Karraker, seconded by Chuck Norman 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 October 5, 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 be responsible for all applicable fees and assessments including, but not limited to, impacts fees; and,
4. The existing vegetation along the rear of the property shall be retained.

CARLOS URIBE - VA-15-11-093

REQUEST: Variances in the R-CE zoning district to construct accessory building (recreational room and storage) as follows:
1) 1,340 sq. ft. in lieu of 500 sq. ft.;
2) Two stories in lieu of one story; and,
3) 25 ft. in height in lieu of 20 ft.
(Note: The applicant is proposing a garage with storage on the ground level and a recreation room with 1/2 bath on the second floor.)

ADDRESS: 1283 S Econlockhatchee Trail, Orlando, Florida 32825

LOCATION: East side of S. Econlockhatchee Tr., approximately 1 mile south of Lake Underhill Rd.

TRACT SIZE: 200 ft. x 152 ft.

DISTRICT#: 3

LEGAL: BEG 500 FT N OF SW COR OF SE1/4 TH E 200 FT N 200 FT W 200 FT S TO POB IN SEC 31-22-31 (LESS RD ON W)

PARCEL ID#: 31-22-31-0000-00-053

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 variances in the R-CE zoning district to allow construction of an accessory building. It was also stated by Mr. Nearing that in order to construct the type of structure desired, the applicant would require the following variances: 1) 1,340 sq. ft. in lieu of

500 sq. ft.; 2) Two stories in lieu of one story; and, 3) twenty-five (25) feet in height in lieu of twenty (20) feet. In addition, the applicant was proposing a two story structure with the first floor being storage and a three (3) car garage. The second floor would consist of a recreational room with a half bath.

Mr. Nearing advised that the subject property was nonconforming in that it was zoned R-CE, but less than one (1) acre in size. According to records of the 1970s, the subject property was at one time, 100 feet deeper than in its current state of existence as were all of the properties to the north on the east side of Econlockhatchee Trail. However, the 100 feet was acquired by the predecessor power company to Duke Energy for construction of a power line between the existing lot and along SR 417, which was located immediately east of the power line right-of-way. Had the 100 feet still be part of the subject property, the applicant would have been entitled to 1,000 feet of floor area, so the variance would have been smaller for the floor area.

Further, Mr. Nearing indicated staff's research revealed that a similar sized accessory structure had been constructed on a property three (3) doors to the north at some point in the past, and that the Property Appraiser's information indicated the property two (2) doors to the north had a 2,220 sq. ft. "warehouse" located in the front yard of the home.

Staff received a letter of support from a neighbor to the immediate north for the request. Lastly, Mr. Nearing stated that staff recommended approval of the request subject to the conditions as outlined in the staff report.

Carlos Uribe, 1283 S. Econlockhatchee Trail, Orlando, Florida 32825, applicant, addressed the Board and stated he was in agreement with the staff's recommendation.

There was no one in attendance to speak in favor or in opposition to this request; therefore, the public hearing was closed.

The BZA discussed the case and the issue of the height, noting that there were no other two-story structures in the area. However, staff pointed to the fact that immediately behind the lots were power poles in excess of sixty (60) feet in height, and that SR 417 itself was elevated to a height of thirty (30) to thirty-five (35) feet to the east of the site. These two (2) factors would mitigate the height issue as having no impact to the surrounding area.

The BZA concluded that since the 100 feet to the east was a power line row, and was once part of the subject property, it should be taken into account, especially since no one could ever build on the subject property other than the power company. Further, the BZA recognized that due to the height of the power poles and SR 417, the two story structure would not be overly noticeable and was considered to be under a unique and extenuating circumstance of the subject property. Therefore, the BZA rendered the request reasonable for the surrounding area and concurred with staff's recommendation.

A motion was made by Tony Rey, seconded by Carolyn Karraker, Zachary Seybold, Gregory A. Jackson, Deborah Moskowitz, Chuck Norman voting AYE by voice vote, Eugene Roberson voting No by voice vote, and 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 September 4, 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. 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;
4. The second floor of the accessory structure shall not be converted to serve as either a guest house or an accessory dwelling unit without the approval of the BZA;
5. The exterior of the accessory structure shall be compatible or complimentary to the exterior of the existing residence; and,
6. The applicant shall be responsible for all applicable fees and assessments including, but not limited to, impacts fees.

HARRIET FORT - SE-15-11-094

REQUEST: Special Exception in the R-1A zoning district to permit conversion of an existing accessory structure into an Accessory Dwelling Unit (ADU) for applicant's son and the following variances:
1) Locate the ADU 48.5 ft. from the Normal High Water Elevation (NHWE) of Lake La Grange in lieu of 50 ft.; and,
2) Locate the ADU 4.7 ft. from the side (east) property line in lieu of 7.5 ft. (Note: The 750 sq. ft. accessory structure was approved through a variance granted by the BZA on 1/6/94. Current side yard setback encroachment appears to be result of measurement error during construction.)

ADDRESS: 3111 Lake Margaret Drive, Orlando, Florida 32806

LOCATION: North side of Lake Margaret Dr., approximately .8 mi. west of Conway Rd.

TRACT SIZE: 72 ft. x 365 ft. (AVG)

DISTRICT#: 3

LEGAL: BEG 30 FT N & 1106.1 FT E OF SW COR OF NE1/4 OF NE1/4 RUN N 343.38 FT N 58 DEG E 84.44 FT S 387.48 FT W 72 FT TO POB IN SEC 07-23-30

PARCEL ID#: 07-23-30-0000-00-080

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated the applicant was requesting a Special Exception to permit

conversion of an existing accessory structure identified as a garage into an Accessory Dwelling Unit (ADU) for the son of the homeowner. In addition, the applicant was requesting variances to locate the ADU 48.5 feet from the Normal High Water Elevation (NHWE) of Lake La Grange in lieu of fifty (50) feet; and to locate the ADU 4.7 feet from the side easterly property line in lieu of 7.5 feet. Mr. Balevich advised that the proximity of the structure had impacts on the privacy rights of the adjacent neighbor as an ADU for an occupied residence would have a greater impact on the neighbor. Further, the ADU structure was offset from the adjacent neighbor's residence, and was approximately twenty-two (22) feet from the corner of the house. It was also noted by Mr. Balevich that the applicant was advised about the additional impact fees which may be assessed in accordance with ADU regulations. Lastly, the proposed ADU met the intent of the Accessory Dwelling Unit regulations.

Staff received two (2) commentaries in favor and thirty-seven (37) commentaries in opposition from surrounding homeowners to this request. Finally, Mr. Balevich stated if the BZA approved the request, the conditions as set forth in the staff report should be imposed.

Harriet Fort, P.O. Box 567, Orlando, Florida 32856, building contractor for the applicant, addressed the Board stating that the applicant was not altering the outside of the building, and was adding sliding glass doors on the inside of the garage doors. Ms. Fort also indicated that the applicant was intending to install a package A/C unit on the interior of the west side. Further, Ms. Fort explained that the resident was an elderly woman who recently lost her husband and did not want to live alone but wanted to have her son living close by to her. Lastly, Ms. Fort stated the unit would only be used for the family, and never be a rental.

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

Beth Baer, 2601 Dawley Street, Orlando, Florida 32806;

Pamela Santiago, 3115 Lake Margaret Drive, Orlando, Florida 32806; and,

Broc Rosser, 3355 Lake Margaret Drive, Orlando, Florida 32806;

Residents of the neighborhood spoke against the request stating they were against the increased density on the property. The residents strongly stated the structure was never designed to be a living area; and further, added that there were no other detached Accessory Dwelling Units in the area. Moreover, the adjacent neighbor stated that the son of the applicant currently resided just minutes from the property and submitted photographs of numerous vehicles parked outside of his residence which could become another issue. The adjacent neighbor also provided additional photographs which were submitted into evidence for the record of her property line and where the ADU was proposed to be; and, indicated that the proposed ADU would be too close to her living room causing an invasion of her privacy rights and an increase of density. Finally, the next door neighbor stated that she had spent significant amounts of money upgrading their house and was strongly against the ADU that would be a detriment in terms of reducing her property value.

Ms. Fort addressed the Board in rebuttal stating that the occupants were mature adults who work all day; and further, stated because they were all related, it should be considered a single

family home. Ms. Fort indicated that the applicant planned to replace the septic system to accommodate the use.

The BZA discussed the case and noted that there were no other detached Accessory Dwelling Units in the area. Additionally, the BZA concluded that the change in use would be a detrimental intrusion; and therefore, would not be compatible with the community.

A motion was made by Tony Rey, seconded by Gregory A. Jackson and unanimously carried to **DENY** the Special Exception request in that the Board finds it did not meet the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does adversely affect general public interest; and further, to **DENY** the Variance requests in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3).

Board member, Tony Rey left the public hearing at 11:30 a.m.

CONNIE EMMERSON - VA-15-11-095

REQUEST: Variance in the R-CE zoning district to allow cumulative accessory structure square footage of 2,416 sq. ft. in lieu of 2,000 sq. ft.
(Note: Applicant proposes to remove kitchen from dwelling unit and construct a new 1,680 sq. ft. detached garage. Combine square footage equals 2,416 sq. ft.).

ADDRESS: 9419 Winter Garden Vineland Road, Orlando, Florida 32836

LOCATION: East side of Winter Garden Vineland Rd., west side of Lake Sheen.

TRACT SIZE: 2.2 ac.

DISTRICT#: 1

LEGAL: N 105.7 FT OF S 435.7 FT OF W1/2 OF NE1/4 (LESS W 30 FT RD) & (LESS S 80 FT OF W 500 FT) & (LESS BEG SW COR OF NE 1/4 TH N 89 DEG E 30 FT N 410 FT FOR POB RUN N 89 DEG E 13.15 FT N 25.7 FT S 89 DEG W 13.14 FT S 25.7 FT TO POB PT TAKEN FOR RD R/W PER 4899/

PARCEL ID#: 05-24-28-0000-00-020

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated the applicant was requesting a variance to allow a cumulative accessory structure square footage of 2,416 square feet in lieu of 2,000 square feet. More specifically, the applicant was proposing to construct a new 1,680 square foot detached garage; and, intended to convert an existing 736 square foot secondary residence into an accessory building.

Mr. Balevich stated that the lot was a very long flag lot with existing heavy vegetation on the front of the subject property and adjacent lots were blocking the view of all buildings on the subject property. Further, Mr. Balevich explained that the neighbor presented concerns about flooding and drainage. As such, the Engineering Division was consulted by staff and a new condition had been added to staff's recommendation.

It was also noted by Mr. Balevich that the proposed garage was set back over 900 feet and was not visible from the road. Mr. Balevich advised that 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) the structure was not visible from the road; and, c) the structure exceeded all required setbacks.

Staff received no commentaries in favor and none in opposition to the request. Finally, Mr. Balevich stated if the BZA approved this request, the conditions as set forth in the staff report should be imposed.

Steve Emmerson, 9419 Winter Garden Vineland Road, Winter Garden, Florida 32836, on behalf of the applicant, addressed the Board and pointed out that the applicant had improved the property including opening up the storm drains, which was now functional, and there had been no flooding recently. Lastly, Mr. Emmerson agreed with staff's recommendation.

No one spoke in favor or opposition to the request.

The BZA discussed the case and concluded that the request was minimal and reasonable for the surrounding area. Therefore, the BZA concurred with staff's recommendation.

A motion was made by Carolyn Karraker, seconded by Eugene Roberson and (Tony Rey was temporarily absent) 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 date-stamped "received September 9, 2015", and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing;
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development;
3. Prior to the issuance of any permits for the proposed accessory building, the property owner shall remove the existing kitchen located in the 736 sq. ft. dwelling unit on the north side of the site; and,
4. Prior to the issuance of any vertical building permits, a revised lot grading plan shall be submitted to and approved by the Public Works Department's Development Engineering Division

REQUEST: Variance in the R-1 Zoning district to construct an addition to single family residence 15 ft. from the rear property line in lieu of 25 ft.

(Note: The home was built 1.5 ft. into a platted utility easement. The proposed addition will not encroach any further into said easement. However, additional approvals will be required from the Public Works Department to allow the encroachment into a utility easement).

ADDRESS: 827 Galsworthy Avenue, Orlando, Florida 32809

LOCATION: North side of Galsworthy Ave., approximately 250 ft. west of Voltaire Dr.

TRACT SIZE: 75 ft. x 110 ft.

DISTRICT#: 3

LEGAL: SKY LAKE UNIT SEVEN 2/28 LOT 1022

PARCEL ID#: 26-23-29-8087-10-220

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 Variance in the R-1 zoning district to construct an addition to a single family residence fifteen (15) feet from the rear property line in lieu of twenty-five (25) feet. Mr. Nearing advised that when the house was built in 1969, it was constructed 1.5 ft. into a dedicated utility easement. The proposed addition would not encroach any further into the said easement. Currently, it was unknown whether there were any utilities in the easement; however, staff was not aware of any issues. Mr. Nearing further pointed out that additional approvals would be required from the Public Works Department to allow the encroachment into a utility easement.

It was advised by Mr. Nearing that the proposed addition would represent an encroachment of forty percent (40%) into the rear setback which was slightly more than the average variance, yet was less than some larger request previously approved. Moreover, there was no other location on the lot wherein the addition could be constructed which would make sense from a functional standpoint.

Mr. Nearing noted that the majority of the homeowners around the subject property had submitted letters of support for the request, and that the staff had spoken by telephone with a neighbor who lived behind the subject property, who indicated that she did not have any objection. The applicant also submitted five (5) letters of support from neighbors, including the two (2) neighbors abutting the side lot lines of the subject property. In addition, staff had verbal contact via telephone with one of the neighbors to the rear who did not pose any objection. Further, staff received one (1) correspondence in opposition to this request from a respondent located two blocks away to the south who had no visual impact from the subject property.

The applicant had constructed a six-foot tall masonry wall around the rear yard. This permanent improvement would assist in creating visual buffer from the neighbors' views. Finally, Mr. Nearing indicated that staff recommended approval of the request subject to the conditions as outlined in the staff report.

Mercedes Perez, 827 Galsworthy Avenue, Orlando, Florida 32809, applicant, addressed the Board by and through a translator.

Carmelo Arroyo, 7013 Voltaire Drive, Orlando, Florida 32809, translator on behalf of the applicant, addressed the Board and indicated that the applicant was in agreement and fully understood the staff recommendation to include the conditions.

There was no one in attendance to speak in favor or opposition on the request; therefore, the public hearing was closed.

The BZA found that the request was reasonable, and that the neighbors were in agreement. The BZA recommended a modification to Condition #4, to read that the exterior of the addition be constructed of the same materials and color as the rest of the home. Therefore, the BZA concurred with staff recommendations, as amended.

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

1. Development in accordance with site plan dated September 9, 2015, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing;
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development;
3. Prior to issuance of a building permit for the addition, the applicant shall obtain written authorization from the Development Engineering Division of Orange County Public Works Department to encroach within the 7.5 ft. utility easement along the west proeperty line; and,
4. The exterior finish of the addition shall be of the same materials and color as the exterior of the existing home.

DOROTHY LIDSKY - SE-15-11-098

REQUEST: Special Exception in the R-CE zoning district to construct 2-story guest house. (Note: Applicant proposes to construct a 2 story structure in front of the main house. The ground level will contain 893 sq. ft. of garage and carport use. The second level will contain 995 sq. ft of living space to be used as guest living quarters. Entire structure to be 2,073 sq ft under roof).

ADDRESS: 1431 Kelso Blvd., Windermere, Florida 34786

LOCATION: East side of Kelso Blvd., east of West Lake Butler Rd.

TRACT SIZE: 1 acre

DISTRICT#: 1

LEGAL: KELSO ON LAKE BUTLER 5/48 LOT 18

PARCEL ID#: 13-23-27-4110-00-180

Board member, Carolyn C. Karraker abstained from this case and filed the appropriate Conflict of Interest form.

Development Coordinator Nicholas Balevich explained the location of the subject property and the request. Mr. Balevich indicated that the applicant was proposing to construct a 2 story guest house in front of the main house, with 893 sq. ft. of garage and carport on the ground level, and 995 sq. ft. of living space on the second level.

Mr. Balevich pointed out that the proposed structure would be attached to the main house by an unenclosed breezeway. Further, the design, colors, and materials used for the proposed structure would match the principal residential structure. Mr. Balevich added that the proposal was similar in character with the surrounding area as approximately half of the existing homes in the area had side load garages located in front of the house.

Mr. Balevich stated that the applicant was advised of additional impact fees which may be assessed relative to the request. Further, staff had not received any commentaries in favor and none in opposition. Lastly, Mr. Balevich stated that staff recommended approval of the request subject to the conditions as outlined in the staff report.

Dorothy Lidsky, 5910 Caymus Loop, Windermere, Florida 34786, applicant, addressed the Board and stated that the request was for her husband who is blind as well as their five (5) years old triplets. Ms. Lidsky had also confirmed that the main house would be 9,000 square feet.

No one spoke in favor or in no opposition at the public hearing.

A brief discussion ensued between the BZA and the applicant wherein the main house and guest house was confirmed to be constructed at the same time. The BZA determined that the request was reasonable and concurred with the staff recommendation.

A motion was made by Chuck Norman, seconded by Deborah Moskowitz (Carolyn C. Karraker abstained and Tony Rey 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 date-stamped "received September 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 exterior of the structure shall have similar colors and design materials as the primary residence; and,
- 4. The applicant shall be responsible for all applicable fees and assessments including, but not limited to, impacts fees.

The Board recessed at 11:58 a.m. and reconvened at 1:01 p.m.

JEETENDRA PERSAUD - SE-15-11-100

REQUEST: Special Exception in the P-O zoning district to allow for a community center and the following Variances:
1) To construct an addition (open sided covered area) to commercial structure 6 ft. from rear property line in lieu of 30 ft.; and,
2) To allow 5 parking spaces in lieu of 11 spaces.

ADDRESS: 1451 N Pine Hills Road, Orlando, Florida 32808

LOCATION: East of North Pine Hills Rd., 150 ft. south of Silver Star Rd.

TRACT SIZE: 119 ft. x 130 ft.

DISTRICT#: 6

LEGAL: PINE HILLS MANOR NO 3 S/89 LOTS 12 & 13 OF BLK N (LESS RD R/W ON W)

PARCEL ID#: 19-22-29-6978-14-120

Chief Planner Rocco Relvini explained the location of the subject property and the request. Mr. Relvini indicated that the applicant was operating a community center/community outreach use. However, there was no record of any zoning approval for such use. Staff advised the applicant to include its use as part of the variance request.

Mr. Relvini further stated that the applicant was proposing an open-sided covered area behind the building wherein the intent was to provide for socialization of patrons. The property to the rear was used as a utility station/office. There was also a block wall separating this use from the utility use.

Mr. Relvini advised that the properties along Pine Hills Road were once used as single family residences. For this reason, the rear yards were limited in space for such additions. Further, the building contained approximately 2,348 square feet. Using office space parking criteria the site required eleven (11) parking spaces; however, it appeared that the site could park five (5) cars based on the site plan. In addition, the applicant owned the lot to the immediate south which was used for overflow parking.

Mr. Relvini stated that the setback variance request represented an eighty percent (80%)

deviation from the requirement. Yet, the adjacent use to the rear was a utility station with a block wall. Mr. Relvini further indicated a request for a sixty (60) day continuance to obtain more data from the applicant to be provided; and, to allow the applicant to submit an updated site plan for the entire parcel. Further, Mr. Relini advised that the applicant needed to provide clarification as to whether or not the building was a one or two story structure.

Jeetendra Persaud, 4318 Pinebark Avenue, Orlando, Florida 32811, applicant, addressed the Board stating the building was a one story structure with no flooring and no occupancy on the second floor. Mr. Persaud further explained that statutes were displayed in three (3) of the windows on the second floor which were exhibited and maintained as decorations for viewing purposes only.

The BZA discussed the case and determined to continue this request to January 7, 2016, to provide a full and complete application package; and, to allow the applicant to submit an updated site plan for the entire parcel.

A motion was made by Eugene Roberson, seconded by Carolyn Karraker and (Tony Rey was temporarily absent) and unanimously carried to **CONTINUE** to the January 7, 2016 BZA Meeting.

MIKE SCHMIDT - VA-15-11-103

REQUEST: Variance in the I-2/I-3 zoning district to allow 2 ground signs in lieu of 1 ground sign.
(Note: The subject property has 385 ft. of road frontage. It would qualify for 2 ground signs if it had a minimum of 400 ft. of road frontage).

ADDRESS: 9640 Boggy Creek Road, Orlando, Florida 32824

LOCATION: West side of Boggy Creek Rd., 200 ft. south of Dowden Rd.

TRACT SIZE: 2.7 acres

DISTRICT#: 4

LEGAL: PLAN OF BLK I PROSPER COLONY D/103 THAT PORTION OF LOT 40 & A PORTION OF LOT 39 DESC AS BEG AT SW COR OF LOT 40 RUN E 282.58 FT N 267.76 FT CONT N 01 DEG W 117.30 FT W 293.43 FT S 270.59 FT W 22.25 FT S 114.28 FT E 36.50 FT TO POB

PARCEL ID#: 06-24-30-7268-00-400

Chief Planner Rocco Relvini explained the location of the subject property and the request. Mr. Relvini gave a brief presentation and indicated that the applicant had two (2) buildings on one (1) parcel. The site already had one (1) ground sign. Further, the request was to provide an additional ground sign to advertise and identify the second building.

It was noted by Mr. Relvini that due to the amount of road frontage, the site qualified for only one (1) ground sign. The site had 385 feet of road frontage; however, if the site had 400 feet of road frontage, no variance would be necessary. This request represented a 3.8% deviation. The proposed ground sign was thirty-six (36) square feet and eight (8) feet in height. Thus, the proposed ground sign was smaller than what the sign code allows for a ground sign.

Mr. Relvini stated that staff supported the request because the site was only short in the amount of fifteen (15) feet of road frontage from not being in need of a variance. Lastly, Mr. Relvini advised that staff recommended approval of the request subject to the conditions as set forth in

the staff report.

Mike Schmidt, 5300 S. Orange Avenue, Orlando, Florida 32809, applicant, addressed the Board explaining the need for a second sign; and, indicated that the request would not be intrusive to the surrounding area. Lastly, Mr. Schmidt agreed with the staff report and recommendation.

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

The BZA discussed the case and concluded that the request was reasonable and minimal. Therefore, the BZA concurred with the staff recommendation.

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

1. Development in accordance with sign plan dated September 14, 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 proposed ground sign shall not exceed thirty-six (36) square feet in size and eight (8) feet in height; and,
4. The entire site shall be limited to two (2) ground signs only. Electronic message center signage is prohibited.

CHINA GARDEN - VA-15-11-107

REQUEST: Variance in the P-D zoning district to allow on-site consumption of beer and wine (2 COP License) 259 ft. from Olympia High School in lieu of 1000 ft.

ADDRESS: 8801 Conroy Windermere Road, Orlando, Florida 32835

LOCATION: Northeast corner of Conroy Windermere Rd. and S. Apopka Vineland Rd.

TRACT SIZE: 13.24 acres

DISTRICT#: 1

LEGAL: SHOPPES OF WINDERMERE 41/130 LOT 1 (LESS PART TAKEN ON W FOR R/W PER 5915/4507 CIO99-9077)

PARCEL ID#: 10-23-28-9359-00-010

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 variance in the P-D zoning district to allow on-site consumption of beer and wine (2 COP License) 259 feet from Olympia High School in lieu of 1,000 feet. Mr. Nearing stated that the applicant operated a restaurant which had seating within the establishment, and was wishing to offer beer and wine for on-site consumption with their meals. It was noted by Mr. Nearing that in late 1999, an application was filed for a 2 COP license at the same address under a different name. Subsequently, the license was issued in early 2000, prior to the completion of either Olympia High School or Chain of Lakes Middle School. With the opening of Olympia High School and Chain of Lakes Middle School, the establishment no longer complied with the separation distance, and became legally nonconforming with its 2 COP license. Mr. Nearing further pointed out that as with any legal nonconforming use, as long as the status quo was maintained, the use may continue to exist. However, the previous restaurant's 2 COP license had lapsed and/or expired after 180 continuous days, and now must comply with the Orange County Code. With the end of the license, the address lost its legal nonconforming status.

Mr. Nearing reported that in 2011, a new owner of the business applied for a new 2 COP license under the name Bamboo Chopstix. The applicant at that time submitted as evidence in part of their application the fact that a license had previously existed on such site. However, despite the prior license, it was determined that the said site was within the 1,000 foot separation of both the high school and middle school, and as a result, the application was denied.

Further, Mr. Nearing advised that the sale of alcohol was a community standard and quality of life issue which was treated differently from municipality to municipality. Historically, Orange County had dealt with the issue in a conservative fashion, typically, granting variances only when it could be demonstrated that there were extenuating circumstances, such as a prior owner had secured a license, but the license could not be renewed or reissued in another owner's name without approval of the BZA. Nonetheless, failure to maintain a valid license, be it through sale of the business or allowing a license to expire, was not considered extenuating circumstances.

Mr. Nearing stated that staff had received eleven (11) correspondences regarding this application. Six (6) correspondences were in favor and five (5) correspondences were in opposition to the request. A total of 1,828 notices were mailed out. Further, Mr. Nearing indicated that there were no special conditions or circumstances regarding the property. Therefore, the request constituted a seventy-four percent (74%) deviation from code requirements and was considered excessive. In addition, approval of the request would set a precedent for other tenants in the same shopping center that were also less than 1,000 feet from Olympia High School. Mr. Nearing noted that the School District had provided an e-mail correspondence indicating their opposition to the request, and that a representative may be in attendance to speak.

Furthermore, Mr. Nearing pointed out that in the majority of recent cases regarding separation distance for the sale of alcohol for on-site consumption which have been approved, most had

involved a separation from a place of worship. Moreover, in most requests which had been approved, the place of worship in question had issued a letter of no objection to the variance. Finally, Mr. Nearing stated staff could not support the request for the following reasons: a) the County regulations regarding alcohol were readily available, and the owner should have made that research part of their due diligence in choosing a location. The amount of time between the issuance of the original 2 COP license in 2000, and the application for a new license in 2011, was a significant span of time during which the area in the vicinity of the subject property experienced significant changes in the opening of a high school and a middle school. Therefore, the fact that a license was not properly maintained at the subject property constituted for a self-created hardship; b) the fact that a prior business owner in the same location was also denied a license based on failure to meet the criteria, reflected that the applicant was requesting to confer a special privilege; and, c) the request was not in harmony with the purpose and intent of the Zoning Regulations based on Orange County's community standards and quality of life which would be considered detrimental to the public welfare. Lastly, Mr. Nearing stated that should the BZA find that the applicant had sufficiently met the required criteria for the granting of a variance to the 1,000 foot separation distance, the conditions for approval as recommended in the staff report should be imposed.

Liyang Zhang, 5974 Westgate Drive, Apt. #302, Orlando, Florida 32835, representative on behalf of the applicant, addressed the Board stating that the business had operated for a number of years selling beer and wine without any incident. The restaurant was frequented by families, and had never been a drinking establishment, nor have they ever had any incidents with high school students. Ms. Zhang also noted that the school entrance used for the measurement was typically only open to traffic when the busses were coming or going as the remainder of the time, the gates were closed and remained locked. Additionally, Ms. Zhang explained how the bus entrance was only constructed after the school had already been opened to provide a safer bus entrance aligned with the entrance to the middle school located on the south side of Conroy Windermere Road. At one time, busses entered the high school from an entrance on Apopka Vineland Road. Ms. Zhang argued that the measurement should have been taken from the Apopka Vineland Road entrance which was for most non-bus traffic uses. However, staff noted that the measurement was taken using standard practice methods.

Joe Nisbett, 303 East Par Street, Orlando, Florida 32804, property owner of the shopping center, addressed the Board and spoke in support of the request. Mr. Nisbett noted that when his company had negotiated the sale of the site for the high school, there was a clause in the contract of sale that indicated that the Orange County Public School (OCPS) District would not oppose any future request for on-site consumption of alcohol in the future for restaurants. Mr. Nisbett indicated that the issue had been discussed in 1998 during a Special Exception hearing before both the BZA and BCC. Further, Mr. Nisbett explained an agreement with the BCC at the time which was submitted into the record, wherein, the sale of alcohol would not be an issue in the future.

Julie Salvo, 445 W. Amelia Street, Orlando, Florida, staff member of the Orange County School District, addressed the Board indicating that the District would be willing to work out some type of a compromise if that were desired.

Discussions ensued between the BZA, applicant, property owner, and staff relative to the agreement in which the BZA had concluded that while there may have been an agreement, no changes were ever actually made to Orange County guidelines, and that the applicant's failure to properly maintain the license at the subject location was an error in their business plan. The BZA also discussed the apparent agreement the OCPS district had with the applicant; however, it was noted that any agreement between the OCPS and the shopping center owner was not binding on Orange County Government since both were separate government entities, therefore, it did not change the Orange County Code guidelines in the Zoning Division. Staff also noted that if access had, in fact changed, it would be the same as any school expansion in that if it caused more businesses with liquor licenses to become nonconforming, the business would need to properly maintain the license or lose it, and any stores which may have complied with the separation before the expansion, but failed to do so afterward would not be granted licenses. The BZA asked if placing restrictions on the hours of sales for alcohol to after school hours would impact staff's recommendation. However, staff indicated for all of the reasons as previously discussed, no it would not. Therefore, a motion was made and seconded to recommend denial of the requested variance. The motion passed by a vote of four (4) in favor, two (2) opposed, and one (1) abstained. One board member had abstained since he had to step away from the proceedings, and did not hear enough of the discussion to vote.

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

Board member, Tony Rey returned to the public hearing at 1:57 p.m.

AVCON, INC. - VA-15-11-106

REQUEST: Variance in the R-3 zoning district to provide 96 parking spaces in lieu of 140 parking spaces.
(Note: The applicant is proposing a senior citizen housing development).

ADDRESS: 442 E 13th Street, Apopka, Florida 32703

LOCATION: South side of E. 13th St., 1/2 mile west of Sheeler Ave.

TRACT SIZE: 10.43 acres

DISTRICT#: 2

LEGAL: BEG NE COR OF SW1/4 TH W 411.75 FT S S 1133 FT E 411.75 FT N 1133 FT TO POB SEC 15-21-28 (LESS N 30 FT R/W)

PARCEL ID#: 15-21-28-0000-00-015

Chief Planner Rocco Relvini explained the location of the subject property and the request. Mr. Relvini gave a brief presentation and indicated that the applicant was proposing a senior

affordable housing development containing approximately eighty (80) units. Based on the number of dwelling units, the Orange County Zoning Code required 140 parking spaces. The applicant was requesting to provide ninety-six (96) parking spaces.

Mr. Relvini advised that the required parking ratio was 1.5 to 2.0 parking spaces per dwelling unit. Applicant was requesting 1.2 parking spaces per unit. The Institute of Transportation Engineers (ITE) Manual, 4th Edition had studied the parking demands for senior housing developments. The results were based on three (3) separate studies of such facilities. The ITE Manual indicated that a reasonable parking ratio for a senior housing facility was one (1) parking space per dwelling unit.

Further, Mr. Relvini stated staff had no objections to the request because the request exceeded the parking requirement suggested by the ITE Manual, 4th edition. Further, approximately fifty percent (50%) of the site was being developed. Lastly, Mr. Relvini stated staff recommended approval of the request subject to the conditions as set forth in the staff report.

Rick Baldocchi, 5555 E. Michigan Street, #200, Orlando, Florida 32822, engineer on behalf of the applicant, addressed the Board describing the contribution of this project to the senior citizens; and, explaining the parking ratio to every senior according to ITE was less because some seniors did not drive or only had one (1) car. Mr. Baldocchi further noted that the nature of the surrounding area was comprised of wetlands and an upland area. Finally, Mr. Baldocchi agreed with the staff recommendations.

Rick A. Lopez, 1606 Jeanette Street, Apopka, Florida 32712, adjacent neighbor to the west spoke in opposition but later recanted his position to the Board. Mr. Lopez had questions for the applicant relative to the type of services involved with the facility and the numbers of employees with this project.

Barry Blakely, 1105 Kensington Park Drive, #200, Altamonte Springs, Florida 32714, developer on behalf of the applicant, addressed the Board explaining that the age requirement was fifty-five (55) or older, no children were allowed, and income restrictions would apply to residents on the subject property; and further, stated that a manager and/or assistant manager and one (1) maintenance personnel would be on staff to cover about ninety-six (96) units.

A brief discussion ensued among the BZA in which they concluded that the request was reasonable and appropriate for the surrounding area. Therefore, the BZA concurred with the staff recommendation.

A motion was made by Gregory A. Jackson, seconded by Tony Rey 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 September 4, 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. Approval of this request does not constitute approval of the site design layout. The layout of the site shall comply with all other applicable regulations.

MCDONALDS USA, LLC - VA-15-12-111

REQUEST: Variances for signage in the C-2 zoning district as follows:
1) To allow 2 ground signs, 1 pole sign and 1 monument sign with electronic message center in lieu of 2 pole signs or 2 ground signs. (Note: Previously, the subject property had 3 pole signs and 1 ground sign. McDonalds is redeveloping the site. Sign code allows 2 pole signs or 2 ground signs);
2) To allow a 15 ft. high monument sign with electronic message center in lieu of electronic message center on pole sign;
3) To allow a pole sign 10 ft. from front property line in lieu of 150 ft.; and,
4) To allow 583 sq. ft. of wall signage copy area in lieu of 230 sq. ft.
(Note: The applicant is proposing 201 sq. ft. of wall signage. Additionally, the applicant proposes a Ronald McDonald architectural feature totaling 382 sq. ft. Therefore, the total amount of wall signage proposed is 583 sq. ft.).

ADDRESS: 6875 W Sand Lake Road, Orlando, Florida 32819

LOCATION: Northwest corner of International Dr. and Sand Lake Rd.

TRACT SIZE: 2.3 acres

DISTRICT#: 6

LEGAL: FROM SE COR OF SW1/4 OF SW1/4 IN SEC 25-23-28 TH RUN N 22.39 FT TH N 87 DEG W 215.04 FT FOR A POB TH N 87 DEG W 200 FT N 300 FT S 87 DEG E 200 FT S 50 FT E 174.83 FT S 28.14 FT W 19 FT S 4 DEG E 22.55 FT E 17.46 FT S 7.04 FT N 87 DEG W 175 FT S 200 FT TO

PARCEL ID#: 25-23-28-0000-00-037

Board member, Deborah Moskowitz abstained from this case and filed the appropriate Conflict of Interest form.

Chief Planner Rocco Relvini explained the location of the subject property and the request. Mr. Relvini gave a brief presentation and indicated that the McDonalds was redeveloping the subject property which was the northwest corner of International Drive and Sand Lake Road. Previously, the site was comprised of a former McDonalds and a Mobile gas station on this corner; however, the gas station had been removed. Thereafter, McDonalds had purchased both sites and was combining them to redevelop the new McDonalds.

It was noted by Mr. Relvini that the previous tenants of McDonalds and Mobile had numerous signs, some of which were legal non-conforming signs. This application represented a compromise between what was allowed previously and the newly adopted Orange County Code for new signage.

Mr. Relvini advised that there were previously three (3) pole signs and one (1) ground sign. This request was for one (1) pole sign and three (3) ground signs. Further, Mr. Relvini stated that the applicant had agreed to switch the originally proposed pole sign with an electronic message center to include a small ground sign with an electronic message center. The two (2) ground signs on Sand Lake Road would not have any electronic message center signage. Furthermore, the copy area on the building complied with the maximum allowable copy area of 230 square feet; however, the applicant was proposing a 382 square foot Ronald McDonald architectural feature. Although large, it was imprinted/stamped into the side of the building and did not contain "loud" or "distasteful" colors.

In summary, Mr. Relvini indicated that staff was in support of the McDonalds redevelopment master sign plan. Therefore, staff recommended approval of the request subject to the conditions as set forth in the staff report.

Allison Turnbull, 200 S. Orange Avenue, Orlando, Florida 32804, representative on behalf of the applicant, addressed the Board and gave a brief presentation depicting that the new sign plan as a more aesthetic-pleasing plan compared to what was previously on the site which would be an improvement and complimentary to the surrounding area. Ms. Turnbull advised that this plan was discussed by staff for several years. Finally, Ms. Turnbull agreed with the staff recommendation.

Assistant Zoning Manager, Art Interiano explained the background of the Orange County Code for a copy area and indicated that wall signage of a architectural feature of a building would be exempt; however, a Logo and/or Trademark would count as a copy area which was adopted in the new code for signage. Further, Mr. Interiano stated that window signage was considered separate and did not count as language such as, hamburgers, fries, kids, etc.

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

The BZA discussed the case and concluded that the new sign plan was reasonable and recognized that the redesigning of the sign was more aesthetically appealing than what was currently on the site. Therefore, the BZA concurred with the staff recommendation.

A motion was made by Eugene Roberson, seconded by Tony Rey (Deborah Moskowitz abstained), 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 sign plan and sign summary dated September 24, 2015 and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing;
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a

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

3. Any modifications or changes to the master sign plan shall be subject to the review and approval of the Zoning Manager.

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 Trl., Orlando FL 32825

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

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 RW (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, in conjunction with an existing religious institution. The new day care would be known as the Bridge Academy. The church would use existing classrooms in its sanctuary for the day care. There would be no new construction required for this use.

Mr. Nearing advised that the applicant was proposing to set hours of operation between 6:00 a.m. and 6:00 p.m. However, staff had recommended that, if approved, the hours of operation be extended to 7:00 p.m. This would avoid compliance issues when parents are running late.

Further, it was noted by Mr. Nearing that as a result of existing youth ministries, there was already an existing fenced playground facility for use by the day care attendees. The site was nearly 5.5 acres in size. Since most day cares only allow half of their attendees out at any one time, there would be minimal impacts from the play area.

Additionally, Mr. Nearing reported that the closest property to where the children would play was currently vacant. At such a time as the vacant property was developed, the day care would be in operation, and visible to anyone wishing to purchase a home on the vacant site.

During the BZA's October 1st hearing on this application, several residents from the community to the south spoke in opposition to the request, noting that there were issues involving noise, traffic, and that several of the conditions of the Special Exception approved for the church were not being complied with. As a result of this information, the BZA chose to continue the

application to allow staff to research what conditions were attached to the prior approval; to determine if there are any outstanding conditions; and, to give the applicant an opportunity to try to meet with the neighbors to attempt to resolve some outstanding issues such as noise.

Mr. Nearing reported that staff researched the July 2, 1998 BZA hearing, where the expansion of the church was approved. The approval came with ten (10) conditions contained in the support materials to this report after the cover letter. Staff revisited the site after the October 1st continuance and found that two (2) conditions appeared to remain either partially or completely unmet as follows:

- Condition #5 states: "The existing board-on-board fence along the south property line shall be properly maintained. Replacement fencing and/or repairs may be required as determined by the Zoning Manager." The fence was still present from the west property line to a point approximately fifty (50) feet from the east property line along Chickasaw Trail. The fence was showing signs of deterioration in some areas, being held up in some places by bracing. Some panels were also showing signs of rot. The fence should be completed up to the eastern property line, six (6) feet in height up to the front setback line and four (4) feet in height from that point east. The remainder should be repaired or replaced as needed.
- Condition #6 states: "The applicant shall install evergreen trees between twelve to fourteen (12-14) feet in height, twenty (20) feet on-center along the south property line. Tree planting locations and the balance of the site shall be landscaped in accordance with the site plan dated May 20, 1998. All landscaping materials shall be properly maintained to ensure good health and viability." No evergreen trees appeared to have ever been planted. However, there were a significant number of oak trees in the fifteen (15) year old range growing along the fence on the churches side, and also on the neighbors' side of the fence. Were evergreens to be planted at this point, they would likely not survive due to the canopy of the existing oaks. There would be insufficient sunlight to support them. In addition, the oaks have a tendency to die back when another tree touches their canopy. What pines did survive would ultimately grow up into the oaks' canopy and cause this dieback. Towards the western edge of the site, there were areas where some type of understory planting could be placed between the parking spaces and the fence which may supplement the trees, such as wax myrtle which could grow in shaded conditions, and could attain a lower height than the oak canopy when mature. Plants in three (3) gallon containers would be relatively inexpensive and would grow relatively fast.

Mr. Nearing stated since the above-referenced conditions were already conditions of a prior approval, the applicant was technically in violation of the conditions of approval. It was also noted by Mr. Nearing that both of the above conditions could be attached to the current application, to require completion of the fencing and repair as deemed needed, and to require that the applicant plant wax myrtles along the southern property line to supplement the existing

vegetation with a definitive date for implementation and completion. Failure to complete would be treated as a code violation subject to action by the Code Enforcement Board. Lastly, Mr. Nearing advised that staff recommended approval of the request subject to the conditions as outlined in the staff report.

George Pluguez, 20635 Mallard Parkway, Orlando, Florida 32833, representative on behalf of the applicant, addressed the Board and indicated their agreement with the conditions; and further, stated that due to scheduling difficulties they were unable to get together with their neighbors. Mr. Pluguez also advised that in the past, they had issues with some of the Church's administrators, but that there had been a change, and they were making positive changes.

A brief discussion ensued between the BZA and the applicant to inquire about why the applicant had not made any improvements to the site, such as, repairing the fence since the last meeting. Mr. Pluguez indicated that they were waiting on a final decision to determine what would be required. The BZA felt that the applicant could have taken some initiative.

Maritza Musica, 544 Madrigal Court, Orlando, Florida 32825, a citizen spoke in favor of the request, addressed the Board stating that her family were members of the Church and they were certain that the Church would comply with all of the requirements.

Gwen Hartmann, 7824 Richwood Drive, Orlando, Florida 32825, neighbor spoke in opposition, addressed the Board stating she was a resident of the community to the south of the Church and that the Church had a history of making promises that were not fulfill. Ms. Hartmann also indicated that a petition had been signed by twenty-two (22) of the thirty-four (34) homeowners in the community requesting that the application be denied, as they did not believe that the use of the property should be intensified given current issues with traffic, noise, and crime.

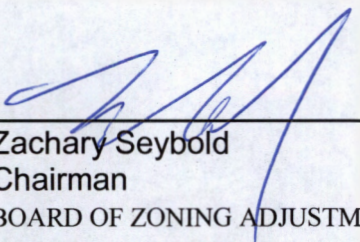
The Board discussed the matter and concluded a finding that the use could not meet the requirements of compatibility with the surrounding area, nor that the applicant could sufficiently demonstrate that they would prevent all negative impacts from the use. Therefore, the BZA voted to deny the application based on the above findings.

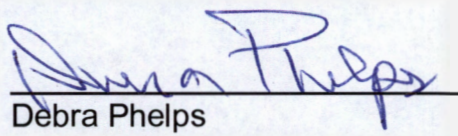
A motion was made by Deborah Moskowitz, seconded by Gregory A. Jackson and unanimously carried to **DENY** the Special Exception request in that the Board finds it did not meet the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does adversely affect general public interest.

ADJOURN:

There being no further business, the meeting was adjourned at 3:58 p.m.

ATTEST:


Zachary Seybold
Chairman
BOARD OF ZONING ADJUSTMENT
MEETING OF NOVEMBER 5, 2015


Debra Phelps
Recording Secretary