

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
MEETING OF NOVEMBER 3, 2016**

The Orange County Board of Zoning Adjustment meeting met at 9:00 a.m. on **November 3, 2016** in the Orange County Commission Chambers on the 1st Floor of the Orange County Administration Building, 201 South Rosalind Avenue, Orlando, Florida 32801.

BOARD MEMBERS PRESENT: Zachary Seybold - Chairman
Carolyn C. Karraker - Vice Chairman
Vacant - Vice Chairman
Gregory A. Jackson
Deborah Moskowitz
Eugene Roberson
Charles Norman

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

The Chairman called the meeting to order at 9:13 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 6, 2016, Board of Zoning Adjustment meeting.

A motion was made by Carolyn C. Karraker, seconded by Charles Norman, and unanimously carried to **APPROVE** the minutes of the October 6, 2016, Board of Zoning Adjustment meeting.

PUBLIC COMMENT: The Chairman acknowledged the passing of Board Member, Tony Rey, celebrating his outstanding service to Orange County; and, how his life was greatly valued as a human being, and will be dearly missed yet never forgotten by those who were fortunate enough to know him.

MADISON LANDING APARTMENTS - SE-16-09-118

REQUEST: **Variance** in the R-3 zoning district to construct two (2) multifamily structures 72 ft. in height in lieu of 35 ft. (Note: The applicant is in the process of amending the future land use designation and zoning of the subject property to allow the multifamily land use. The proposed structures will be used for elderly affordable housing. There are no single family structures within 100 ft. of the subject property).

ADDRESS: 1701 W Oak Ridge Road, Orlando FL 32809

LOCATION: West side of S. Rio Grande Ave., 425 ft. north of the northwest corner of Rio Grande Ave. and W. Oak Ridge Rd.

TRACT SIZE: 5.4 acres
DISTRICT#: 6
LEGAL: PLAN OF BLK 1 PROSPER COLONY D/109 LOTS 57 58 & S1/2 OF 39 & 40 (LESS W 200 FT OF LOT 58 & W 200 FT OF S1/2 OF LOT 39) & (LESS RD R/W ON S & E THEREOF) & (LESS R/W TAKEN PER OR 4269/1528)
PARCEL ID#: 22-23-29-7268-57-000
NO. OF NOTICES: 165
Commentaries: None
Staff Recommendation: Staff requested a continuance for this case to the December 1, 2016, BZA Meeting.
The following person(s) addressed the Board:
Speaker(s): None
BZA Discussion: The BZA determined to continue the case to the December 1, 2016, BZA Meeting.
BZA Action: A motion was made by Zachary Seybold, seconded by Eugene Roberson and unanimously carried to **CONTINUE** to the December 1, 2016, BZA Meeting.
AYE (voice vote): All members present

JOSEPH HEMBREE - VA-16-11-140

REQUEST: **Variance** in the RCE-C zoning district to construct addition to existing single family residence (porch with solid roof) 20 ft. from the rear property line in lieu of 25 ft.
ADDRESS: 1528 Maravilloso Loop, Windermere FL 34786
LOCATION: Northwest corner of Park Ridge Gotha Rd., and Maravilloso Loop
TRACT SIZE: .70 acres
DISTRICT#: 1
LEGAL: WOODS OF WINDERMERE 75/96 LOT 1
PARCEL ID#: 32-22-28-9470-00-010
NO. OF NOTICES: 80
Commentaries: None
Staff Recommendation: Staff gave a presentation on the case, covering the location, site plan, and photographs of the area. Staff recommended approval of the request subject to the conditions as outlined in the staff report.
The following person(s) addressed the Board:
Speaker(s): Joseph Hembree (Applicant)
No one spoke in favor or in opposition to this request at the public hearing.
BZA Discussion: The BZA confirmed that the addition would not encroach into the drainage easement. The BZA was familiar with the area and the minimal impact of the request. Lastly, the BZA concurred with the staff recommendations.
BZA Action: A motion was made by Carolyn Karraker, 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 dated September 7, 2016 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard; and,

4. The design of the addition shall be consistent with the design of the main house.

AYE (voice vote): All members present

HIEN LE - VA-16-12-149

REQUEST: **Variance** in the R-1A zoning district to allow a 506 sq. ft. accessory building (shed) to remain in lieu of 500 sq. ft. (This is the result of Code Enforcement action).

ADDRESS: 444 N Forsyth Road, Orlando FL 32807

LOCATION: Southwest corner of Southern Charm Dr., and N. Forsyth Rd., south of E. Colonial Dr.

TRACT SIZE: 198 ft. x 104 ft.

DISTRICT#: 3

LEGAL: BEG 126 FT S OF NE COR OF SE1/4 OF NE1/4 THN W 228 FT S 104 FT E 228 FT N 104 FT TO POB (LESS 30 FT RD R/W ON E) IN SEC 27-22-30

PARCEL ID#: 27-22-30-0000-00-006

NO. OF NOTICES: 67

Commentaries: None

Staff Recommendation: Staff gave a brief presentation on the case and showed photographs of the location.

The following person(s) addressed the Board:

Speaker(s): Hien Le (Applicant)

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

BZA Discussion: The BZA confirmed the shed was there when the applicant purchased the property, and stated that 506 square feet in lieu of 500 square feet was a minimal request. Thereafter, the BZA concurred with the staff recommendation.

BZA Action: A motion was made by Chuck Norman, 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 16, 2016, 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard;

4. Poultry is not permitted on-site unless Orange County regulations are amended to permit them;

5. The exterior of the accessory building shall match the exterior color of the existing house; and,

6. The applicant shall obtain a permit for the shed within ninety (90) days, or this approval becomes null and void.

AYE (voice vote): All members present

THOMAS OTTO - VA-16-11-139

REQUEST: **Variances** in the R-1AA zoning district as follows: 1) To construct new single family residence 26 ft. from the Normal High Water Elevation (NHWE) of Lake Tibet Butler in lieu of 35 ft.; and, 2) To construct a pool and pool enclosure 9 ft. from the NHWE in lieu of 35 ft. (Note: The applicant proposes to demolish the existing home and rebuilding a new home. The applicant has letters of support from the HOA and from both adjacent neighbors.)

ADDRESS: 9161 Bay Point Drive, Orlando FL 32819

LOCATION: East side of Bay Point Dr., approximately 550 ft. north of Crichton Wood Dr.

TRACT SIZE: 107 ft. x 122 ft.

DISTRICT#: 1

LEGAL: BAY POINT 7/49 LOT 7

PARCEL ID#: 28-23-28-0600-00-070

NO. OF NOTICES: 46

Commentaries: Three (3) in favor including HOA and none in opposition

Staff Recommendation: Staff gave a brief presentation and informed the BZA that ten (10) other lots nearby received similar variances. Staff further advised that the proposed house size was comparable in size with the other homes in the area. Staff recommended approval of the request subject to the conditions as set forth in the staff report.

The following person(s) addressed the Board:

Speaker(s): Thomas Otto (Applicant)

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

BZA Discussion: The BZA ensured that the applicant secure a Hold Harmless Agreement with Orange County and determined the request was reasonable. Wherefore, the BZA concurred with the staff recommendation.

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

1. Development in accordance with site plan dated August 30, 2016 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard;
4. Prior to the issuance of any permits, the applicant shall obtain a flood plain permit; and,
5. Prior to the issuance of a building permit, the property owner shall record in the official records of Orange County an indemnification/Hold Harmless Agreement which indemnifies Orange County from any damages caused by flooding and shall inform all interested parties that the house and pool/pool enclosure are no closer than twenty-six (26) feet and nine (9) feet from the Normal High Water Elevation of Lake Tibet Butler.

AYE (voice vote): All members present

Abstained: Gregory A. Jackson (due to a Conflict of Interest)

REQUEST: **Variances** in the R-1A zoning district to allow accessory structure (shed) to remain as follows: 1) 740 sq. ft. in size in lieu of 500 sq. ft.; 2) 3 ft. from side (south) property line in lieu of 5 ft.; and, 3) Built with materials that are not used for typical single family home construction. (Note: This is a result of Code Enforcement action).

ADDRESS: 2926 Touraine Avenue, Orlando FL 32812

LOCATION: West side of Touraine Ave., north of Lake Margaret Dr., east of Conway Garden Rd.

TRACT SIZE: 77 ft. x 135 ft.

DISTRICT#: 3

LEGAL: CONDEL GARDENS U/62 LOT 4 BLK A

PARCEL ID#: 05-23-30-1624-01-040

NO. OF NOTICES: 114

Commentaries: None in favor and two (2) in opposition

Staff Recommendation: Staff gave a brief presentation and advised the BZA that the request was too extensive and the amount of deviation was forty-eight percent (48%), which was too great. Staff could not support this request; however, if the BZA approved the request, the conditions as outlined in the staff report should be imposed.

The following person(s) addressed the Board:

Speaker(s): Roger Dale Hull, Jr. (Applicant)

The applicant advised the BZA that he had replaced an existing shed; and further, stated a company from North Carolina built the shed but did not obtain permits.

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

BZA Discussion: The BZA stated they should review this request as if the structure was not built yet; and further, stated if the applicant was proposing this request today, the BZA would not support it. The BZA added condition #5, approving up to 608 square feet of accessory use area; and amended condition #4, giving the applicant 180 days to reduce the structure in size and meet the side yard setback. Finally, the BZA concurred with the staff recommendation as amended.

BZA Action: A motion was made by Zachary Seybold, seconded by Chuck Norman and unanimously carried to **APPROVE** the Variance request #1, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions; further, to **DENY** the Variance request #2, in that there was no unnecessary hardship shown on the land; furthermore, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3); and further, determined the Variance request #3, as **UNNECESSARY**:

1. Development in accordance with site plan dated September 8, 2016 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard;

4. Permits shall be obtained within 180 days or this approval becomes null and void; and,

5. The accessory building shall be no greater than 608 square feet.

AYE (voice vote): All members present

RAMADAN SEYAM - VA-16-10-127

REQUEST: Variances in the C-2 zoning district to allow 4 separate buildings (3 metal structures and 1 masonry building) to remain at 2.77 ft. from the west and east side property lines in lieu of 5 ft. (Note: This is a result of Code Enforcement action).

ADDRESS: 4885 W Colonial Drive, Orlando FL 32808

LOCATION: North side of W. Colonial Dr., approximately 825 ft. east of N. Pine Hills Dr.

TRACT SIZE: 150 ft. x 243 ft.

DISTRICT#: 6

LEGAL: E 150 FT OF W 815 FT OF S 325 FT OF S1/2 OF SE1/4 OF SE1/4 SEC 19-22-29 (LESS R/W)

PARCEL ID#: 19-22-29-0000-00-009

NO. OF NOTICES: 124

Commentaries: One (1) in favor and three (3) in opposition

Staff Recommendation: Staff gave a presentation showing the location, layout, and photographs of the site, and work being performed outside. Staff would not support this request because the request did not meet the variance criteria; however, if the BZA approved the request, the conditions as outlined in the staff report should be imposed.

The following person(s) addressed the Board:

Speaker(s): Ramadan Seyam (Applicant)

Stuart Buchanan (Neighbor's attorney in opposition)

Nicole Holton (Code Enforcement inspector)

The applicant stated they had no history of when the buildings were placed on the property.

An attorney representing an adjacent owner spoke against the case. His client owns six (6) properties in the area. He stated that all of his client's properties were in compliance; and, his client wanted the area to be cleaned up as this site was overburdened and unattractive, and, in addition, would set a bad precedent for the area.

Code Enforcement stated they received a citizen complaint in June, and cited the property for unpermitted sheds, merchandise in setbacks, and outdoor repair. The merchandise had been moved, and the applicant had until December 2, 2016, to comply with the other items or daily fines would accrue.

Material was presented to the Board by the code enforcement officer and entered into the record prior to the close of the public hearing.

BZA Discussion: The BZA confirmed that the applicant was informed by the code enforcement inspector to stop performing work outside, however, the activity was still continuing to take place. The BZA indicated that the metal buildings were bolted to the ground and could be moved. Hence, the BZA concurred with the staff recommendation of denial to this request.

BZA Action: A motion was made by Eugene Roberson, seconded by Deborah Moskowitz and unanimously carried to **DENY** the Variance requests in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3).

AYE (voice vote): All members present

MICHAEL BLAIR - SE-16-11-142

REQUEST: **Special Exception** in the A-2 zoning district to allow a detached Accessory Dwelling Unit (ADU) for applicant's daughter. (Note: Applicant proposes a 1,445 sq. ft. manufactured home on the property for his daughter and her family).

ADDRESS: 2609 Haas Road, Apopka FL 32712

LOCATION: North side of Haas Rd., approximately 1/3 mile east of Plymouth Sorrento Rd.

TRACT SIZE: 11.27 acres

DISTRICT#: 2
LEGAL: W 820 FT OF E 1130 FT OF S 630 FT OF SW1/4 (LESS S 30 FT FOR R/W) OF SEC 06-20-28
PARCEL ID#: 06-20-28-0000-00-012
NO. OF NOTICES: 41

Commentaries: Five (5) in favor and none in opposition

Staff Recommendation: Staff gave a presentation showing photographs of the location and size of the lot in comparison to other surrounding properties. It was pointed out by staff that the proposed density would be lower than the densities of other properties in the area. Staff recommended approval of the request subject to the conditions as set forth in the staff report.

The following person(s) addressed the Board:

Speaker(s): Michael Blair (Applicant)

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

BZA Discussion: The BZA confirmed the square footage of the ADU was acceptable due to the size of the property and determined the request was reasonable. Thus, the BZA concurred with the staff recommendation.

BZA Action: 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 September 12, 2016 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard;
4. Construction plans shall be submitted within three (3) years or this approval becomes null and void;
5. The Accessory Dwelling Unit (ADU) shall be occupied by an immediate family member for a minimum of three (3) years. The ADU may be occupied by a non-relative, three (3) years after being initially occupied by a relative or after the relative has died, whichever occurs first;
6. The exterior of the ADU shall have similar colors and design materials as the primary residence;
7. Approval of this request does not constitute approval of the use of septic tanks and wells. The use of septic tanks and wells shall be in accordance with all applicable regulations; and,
8. The applicant shall be responsible for payment of all applicable fees and assessments including, but not limited to, impact fees.

AYE (voice vote): All members present

TROY D. RIVERA - SE-16-11-144

REQUEST: **Special Exception** in the A-2 zoning district to construct detached Accessory Dwelling Unit (ADU) for applicant's mother.
ADDRESS: 20575 Racine Street, Orlando FL 32833
LOCATION: North side of Racine St., 1/4 mile west of Abney Ave., in the Wedgefield development
TRACT SIZE: 1.24 acres

DISTRICT#: 5
LEGAL: CAPE ORLANDO ESTATES UNIT 3A 3/101 LOT 58 BLK 2
PARCEL ID#: 24-23-32-1165-20-580
NO. OF NOTICES: 44

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

Staff Recommendation: Staff gave a presentation showing photographs of the location and the proposed layout of the ADU. Staff advised that the BZA had approved previous Special Exceptions for ADUs in the Wedgefield area, including a property located 600 feet from the applicant. Staff recommended approval of the request subject to the conditions as outlined in the staff report.

The following person(s) addressed the Board:

Speaker(s): Troy Rivera (Applicant)

Mike Nolan (President of HOA in opposition)

The applicant stated the ADU was for his mother. He and his wife were working parents and needed their mother to watch their children. Mr. Rivera also stated there were many other ADUs in the area and the HOA was not mandatory.

The HOA President spoke in opposition to the request. He stated that Wedgefield was a deed restricted community which only allowed one (1) single family residence per lot. Mr. Nolan stated Orange County should not approve said requests when the community has such a deed restriction. Further, Mr. Nolan objected to the possibility that this ADU could be rented out in the future as many ADUs were built with BZA approval, and after the family moves out, they were used as rentals.

BZA Discussion: The BZA informed the HOA President that Orange County must respond to all valid applications; and further, stated the HOA's review was entirely separate from the Orange County's review. The BZA asked the applicant if they could move the ADU closer to the house and be attached with a breezeway. The applicant stated after previous analysis, the ADU could not be attached to the house due to the layout and location of the master bedroom window. Further, he stated this was the plan and design they were committed to. The BZA advised the HOA President that rental prohibitions were up to the HOA to enforce and approved the Special Exception with the staff recommendation.

BZA Action: 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, said approval is subject to the following conditions:

1. Development in accordance with site plan dated September 13, 2016 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard;
4. Construction plans shall be submitted within two (2) years or this approval becomes null and void;
5. The Accessory Dwelling Unit (ADU) shall be occupied by an immediate family member for a minimum of three (3) years. The ADU may be occupied by a non-relative, three (3) years after being initially occupied by a relative or after the relative has died, whichever occurs first;
6. The exterior of the ADU shall have similar colors and design materials as the primary residence;
7. Approval of this request does not constitute approval of the use of septic tanks and wells. The use of septic tanks and wells shall be in accordance with all applicable regulations; and,

8. The applicant shall be responsible for payment of all applicable fees and assessments including, but not limited to, impact fees.

AYE (voice vote): All members present

Abstained: Chuck Norman (due to temporary absence)

RICCY CARABEO - VA-16-11-145

REQUEST: **Variances** in the A-2 zoning district as follows: 1) To construct single family residence on lot with 92 ft. of width in lieu of 100 ft.; and, 2) To allow a side street setback (north) of 12 ft. in lieu of 15 ft.

ADDRESS: 4104 S Chickasaw Trail, Orlando FL 32829

LOCATION: West side of S. Chickasaw Trail, approximately 500 ft. south of Cascade Oaks Dr.

TRACT SIZE: 92 ft. x 289 ft.

DISTRICT#: 3

LEGAL: N 93.33 FT OF E1/2 OF NE1/4 OF NE1/4 OF NW1/4 (LESS E 30 FT FOR R/W) OF SEC 13-23-30

PARCEL ID#: 13-23-30-0000-00-014

NO. OF NOTICES: 81

Commentaries: One (1) in favor and none in opposition

Staff Recommendation: Staff gave a brief presentation on the case, and showed photographs of the location. Staff advised that a discussion was requested regarding Variance # 2, wherein, if the applicant moved the house 2.5 feet to the south, all setbacks would be met, eliminating the need for the additional variance for the side street setback. Staff supported Variance # 1, because it was consistent with the areas development trend. Further, staff recommended approval of Variance # 1 (lot width), and denial of Variance # 2 (side street setback), subject to the conditions as listed in the staff report.

The following person(s) addressed the Board:

Speaker(s): Avery Smith (Applicant's attorney)

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

BZA Discussion: A brief discussed ensued between the BZA and applicant's attorney inasmuch as the applicant agreed to willingly move the house 2.5 feet to the south to eliminate the need for one (1) of the variances. The BZA determined the issue was reasonable due to the applicant's willingness to eliminate the need for Variance request #2. Therefore, the BZA concurred with the staff recommendation.

BZA Action: A motion was made by Chuck Norman, seconded by Deborah Moskowitz and unanimously carried to **APPROVE** the Variance request **#1**, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions; further, to **DENY** the Variance request **#2**, 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):

1. Development in accordance with site plan dated September 13, 2016, 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard; and,
4. All A-2 building setbacks shall be met.

AYE (voice vote): All members present

ADAM DIONNA, AGENT FOR ATT CORPORATION - SE-16-11-146

REQUEST: **Special Exception** in the R-CE zoning district to allow additional improvements to existing ATT facility. (Note: The applicant wants to add 3 additional modular equipment buildings at the southwest portion of the site. The new buildings will be approximately 150 ft. from the Apopka-Vineland Rd. R/W line).

ADDRESS: 1717 S Apopka Vineland Road, Orlando FL 32835

LOCATION: East side of Apopka-Vineland Rd., east of Westover Roberts Rd., adjacent to the Florida Turnpike

TRACT SIZE: 15.45 acres

DISTRICT#: 1

LEGAL: N 500 FT OF SW1/4 OF NW1/4 LYING S & W OF TURNPIKE R/W & E OF APOPKA- VINELAND RD & THAT PART OF NW1/4 OF NW1/4 LYING S & W OF SUNSHINE STATE PARKWAY & E OF APOPKA-VINELAND RD IN SEC 03-23-28

PARCEL ID#: 03-23-28-0000-00-011

NO. OF NOTICES: 108

Commentaries: None

Staff Recommendation: Staff gave a brief presentation and advised the BZA that this was the fifth (5th) Special Exception request for this site. This request was consistent with the previous expansions; however, additional trees should be planted along Apopka-Vineland Road for further screening. Staff recommended approval of the request subject to the conditions as set forth in the staff report.

The following person(s) addressed the Board:

Speaker(s): Adam Dionna, Agent for ATT Corporation (Applicant's representative)

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

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

BZA Discussion: A brief discussion ensued between the BZA and applicant, wherein, the applicant asked the BZA to consider a fourth (4th) modular unit. Staff advised the applicant that a fourth (4th) modular building would require re-advertising. The applicant decided to follow the original three (3) modular unit plan. The BZA concluded the request was compatible with the surrounding uses and approved the request with the staff recommendation.

BZA Action: A motion was made by Carolyn Karraker, seconded by Eugene Roberson 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, 2016 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard;
4. The modular units shall be setback a minimum of 150 feet from the right-of-way line of

Apopka-Vineland Road;

5. Construction plans shall be submitted within two (2) years or this approval becomes null and void; and,

6. The applicant shall place evergreen trees, ten (10) feet at planting and twenty-five (25) feet apart, along the west side of the 16,000 sq. ft grassy area to screen the modular units from Apopka-Vineland Road.

AYE (voice vote): All members present

DIANE ARIAS - SE-16-11-147

REQUEST: **Special Exception and Variances** in the R-CE zoning district as follows:
1) Special Exception: To convert existing accessory building into a detached Accessory Dwelling Unit for applicant's son; 2) Variance to permit a detached ADU to be located in front of the principal structure in lieu of side or rear; 3) Variance to validate a total of 2,500 sq. ft. of accessory structure floor area in lieu of 2,000 sq. ft.; 4) Variance to validate three accessory structures located 2-3 ft. from the side (south) property line in lieu of 5 ft.; and, 5) Variance to validate an existing pool and install future screen enclosure located 3 ft. from the side (south) property line in lieu of 5 ft. (Note: The subject property is 4.6 acres in size. The applicant purchased the property in March of 2015. The applicant's son and wife will move into the ADU. The variances were included to address the existing non-conformities)

ADDRESS: 304 E Country Lane, Apopka FL 32712

LOCATION: South side of E. Country Ln., on the east side of Mt. Plymouth Rd., approximately 1/2 mile north of W. Kelly Park Rd.

TRACT SIZE: 4.6 acres

DISTRICT#: 2

LEGAL: ROCK SPRINGS SUB Q/118 THE S 165.99 FT OF LOT 3 (LESS E 470 FT)

PARCEL ID#: 09-20-28-7608-00-031

NO. OF NOTICES: 111

Commentaries: None

Staff Recommendation: Staff gave a presentation showing photographs of the location and the layout of buildings on the property. Staff indicated that the proposed ADU would be greater than 800 feet from the road and 250 feet from the main house. Staff recommended approval of the request subject to the conditions as outlined in the staff report.

The following person(s) addressed the Board:

Speaker(s): Diane Arias (Applicant)

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

BZA Discussion: The BZA confirmed that all structures were existing when the applicant purchased the property. Further, the BZA observed the property was large with significant setbacks from the road; and, as a result, concurred with the staff recommendation.

BZA Action: 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; and further, to **APPROVE** the Variance requests in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions:

1. Development in accordance with site plan dated September 14, 2016 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard;

4. Construction plans shall be submitted within three (3) years or this approval becomes null and void;

5. The Accessory Dwelling Unit (ADU) shall be occupied by an immediate family member for a minimum of three (3) years. The ADU may be occupied by a non-relative, three (3) years after being initially occupied by a relative or after the relative has died, whichever occurs first;

6. The exterior of the ADU shall have similar colors and design materials as the primary residence;

7. Approval of this request does not constitute approval of the use of septic tanks and wells. The use of septic tanks and wells shall be in accordance with all applicable regulations; and,

8. The applicant shall be responsible for payment of all applicable fees and assessments including, but not limited to, impact fees.

AYE (voice vote): All members present

REHOBOTH EVANGELICAL BAPTIST CHURCH, INC. - SE-16-11-148

REQUEST: **Special Exception and Variances** in the C-1, C-2, and R-2 zoning districts as follows: 1) Special Exception to construct a religious use facility institution with approximately 10,000 sq. ft. of floor area and seating for up to 150 members; 2) Variance to allow partial grassed parking in lieu of paved; 3) Variance to allow 47 parking spaces in lieu of 50; and, 4) Variance to allow a 6 ft. setback side street on south for the sign in lieu of 10 ft.

ADDRESS: 1309 23rd Street, Orlando FL 32805

LOCATION: Northeast corner of 23rd St. and S. Nashville Ave., approximately 275 ft. west of S. Orange Blossom Trail

TRACT SIZE: 135 ft. x 335 ft.

DISTRICT#: 6

LEGAL: ANGEILT ADDITION H/79 LOTS 17 18 & 19 (LESS E 15 FT LOT 19) & LOTS 13 THROUGH 16 BLK 26

PARCEL ID#: 03-23-29-0180-26-170

NO. OF NOTICES: 113

Commentaries: Two (2) in favor and four (4) in opposition

Staff Recommendation: Staff advised the BZA that ninety percent (90%) of this site allows for church use but there was a small parcel included that was zoned R-2. That small parcel required a Special Exception approval. Staff had no objection to grassed parking provided the driving aisles are paved. In addition, staff indicated this request was consistent with past BZA recommendations; further, the parking space number Variance was minimal which constituted a six percent (6%) deviation. Staff had no objection to Variance #3. However, staff could not support Variance #4, as there was ample space to meet the ten (10) foot setback and pointed out that the site was vacant. Staff recommended approval of this request subject to the conditions as listed in the staff report.

The following person(s) addressed the Board:

Speaker(s): Ruth Hamberg (Applicant's representative)

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

BZA Discussion: The BZA discussed the case and expressed concerns about the parking variance. The District BZA Commissioner advised the BZA there was plenty of overflow parking. Therefore, the BZA concurred with the staff recommendation as amended with the three (3) additional conditions.

BZA Action: A motion was made by Eugene Roberson, seconded by Chuck Norman and

unanimously carried to **APPROVE** the Special Exception request **#1**, in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, to **APPROVE** the Variance requests **#2 & #3**, in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions as amended; and further, to **DENY** the Variance request **#4**, 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):

1. Development in accordance with site plan dated September 14, 2016 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard;
4. All signage shall comply with Chapter 31.5, Orange County Code;
5. Landscaping shall be provided in accordance with Chapter 24, Orange County Code;
6. Construction plans shall be submitted within two (2) years or this approval becomes null and void;
7. No more than four (4) outdoor special events between the hours of 9:00 a.m. to 9:30 p.m.;
8. Days and hours of Worship Services on Sundays shall be from 9:00 a.m. to 9:30 p.m.; and, on Wednesdays and Fridays shall be from 7:30 p.m. to 9:30 p.m.; and,
9. Outdoor sound devices or the amplification of sound is prohibited.

AYE (voice vote): All members present

CAFE CAO BANA - VA-16-11-143

REQUEST:	Variances in the C-2 zoning district to permit on-site consumption of beer and wine (2-COP) at a restaurant located within 1,000 ft. of three (3) places of worship as follows: 1) 600 ft. from Iglesia Mas Que Vencedores located at 69 Semoran Blvd. in lieu of 1,000 ft.; 2) 544 ft. from Iglesia Christiana Pentecostal located at 65 Semoran Blvd. in lieu of 1,000 ft.; and, 3) 512 ft. from Ministerio De La Hora 25 located at 61 and 57 Semoran Blvd. in lieu of 1,000 ft. (Note: On October 30, 2007, the Board of County Commissioners denied a similar request for this property to sell beer wine and liquor with meals within 1,000 ft. of 3 different religious use facilities. Those religious use facilities were located from 710 ft. to 808 ft. from the subject property).
ADDRESS:	73 S. Semoran Blvd., Orlando FL 32807
LOCATION:	East side of S. Semoran Blvd., approximately 550 south of Dahlia Dr.
TRACT SIZE:	100 ft. x 50 ft.
DISTRICT#:	3
LEGAL:	BEG 1890.81 FT N & 188.5 FT E OF SW COR RUN E 50 FT S 100 FT W 50 FT N 100 FT TO POB IN SEC 27-22-30
PARCEL ID#:	27-22-30-0000-00-052
NO. OF NOTICES:	643
<u>Commentaries:</u>	Two (2) in favor and five (5) in opposition

Staff Recommendation: Staff gave a brief history of this site and advised the BZA that a similar restaurant was denied with the same variances in 2007. Further, staff informed the BZA that the

community standards should be upheld again. Staff could not support the request because the deviations were too great, and there was no evidence to deviate from Orange County standards regarding the separation requirements between establishments that serve alcohol and religious uses. However, staff stated if the BZA approved these Variance requests, then the conditions as set forth in the staff report should be imposed.

The following person(s) addressed the Board:

Speaker(s): Maria Fukuara (Applicant's representative)

Manny Messeguer (Property Owner in favor)

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

BZA Discussion: A brief discussion ensued between the BZA and applicant, wherein the applicant advised the BZA that her business was affected by the inability to sell beer and wine. The BZA informed the applicant that the BCC had an opportunity to amend the 1000 feet separation distance this past September but decided to retain the 1000 feet separation. For the following reasons, the BZA agreed with the staff recommendation of denial to this request.

BZA Action: A motion was made by Chuck Norman, seconded by Carolyn Karraker and carried to **DENY** the Variance requests in that there was no unnecessary hardship shown on the land; and further, it did not meet the requirements governing variances as spelled out in Orange County Code, Section 30-43(3).

AYE (voice vote): All members present

NAY (voice vote): Deborah Moskowitz

LOREN MCHENRY - VA-16-08-093

REQUEST: **Variance** in the A-1 zoning district to allow a mobile home on a 1 acre of land in lieu of 2 acres.

ADDRESS: 6087 Terrell Road, Mount Dora FL 32757

LOCATION: East side of Terrell Rd., north of Wadsworth Rd.

TRACT SIZE: 1 acre

DISTRICT#: 2

LEGAL: 1 ACRE IN NW COR OF SE1/4 OF SE1/4 OF SW1/4 OF SEC 04-20-27

PARCEL ID#: 04-20-27-0000-00-050

NO. OF NOTICES: 42

Commentaries: Ten (10) in favor and three (3) in opposition

Staff Recommendation: Staff gave a presentation on the case, covering the location, site plan, and history of violations.

The following person(s) addressed the Board:

Speaker(s): Loren McHenry (Applicant)

Veronica McHenry (Applicant's wife)

Joy Rambaram (Code Enforcement inspector)

The applicant stated that they had communicated with Code Enforcement and resolved all issues.

Code Enforcement confirmed they inspected the property on October 28, 2016, the violations were corrected, and the property was deemed compliant.

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

BZA Discussion: The BZA informed the applicant that they must comply with all regulations and that BZA approval would not alleviate any future violations. To that end, the BZA concurred with the staff recommendation.

BZA Action: 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 date-stamped "Received August 1, 2016", 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard; and,

4. The applicant shall obtain a permit for the mobile home within 180 days or this approval becomes null and void.

AYE (voice vote): All members present

BOARD MEMBER EXITED: Gregory A. Jackson

KEVIN COSTIN - VA-16-09-117

REQUEST: Variance in the P-D zoning district to construct an addition to existing single family residence 27 ft. from the rear (west) property line in lieu of 35 ft.

ADDRESS: 10132 Culpepper Court, Orlando FL 32836

LOCATION: West side of Culpepper Ct., approximately 350 ft. south of Pointview Circle, in the Sand Lake Point PD

TRACT SIZE: 90 ft. x 141 ft.

DISTRICT#: 1

LEGAL: SAND LAKE POINT UNIT 1 20/69 LOT 28

PARCEL ID#: 03-24-28-7841-00-280

NO. OF NOTICES: 60

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

Staff Recommendation: Staff gave a brief presentation. Staff advised the BZA that the adjacent lot was not a lakefront lot and had no legal rights to a lake view. Staff supported the request and recommended approval with the conditions as outlined in the staff report.

The following person(s) addressed the Board:

Speaker(s): Kevin Costin (Applicant)

Maribel Grunloh (neighbor opposed)

Ed Grunloh (neighbor opposed)

The applicant advised the BZA that he had amended the site plan to reduce the amount of variance needed.

The adjacent neighbors spoke in opposition stating they were opposed because the addition would block their beautiful view of the lake where they had resided for over twenty (20) years.

Material was presented to the Board by the applicant and neighbors in opposition and entered into the record prior to the close of the public hearing.

BZA Discussion: The BZA advised the neighbors that their property was not entitled to a view of the lake; and further, stated if their desire was for a view of the lake, then perhaps, consideration of a lakefront lot could have been an option. Thereafter, the BZA approved the request to include an amended condition #5, which minimized the extent of the variance and concurred with the staff recommendation.

BZA Action: A motion was made by Carolyn Karraker, 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 as amended:

1. Development in accordance with site plan dated October 12, 2016, 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. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard;
4. The exterior of the addition shall match the exterior of the existing residence with respect to color and materials; and,
5. The proposed addition shall be setback thirty (30) feet from the rear property line.

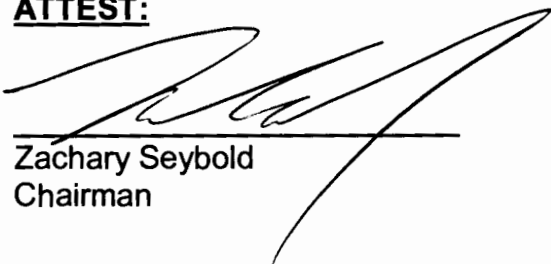
AYE (voice vote): All members present

Absent: Gregory A. Jackson

ADJOURN:

There being no further business, the meeting was adjourned at 12:32 p.m.

ATTEST:



Zachary Seybold
Chairman



Debra Phelps
Recording Secretary