



Board of Adjustments Regular Meeting

Agenda

August 16, 2022 @ 5:00 pm

City Hall Commission Chambers
401 S. Park Avenue

welcome

Agendas and all backup material supporting each agenda item are accessible via the city's website at cityofwinterpark.org/bpm and include virtual meeting instructions.

assistance & appeals

Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office ([407-599-3277](tel:407-599-3277)) at least 48 hours in advance of the meeting.

"If a person decides to appeal any decision made by the Board with respect to any matter considered at this hearing, a record of the proceedings is needed to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F.S. 286.0105).

please note

Times are projected and subject to change.

-
1. **Call to Order**
 2. **Consent Agenda**
 - a. [Approval of the July 19, 2022 Meeting Minutes.](#) 1 minute
 3. **Public Comments (for items not on the agenda): Three minutes allowed for each speaker**
 4. **Public Hearings**
(Public participation and comment on these matters must be in-person.)
 - a. [BOA-2022-0012: Request of B-Nyce LLC.](#) 10 minutes
Request of B-Nyce LLC for variance approval from Section 58-71 subsection (n)(2) to replace the existing 4-foot white decorative fencing with a 6-foot white vinyl privacy fence along the street-side lot line, for the property located at 1411 Norfolk Avenue, zoned R-1A.
 5. **Non-Action Items**
 6. **Staff Updates**
 7. **Board Comments**
 8. **Upcoming Agenda Items**
 9. **Adjournment**



Board of Adjustments

agenda item

item type	Consent Agenda	meeting date	August 16, 2022
prepared by	Mary Bush	approved by	
board approval	Completed		
strategic objective			

subject

Approval of the July 19, 2022 Meeting Minutes.

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:

[BOA July 19, 2022 Draft Meeting Minutes.pdf](#)



Board of Adjustments Regular Meeting Minutes

July 19, 2022 at 5:00 p.m.

City Hall | Commission Chambers
401 S. Park Ave. | Winter Park, Florida

Present

Present In-Person: Robert Trompke, Michael Clary, Cathy Sawruk, Jason Johnson, Tom Sims, and Charles Steinberg. Present Virtually: Ann Higbie. Also Present: City Attorney J. Giffin Chumley. Staff: Director of Planning and Transportation Jeff Briggs, Planner I Nicholas Lewis, Planning Technician Aaron Hull, Building and Permitting Director Gary Hiatt, Building and Permitting Manager Renata Minoga, and Recording Secretary Mary Bush.

(1) Call to Order

Chairman Jason Johnson called the meeting to order at 5:00 p.m.

(2) Consent Agenda

Approval of Minutes:

Motion made by Michael Clary, seconded by Cathy Sawruk to approve the June 21, 2022 meeting minutes.

Motion carried unanimously with a 7-0 vote.

(3) Staff Updates

Mr. Lewis informed the Board that he was in the process of re-evaluating the Chairman's opening statement per the Board's request.

Mr. Briggs briefly spoke on there being fewer applications received for variances than in the past and noted that the Planning & Zoning Board had to cancel their next regular meeting due to no applications received.

(4) Public Comments (for items not on Agenda)

No one from the public wished to speak. The public hearing was closed.

(5) Non-Action Items

No non-action items.

(6) Action Items

No action items.

(7) Public Hearings

- BOA-2022-0010. Request of Barefoot Brothers Construction LLC for variance approval from Section 58-65(f)(6) to allow a second-story interior side setback of 11-feet in lieu of the required side setback of 12-feet in conjunction with their proposed 430 square-foot addition to the existing home located at 541 N. Virginia Drive, zoned R-1AAA.

Mr. Lewis provided the Board a brief summary of the request. He presented to the Board an area map, aerial view, and proposed site plan of the property. He noted that one neighbor letter had been received and

was in favor of the project. He then explained that the property has two different roofs, one being a flat roof and the other an angled roof, both surrounded by four sides of parapet walls. He further explained that a water intrusion issue exists due to water and debris from the adjacent tree line being collected behind the walls. Mr. Lewis noted that the applicant would not be extending past what exists today for the first floor setback, but was asking to deviate from the required 12 foot setback to an 11 foot setback to fix the water intrusion issue and include the addition. He then presented the proposed elevations for the project and briefly discussed the lakefront setback.

Mr. Lewis went on to review the variance approval criteria as it related to the request, emphasizing the water intrusion issues due to the existing building's design flaws that create dead valleys at the roof top and the fallen debris from the adjacent line of oak trees. He also noted that the applicant felt that they had a unique circumstance where they could correct the water intrusion issue, save trees, and not encroach on the lakefront setback while still achieving their desired addition.

Staff recommendation was for approval.

The Board inquired about the new addition matching the existing wall setback and clarification on one of the hardship issues being water intrusion.

The applicant's general contractor, Ron Scarpa of 772 Maryland Avenue, Winter Park, FL 32789 addressed the Board. Mr. Scarpa clarified the hardship and the reasoning for the proposed roof and placement. He then briefly spoke on the landscape, trees, and privacy for the property and the applicant's ultimate goal for the project.

Chairman Johnson inquired about clarification of the variance request and why the applicant was not building the addition to the 12 foot setback requirement if possible. The applicant expressed that it basically came down to ease of construction.

No one from the public wished to speak. The public hearing was closed.

The Board briefly shared their thoughts on the request and were unanimously in favor of it. Chairman Johnson expressed for the record that he felt the City staff had provided good and valid arguments for each of the four criteria that are necessary to gain approval for a variance request.

Motion made by Robert Trompke, seconded by Tom Sims, for variance approval from Section 58-65(f)(6) to allow a second-story interior side setback of 11-feet in lieu of the required side setback of 12-feet in conjunction with their proposed 430 square-foot addition to the existing home located at 541 N. Virginia Drive, zoned R-1AAA.

Motion approved with a 7-0 vote.

- BOA-2022-0011. Request of Ron and Marshall Schirtzer for variance approval from Section 58-66(f)(6) to allow an interior side setback of 9.1-feet in lieu of the required side setback of 11-feet in conjunction with their proposed 115 square-foot addition to the existing home located at 417 Langholm Drive, zoned R-1A.

Mr. Lewis provided the Board a brief summary of the request. He presented to the Board an area map, aerial views, and existing survey of the property. He noted that seven neighbor letters were received in approval of the request. He then briefly spoke on the property's existing nonconforming front setback of 10.6 feet as opposed to the required 11 foot setback due to the front bump out. He added that the new proposed addition would be in the rear mirroring the front bump out. Mr. Lewis went on to briefly review the proposed site plan for the property and the variance approval criteria as it related to the request. He noted that the house was an older modeled house constructed in 1956 with very narrow hallways and rooms. As such, the applicants have very limited room on the first floor to add any addition without exacerbating either a nonconforming setback or compromising the very limited amount of greenspace they currently have. He added that the applicants had previously received approval from the City to construct an over 800 square foot second story addition, however, they are no longer able to complete an addition on the second floor due to health concerns that have developed with one of the applicants. He also noted that a very significant landscape buffer exists on the property and would shield the addition from the view of the neighbors.

Staff recommendation was for approval.

The Board inquired about and briefly discussed the following:

- the applicants having to articulate out the addition,

- what the setback would be from the rear of the new room to the rear property line,
- the allowed rear setback,
- if the applicants would be giving up their right to a second floor addition,
- the status of the floor-area-ratio (FAR) for the project,
- and if a condition of restricting the applicants from building a second floor addition would still apply to future owners of the property.

The applicant, Marshall Schirtzer at 417 Langholm Drive, Winter Park, FL 32789 addressed the Board. Mrs. Schirtzer spoke on her and her husband's reason for requesting the variance, why they are no longer able to do the second floor addition, and how other options for the requested addition will not work.

The Board inquired with the applicants regarding the existing shed, whether or not a portion of the existing home's living space would be used for the addition, and if the applicant would be ok with a condition restricting a second floor addition.

No one from the public wished to speak. The public hearing was closed.

The Board briefly expressed their thoughts on the request and were unanimously in favor of it. Several Board members felt that it was a minimal request and agreed with staff's assessment of the four approval criteria being met.

Motion made by Robert Trompke, seconded by Tom Sims, for variance approval from Section 58-66(f)(6) to allow an interior side setback of 9.1-feet in lieu of the required side setback of 11-feet in conjunction with their proposed 115 square-foot addition to the existing home located at 417 Langholm Drive, zoned R-1A.

Motion approved with a 7-0 vote.

(8) Board Comments

Ms. Higbie expressed thanks to the Board for their quick responses to confirm a quorum for the meeting, so that she could adjust her travel arrangements as needed.

(9) Upcoming Agenda Items

Mr. Lewis noted that there would be only one variance application presented at the next Board of Adjustments meeting scheduled for August 16, 2022, which would deal with a fence height issue on State Road 17-92.

(10) Adjournment

Meeting adjourned at 5:39 p.m.

/s/ Recording Secretary Mary Bush



Board of Adjustments

agenda item

item type Public Hearings (Public participation and comment on these matters must be in-person.)	meeting date August 16, 2022
prepared by Nicholas Lewis	approved by John Harbilas, Allison McGillis
board approval Completed	
strategic objective	

subject

BOA-2022-0012: Request of B-Nyce LLC.

item list

Request of B-Nyce LLC for variance approval from Section 58-71 subsection (n)(2) to replace the existing 4-foot white decorative fencing with a 6-foot white vinyl privacy fence along the street-side lot line, for the property located at 1411 Norfolk Avenue, zoned R-1A.

motion / recommendation

Staff recommendation is for approval of the variance requested.

background

The applicant, Billy Fitzsimmons of B-Nyce LLC, is requesting variance approval to replace the existing 100-feet of white vinyl picket-style decorative fencing with a height of 4-feet, with white vinyl privacy fencing with a height of 6-feet for the existing home located at 1411 Norfolk Avenue, zoned R-1A.

Variance Review Criteria:

Special Conditions and Circumstances

In order for a variance to be granted, special conditions and circumstances must exist which are peculiar to the land, structure or building involved and are not applicable to other land, structures or buildings in the same zoning district.

The property is one of three single-family properties throughout the City that have a street-side yard that fronts directly onto Orlando Avenue (S.R. 17-92). In addition, this property is the only single-family property with 17-92 frontage that does not have an existing vegetative canopy. The lot is only 50-feet wide with the house sitting at a nonconforming street-side setback of 10-feet, which does not provide enough area for

adequate vegetation to act as a sound and visual buffer from the heavy traffic along 17-92. The existing home currently sits roughly 15-feet away from the roadway, with the only separation from the lot and road being a 5-foot sidewalk. The other two lots fronting 17-92 are 130 and 92-feet deep respectively.

Further, the lot is located near the Winter Park and Orlando border. Houses with 17-92 frontage in the Orlando portion of the area are permitted walls or fences up to 8-feet in height. However, because these do not fall within the City limits of Winter Park, they do not set precedent for the City of Winter Park to permit fences greater than the maximum height, nor less than the minimum required openness permitted for street-side fencing. Therefore, the applicant is seeking a 6-foot privacy fence to mitigate the visual and audible impact generated from the traffic along 17-92, as well as to provide privacy and security for a property along 17-92 which sees ample pedestrian, bicycle, and vehicular traffic passing by at all times of day and night.

Deprivation of Rights

The second requirement for granting a variance request is that the literal interpretation of the provisions of the zoning code would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district.

A literal interpretation of Section 58-71(n)(2) would limit the options available to the applicant to secure additional privacy and to buffer the sound from the adjacent traffic. The existing fence is currently at the maximum permitted height and opaqueness required for street-side fencing. Therefore, a literal interpretation would not allow the applicant to achieve any greater security and privacy or any visual and sound buffer from 17-92 under the current conditions.

Actions of the Applicant

The special conditions and circumstances must not result from the actions of the applicant.

The property is a 50-foot lot located 5-feet off of 17-92, one of the two major thoroughfares within the City. This location is not the fault of the applicant. Further, the applicant purchased the property after the existing home was constructed and therefore, had no control over the design of the home and its close proximity to the roadway. The existing fence was also permitted prior to the applicant's ownership of the property.

Special Privilege

The last requirement necessary to grant a variance request is that the variance will not

confer on the applicant any special privilege denied by the zoning ordinance to other lands, structures or buildings in the same zoning district. No nonconforming use of the neighboring lands, structures or buildings in other zoning districts shall be considered grounds for the issuance of a variance.

As stated previously, this is the only lot in the entire city that buffers 17-92, with no existing vegetative buffer and no room to install one. Therefore, staff believes that granting this variance would not confer any special privilege onto any neighboring lands, structures or buildings in the same zoning district.

Summary

Staff believes that the applicant meets the four criteria necessary to grant this variance request. The special conditions and circumstances are specifically unique to this lot. The applicant's proposal would meet all requirements besides the fence type and height, but would still conform to the existing nature of that section of 17-92 if approved and would not provide any line-of-sight issues for traffic pulling out of Norfolk Avenue onto 17-92.

alternatives / other considerations

fiscal impact

ATTACHMENTS:

[1411 Norfolk Ave - Area Map.pdf](#)

ATTACHMENTS:

[1411 Norfolk Ave - Aerial Map.pdf](#)

ATTACHMENTS:

[1411 Norfolk Ave - Birds Eye View.JPG](#)

ATTACHMENTS:

[1411 Norfolk Ave - Street View Angle 1.JPG](#)

ATTACHMENTS:

[1411 Norfolk Ave - Street View Angle 2.JPG](#)

ATTACHMENTS:

[1411 Norfolk Ave - Survey.pdf](#)

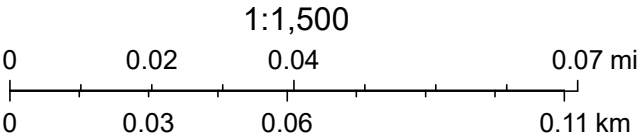
ATTACHMENTS:

1411 Norfolk Avenue - Area Map

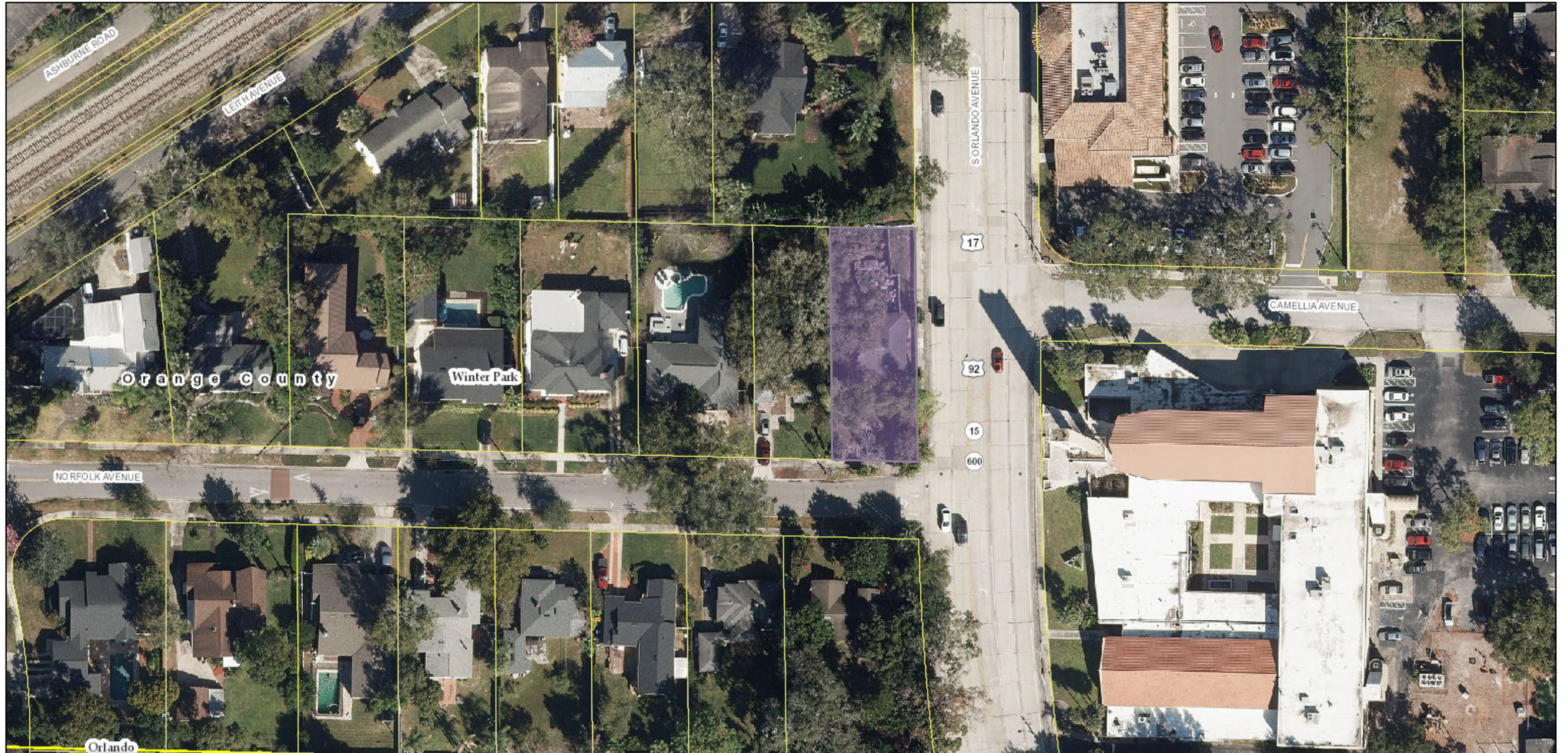


8/5/2022, 10:06:04 AM

 Parcels Orange

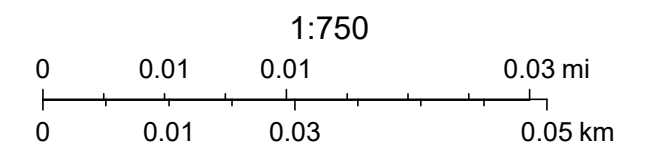


1411 Norfolk Avenue - Aerial Map



8/5/2022, 10:07:20 AM

Parcels Orange





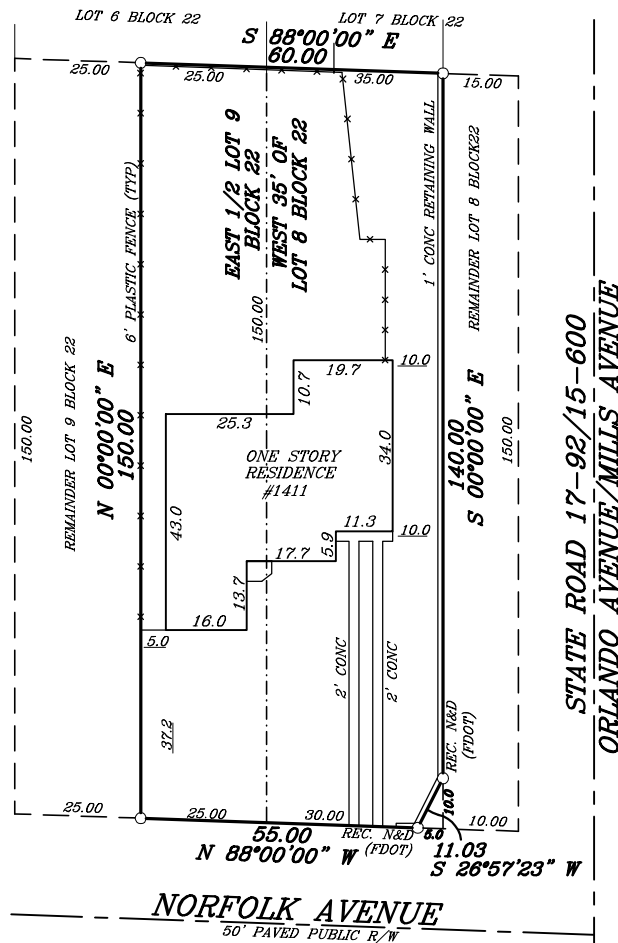




PLAT OF LAND SURVEY FOR and/or CERTIFIED TO:
William and Shirley Fitzsimmons
AKW Title Group, Inc.

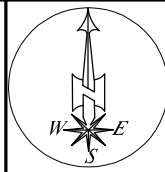
DESCRIPTION AS FOLLOWS: The West 35 feet of Lot 8 and the East 1/2 of Lot 9, Block 22, ORWIN MANOR STRATFORD SECTION, according to the Plat thereof, as recorded in Plat book L, Page 57, of the public records of Orange County, Florida. LESS> A triangular parcel of land described as follows; Begin at a point 10 feet North of the intersection of the West r/w line of State Road 15-600, Section 75030, and the South line of Lot 8, Block 22, ORWIN MANOR STRATFORD SECTION, according to the Plat thereof, as recorded in Plat Book L, Page 57, of the public records of Orange County, Florida, then run South 10 feet, along the West r/w line of State Road 15-600, thence run West 5 feet, thence run Northeasterly along a straight line to the Point of Beginning.

○ = REC. 1/2" I.R.
(3608) UNLESS NOTED



WALKER LAND SURVEYING, INC.

VICINITY MAP
NOT TO SCALE



9014 CALWOOD COURT
ORLANDO, FL 32825
321-537-3974

LB 6710

LEGEND

P.T. = POINT OF TANGENCY	F = FIELD
D.B. = DESCRIPTION	I.P. = IRON PIPE
A/C = AIR CONDITIONER	I.R. = IRON ROD
R = RADIUS	C.M. = CONCRETE MONUMENT
L = ARC LENGTH	SET I.R. = 5/8" I.R. W/ALB 6710
CH = CHORD	REC. = RECOVERED
CB = CHORD BEARING	P.D.B. = POINT OF BEGINNING
P.D.L. = POINT ON LINE	P.D.C. = POINT OF COMMENCEMENT
TYP. = TYPICAL	C/C = COVERED CONCRETE
R/W = RIGHT-OF-WAY	N&D = NAIL & DISC
RAD. = RADIAL	ESMT. = EASEMENT
NR. = NON-RADIAL	DRAIN. = DRAINAGE
W.P. = WITNESS POINT	UTIL. = UTILITY
W.D. = WOOD	CL. = CHAIN LINK
S/W = SIDEWALK	C/B = CONCRETE BLOCK
U.E. = UTILITY EASEMENT	P.C. = POINT OF CURVATURE
EL. = ELEVATION	F.F.E. = FINISHED FLOOR ELEVATION
P.U. & D.E. = PUBLIC UTILITIES & DRAINAGE ESMT.	

CERTIFIED BY: *[Signature]* R.L.S. NO. 5362
JOHN W. WALKER

THIS BUILDING/PROPERTY DOES NOT LIE WITHIN THE ESTABLISHED
SPECIAL FLOOD HAZARD AREA PER "FIRM". IT LIES IN ZONE: X
PANEL # 12095C 0255F MAP DATE: 9-25-09

NOTES

- STANDARDS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS IN CHAPTER SJ-17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472-027, FLORIDA STATUTES.
- UNLESS SIGNED AND EMBOSSED WITH SURVEYOR'S SEAL, THIS SURVEY IS NOT VALID.
- THIS SURVEY WAS PREPARED FROM TITLE INFORMATION FURNISHED TO THE SURVEYOR. THERE MAY BE OTHER RESTRICTIONS OR EASEMENTS THAT AFFECT THIS PROPERTY.
- NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
- THIS SURVEY IS PREPARED FOR THE SOLE BENEFIT OF THOSE CERTIFIED TO AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY.
- DIMENSIONS SHOWN FOR THE LOCATION OF IMPROVEMENTS HEREON SHOULD NOT BE USED TO RECONSTRUCT BOUNDARY LINES.
- ELEVATIONS, IF SHOWN, ARE BASED ON NORTH AMERICAN VERTICAL DATUM OF 1988, UNLESS OTHERWISE NOTED (GPS).
- BEARINGS BASED ON THE NORTH R/W LINE NORFOLK AVE
SAID BEARING BEING N 88°00'00" W
- BEARING AND DISTANCES ARE PLAT AND MEASURED UNLESS OTHERWISE SHOWN.
- MEASUREMENTS SHOWN ARE BASED ON THE STANDARD U.S. SURVEY FOOT.
- MODIFICATIONS OR DELETIONS TO THIS SURVEY IS PROHIBITED WITHOUT CONSENT FROM SIGNING SURVEYOR.

SCALE: 1" = 30'

FIELD DATE: BOUNDARY 1-5-22 ORDER NO. (DWG. NO.): 1411 NORFOLK AVENUE

DRAWN BY: NICK CHECKED BY:



PLAN SNAPSHOT REPORT BOA-2022-0012 FOR CITY OF WINTER PARK

Plan Type: Board of Adjustments	Project:	App Date: 07/13/2022
Work Class: Board of Adjustments/Variance Application	District: Winter Park	Exp Date: NOT AVAILABLE
Status: Submitted - Online	Square Feet: 0.00	Completed: NOT COMPLETED
Valuation: \$0.00	Assigned To: Harbilas, John	Approval Expire Date:

Description: We are asking to be allowed to replace the existing 4' x 100' vinyl picket style fence which sits directly on the retaining wall at 1411 Norfolk Avenue with a 6' x 100' Vinyl privacy fence. The noise is extremely loud coming from 17-92 traffic and there is no privacy and security for the family in the yard from foot, bicycle and vehicle traffic. Every other residential property along 17-92 has these types of fences in place already.

Parcel:	292212643622081	Main	Address:	1411 Norfolk Ave Winter Park, FL 32789-5516	Main	Zone:
Owner			Applicant			
William E FITZSIMMONS			William E FITZSIMMONS			
1411 E Norfolk Avenue AVE			1411 E Norfolk Avenue AVE			
NE 1411			NE 1411			
Winter Park, FL 32789			Winter Park, FL 32789			
Home: (754) 215-7646			Home: (754) 215-7646			
Business: (754) 215-7646			Business: (754) 215-7646			
Mobile: (754) 215-7646			Mobile: (754) 215-7646			

Plan Custom Fields

Zoning		Section	Orwin Manor	Subsection	Stratford
Is the property on waterfront?	No	Is this property on historic registry or district?	No	Describe variance	We are asking to be allowed to replace the existing 4' x 100' vinyl picket style fence which sits directly on the retaining wall at 1411 Norfolk Avenue with a 6' x 100' Vinyl privacy fence. The noise is extremely loud coming from 17-92 traffic and there is no privacy and security for the family in the yard from foot, bicycle and vehicle traffic. Every other residential property along 17-92 has these types of fences in place already.
How long have you owned the property?	6 months	How long have you occupied the property?	6 months	Special Condition	None
Rights/Priv	There will be no security, no privacy, and extremely loud noise from the continually growing amount of traffic.	Hardship	Security is the main concern followed by the loud, constant noise at all hours.	Limited Variance	It is imperative to have a minimum of 6 feet in height for the fence.

Attachment File Name	Added On	Added By	Attachment Group	Notes
IMG_2273 5.PNG	07/13/2022 20:28	FITZSIMMONS, William		Uploaded via CSS
IMG_2274 4.PNG	07/13/2022 20:28	FITZSIMMONS, William		Uploaded via CSS
IMG_2275 3.PNG	07/13/2022 20:28	FITZSIMMONS, William		Uploaded via CSS
IMG_2276 2.PNG	07/13/2022 20:28	FITZSIMMONS, William		Uploaded via CSS
IMG_2277.PNG	07/13/2022 20:28	FITZSIMMONS, William		Uploaded via CSS

PLAN SNAPSHOT REPORT (BOA-2022-0012)

Jul 13, Doc 1.pdf	07/13/2022 20:28	FITZSIMMONS, William	Uploaded via CSS
NORFOLK SURVEY.pdf	07/13/2022 20:28	FITZSIMMONS, William	Uploaded via CSS
Signature_William_FITZSIMMONS_7/14 2022.jpg	07/13/2022 20:28	FITZSIMMONS, William	Uploaded via CSS

Invoice No.	Fee	Fee Amount	Amount Paid
INV-00025050	Residential Variance Application Fee	\$200.00	\$200.00
Total for Invoice INV-00025050		\$200.00	\$200.00
Grand Total for Plan		\$200.00	\$200.00

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Board of Adjustments Review v.1	Approved	07/13/2022	07/15/2022	07/18/2022	No	Yes
Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Zoning Review	Building & Permitting Services	Lewis, Nick	Approved	07/13/2022	07/15/2022	07/18/2022

Workflow Step / Action Name	Action Type	Start Date	End Date
Review v.1			07/18/2022 9:53
Board of Adjustments Review v.1	Receive Submittal	07/13/2022 0:00	07/18/2022 9:37
Issue Invoice v.1	Generic Action		07/18/2022 9:53
Final Decision v.1			
Board of Adjustments Decision v.1	Generic Action		