



Board of Adjustments Regular Meeting

Agenda

February 21, 2023 @ 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

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"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 January 17, 2023 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-2023-0001: Request of David Rizzo.](#) 15 minutes
Request of David Rizzo for variance approval from Section 58-65(f) (6), to allow a front setback of 25-feet in lieu of the required front setback of 32-feet, in conjunction with the proposed single-family home located at 1147 Oaks Boulevard, zoned R-1A.

The applicant's full application and stated hardship is provided in the "Applicant Energov Submittal" attachment below.
 5. **Non-Action Items**
 - a. [Discussion regarding the extension of variance approval expiration.](#) 10 minutes
 6. **Staff Updates**
 7. **Board Comments**
 8. **Upcoming Agenda Items**
 9. **Adjournment**



Board of Adjustments

agenda item

item type	Consent Agenda	meeting date	February 21, 2023
prepared by	Mary Bush	approved by	
board approval	Completed		
strategic objective			

subject

Approval of the January 17, 2023 Meeting Minutes.

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:

[BOA January 17, 2023 Draft Meeting Minutes.pdf](#)



Board of Adjustments Regular Meeting Minutes

January 17, 2023 at 5:00 p.m.

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

Present

Present In-Person: Jason Johnson, Charles Steinberg, Michael Clary, Cathy Williams, Tom Sims, and Ann Higbie. Absent: Robert Trompke. Also Present: City Attorney J. Giffin Chumley. Staff: Assistant Director of Planning & Transportation Allison McGillis, Planner I Nick Lewis, Planning Technician Aaron Hull, and Recording Secretary Mary Bush.

(1) Call to Order

Chairman Jason Johnson called the meeting to order at 4:59 p.m.

(2) Consent Agenda

Chairman Johnson explained that a question had been raised before the beginning of the meeting, asking whether or not the Board would consider placing two matters listed on the meeting's agenda, that were reconsiderations of previously approved variances, on the consent agenda if there would not be any objection from the Board or members of the public. Based on Chairman Johnson's discussion with City Attorney Chumley before the start of the meeting and the Board being a quasi-judicial board, Chairman Johnson expressed that it was important to at least make a record in the event that anyone present or not for the meeting desires to seek an appeal to the decision of the Board on either matter. Chairman Johnson further expressed that for the purpose of a record, rather than moving to approve the two matters on the consent agenda, he asked City Staff to make their planned presentations and the applicants to make whatever presentations they deemed necessary for the matters.

Approval of Minutes:

Motion made by Cathy Williams, seconded by Tom Sims to approve the December 13, 2022 meeting minutes.

Motion carried unanimously with a 6-0 vote. (Robert Trompke was not present for the meeting.)

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

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

(4) Public Hearings

Mr. Clary disclosed that he had received an email in support of the BOA-2022-0024 request from a neighbor of the applicant but he did not respond to the email.

- BOA-2022-0015: Request of Rob Smith with E2 Homes for variance approval from Section 58-68(e)(1), to allow a rear setback of 6-feet in lieu of the required rear setback of 20-feet, in conjunction with the proposed awning as part of overall renovations to the existing outdoor learning center located at 631 N. Knowles Avenue, zoned R-3.

Mr. Lewis provided the Board a brief summary of the request. He presented to the Board an area map and aerial view of the property showing the existing building for the school located on the lot. He noted that The Winter Park 9 Golf Course and Casa Feliz Historic Home Museum are located to the north of the lot, Park Aire Condominiums are located to the rear of the lot, and existing green fields for the school are on the southern portion of the lot. He also noted that staff received a letter of non-objection with certain conditions from the Park Aire Condominium Association, who had multiple meetings with the applicant and their own public hearing

process regarding the project. Mr. Lewis then presented the survey for the lot showing the existing building at 26 feet from the property line that abuts the Park Aire Condominiums' property. He explained that the applicant requested a 6 foot setback so an outdoor learning space for the school could be created under their proposed 20 foot awning that would shelter students from harsh weather. He further explained that the applicant proposed placing a Podocarpus hedge along the entire lot line, matching the existing hedge along the same lot line, to maintain privacy to the Park Aire Condominiums. Mr. Lewis then presented elevations and site photos for the request, which included views from the green fields and the Park Aire Condominiums' swimming pool deck. He indicated that the swimming pool deck is located above a first floor garage area. He also indicated that the applicant proposed to have the awning meet the elevation of the swimming pool deck to ensure that persons on the deck cannot look down under the awning, and students under the awning cannot look up with a view of the swimming pool deck to maintain privacy for both parties. He then went on to discuss the variance approval criteria as it related to the request.

Staff recommendation was for approval with the following condition:

- The applicant must place 30 gallon Podocarpus hedges along the shared lot line between the school and the Park Aire Condominiums to match the existing Podocarpus hedges between the Park Aire Condominiums and the green fields.

Mr. Clary inquired whether the project was subject to impervious calculations. Mr. Lewis briefly explained why the project was subject to impervious calculations.

The applicant, Rob Smith of 66 Eastwind Lane, Maitland, FL 32751 addressed the Board. Mr. Smith spoke on where the idea for the project came from. He noted that he already had a permit for the hardscape and that the impervious lot coverage was well under the requirement. He also noted that he has been in talks with the Park Aire Condominium Association since May of this year and has tried to incorporate the ideas they expressed they would like to see for the project.

Chairman Johnson asked if the area where the awning would be located was already being used by students of the school and just did not have coverage. The applicant replied that it was being used by the students.

The Board heard public comment from the following resident:

Kim Lopdrup of 640 N. Park Avenue, Winter Park, FL 32789 addressed the Board. Mr. Lopdrup presented photos of the request's existing property and fence line and Park Aire Condominium's pool access area and deck. He expressed concerns regarding the opening at the existing gate to the property, the Condominium's pool being unsecured and without a lifeguard, and the potential view of the school's students to the Condominium's pool deck. He recommended that if the applicant's request was to be approved that the existing fence be replaced, the gate be removed, and the Podocarpus hedge be high enough to block the students' view of the pool deck.

The Board addressed Mr. Lopdrup noting that his concerns with safety would need to be directed to the City's Code Enforcement department, the variance in elevation of the pool deck and the sloped awning would cover the views he was concerned about, and that there would be more privacy from completing the request than there was existing.

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

Mr. Smith addressed the Board and noted that the fence would be repaired and the existing double gate would be removed.

The Board briefly inquired about the Podocarpus hedge being difficult or easy to walk through and which side of the hedge the fence would be located.

The Board then briefly shared their thoughts on the request and were in split favor of the request as presented and with conditions. A few Board members expressed that they wanted to add a condition of approval that the fence would be repaired completely.

Motion made by Jason Johnson, seconded by Tom Sims, for variance approval from Section 58-68(e)(1), to allow a rear setback of 6-feet in lieu of the required rear setback of 20-feet, in conjunction with the proposed awning as part of overall renovations to the existing outdoor learning center located at 631 N. Knowles Avenue, zoned R-3 with a finding that the variance is justified by the criteria outlined in Section 58-92 of the Code of Ordinances of the City of Winter Park; the reasons set forth in the application

justify the granting of the variance; the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and the granting of the variance will be in harmony with the general purpose and intent of the zoning article of the Land Development Code and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Motion failed with a 3-3 vote. (In favor: Cathy Williams, Tom Sims, and Jason Johnson. Opposed: Michael Clary, Ann Higbie, and Charles Steinberg. Robert Trompke was not present for the meeting.)

Motion made by Charles Steinberg, seconded by Ann Higbie, for variance approval from Section 58-68(e)(1), to allow a rear setback of 6-feet in lieu of the required rear setback of 20-feet, in conjunction with the proposed awning as part of overall renovations to the existing outdoor learning center located at 631 N. Knowles Avenue, zoned R-3 with the following conditions:

- That a 30-gallon Podocarpus hedge be installed along the adjacent property line to the Park Aire Condominiums.
- That the entirety of the fence surrounding the property be repaired such that there are no breaks in the fencing.
- That the gate that exists be replaced by a solid fence or by a chain link fence and not an open gate.

Motion unanimously approved with a 6-0 vote. (Robert Trompke was not present for the meeting.)

- BOA-2022-0023: Request of the homeowner, Mary Hartwig, for variance approval from Section 58-66 subsections (f)(5) and (f)(6), to allow a front setback of 21.9-feet and a side setback of 5.9-feet in lieu of the required front setback of 35-feet and required side setback of 9-feet, in conjunction with the construction of a carport located at 2819 Northwood Boulevard, zoned R-1A.

Mr. Lewis provided the Board a brief summary of the request. He presented to the Board an area map and aerial view of the property. He noted that the application was a reinstatement request and that it had previously come before the Board at the July 16, 2019 regular meeting but the applicant was not able to begin construction before the variance expired due to issues from the COVID-19 pandemic. He also noted that there had been no code changes and everything with the application was the exact same as was presented in 2019. He added that no new neighbor letters had been received for the request. Mr. Lewis then presented the survey, site plan, and elevations for the property and noted that the applicant wanted to make a single carport into a two bay carport. He went on to review the variance approval criteria as it related to the request. He indicated that the existing home is non-conforming on both the front and side setbacks and the applicant's request, although still non-conforming, alleviates the requirement of a garage and carport to have 20 feet in front of it in order to adequately park a car per code. Mr. Lewis added that at the 2019 meeting, the Board required the conditions that the carport's posts were moved two feet inward and that the roof covering be limited to a single material, which the applicant applied for meeting both conditions.

Staff recommendation was for approval.

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.

Motion made by Jason Johnson, seconded by Cathy Williams, for variance approval from Section 58-66 subsections (f)(5) and (f)(6), to allow a front setback of 21.9-feet and a side setback of 5.9-feet in lieu of the required front setback of 35-feet and required side setback of 9-feet, in conjunction with the construction of a carport located at 2819 Northwood Boulevard, zoned R-1A as previously conditionally approved by the Board and pursuant to which the applicant has already sought permits and with a finding that the variance is justified by the criteria outlined in Section 58-92 of the Code of Ordinances of the City of Winter Park; the reasons set forth in the application justify the granting of the variance; the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and the granting of the variance will be in harmony with the general purpose and intent of the zoning article of the Land Development Code and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Motion unanimously approved with a 6-0 vote. (Robert Trompke was not present for the meeting.)

- BOA-2022-0025: Request of the homeowner, Chris Mairn, for variance approval from Section 58-66(f)(6), to allow a side setback of 9.58-feet in lieu of the required side setback of 16-feet, in conjunction with the proposed second-story addition to the existing home located at 1219 Via Estrella, zoned R-1AA.

Mr. Lewis provided the Board a brief summary of the request. He presented to the Board an area map and aerial view of the property. He noted that the application was a reinstatement request and that it had previously come before the Board at the February 16, 2021 regular meeting. He also noted that no new neighbor letters had been received for the request. He then presented the survey, site plan, and elevations for the property showing an existing first floor sunroom and a proposed second floor addition. Mr. Lewis went on to review the variance approval criteria as it related to the request. He indicated that the variance requested was due to the location of the addition being limited to above the existing first floor sunroom because of setback requirements and the existing locations of the pool and backyard tree.

Staff recommendation was for approval.

The applicant, Chris Mairn of 1219 Via Estrella, Winter Park, FL 32789 addressed the Board. Mr. Mairn expressed that the COVID-19 pandemic had hindered his ability to proceed with the project. He added that he had spoken with new neighbors to the west side of his property about his plans and the neighbors were in support of the project.

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.

Motion made by Jason Johnson, seconded by Tom Sims, for variance approval from Section 58-66(f)(6), to allow a side setback of 9.58-feet in lieu of the required side setback of 16-feet, in conjunction with the proposed second-story addition to the existing home located at 1219 Via Estrella, zoned R-1AA with a finding that the variance is justified by the criteria outlined in Section 58-92 of the Code of Ordinances of the City of Winter Park; the reasons set forth in the application justify the granting of the variance; the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and the granting of the variance will be in harmony with the general purpose and intent of the zoning article of the Land Development Code and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Motion unanimously approved with a 6-0 vote. (Robert Trompke was not present for the meeting.)

- BOA-2022-0024: Request of Carlos Ruiz Huyke with Ziur Contraction for variance approval from Section 58-67(f)(1), to allow a first-floor side setback of 7-feet and a second-story rear setback of 10-feet in lieu of the required first-floor side setback of 10-feet and required second-story rear setback of 25-feet, in conjunction with the proposed home located at 605 Ellen Drive, zoned R-2.

Mr. Lewis provided the Board a brief summary of the request. He presented to the Board an area map and aerial view of the property. He noted that the lot sits on the 90-degree hip of Ellen Drive creating a very odd kind of angle in the front of the lot with a much deeper north side as opposed to a very shallow south side. He also noted that the lot backs up to O-2 Commercial zoning, which has existing office parcels that were formerly duplexes. He then presented the survey, site plan, and elevations for the project and spoke on the required setbacks. Mr. Lewis went on to review the variance approval criteria as it related to the request noting that three trees on the property had been clear cut eliminating the ability of the applicant to take advantage of a special condition of the Lake Killarney Shores subdivision allowing for setback variances for lots with existing canopy trees. He also noted that the lot is the only one in all of the subdivision lots that is greater than 65-feet, thus it is the only one that requires a greater 10-foot side setback for both first and second floors and a 25-foot second-story rear setback. He added that although the lot is shallow, it is much wider than all other lots in the subdivision, providing adequate room to adhere to the side setback requirements. Mr. Lewis then explained that the required 30-foot front setback and 25-foot rear setback squeeze the second story so that it becomes impossible to build to the required minimum square-footage per the subdivision's Declaration of Conditions, Covenants, and Restrictions. He indicated that staff believed that granting the side setback request could serve as a precedent for other R-2 zoned lots greater than 65-feet in width to request reduced setbacks because the lot is shallow and/or is wider than adjacent properties. He added that five neighbor letters had been received, all of which were in favor of the request.

Staff recommendation was for approval of the variance request regarding the rear setback and for denial of the variance requested regarding the side setback.

The Board briefly inquired about the lot being the only one in the area with a severe cut in from the road into the depth, squeezing of the property outward with the front setback requirement, if the removal of three feet from the right and left side setbacks would cause the home to be below 2,400 square feet, and the current front setback on the northside of the applicant's plans.

The applicant, Carlos Ruiz Hyuke of 603 Ellen Drive, Winter Park, FL 32789 who is the lot owner's builder addressed the Board. Mr. Ruiz Hyuke spoke on the history of the lot and disadvantages for the lot due to its larger dimensions and irregular shape compared to other lots in the subdivision.

The Board briefly discussed with Mr. Ruiz Hyuke the square footage of the home if the Board approved the request following staff's recommendations, the length of the second story, and the possibility of setting precedent for houses not yet built to request the same rear setback.

The Board heard public comment from the following residents in favor of the request:

Tom Lightsey of 640 Kirkman Road, Orlando, FL 32819 addressed the Board. Mr. Lightsey spoke on the right-of-way, setbacks for the applicant's lot, and the proposed garage not being considered living area. He also noted that the trees on the applicant's property were not clear cut but had died over time.

Meiyong Li of 1832 Harmon Avenue, Winter Park, FL 32789 who owns the lot in the request addressed the Board. Ms. Li expressed that her family was very eager to complete the home and explained the reasons why she chose the design of the home and the area.

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

The Board briefly shared their thoughts on the request and were in split favor of all and only part of it. A few Board members expressed that they were not in favor of approving the side setback as they felt there was no hardship for it.

Motion made by Jason Johnson, seconded by Charles Steinberg, for variance approval from Section 58-67(f)(1), to allow a first-floor side setback of 7-feet and a second-story rear setback of 10-feet in lieu of the required first-floor side setback of 10-feet and required second-story rear setback of 25-feet, in conjunction with the proposed home located at 605 Ellen Drive, zoned R-2 with a finding that the variance is justified by the criteria outlined in Section 58-92 of the Code of Ordinances of the City of Winter Park; the reasons set forth in the application justify the granting of the variance; the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and the granting of the variance will be in harmony with the general purpose and intent of the zoning article of the Land Development Code and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Motion approved with a 5-1 vote. (In favor: Cathy Williams, Michael Clary, Tom Sims, Jason Johnson, and Charles Steinberg. Opposed: Ann Higbie. Robert Trompke was not present for the meeting.)

(5) Non-Action Items

No non-action items.

(6) Staff Updates

No staff updates.

(7) Board Comments

No Board comments.

(8) Upcoming Agenda Items

No discussion ensued on upcoming agenda items.

(9) Adjournment

Meeting adjourned at 6:30 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 February 21, 2023
prepared by Nicholas Lewis	approved by John Harbilas, Allison McGillis
board approval Completed	
strategic objective	

subject

BOA-2023-0001: Request of David Rizzo.

item list

Request of David Rizzo for variance approval from Section 58-65(f)(6), to allow a front setback of 25-feet in lieu of the required front setback of 32-feet, in conjunction with the proposed single-family home located at 1147 Oaks Boulevard, zoned R-1A.

The applicant's full application and stated hardship is provided in the "Applicant Energov Submittal" attachment below.

motion / recommendation

Staff recommendation is for denial of the variance requested.

background

Background

The applicant and homeowner, David Rizzo, is requesting variance approval from Section 58-65(f)(6) in order to construct a new single-family home, at a setback of 25-feet in lieu of the required 32-foot front setback, located at 1147 Oaks Boulevard. The property is zoned R-1A.

The applicant designed the proposed home around the previous code version (2022 code) and originally contacted the City prior to the current code version (2023 code), which went into effect on January 1, 2023. Overall, the applicant's proposal meets all 2023 code requirements, except for the required front setback.

Under the 2022 code, the front setback for corner lots and lots adjacent to corner lots was determined utilizing the average of the front setbacks for the three adjacent properties and verified via survey. Under the 2023 code, the front setback is now

determined by utilizing twenty percent (20%) of the lot depth, or the setback of the existing home, whichever is greater. The five-foot allowable encroachment for front porch areas is the same in both codes.

The 2023 code went through many publicly noticed work sessions, and went through three publicly noticed hearings, before being approved by the Planning and Zoning Board and approved in two readings by the City Commission. As part of the approval process, the City Commission voted to approve a phase-out of the 2022 code. This phase-out period allowed for any plans, regardless of whether they are complete or incomplete, to be grandfathered into the 2022 code so long as an application for permit was filed prior to January 1, 2023. The full ordinance adopting the 2023 code and the notice of the phase-out period for the 2022 code were both published on the City website.

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 existing home has a front setback of 32-feet with a front porch that extends to 25-feet. Because the lot is 125-feet deep, the requested 25-foot setback meets the 20% of the lot depth provision, but the 2023 code states that the front setback shall be the greater number of the two. The provision allowing front porches to encroach into the setback by 5-feet is the same in both codes. At 32-feet, the front porch setback would be 27-feet and at 25-feet, the front porch setback would be 20-feet.

Much of the street and surrounding similar-sized properties have already redeveloped under the 2022 code and have setbacks ranging from 25-feet to 32-feet.

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.

Under Section 58-65(f)(6) of the 2023 code, the front setback shall either be 20% of the lot depth (25-feet in this instance) or the existing building's setback (32-feet), whichever is greater. The applicant's request is essentially to meet the 20% setback, which is also the perceived average and current setback of the existing front porch area. As stated previously, under the 2022 code, the average would still need to be verified via survey,

which was not provided.

The applicant believes that the portion of the slab making up the existing front porch should count as the front of the building. But the code is clear that front setbacks are treated differently, as they are allowed to encroach into the setback and that setbacks are measured to the closest wall of the building. A "building" as defined in Sec 58-95, shall mean "any structure with substantial walls and a roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows, or openings, and which is designed or intended for shelter, enclosure or protection of persons, animals or chattels." The existing porch does not meet this definition.

Although the 2023 code is stricter than the 2022 code, the 2023 code was adopted after many publicly noticed meetings and the phase-out period went into effect through the end of the year. Unless a permit was applied for before the end of 2022, any rights to a lesser setback under the 2022 code were relinquished. Since this is a new proposed home, the applicant is able to construct a single-story home that conforms to the 2023 code requirements, albeit not as large as under the 2022 code.

Actions of the Applicant

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

The home was originally constructed in 1958 and the applicant has owned the property since 2011. When the applicant originally contacted the City, the 2022 code was in place and they were given setbacks that included an estimated 25-foot front setback. Under the 2022 code, this setback would have still needed to be verified via survey of the neighboring properties' front setbacks, regardless of whether staff provided the setback or not.

The applicant did not reach back out to the City until several months later, after the 2022 code phase-out period ended, which followed many publicly noticed meetings. Therefore, the applicant failed to apply for a permit that would have grandfathered their "in process" plans under the 2022 code.

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.

Staff believes that granting this request could potentially open the door for other applicants who did not apply for a 2022 permit during the phase-out period, and therefore treat the variance process as a workaround to be eligible for a code that is no longer in effect.

Summary

Staff believes that the applicant does not meet the four criteria required to grant the variance requested.

alternatives / other considerations

fiscal impact

ATTACHMENTS:

[1147 Oaks Blvd - Area Map.pdf](#)

ATTACHMENTS:

[1147 Oaks Blvd - Aerial Map.pdf](#)

ATTACHMENTS:

[1147 Oaks Blvd - Street Front Setbacks.pdf](#)

ATTACHMENTS:

[BOA-2023-0001 - Applicant Energov Submittal.pdf](#)

ATTACHMENTS:

[1147 Oaks Blvd - Survey.pdf](#)

ATTACHMENTS:

[1147 Oaks Blvd - Site Plan.pdf](#)

ATTACHMENTS:

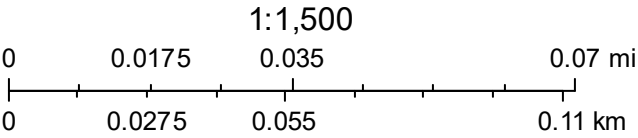
[1147 Oaks Blvd - Front Elevation.pdf](#)

1147 Oaks Blvd - Area Map



2/13/2023, 1:46:44 PM

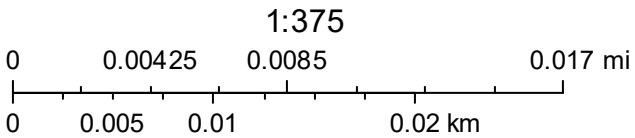
Parcels Orange

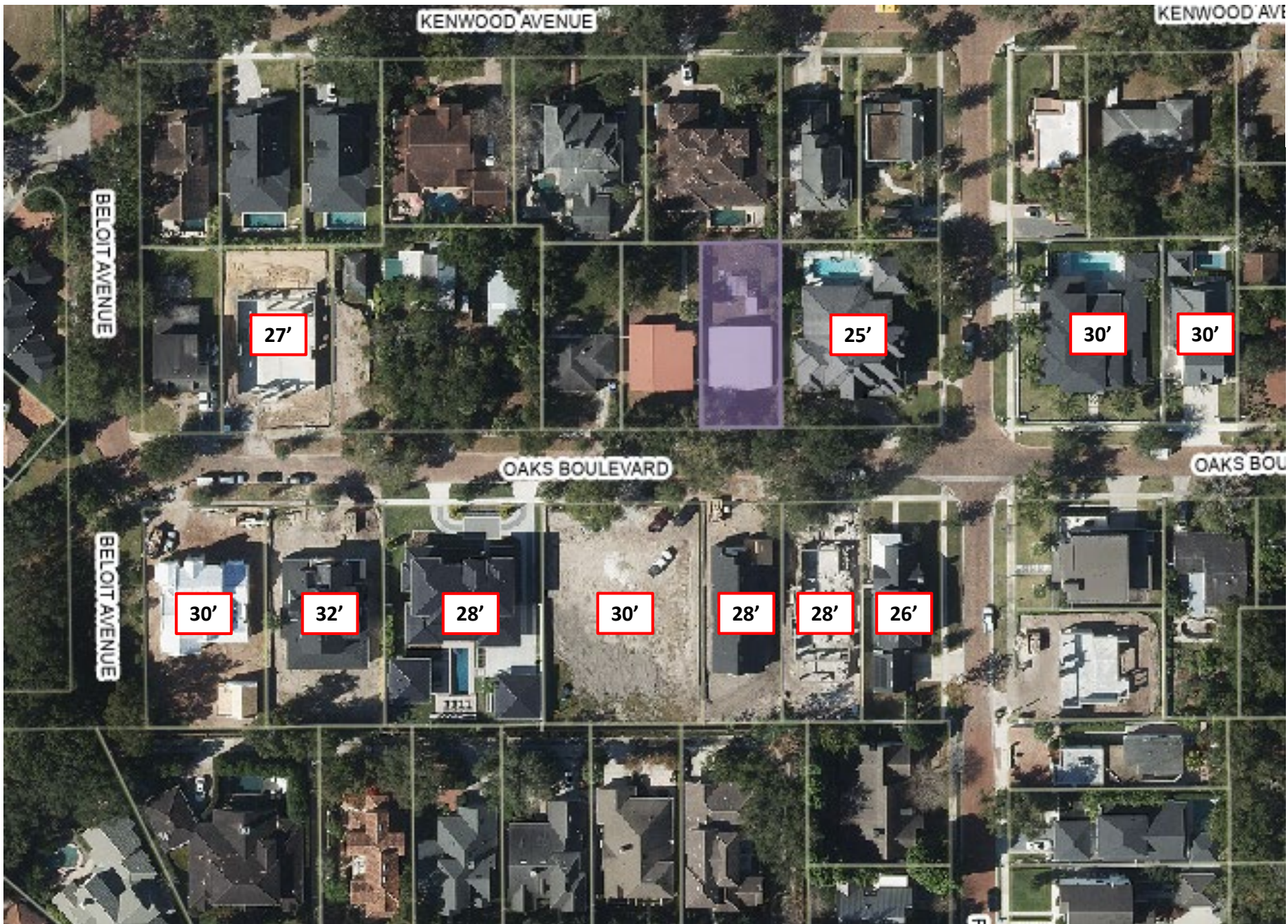


1147 Oaks Blvd - Aerial Map



2/13/2023, 1:45:33 PM
Parcels Orange







PLAN SNAPSHOT REPORT BOA-2023-0001 FOR CITY OF WINTER PARK

Plan Type: Board of Adjustments
Work Class: Board of Adjustments/Variance Application
Status: Submitted - Online
Valuation: \$0.00
Description: Variance to front yard set back requirement

Project:
District: Winter Park
Square Feet: 0.00
Assigned To: Harbilas, John

App Date: 01/19/2023
Exp Date: NOT AVAILABLE
Completed: NOT COMPLETED
Approval Expire Date:

Parcel: 302206210805030	Main	Address: 1147 Oaks Blvd Winter Park, FL 32789	Main	Zone:
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Owner Rizzo David M & Karnes Patricia L R Rizzo David M & Karnes Patricia L 1571 Oneco Avenue Winter Park, FL 32789 Home: (407) 645-3803 Business: (407) 761-2645 Mobile: (407) 761-2645	Applicant Rizzo David M & Karnes Patricia L R Rizzo David M & Karnes Patricia L 1571 Oneco Avenue Winter Park, FL 32789 Home: (407) 645-3803 Business: (407) 761-2645 Mobile: (407) 761-2645
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Plan Custom Fields

Zoning	R1	Section	Ordinance 3258-22	Subsection	6--Front Set Backs
Is the property on waterfront?	No	Is this property on historic registry or district?	No	Describe variance	We want the property (53.5' x 125') to have the same setbacks as all the rest of the new homes on our block--25' front and back and 7.5' each side, as it has been for the last 40 years before the January 2023 change.
How long have you owned the property?	Since June 10, 2011	How long have you occupied the property?	Never. It's a rental	Special Condition	The special condition required is to return my front yard setback to 25'. According to the zoning change, the setback needs to be 32'. That is a 10% decrease of the building area. This is a major hardship if you are trying to build a single story home on a tiny lot.
Rights/Priv	All of the new construction with 50' lots at 1156, 1166, 1210, 1211, 1241 Oaks Blvd. and 1080 and 1090 Kenwood Ave. have had the opportunity to use a 25' front yard set back. I want and need the same. Since 1147 Oaks Blvd. has been owned by me for nearly 12 years, I feel that the 25' setback should have been grandfathered in. Do I dare mention the thirty plus homes I built in		the city of Winter Park in the 1980's, 1990's, and the 2000's where a 25' setback was acceptable?	Hardship	The City of Winter Park tells me the home I am demolishing has a 32' front yard set back. I disagree. I say the structure starts at 25'. It is a 1950's home with an elevated semi-covered front porch, built on a concrete footer. It has a 2 1/2 block high stem wall with plumbing, which is part of the home's foundation, plus a 36" safety rail. In my opinion, this meets the standard of a permitted structure (Ord 3258-22/6A) and would

PLAN SNAPSHOT REPORT (BOA-2023-0001)

have shown up as the front wall of a four corner survey, if I was building the home today. The net loss at 32' over the 25' is 270 sq. ft. to my building area. For a one story home on a small lot, this is a huge loss. The new zoning requirement will cut this project off at the knees.

Secondly, With the smaller footprint, to get what my wife would like in her home, we would have go to a two story home with stairs. With our disabilities, that is out of the question, along with the \$35,000 cost for an elevator.

Limited Variance

The new home was to be my wife's 25 year anniversary present. It is a single story home, whose tight design requires a minimum building length of 75 feet. The lot and home are small enough as it is. A partial variance will not help in this case. (Please consider, I am replacing a rental home with an owner occupant)

Attachment File Name	Added On	Added By	Attachment Group	Notes
Front Elevation.jpeg	01/19/2023 11:56	Rizzo, David		Uploaded via CSS
Most Recent Survey page 2.jpeg	01/19/2023 11:56	Rizzo, David		Uploaded via CSS
Most Recent Survey.jpeg	01/19/2023 11:56	Rizzo, David		Uploaded via CSS
Plot Plan Overlay.jpeg	01/19/2023 11:56	Rizzo, David		Uploaded via CSS
Setbacks, Impervious, and FAR. page 2.jpeg	01/19/2023 11:56	Rizzo, David		Uploaded via CSS
Setbacks, Impervious, and FAR.jpeg	01/19/2023 11:56	Rizzo, David		Uploaded via CSS
Signature_Rizzo_David_1/19/2023.jpg	01/19/2023 11:56	Rizzo, David		Uploaded via CSS

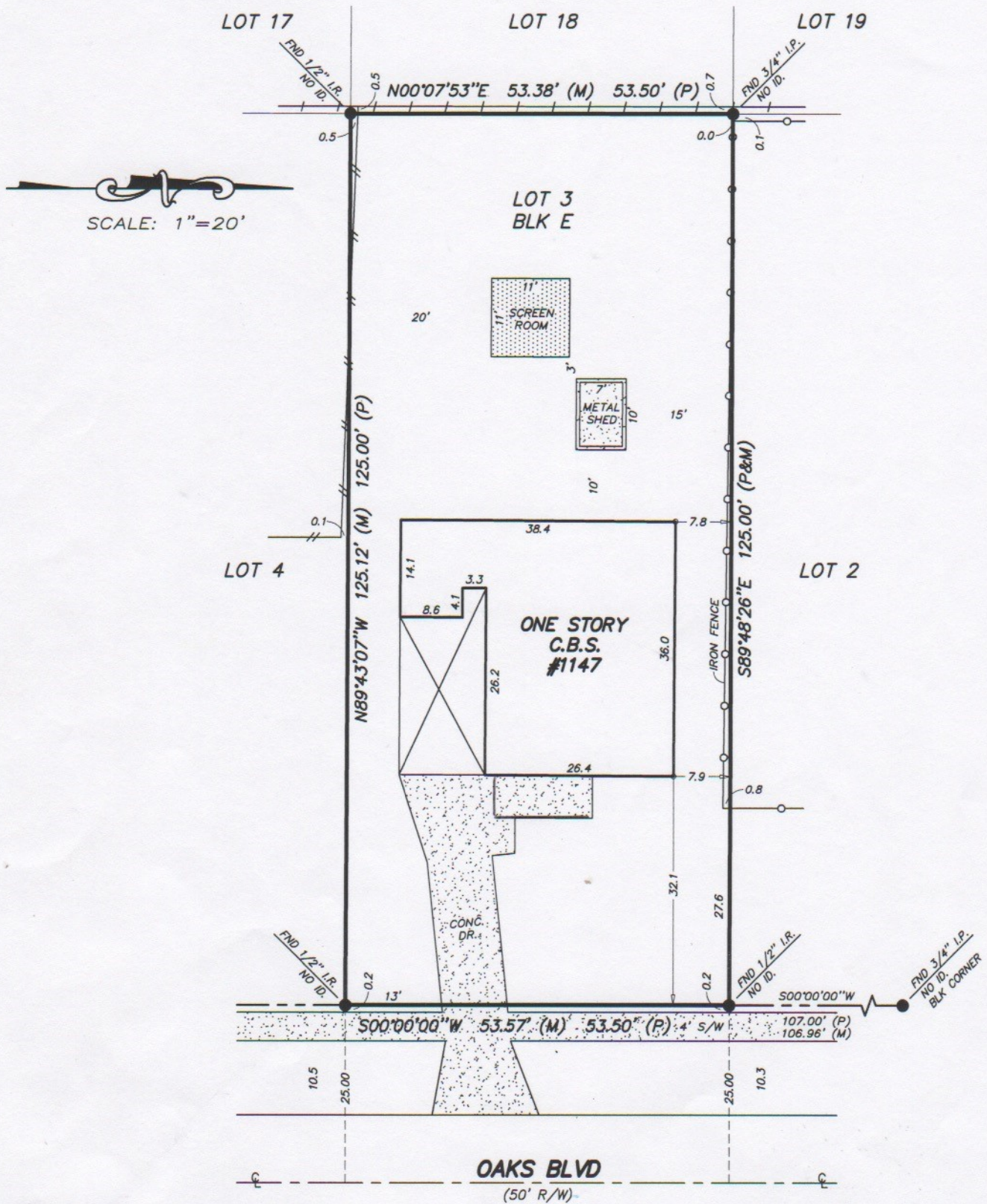
Invoice No.	Fee	Fee Amount	Amount Paid
INV-00032495	Residential Variance Application Fee	\$200.00	\$200.00
Total for Invoice INV-00032495		\$200.00	\$200.00
Grand Total for Plan		\$200.00	\$200.00

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Board of Adjustments Review v.1	Approved	01/19/2023	01/23/2023	01/20/2023	No	Yes
Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Zoning Review	Building & Permitting Services	Lewis, Nick	Approved	01/19/2023	01/23/2023	01/20/2023

Workflow Step / Action Name	Action Type	Start Date	End Date
Review v.1			01/20/2023 9:48
Board of Adjustments Review v.1	Receive Submittal	01/19/2023 0:00	01/20/2023 9:48
Issue Invoice v.1	Generic Action		01/20/2023 9:48
Final Decision v.1			
Board of Adjustments Decision v.1	Generic Action		

BOUNDARY SURVEY

LEGAL DESCRIPTION: LOT 3, BLOCK E, DIXIE TERRACE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK L, PAGE(S) 133, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

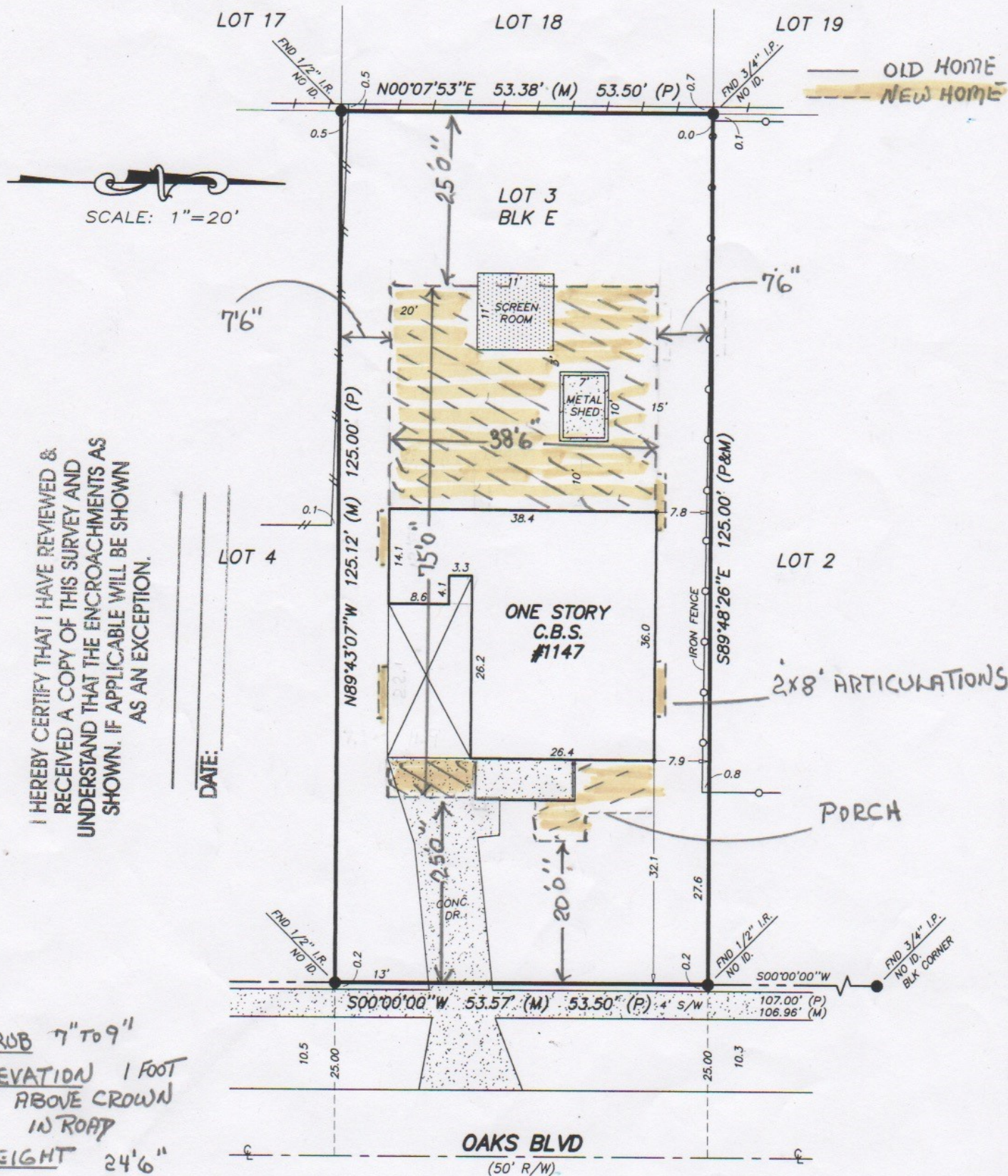


FIDELITY
NATIONAL TITLE
INSURANCE
COMPANY

RIGHT-OF-WAY LINE	CENTERLINE	BARB WIRE FENCE	WOOD FENCE	CHAIN LINK FENCE	PLASTIC FENCE
A/C - AIR CONDITIONER	I.R. - IRON ROD	P.O.C. - POINT OF COMMENCEMENT			
Δ - CENTRAL ANGLE	I.R.C. - IRON ROD & CAP	P.O.L. - POINT ON LINE			
BLK - BLOCK	L - ARC LENGTH	P.R.C. - POINT OF REVERSE CURVE			
C.B. - CHORD BEARING	L.B. - LAND SURVEYING BUSINESS	P.R.M. - PERMANENT REFERENCE MONUMENT			
C.B.S. - CONCRETE BLOCK STRUCTURE	L.S. - LAND SURVEYOR	P.T. - POINT OF TANGENT			
C.M. - CONCRETE MONUMENT	M - MEASURED	R - RADIUS			
CONC. - CONCRETE	N - NORTH	R/W - RIGHT OF WAY			
D - DEED	N&D - NAIL AND DISK	S/W - SIDEWALK			
D.E. - DRAINAGE EASEMENT	P - PLAT	S - SOUTH			
E - EAST	P.C. - POINT OF CURVATURE	U.E. - UTILITY EASEMENT			
F.F.E. - FINISHED FLOOR ELEVATION	P.C.P. - POINT OF COMPOUND CURVATURE	W - WEST			
FND - FOUND	P.C.P. - PERMANENT CONTROL POINT	W.F.S. - WOOD FRAME STRUCTURE			
ID. - IDENTIFICATION	P.L. - PROPERTY LINE	○ = SET 1/2" I.R.C. PSM LB#7371			
I.P. - IRON PIPE	P.O.B. - POINT OF BEGINNING				

BOUNDARY SURVEY

LEGAL DESCRIPTION: LOT 3, BLOCK E, DIXIE TERRACE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK L, PAGE(S) 133, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.



FIDELITY
NATIONAL TITLE
INSURANCE
COMPANY

RIGHT-OF-WAY LINE	CENTERLINE	BARB WIRE FENCE	WOOD FENCE	CHAIN LINK FENCE	PLASTIC FENCE
A/C - AIR CONDITIONER	I.R. - IRON ROD	P.O.C. - POINT OF COMMENCEMENT			
Δ - CENTRAL ANGLE	I.R.C. - IRON ROD & CAP	P.O.L. - POINT ON LINE			
BLK - BLOCK	L - ARC LENGTH	P.R.C. - POINT OF REVERSE CURVE			
C.B. - CHORD BEARING	L.B. - LAND SURVEYING BUSINESS	P.R.M. - PERMANENT REFERENCE MONUMENT			
C.B.S. - CONCRETE BLOCK STRUCTURE	L.S. - LAND SURVEYOR	P.T. - POINT OF TANGENT			
C.M. - CONCRETE MONUMENT	M - MEASURED	R - RADIUS			
CONC. - CONCRETE	N - NORTH	R/W - RIGHT OF WAY			
D - DEED	N&D - NAIL AND DISK	S/W - SIDEWALK			
D.E. - DRAINAGE EASEMENT	P - PLAT	S - SOUTH			
E - EAST	P.C. - POINT OF CURVATURE	U.E. - UTILITY EASEMENT			
F.F.E. - FINISHED FLOOR ELEVATION	P.C.C. - POINT OF COMPOUND CURVATURE	W - WEST			
FND - FOUND	P.C.P. - PERMANENT CONTROL POINT	W.F.S. - WOOD FRAME STRUCTURE			
ID. - IDENTIFICATION	P.L. - PROPERTY LINE	O = SET 1/2" I.R.C. PSM LB#7371			
I.P. - IRON PIPE	P.O.B. - POINT OF BEGINNING				

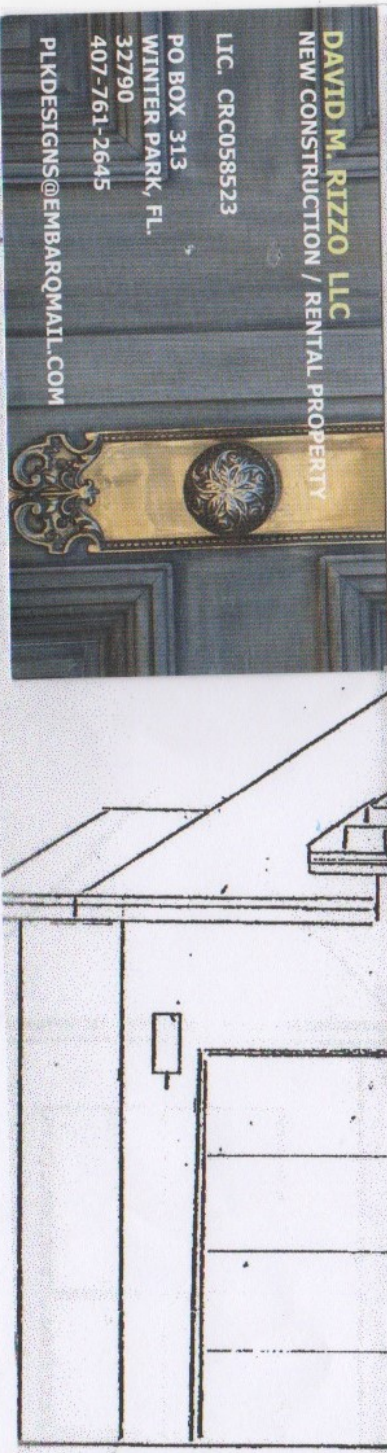
11' WALLS
24' 6" HIGH

12
8

ARCH SHINGLES

5/8" PLYWOOD, VAPOR
WIRE MESH,
OR MASO

EYEBROW





Board of Adjustments

agenda item

item type Non-Action Items	meeting date February 21, 2023
prepared by Nicholas Lewis	approved by Allison McGillis
board approval Completed	
strategic objective	

subject

Discussion regarding the extension of variance approval expiration.

motion / recommendation

background

Due to the unique nature and unknown circumstances surrounding construction post-pandemic, staff has begun taking a look at extending the expiration dates for application approvals by different city boards. Variance requests and conditional use requests both have expiration dates of one year or two years respectively. Staff is proposing an ordinance amending both sections so as both conditional use requests and variance requests expire after a period of five years.

alternatives / other considerations

fiscal impact

ATTACHMENTS:

[Extend Expirations Ordinance.docx](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING", SECTION 58-90 "CONDITIONAL USES" AND SECTION 58-92 "BOARD OF ADJUSTMENT – POWERS AND DUTIES" TO EXTEND THE EXPIRATION OF CONDITIONAL USE AND VARIANCE APPROVALS FROM TWO YEARS AND ONE YEAR RESPECTIVELY TO FIVE YEARS, PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Park deems it necessary for the general welfare of the City to amend the City of Winter Park Land Development Code as set forth in this Ordinance;

WHEREAS, the City Commission hereby finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida;

WHEREAS, the City Commission hereby finds that the land development regulations adopted herein are consistent with the Comprehensive Plan;

NOW THEREFORE, BE IT ENACTED by the City Commission of the City of Winter Park, Florida, after due notice and public hearing, that:

SECTION 1. That Chapter 58 "Land Development Code", Article III, "Zoning" of the Code of Ordinances, Section 58-90 "Conditional Uses." is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; subsections not included are not being modified):

Sec. 58-90. – Conditional uses.

(d) *Expiration and re-establishment of conditional uses.*

(1) Conditional uses involving the use of land or buildings for a particular type of business or business activity determined to be a conditional use, such as, but not limited to, motor vehicle sales, live amplified musical entertainment, day care, alcoholic beverage licenses, etc., shall expire either one year from the date of the approval by the city commission if such use or business type has not yet been commenced or such conditional use shall expire 90 days from the time the business ceases to operate from the property or building. This shall apply if the business is closed for 90 consecutive days regardless of whether a business certificate continues to exist. Conditional uses involving approvals for the construction of buildings over 10,000 square feet or for three stories within the central business district geographical area shall expire after ~~one~~ two (2) years from the date of a preliminary approval by the city commission if a final development plan approval is not granted or such conditional uses shall expire after ~~two~~

five (5) years from the approval by the city commission from the date of the final development plan approval by the city commission unless a complete and sufficient building permit application and construction plans are submitted or construction is underway or as may otherwise be specifically set forth in the conditional use approval or in the accompanying development agreement. Pursuant to such submittal of building permit application and construction plans, construction must commence no later than six (6) months from the date the building permit is issued. For phased projects without timetables specified in the conditional use approval or in the accompanying development agreement, all phases must be under construction within five (5) years from the date construction commences on the first phase.

SECTION 2. That Chapter 58 "Land Development Code", Article III, "Zoning" of the Code of Ordinances, Section 58-90 "Board of Adjustment – Powers and duties." Subsection (e) is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; subsections not included are not being modified):

Sec. 58-92 Same – Powers and duties.

(e) Upon the granting of a variance as provided for in the preceding paragraphs, the person receiving such a variance shall exercise the same within a period of ~~one~~ five (5) years from such grant; and all such variances granted and not exercised within ~~one~~ five (5) years shall expire and be no further in force and effect.

SECTION 3. CODIFICATION. Section 1 and 2 of this Ordinance shall be incorporated into the City of Winter Park Code of Ordinances.

SECTION 4. SEVERABILITY. The divisions, sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection, section, or division of this Ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, sections, and divisions of this Ordinance. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener's errors.

SECTION 5. CONFLICTS. In the event of a conflict between this Ordinance and any other ordinance of the City of Winter Park, this Ordinance shall control to the extent of such conflict.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and in accordance with Florida law.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park,
Florida held in City Hall, Winter Park, on this ____ day of _____ 2023.

By: _____
Mayor Phil Anderson

ATTEST:
By: _____
Rene Cranis, City Clerk