# NOTICE OF PUBLIC MEETING JANUARY 28, 2020-6:30 PM

# CITY OF BELLE ISLE PLANNING AND ZONING BOARD REGULAR SESSION

#### ITEM 5

MEMORANDUM

TO: Planning and Zoning Board

DATE: January 17, 2020

<u>Public Hearing Case #2019-12-025</u> - Pursuant to Belle Isle Code Sec. 42-63 and Sec. 54-75 (c) (5) the Board shall consider and take action on a requested special exception to allow a guest cottage without a kitchen on a single-family residential property with a primary detached single-family dwelling and pursuant to Belle Isle Code Sec. 42-64 and sec. 50-102 (a) (4) the Board shall consider and take action on a requested variance to allow an accessory structure (cabana) larger than 300 square feet, submitted by applicant Jeffery and Hilary Maull, located at 1130 Waltham Avenue, Belle Isle, FL 32809 also known as Parcel # 24-23-29-3400-00-072.

#### Background:

- 1. On December 31, 2019, Jeffrey & Hilary Maull submitted the application and required paperwork.
- 2. A Notice of Public Hearing legal advertisement was placed in the Saturday, January 18, 2020, Orlando Sentinel.
- Letters to the abutting property owners within 300 feet of the subject property were mailed on Friday, January 17, 2020.

The Board may adopt all, some, or none of these determinations as part of their findings-of-fact. The Board may also add any additional findings-of-fact that are presented at the public hearing. The Board will need to determine if the criteria set forth in Chapter 42, Article III, Section 42-64(1) of the Land Development Code have been met, and approve, approve with conditions, or deny this request.

## SAMPLE MOTION TO APPROVE:

"I move, the criteria of Sec. 42-63 and Sec. 54-75 (c) (5) of the Belle Isle Land Development Code having been met TO APPROVE the requested special exception to allow a guest cottage without a kitchen on a single-family residential property with a primary detached single-family dwelling and pursuant to Belle Isle Code Sec. 42-64 and sec. 50-102 (a) (4) the Board shall consider and take action on a requested variance to allow an accessory structure (cabana) larger than 300 square feet, submitted by applicant Jeffery and Hilary Maull, located at 1130 Waltham Avenue, Belle Isle, FL 32809 also known as Parcel # 24-23-29-3400-00-072.

#### **SAMPLE MOTION TO DENY:**

"I move, the justifying criteria of the Belle Isle Land Development Code, having NOT been met; [use only if NONE of the justifying criteria have been met] the requirements of section 42-63, Subsections: [STATE ONLY THE SUBSECTIONS BELOW THAT ARE NOT SATISFIED] having NOT been met; [may be used in addition to above or alone] TO DENY requested special exception to allow a guest cottage without a kitchen on a single-family residential property with a primary detached single-family dwelling and pursuant to Belle Isle Code Sec. 42-64 and sec. 50-102 (a) (4) the Board shall consider and take action on a requested variance to allow an accessory structure (cabana) larger than 300 square feet, submitted by applicant Jeffery and Hilary Maull, located at 1130 Waltham Avenue, Belle Isle, FL 32809 also known as Parcel # 24-23-29-3400-00-072.

**SUBSECTION (D),** a literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar to the land, structure or building involved, including but not limited to dimensions, topography or soil conditions.

**SUBSECTION (E)**, personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Code or for the purpose of obtaining a variance.

**SUBSECTION (F)**, the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

SUBSECTION (G), the granting of the variance will be in harmony with the general purpose and intent of the Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary, to the public interest.

Should any person decide to appeal any decision made regarding any matter considered at this meeting such person may need to ensure that a verbatim record of the proceedings is made to include testimony and evidence upon which the appeal is to be based, Persons with disabilities needing assistance to participate in these proceedings should contact the City Clerk at 407-851-7730 at least 24 hours in advance of the meeting. Page | 5





January 17, 2020

Variance and Special Exception Application: 1130 WALTHAM AVENUE

Applicant Request: Public Hearing Case #2019-12-025 - Pursuant to Belle Isle Code Sec. 42-63 and Sec. 54-75 (C) (5) the Board Shall Consider and take action on a requested special exception to allow a guest cottage without a kitchen on a single-family residential property with a primary detached single-family dwelling and pursuant to Belle Isle Code Sec. 42-64 and Sec. 50-102 (a) (4) the Board Shall Consider and take action on a requested variance to allow an accessory structure (Cabana) larger than 300 square feet, submitted by applicant Jeffery and Hilary Maull, located at 1130 waltham avenue, belle Isle, FL 32809 ALSO KNOWN AS PARCEL # 24-23-29-3400-00-072.

Zoning/ Existing Use: R-1-AA/ Single-family Residence

### **Review Comments**

This application filed seeks a variance from the Code regarding the maximum size of an accessory building (a pool cabana). Upon review of the application, it was noted that a special exception, as identified above, is also required. This is because the cabana area also has a room and attached bathroom that could be used as a potential guest cottage. Even though the applicant does not intend to use the room and bathroom as a guest cottage, it must follow the same review process as other similar buildings have been required to go through in the City.

The property is currently developed with a primary single-family home and the swimming pool is currently being constructed, which was approved in November 2019. The applicant is seeking to add the cabana adjacent to the pool, along with an attached game room and bathroom.

A copy of the approved swimming pool permit is attached. With the proposed pool cabana, the property does not exceed the maximum allowed impervious surface ratio of 35%. With the total development onsite, the impervious surface ratio would be approximately 12%.

The applicant has provided supporting documentation addressing the variance and special exception criteria.

# **Staff Recommendations**

**Variance Request:** Sec. 50-102 of the Code defines an accessory building to include cabanas. Further Sec. 50-102 (a) (4) stipulates that these can be no larger than 300 square feet in total area. The applicant is seeking to build a cabana with a recreation room and bathroom at 1000 square feet in total.

Staff provides an evaluation based on the variance criteria for the application below.

# 1. Special Conditions and/ or Circumstances (Section 42-64 (1) d):

The parcel abuts a school property, and more particularly athletic fields that have lights and activity during practice and some athletic events. This is a special condition or circumstance that is not common for most properties in the City and the adjacent uses could be construed to be a nuisance by residential property owners.

# 2. Not Self- Created (Section 42-64 (1) e):

The request for a variance is self-created as the application is seeking to exceed the maximum square-footage allowed by code for cabana structures. An anomaly, however, is that the application is coupled with a special exception consideration for a guest cottage (recreation room and bathroom) as part of the cabana area. There is no maximum square-footage defined for a guest cottage in the Code, so it may exceed 300 square feet if the Planning and Zoning Board allows.

# 3. Minimum Possible Variance (Section 42-64 (1) f):

The requested variance is not the minimum possible variance to make reasonable use of the land and building as the proposed pool cabana and facilities could be reduced in size and still be functional.

# **4.** Purpose and Intent (Section 42-64 (1) g):

The requested variance could be construed to be in harmony with the general purpose and intent of the land development code and not injurious to the neighborhood as it is not proposed to negatively impact viewsheds of abutting properties, proposes customary accessories to single-family residential properties, and is located in a portion of the rear yard that does not create a nuisance for abutting residential properties.

Based on consideration of these review criteria staff does not recommend approval of the requested variance unless it can be reduced in size to the satisfaction of the Board, so as not to violate criteria 2 and 3 above.

**Special Exception Request:** Sec. 54-75 (C) (5) provides that a guest cottage (without a kitchen) may be permitted in a residential zoning district through the special exception process. The Code identifies that the Planning and Zoning Board will review special exception requests to determine whether the request would adversely affect the public interest and whether public health, safety, and welfare are promoted or improved.

Based on consideration of these review criteria in concert with the variance criteria for special circumstances and harmony with general purpose and intent of the Code, staff recommends approval of the requested special exception subject to the following conditions:

- 1. The guest cottage (cabana and facilities) shall be used exclusively for housing members of the family occupying the principal building and their nonpaying guests, such quarters shall have no kitchen facilities and shall not be rented or otherwise used as a separate dwelling;
- 2. No lighting shall be directed onto adjacent properties;
- 3. The guest cottage (cabana and facilities) must be maintained in a functional and aesthetically pleasing manner so as not to adversely impact the public interest; and,
- 4. Any changes to this variance/ special exception application that are not memorialized in this approval must be submitted for review and approval by the Planning and Zoning Board.

#### **Additional Notes**

Please note that the Board may approve the proposed variance and special exception application as it is presented to them, approve with specific conditions, continue the application if additional information is being requested for consideration, or deny the application, citing which criteria are not met.

A decision by the Board may be appealed by an aggrieved person to the City Council pursuant to Code Sec. 42-71.

City of Belle Isle
Universal Engineering Sciences 3532 Maggie Blvd., Orlando, FL 32811
Tel 407-581-8161 \* Fax 407-581-0313 \* www.universalengineering.com

# **Swimming Pool Permit Application**

DATE:	PERMIT # 2001-030 8	)
PROJECT ADDRESS 1130 WALTHAM AVE	Onundo Belle Isle, FL 32809 32812	•
PROPERTY OWNER NAME JEFFERY MANCE, S.	ONUAND Belle Isle, FL 32809 32812  PHONE NUMBER 407-383-7218	Ž
PROPERTY OWNER NAME JEFFERY MANCE, S. Parcel Id Number: 24-23-28-3400-00-072	In this Information, please visit http://www.ocpafl.org/Searches/ParcelSearch.asp	<u>,</u>
701117		
SPECIAL CONDITIONS: STRUCTURES MAY NOT ENCROACH INTO ANY E show compliance with zoning setbacks. Imperitors Series 8 216 Worksho	SEMENT OR REQUIRED SETBACK. Survey specific plan required to a sequired; see Page 2 of this application.	
PLANNING & ZONING APPROVAL: 11/18/19 By: 15/19 City of Belle Isle	DATE	
Note: this Zoning Approval MAY or MAY NOT be in conflict with your Deed	Restrictions.	
PLEASE COMPLETE for Building Review (mln. of 2 sets of signed/sealed pl		
Pool Dimensions: 16'x39' Deck Square Footage:	1035 Deck Type: TRAVETINE	
. P		
Job Valuation: \$ 45 000 WARNING TO OWNER: You	r failure to record a Notice of Commencement may result in your	
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SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, GAS, ENCLOSURES, ETC.



#### City of Belle Isla

Universal Engineering Sciences 3532 Maggie Blvd., Orlando, FL 32811 Tel 407-581-8161 \* Fax 407-581-0313 \* www.universalengineering.com

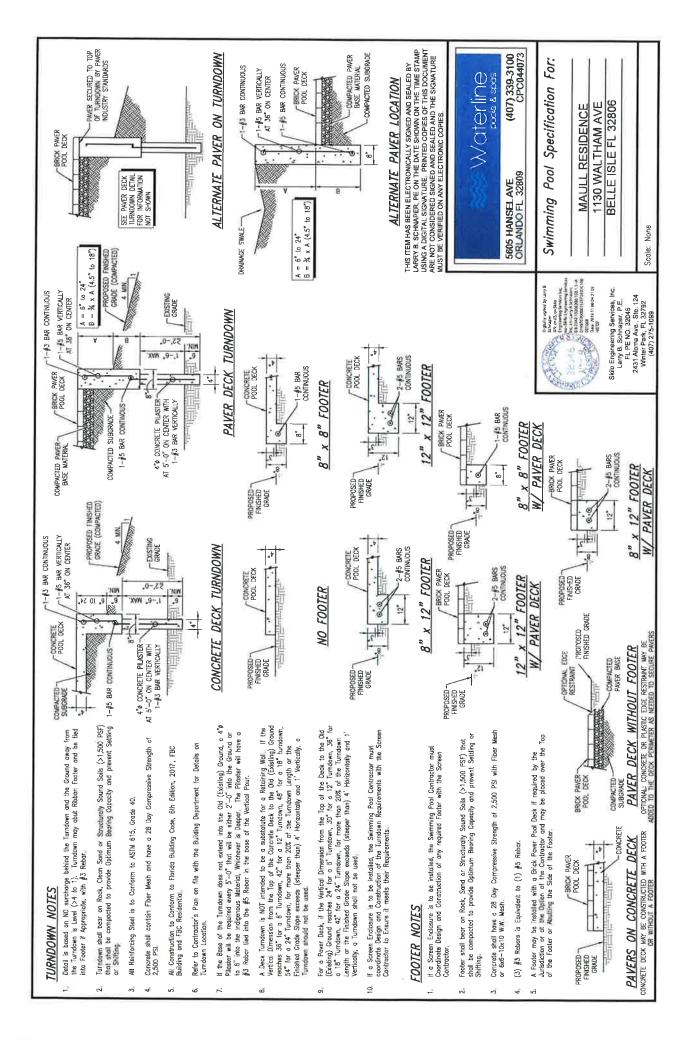
Swimming Pool Permit Application

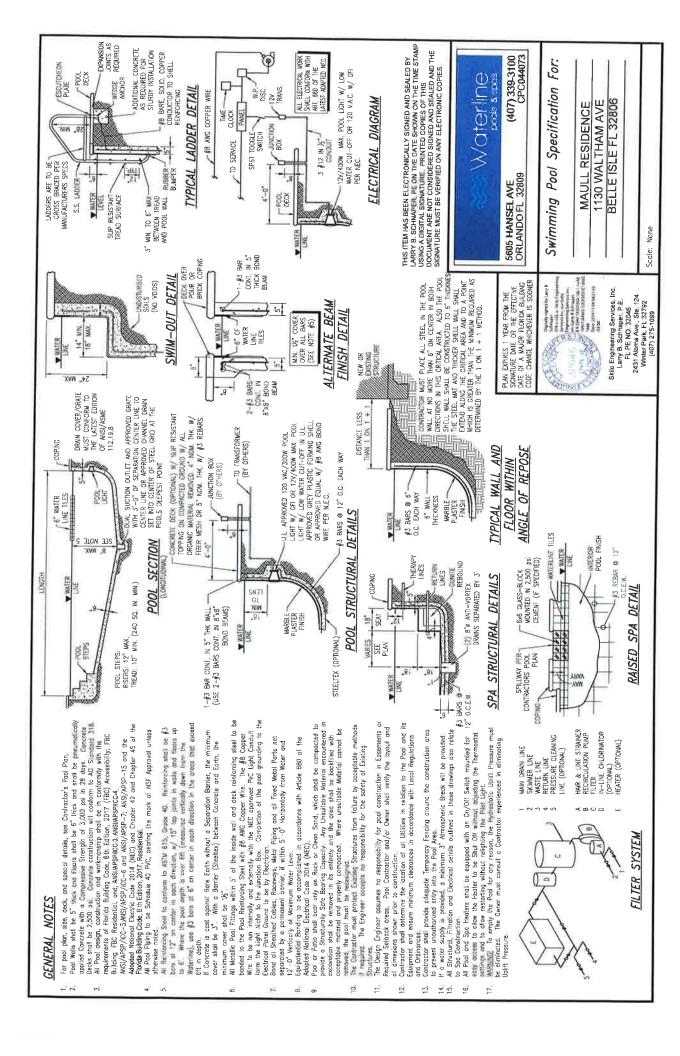
To be completed as required by State Statute Section 713 and other applicable sections.

Owner's Name Jeffery Maull, Sp.	PERMIT #
Owner's Address 1130 WAITOHAM AVE 3	2809
License Holder Name VIC NONBLAG	Company Name WA for like Bols & Sprs. WC
CPC 044073	Company Address 5605 HANSEL AND DAL 32809
ASAM 407-375-060Z	City, State, ZIP
adam. waterline part of sment	OFFICE: 427-338-3100
this permit does not grant permission to violate any applicable City and obtain a permit to do the work and installations as indicated. I certify that no work will be performed to meet the standards of all laws regulating constructionall other construction including ELECTRICAL, PLUMBING, GAS, SCREEN EN	granted I agree to conform to all Division of Building Safety Regulation gulating same and in accordance with plans submitted. The issuance of or State of Florida codes and for ordinances. Application is hereby made to work or installation has commenced prior to the issuance of a permit and that a on in this jurisdiction. I understand that a separate permit must be secured for ICLOSURES, ETC.  Impervious Surface Ratio Worksheet  Development Zoned A-1. A-2, R-1-AAA, R-1-AA, R-1-A, R-1 per City Code, Section 50-74: Impervious Surface Ratio  1. Total Lot Area (sqft) X 0.35 = Allowable Impervious Area (BASE).  Total Lot Area 3 Z 3 S Z x 0.35=  Allowable Impervious Area (BASE) // 3 2 4/  2. Calculate the "proposed" impervious area on the lot. This includes the sum of all areas that do not allow direct percolation of rainwater. Examples include house, pool, deck, driveway, accessory building, etc  House 2843  Driveway 2 A 2 S S S S S S S S S S S S S S S S S
Notary as to Owner Policy Wilson, JR.  ROBERT R. WILSON, JR.	3. If AIA is less than BASE, subtract AIA from BASE to determine the amount of impervious area that may be added without providing onsite retention.  4. AIA is secretable BASE, then could retention must be provided.
MY COMMISSION & GG 299256 EXPIRES: February 6, 2023 Bonded Thru Notary Public Underwriters	4. If AIA is greater than BASE, then onsite retention must be provided.  Assuming 7.5 inches of rainfall based on a 24hr 10 year Rain Event (TP40), the formula is: (7.5 inches rainfall/12 inches p/foot) X (result from line 4) cubic feet of storage volume needed

TRACT A Body a part of lands described in Doc#20110251369, Book 10213, Page 0223, Public Records of Orange County, Portdo, being more particularly described as follows: more personally described as remarks.

BEEN of the Northwest corner of Lot 2, NALLER SUBURISION, as recorded in Piot Book 25, Page 105, Public Records of Orange SEEN of the Northwest Corner of Lot 2, NALLER SUBURISION, as recorded in Piot Book 26, Page 105, Public Records 2008 9711, Page 1441, Page 1446, Records: there of 5.095535°E, along sold South like, a distance of 177, National Public Records: the North Records: the National Piot See 1017, National Public Records: the National See 1017, National Resource of 1017, National TRACT B
Being lands described in Doc#20080386833, Book 9721, Page 1441, Public Records of Grange County, Flarida. BOUNDARY SURVEY (TRACT A) FOR CERTIFIED TO: July Marrie SPECIFIC PURPOSE SURVEY (TRACT B) to show existing improvements only WALTHAM AVENUE HO'Thorn SD (DESC City o USA TIL DITL D'E, NOMIN MOL INSUNTANIA UNIT OUT THAT 2 80.26.10, B . Carre . 3300 LINE OF SIGN STATE N. SCHOOL ST. W. TRACT B TE PARE - some Fire 110.78'4(740.b) 400 OT THE STATE OF TH ATT PARTY SCONGEO OF MILET AND THE iou | 30 107 UA 101 108, max made CPUAL BOOK TO, PAGE SO 10 67 477 67 CESS OUT, DIEST 763\* الما الما الما CRUSENMEYER—SCOTT & ASSOC., I LAND SURVEYORS E SESSEE 2000 (407)-277-3232 FAX (407)-858-1439
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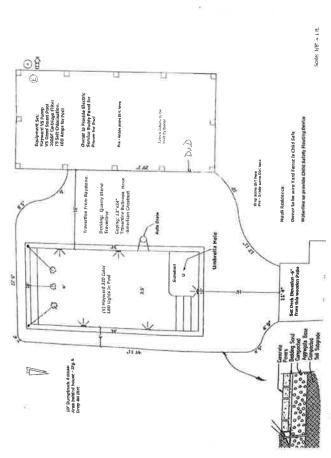
Sprinklige repair

Vas \_\_\_\_\_\_no

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yes \_\_\_\_\_no

Note: All measurements are Approximate and not exact



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S. C.E. May, Application, Commenced of the commenced of the

# City of Belle Isle

1600 Nela Avenue, Belle Isle, Florida 32809 \* Tel 407-851-7730 \* Fax 407-240-2222

APPLICATION FOR VARIA	NCE / SPECIAL EXCEPTION
DATE: 12-31-19 P&Z C	ASE #: 2019-12-025
VARIANCE - SPECIAL EXCEPTION - OTHER DATE OF HEAR	ING: 01-28-20
Applicant Effery + Hilary Maull  ADDRESS 1130 Waltham Are Belle Isle	Owner Seffery + Hilary Maul
ADDRESS 1130 Waltham Are Belle Isle	1/30 Waltham Are 32809
PHONE: 407 383 7218	407-383-7218
PARCEL TAX ID #: 24-23-29-3400-00-072	×
LAND USE CLASSIFICATION: LAND USE CLASSIFICATION:	NG DISTRICT: RIAA
DETAILED VARIANCE REQUEST: Accessory build.	ing (pool Cabana) in
Applicant's back yard - 1,000s	
SECTION OF CODE VARIANCE REQUESTED ON:	

- The applicant hereby states that the property for which this hearing is requested has not been the subject of a hearing before the Planning and Zoning Board of the kind and type requested in the application within a period of nine (9) months prior to the filing of the application. Further that the requested use does not violate any deed restriction of the property.
- By submitting the application, I authorize City of Belle Isle employees and members of the P&Z Board to enter my property, during reasonable hours, to inspect the area of my property to which the application applies.
- Applicant shall provide a minimum of ten (10) sets of three (3) photographs in support of this application as follows: at least one (1) photograph of the front of the property and at least two photographs (from different angles) of the specific area of the property to which the application applies.
- Sec. 42-64. Variances. The board shall have the power to approve, conditionally approve or deny applications for variance from the terms of the Land Development Code.
  - o Criteria. The board shall not approve an application for a variance from terms of the Land Development Code unless and until:
    - a. A written application for a variance is submitted to the city manager or the city manager's designee on a form provided by the city clerk setting forth all of the special conditions and circumstances that exist in favor of the granting of the variance and addressing the requirements of subsections (1)d—g of this section of the criteria set forth in this section. Upon submission of the properly completed application and the appropriate fee, the city manager or the city manager's designee shall refer the application to the board.
    - b. Notice of public hearing for the variance shall be given as required by the article for hearing before the board.
    - c. The public hearing on the application for the variance shall be held. The applicant, the applicant's agent as evidenced by a signed writing, or the applicant's attorney shall appear before the board.
    - d. It is determined that literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar to the land, structure or building involved, including but not limited to dimensions, topography or soil conditions.
    - e. It has been determined that personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Land Development Code or for the purpose of obtaining a variance.
    - f. It is determined that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
    - g. It is determined that the granting of the variance will be in harmony with the general purpose and intent of the Land Development Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary to the public interest.

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# RICK SINGH, CFA - ORANGE COUNTY PROPERTY APPRAISER

Searches

Sales Search

Results

Property Record Card

My Favorites

Sign up for e-Notify...

# 1130 Waltham Ave < 24-23-29-3400-00-072 >

Name(s)

Physical Street Address 1130 Waltham Ave

Mauil Hilary Wood Maull Jeffery A Sr

Postal City and Zipcode

Mailing Address On File

Orlando, Fl 32809

1130 Waltham Ave

Property Use

Belle Isle, FL 32809-4250 Incorrect Mailing Address?

0103 - Single Fam Class III

Municipality

Belle isle



# View 2019 Property Record Card

**Property Features** 

Values, Exemptions and Taxes

Sales Analysis

Location Info

**Market Stats** 

Update Information

# 2020 values will be available in August of 2020.

#### **Property Description**

View Plat

SUB OF HARNEY HOMESTEAD C/53 THE E 175 FT OF W 642.83 FT OF N 119.5 FT OF S 154.5 FT & E 59.68 FT OF W 467.89 FT OF N 18 FT OF S 154.5 FT & E 60.32 FT OF W 408.15 FT OF N 150 FT ALL IN LOT 7 & BEG SE COR OF E 75 FT OF W 269/83 FT OF N 150 FT OF LOT 7 TH RUN E 197.48 FT S00-28-01E 11.10 FT N89-42-36W 197.60 FT N00-08-50E 10.10 FT TO POB

**Total Land Area** 

32,356 sqft (+/-) | 0.74 acres (+/-)

GIS Calculated

#### Land

Land Use Code	Zoning	Land Units	Unit Price	Land Value	Clara Hait Batas	
9191 L			Olar Tile	Lailu Value	Class Unit Price	Class Value
0100 - Single Family	R-1-AA	1 LOT(S)	working	working	working	working

Page 1 of 1 (1 total records)

#### **Buildings**

	Important Information		Structure			
	Model Code:	01 - Single Fam Residence	Actual Year Built:	1954	Gross Area:	2843 sqft
More	Type Code:	0103 - Single Fam Class III	Beds:	3	Living Area:	1870 sqft
Details	Building Value:	working	Baths:	2.0	Exterior Wall:	Aluminum Or Vinyl Siding
	Estimated New Cost:	working	Floors:	1	Interior Wall:	Drywail

Page 1 of 1 (1 total records)

#### **Extra Features**

Description	Date Built	Units	XFOB Value
FPL2 - Fireplace 2	01/01/1954	1 Unit(s)	working
PT1 - Patio 1	01/01/2005	1 Unit(s)	working

Page 1 of 1 (2 total records)

This Data Printed on 12/10/2019 and System Data Last Refreshed on 12/09/2019

# Response #1 – Special Conditions and/or Circumstances\_Section 42-64(1)d:

- A. The Applicant's property is immediately adjacent to a school/sports activity field, which frequently involves football practice and games (including marching band), softball practice and games, soccer practice and games, etc., as well as special school events.
- B. Excessive noise and light are associated with and created by the above-mentioned activities.

# Response #2 - Not Self-Created\_Section 42-64(1)e:

A. The special conditions were created by the construction, development, and expansion of the adjacent school/sports field. It should be noted that the Applicant has no control over the development or expansion of the adjacent school.

# Response #3 – Minimum Possible Variance\_Section 42-64(1)f:

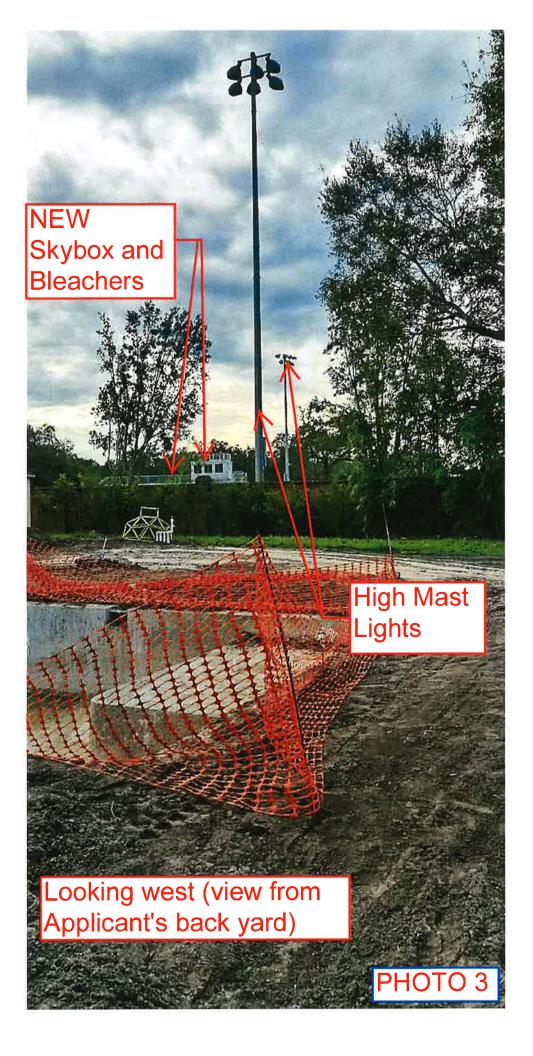
- A. No; the objective cannot be accomplished in another way.
- B. A smaller footprint, within the LDC guidelines, was considered; however, the Applicant's desired improvements and need to block noise/light from school activities could not be accomplished within said guidelines.

# Response #4 – Purpose and Intent\_Section 42-64(1)g:

- A. None.
- B. The area of the Applicant's collective land is more than 50,000sf. The area of the Applicant's proposed building is 1,000sf. This equates to less than 2% of the Applicant's total land area. Therefore, approval of this zoning variance will have no effect on adjacent properties or the surrounding neighborhood.







TRACT A

Being a part of lands described in Doc#20110251389, Book 10213, Page 0223, Public Records of Orange County, Florida, being more particularly described as follows:

BEGIN at the Northwest corner of Lot 2, WALLER SUBDIVISION, as recorded in Plat Book 26, Page 105, Public Records of Orange County, Florida; thence N.00'07'50'E., a distance of 100.09 feet to the South line of Official Records Book 9721, Page 1441, said Public Records; thence 5.89'55'55'E., along said South line, a distance of 177.18 feet to the East line of the West 645.0' of Lot 7, SUBDIVISION OF HARNEY HOMESTEAD, as recorded in Plat Book "C", Page 53, sold Public Records; thence N.00'07'50'E., along said East line, a distance of 119.78 feet to the North line of said Lot 7; thence S.89'56'10'E., along said North line, a distance of 10.00 feet; thence S.00'07'50'W., a distance of 219.87 feet to the North line of said Lot 2; thence N.89'55'55'W., along the North line of said Lot 2, a distance of 187.18 feet to the POINT OF BEGINNING.
Containing 19,932 square feet or 0.4576 acres, more or less.

#### TRACT E

Being lands described in Doc#20080386833, Book 9721, Page 1441, Public Records of Orange County, Florida.

BOUNDARY SURVEY (TRACT A) FOR CERTIFIED TO: Jeff Maull

