



AGENDA
PLANNING COMMISSION
CITY OF PORT ORANGE

Meeting Date: Thursday, May 22, 2025

Time: 5:30 PM

Location: Council Chambers, City Hall
1000 City Center Circle
Port Orange

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call

B. DISCUSSION/ACTION

3. Consideration of Minutes
4. APPLICATION: VARIANCE/1470 Bay Grove Drive
CASE NO.: VARC-25-0002
APPLICANT: Jason and Kim Milak
STAFF CONTACT: Suzette Cameron, Senior Planner, (386) 506-5676

A request for a variance from the Land Development Code (LDC) to reduce the side yard setback for a pool from 8 feet to 5 feet 8 inches.

5. APPLICATION: CONVENTIONAL REZONING/422 Jefferson Avenue
CASE NO.: REZONING-25-0003
APPLICANT: City of Port Orange
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671

A request for an administrative rezoning to change the zoning of a ±0.26-acre property from Community Commercial (CC) to Neighborhood Preservation (NP).

C. OTHER BUSINESS

6. Commissioner Comments
7. Staff Comments

D. PUBLIC COMMENTS

E. ADJOURNMENT

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NOTICES – PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED 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. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.



FOR SPECIAL ACCOMMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE.



HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

REGULAR PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
MARCH 27, 2025

THE REGULAR PLANNING COMMISSION MEETING of the City of Port Orange was called to order by Chair Thomas Jordan at 5:30 p.m.

CALL TO ORDER

1. Pledge of Allegiance

2. Roll Call

Present: Chair Thomas Jordan
Vice Chair Bo Bofamy
Commissioner Stan Schmidt
Commissioner Maria Mills-Benat
Commissioner Daniel Mallegol

Absent: Commissioner Scott Steger (Excused)
Commissioner Mark Bowling (Unexcused)

Also Present: Shannon Balmer, City Attorney
Tim Burman, Community Development Director
Christine Clowes, Administrative Assistant

DISCUSSION/ACTION

3. Consideration of Minutes

Motion to approve the February 27, 2025 meeting minutes as presented was made by Commissioner Maria Mills-Benat and Seconded by Chair Thomas Jordan. Motion carried unanimously by voice vote.

4. APPLICATION: Variance/112 Eddy Lane
CASE NO.: VARC-25-0001
APPLICANTS: Christopher & Linda Daily
STAFF CONTACT: Suzette Cameron, Planner (386) 506-5676/scameron@port-orange.org

A request by the applicants for approval of a variance from Chapter 17, Section 27 of the Land Development Code (LDC) to reduce the minimum front yard setback from 30 feet to 7 feet to construct a detached garage.

Motion to approve application for variance/112 Eddy Lane Case No. VARC-25-0001 was made by Commissioner Stan Schmidt and Seconded by Commissioner Maria Mills-Benat. Motion carried unanimously by roll call vote.

Penelope Cruz, Planning Manager, discussed the addition of a detached garage, mentioned how the project meets the intent of building setbacks, and answered questions from the Commissioners.

Christopher Daly, applicant, spoke as to the reason for needing a detached garage for his RV and answered questions from the Commissioners.

Alastair Ratcliff, resident, expressed his concerns regarding drainage and flooding as he lives between the property and the canal.

5. APPLICATION: Rezoning/5656 Isabelle Avenue
CASE NO.: REZONING-25-0002
APPLICANT: City of Port Orange
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org

A request to rezone ±1.23 acres from Regency Planned Commercial Development (PCD) to Professional Office (PO).

Motion to approve application for rezoning/5656 Isabelle Avenue Case No. REZONING-25-0002 was made by Commissioner Maria Mills-Benat and Seconded by Vice Chair Bo Bofamy. Motion carried unanimously by roll call vote.

Ms. Cruz presented the administrative re-zoning request and answered the Commissioners' questions.

Andrew Max, property owner of 5656 Isabelle Avenue, provided details of the property and answered the Commissioners' questions.

6. APPLICATION: Rezoning/4619 and 4629 Clyde Morris Boulevard
CASE NO.: REZONING-25-0001
APPLICANT: City of Port Orange
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org

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A request to rezone ±5.38 acres from Ritter Planned Commercial Development (PCD) to Community Commercial (CC).

Motion to approve application for rezoning/4619 and 4629 Clyde Morris Boulevard Case No. REZONING-25-0001 was made by Commissioner Maira Mills-Benat and Seconded by Commissioner Stan Schmidt. Motion carried unanimously by roll call vote.

Ms. Cruz presented the administrative re-zoning request, provided property details, and answered the Commissioners' questions.

OTHER BUSINESS

7. Commissioner Comments

Commissioner Stan Schmidt mentioned he was at the City Council workshop for the Stormwater discussion and touched on some of the items discussed in relation to questions some of the other Commissioner's had.

Chairman Thomas Jordan asked how Tim Burman, Community Development Department Director's department, has been impacted when dealing with water retention issues. Mr. Burman said they are complying with the Land Development Code; they are compliant and look at all projects thoroughly.

8. Staff Comments

There were none.

PUBLIC COMMENTS

There were none.

ADJOURNMENT - 6:15 p.m.

Chair Thomas Jordan



STAFF REPORT

CASE NO. VARC-25-0002

Variance from LDC, Chapter 16, Section 5(b)

REQUEST: Variance from the Land Development Code (LDC) to reduce the side yard setback for a pool from 8 feet to 5 feet 8 inches.

LOCATION: 1470 Bay Grove Drive

PROPERTY OWNERS & APPLICANTS: Jason and Kim Milak

STAFF RECOMMENDATION: Approval

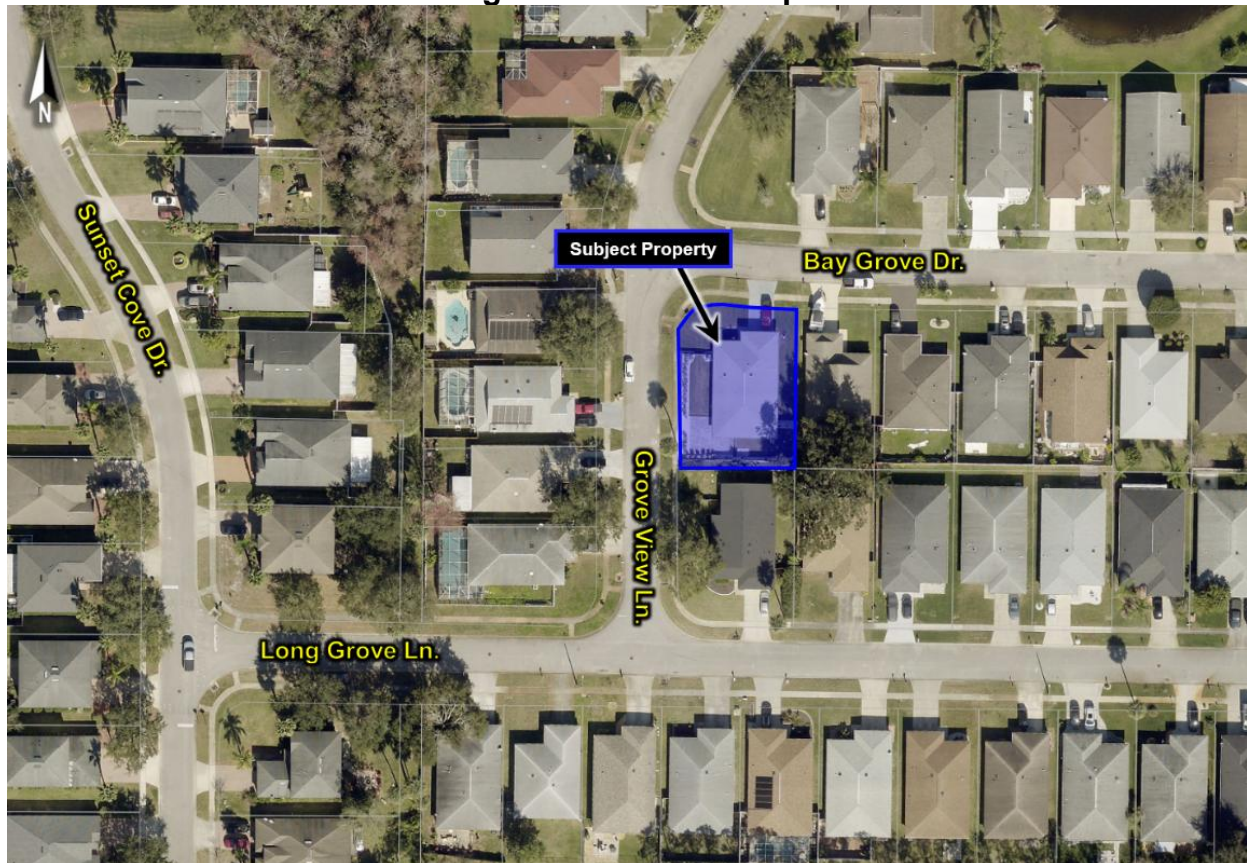
STAFF CONTACT: Suzette Cameron, Senior Planner, (386) 506-5676

PLANNING COMMISSION: May 22, 2025

INTRODUCTION

The subject property is a corner lot located at the intersection of Bay Grove Drive and Grove View Lane, within the Groves Subdivision. The property owners, Jason and Kim Milak, are requesting a variance from the Land Development Code (LDC) to allow for the construction of 7-foot x 30-foot inground pool to be constructed on the subject property. The property owners are requesting a variance to reduce the required minimum 8-foot setback from the side lot line to the edge of the water in the pool to be 5-foot 8-inches.

Figure 1. Location Map



DISCUSSION

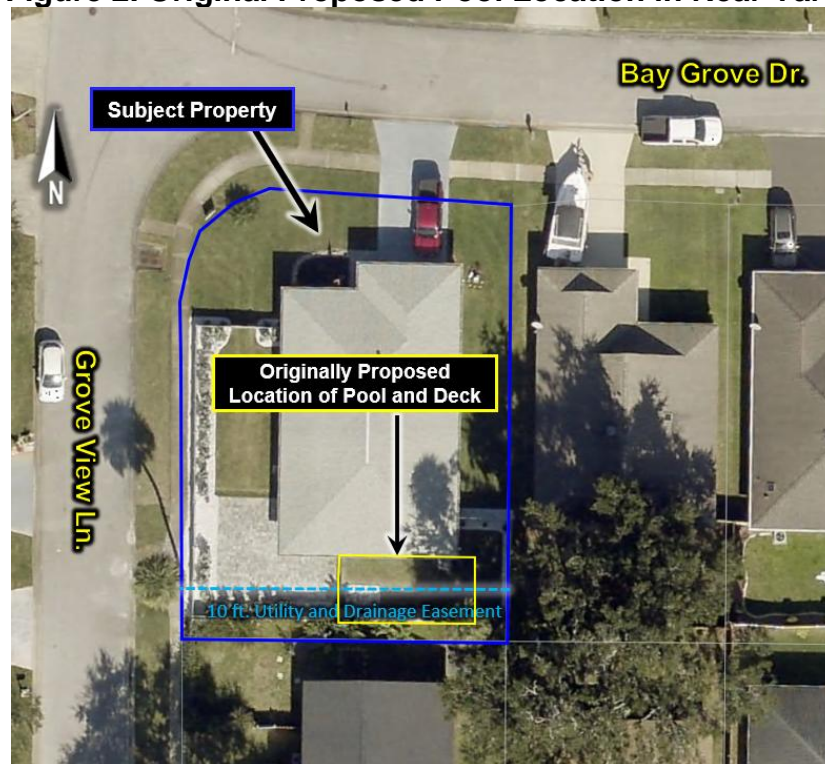
The subject property is a 7,602 square-foot corner lot and is zoned R-2D (Two-Family Residential), which permits both single-family homes and duplexes. The lot exceeds the minimum required 5,750 square-foot size for a corner lots in the R-2D district. There is currently a 2,330 square-foot single-family home and deck on the subject property.

According to the Land Development Code (LDC), a pool is only permitted in the side and rear yards, and not within front or secondary front yards. As a corner lot, the subject property has two front yards, one side yard (east), and one rear yard, thereby limiting the locations for a pool to the east side yard and the rear yard.

Installing a pool on this subject property is further constrained by existing easements on the property, including a 10-foot-wide Utility and Drainage easement along the rear yard that contains a subdivision drainage swale, and a 5-foot-wide Utility easement along the east side yard. The lots in this subdivision are designed with the home as the high point, allowing stormwater to flow toward the front and rear yard easement areas. Stormwater then flows from the easement areas into retention ponds and natural areas, and eventually into the B-19 Canal. Therefore, the easements on the subject property are necessary for utility and stormwater management and must remain open.

The single-family home on the subject property is set back 15.85 feet from the rear lot line and approximately 15 feet from the east side lot line. Due to the limited space between the home and the rear easement, approximately 5.85 feet, the rear yard is not a viable location for a pool and deck without encroaching into the drainage easement (Figure 2). Therefore, the property owners began to design a pool that could fit within the 15-feet of the side yard between the east property line and the single-family home.

Figure 2. Original Proposed Pool Location in Rear Yard



Before submitting the variance application, the property owners evaluated various design alternatives and met with City staff to discuss potential locations that would comply with the required setbacks in the LDC and remain outside of the easements. The property owners determined to move forward with permitting a 7-foot by 30-foot pool within the east side yard. The proposed location for the pool is approximately 5 feet 8 inches from the east side lot line, 2 feet from the single-family home, and setback approximately 10.5 feet from the rear lot line, avoiding both the side and rear easements. To proceed with construction of the pool in this location proposed by the property owners (Figure 3), approval of the requested variance to reduce the 8-foot setback from the east property line to the pool to 5 feet 8 inches would need to be approved. If the variance is approved, a building permit will need to be submitted for review and at that time city staff will verify that the design and construction methods for the pool meet Florida Building Code and grading requirements in the LDC.

Figure 3. Current Proposed Pool Location in Side Yard



REVIEW OF VARIANCE CRITERIA

Chapter 19, Section 1, of the LDC, lists the review criteria that shall be used to determine whether the variance requested should be granted. These criteria, accompanied by staff analysis, are as follows:

- a) *Special conditions and circumstances are peculiar to the land, structure, or building involved and not applicable to other lands, structures, or buildings in the same zoning district.*

This criterion typically refers to conditions or circumstances such as steep slope, presence of historic trees, odd lot shape, or other constraints that might make installing a pool impractical.

According to the property owners, the front and secondary front yard setbacks for their home present a special condition. While the Land Development Code (LDC) allows for a minimum setback of 20 feet for both the front and secondary front yards, their home was constructed approximately 22.33 feet from the front lot line and approximately 22.88 feet from the secondary front lot line. As a result, the existing placement of the home exceeds the minimum allowable setbacks, which has reduced the usable space in the rear and side yards for the development of accessory structures such as a pool, patio, shed, or building addition.

The property owners also note that, in addition to the placement of the home on the subject property, the lot contains a 10-foot easement along the rear yard and a 5-foot easement along the east side yard. These easements further limit the buildable area, leaving insufficient space to construct accessory structures without either obtaining a variance or vacating a portion of the easements. In preparing the variance request, staff confirmed that the side and rear easements are necessary for utility and stormwater management purposes and must remain unobstructed.

- b) *The special conditions and circumstances are not the result of the applicants' actions.*

According to the property owners, they purchased the subject property and home in August 2016, and the special conditions and circumstances affecting the property are not the result of their actions. The lot was originally platted in 1993 with a 10-foot-wide utility and drainage easement along all front and rear lot lines, and a 5-foot-wide utility easement along the side lot lines. The existing home was constructed in its current location in 1994. Since that time, the only accessory structure added is a paver patio, which was installed in 2024 on the west side of the lot.

The property owners state that, had the home been constructed to the minimum allowed secondary front yard setback, there would have been an additional 2 feet 10 inches of space on the east side of the lot, and this additional space would have

allowed the proposed location of the pool to meet the required 8-foot setback from the property line and a variance would not be required.

- c) *Literal interpretation and enforcement of the development code regulations would deprive the applicants of rights commonly enjoyed by other properties in the same zoning district under the terms of the development code and would work unnecessary and undue hardship on the applicants.*

A literal interpretation of the LDC would not deprive property owners of rights commonly enjoyed by other properties within the same zoning district. As part of the development approval process, all new structures or accessory structures are required to comply with the current development requirements of the LDC or obtain a variance from the requirements of the LDC.

According to the property owners, the requested variance is necessary based on the constraints of the corner lot only have one side yard, the presence of a 10-foot-wide utility and drainage easement taking up the majority of the rear yard, the 5-foot utility easement along the side yard, and the placement of the home on the lot limits the usable side yard space.

According to the property owners, building the pool in the proposed location, set back 5 feet 8 inches from the east side property line will provide sufficient space to maintain the pool and the existing 6-foot-tall privacy fence along east side property line will minimize impacts on the adjoining properties. The property owners believe the proposed placement of the pool ensures adequate separation between structures, while also maintaining enough room on their property to allow for access, maintenance, and any necessary repairs to the pool structure. If the variance is approved, a building permit will need to be submitted for review. At that time city staff will verify that the design and construction methods for the pool meet Florida Building Code and grading requirements in the LDC.

It should be noted that, if the property owners wanted to construct a home addition, shed, or outdoor patio of similar size to the proposed pool, such structures could be built in the same general location without the need for a variance. According to the LDC, these types of structures are permitted with a minimum 5-foot setback from the east property line. The variance requested is to reduce the required 8-foot setback for a pool to 5 feet 8 inches.

- d) *The variance, if granted, are the minimum variance necessary to make possible the reasonable use of the land, building or structure.*

Staff has worked with the property owners to identify a location on the subject property, and they have revised the proposed pool design twice to reduce the overall size of the pool, in order to require the minimum variance from the 8-foot setback requirement for a pool and avoid the easements on the property.

The proposed location for the pool is approximately 5 feet 8 inches from the east side lot line, 2 feet from the single-family home, and approximately 10.5 feet from the rear lot line, avoiding both the side and rear easements. To proceed with construction of the pool in this location proposed by the property owners, approval of the requested variance to reduce the 8-foot setback from the property line to the pool edge to 5 feet 8 inches would need to be approved.

- e) *Granting of the variance requested will not confer on the applicants any special privilege that is denied by the development code to other lands, buildings, or structures in the same zoning district.*

According to the Land Development Code (LDC), a pool cannot be located within a front yard or secondary front yard and must be located within the side or rear yard of a residential lot and maintain a minimum setback of 8 feet from the property line. Granting a variance from this requirement would confer a special privilege to the property owners that is not available to other properties within the same zoning district or throughout the city. All new pools built within the City must comply with the current development standards established in the LDC, unless a variance is granted.

The property owners are requesting the variance to reduce the setback along the east property line for a pool from 8-foot to 5 feet, 8 inches. While the setback requested is less than the standard 8-foot setback for a pool, it is still greater than the 5-foot side setback required in the LDC for accessory structures such as home addition, shed, or outdoor patio.

Typically, the portion of a pool abutting a lot line is designed to be set back a minimum of 8-feet from the property line with a 3-foot paver/concrete surface setback 5-feet from the property line. In this case, the property owners are proposing to reduce the typical width of the paver/concrete surface from 3-foot to 8-inches to maximize the width of the pool within the 15-foot space between the home and the east property line, while still maintaining sufficient room for grading so the lot drains properly. If granted, the variance would not allow development on the subject property where it is otherwise prohibited, but rather allow an alternative layout within an area the city allows to be built up for other accessory structures.

According to the property owners, the variance request was submitted because the proposed setback for the pool (5 feet, 8 inches) is greater than the minimum setback required by the LDC for other accessory structures typically found on single-family lots. Under the LDC, the property owners could construct a home addition, shed, or outdoor patio similar in size to the pool, 5 feet from the property line without the need for a variance. Therefore, the property owners state that their request is consistent with the intent of the LDC regarding the setback for an accessory structure and does not seek greater relief than what is already allowed in the LDC for other accessory structure.

- f) *The granting of the variance will be in harmony with the general intent and purpose of this code and will not be injurious to the surrounding properties or detrimental to the public welfare.*

The intent of the pool setback requirement in the LDC is to ensure safety, privacy, and ensure proper site drainage, while also maintaining the integrity of the surrounding property, and provide sufficient space on the subject property for routine maintenance and any necessary repairs to the pool.

According to the property owners, their existing 6-foot-tall privacy fence along the east property line will provide the necessary privacy between the subject property and adjacent property. A letter of support for the variance from the adjacent neighbor to the east is provided as Exhibit 2.

The property owners state that the 5-foot 8-inch area between the pool and the east property line will be sufficient for pool maintenance and repairs. The requested setback will also provide adequate space (5 feet, 8 inches) for the necessary grading associated with the pool installation. This grading will ensure proper drainage toward the front and rear drainage easements, preventing any negative impact on adjacent lots. If the variance is approved, a building permit will need to be submitted for review. At that time city staff will verify that the grading design for the pool meet the requirements in the LDC.

- g) *The variance represents a reasonable disposition of a claim brought under the Bert J. Harris Private Property Rights Protection Act, chapter 95-181, Laws of Florida, that a development order of the city has unreasonably burdened the applicants' property, based upon the recommendations of the special master appointed in accordance with the act, or the order of a court as described in the act.*

The variance requested are not based upon a claim brought under the Bert J. Harris Private Property Rights Protection Act.

PUBLIC NOTICE

Public Notices regarding the variance was posted in the *News-Journal* and mailed to adjacent property owners and the property was posted with a public notice sign, as required by the LDC. As of May 16, 2025, staff has received one (1) phone call regarding the proposed variance.

RECOMMENDATION

Based on the findings of this report, staff recommends approval of the variance from Chapter 16, Section 5(b) of the LDC, to allow a reduce the side yard setback for a pool from 8 feet to 5 feet 8 inches.

ATTACHMENT

Exhibit 1 – Applicant's Request Letter
Exhibit 2 – Neighbor's Letter of Support

EXHIBIT 1

To Whom It May Concern,

This Letter of Intent is in support of a request for a variance to the side yard setback requirement for a swimming pool at 1470 Bay Grove Drive in Port Orange. Our intention is to build a 7'x30' Swimming pool on the southeast side of the property at 1470 Bay Grove Drive. We are requesting that we be allowed to place the water's edge 5' 8" from the property line as opposed to the normal 8' setback. We wish to invest in our property and make an upgrade that many of our neighbors already enjoy today. The granting of this variance will allow our family to enjoy the property for years to come in a manner consistent with other properties in the area. Please see detailed information below on why this variance is needed.

What is perhaps most relevant here, and what we would ask the board to consider, is

Special conditions and circumstances exist which are peculiar to the land, structure, sign or building involved and which are not applicable to other lands, structures, signs or buildings in the same zoning district. Due to the unique position of the lot and home as well as the required easement and setback restrictions there is not enough area to accommodate a safe and usable swimming pool without encroaching onto drainage easements, utility easements, and/or setbacks. Our particular lot has been unusually classified as having two front yard 20' setbacks. The easements on our lot, which are greater than most other lots, take up a much greater share of our buildable property than most other lots in the neighborhood. Even after purchasing one of the largest lots in The Groves development with the dream of building a swimming pool on it we have found that we unfairly have much less buildable space than most of our neighbors with smaller lots due to our site specific easements which are greater than most other lots in the development. We've found that our lot, unlike most other lots in the community, contains primary utilities that enter the neighborhood from our property rendering the west side of our property useless for building a swimming pool.

These special conditions and circumstances did not result from the actions of the applicant as the current homeowners did not build the home but rather purchased the home after it was already built. The unique shape of the lot was not a result of any action taken by the homeowner and there is no opportunity to remove other structures on the property to meet the requirements because the only principal structure is the home itself.

Literal interpretation and enforcement of the development code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the development code, and would work an unnecessary and undue hardship on the applicant. There is no opportunity to remove other structures on the property to meet the requirements because the only principal structure is the home itself. The current setbacks would prevent the homeowner from improving the property while neighboring properties would not be under the same restrictions. Despite purchasing one of the largest lots in the neighborhood our lot, unlike most others in the community, has been categorized as having two front yards and thus two large 20' setbacks making a usable swimming pool impossible. There are many smaller lots in the community with less invasive easements that unfairly would allow accommodation of a swimming pool over our much larger lot.

The variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building, or structure. Plans were altered to accommodate the minimum variance request possible. The original plans included proposed pool locations on both the west side of the house and in the rear which are both preferable to the homeowners over the currently proposed location for the pool which is now on the east side of the property. The preferred proposed pool locations have both been forfeited so as to not encroach onto any utility or drainage easements. The final proposed pool location on the east side of the lot would not encroach onto any drainage or utility easements and while it's not the homeowners' first or second choice for a pool location they have settled for this location so as to avoid conflict with any drainage or utility easements. The design was minimized in order to minimize obstructing as much of the setback requirement as possible while maintaining a safe and usable facility.

The grant of the variance will be in harmony with the general intent and purpose of this code, and will not be injurious to the surrounding properties or detrimental to the public welfare. Based on generally accepted standards the pool is classified as small. The plan has already been approved by the HOA. The lot is not in a flood zone and the approval of this plan will not have any impact on drainage or flood risk. We have already received approval from neighboring occupancies. All safety and code requirements will be followed during construction and inspections completed.

In conclusion the upgrades proposed in this request will increase the property value and benefit the overall community. The variance is needed due to the unfair easement and setback requirements of the lot and the circumstances in which it was built and were not caused by any actions taken by the homeowner. We wish to use our property in a manner consistent with other properties in the area and request a small variance so we may make reasonable use of our property and enjoy it for years to come. The proposed project would be an improvement to the neighborhood and result in an overall increase in property value and tax base created by improvement. Furthermore a swimming pool has been proven to help maintain good health in cardiovascular patients as reported in third party studies and will ultimately benefit the quality of life and health of the homeowner who has a heart condition. Thank you for your time and consideration with this matter.

Respectfully submitted,

Jason R. Milak

*Sent
5/14/25
to Paul*

EXHIBIT 2

I, Melissa O'Brien at 1468 Bay Grove Drive in Port Orange, FL am writing to express my support for Jason and Kim Milak's request for a variance to build a swimming pool. I understand they are requesting to place the water's edge 5' 8" from the property line as opposed to the normal 8' setback for their property at 1470 Bay Grove Drive. I have no objections to the proposed project and believe it will be a positive addition to the neighborhood. The project should not negatively impact my property or the surrounding area. I have reviewed the plans and find them to be well-designed and in keeping with the neighborhood's character.

Melissa O'Brien Melissa O'Brien
386-336-2965 5-13-25



STAFF REPORT

ADMINISTRATIVE REZONING

CASE NO. REZONING-25-0003

REQUEST: Rezone ± 0.26 acres from Community Commercial (CC) to Neighborhood Preservation (NP)

LOCATION: 422 Jefferson Avenue (Figure 1 – Location Map)

OWNERS: Gloria and Krystian Scholz

APPLICANT: City of Port Orange

STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671

STAFF RECOMMENDATION: Approval

PLANNING COMMISSION: May 22, 2025

PROPERTY OVERVIEW

The proposed administrative rezoning is to change the zoning of a ± 0.26 -acre property located at the southeast corner of Jefferson Avenue and Oak Street from Commercial (CC) to Neighborhood Preservation (NP). If approved, the existing single-family residence on the property will be demolished and replaced with a new single-family home, consistent with the surrounding neighborhood character.

Figure 1. Location Map



DISCUSSION

The subject property has been occupied by a single-family home since 1963. This home was damaged during Hurricane Ian and property owners are currently in the Volusia County Transform 386 Program to have the home demolished and a new home rebuilt in its place. In April 2025, a building permit application to rebuild a home on the subject property was submitted to the City for review. During staff's review of the building permit, it was discovered that four lots, including the subject property, located on the east side of Jefferson Avenue, between Oak Street and B Street, were zoned Community Commercial (CC). Although these properties are currently designated as commercial on the City's Zoning Map, they have been developed and used for residential purposes since the early 1960s. Given the established residential zoning and existing homes on the adjacent properties to the west, south, and north, staff has concluded that these four lots should be rezoned to a residential district to ensure consistency with surrounding land uses and zoning patterns.

There are three (3) additional lots located directly south of the subject property that could not be included in this administrative rezoning due to delays in obtaining the necessary authorization forms from the property owners. To prevent delays in the permitting process for a Transform 386 grant project, staff proceeded with rezoning the subject property independently at this time. Staff will continue working with the owners of the adjacent lots to rezone their properties from Commercial (CC) to Neighborhood Preservation (NP) in the near future.

To proceed with the issuance of the building permit to rebuild the home on the subject property, it must be rezoned to a residential zoning district that allows single-family homes and provides the building setbacks that a new home must meet. To address the zoning inconsistency of the subject property, staff has prepared an administrative rezoning application to rezone the subject property to Neighborhood Preservation (NP). Rezoning the subject property to NP will bring it into conformance with the City's Comprehensive Plan, make it consistent with the surrounding area and the historic and intended use of the subject property (see Figure 2).

The NP zoning district is intended to preserve the character, housing mix and density of existing older mixed-use neighborhoods by providing for compatible infill development and redevelopment of single-family detached dwellings.

The rezoning was reviewed according to the criteria established in Chapter 3, Section 7 of the Land Development Code (LDC) in terms of consistency with the Comprehensive Plan and consistency with the surrounding land uses and zoning.

If approved, the new single-family home to be built on the subject property will need to meet all requirements in the Land Development Code (LDC) and Florida Building Code (FBC). The proposed new home's finished floor will be elevated three (3) feet above the existing grade and the Base Flood elevation on piers.

COMPATIBILITY WITH SURROUNDING USES AND ZONING DISTRICTS

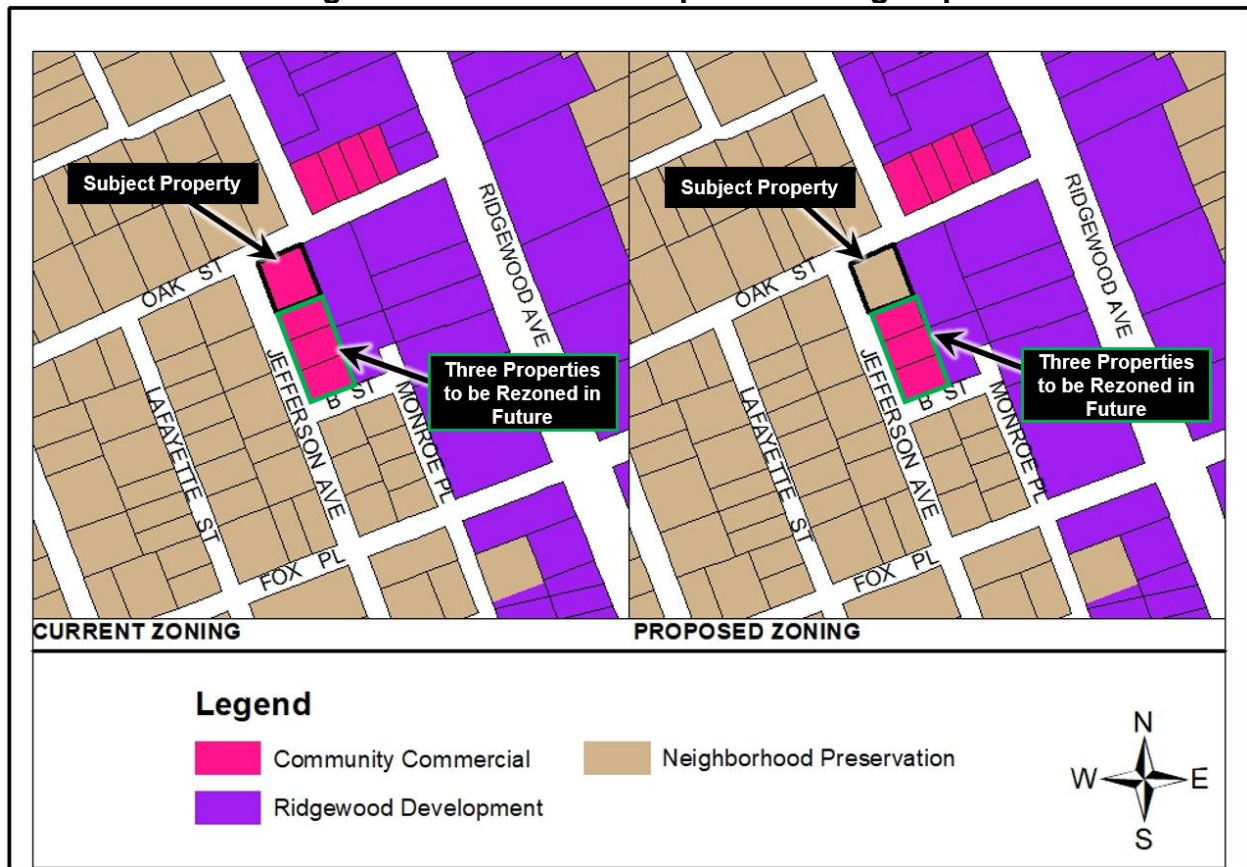
The proposed NP zoning district is appropriate for this location and is compatible with the surrounding properties. Table 1 summarizes the existing land use, zoning districts, and

Future Land Use designations of the adjacent properties, and Figure 2 shows the surrounding zoning districts of the adjacent properties.

Table 1. Surrounding Land Uses, FLU Designation, and Zoning Districts

Direction	Existing Land Use	Future Land Use Designation	Zoning District
North	Single-family home	<i>Urban Medium Density Residential (4-8 units/acre)</i>	Neighborhood Preservation (NP)
South	Single-family home	<i>Suburban Residential (2-4 units/acre)</i>	Community Commercial (CC)
East	City-owned Pond	<i>Commercial</i>	Ridgewood Development (RD)
West	Jefferson Avenue right-of-way and Single-family home	<i>Suburban Residential (2-4 units/acre)</i>	Neighborhood Preservation (NP)

Figure 2. Current and Proposed Zoning Map



CONSISTENCY WITH COMPREHENSIVE PLAN

The subject property is designated *Suburban Residential (2-4 units/acre)* on the City’s Future Land Use Map. The proposed rezoning is consistent with the pertinent Goals, Objectives, and Policies of the City’s Comprehensive Plan and is compatible with adjacent properties. Compatibility is defined in the Comprehensive Plan as a condition in which dissimilar land uses can co-exist in relative proximity to one another in a stable fashion over time, such that neither use is negatively impacted by the other. The subject

property has been developed with a single-family home since 1963, and this residential use is consistent with the City's Comprehensive Plan and compatible with the surrounding properties.

The proposed Neighborhood Preservation (NP) zoning district is consistent with the current *Suburban Residential* Future Land Use (FLU) designation for the subject property. The *Suburban Residential* FLU designation typically supports detached or attached single-family homes and is intended for areas situated between collector and arterial roadways.

STAFF RECOMMENDATION

Staff recommends **approval** of the request to rezone ±0.26 acres from Community Commercial (CC) to Neighborhood Preservation (NP).