



AGENDA
PLANNING COMMISSION
CITY OF PORT ORANGE

Meeting Date: Thursday, April 23, 2026

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/5968 Shady Creek Lane
CASE NO.: VARC-26-0002
APPLICANT: Peter Francis
STAFF CONTACT: Tim Burman, Community Development Director, (386) 5056-5675/tburman@port-orange.org

A request by the applicant for a variance from Chapter 16, Section 3(b)(2)(f) and Section 3(b)(3)(a) of the Land Development Code, to allow a 6-foot-tall fence to be located less than 5 feet from a right-of-way in lieu of being placed in line with the front plane of the house.

C. OTHER BUSINESS

5. Commissioner Comments
6. Staff Comments

D. PUBLIC COMMENTS

E. ADJOURNMENT

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.



Planning Commission Meeting

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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 26, 2026

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 Scott Steger
Commissioner Angela LeDuc

Absent: Commissioner Daniel Mallegol (excused)

Also Present: Shannon Balmer, City Attorney
Tim Burman, Community Development Director
Amanda Bonin, Deputy City Clerk

3. Election of Officers

Motion to nominate Commissioner Scott Steger as Chair was made by Commissioner Bo Bofamy and Seconded by Commissioner Stan Schmidt. Motion carried unanimously by voice vote.

Motion to nominate Commissioner Stan Schmidt as Vice Chair was made by Commissioner Angela LeDuc and Seconded by Commissioner Thomas Jordan. Motion carried unanimously by voice vote.

DISCUSSION/ACTION

4. Consideration of Minutes - February 26, 2026

Motion to approve the February 26, 2026 meeting minutes was made by Commissioner Thomas Jordan and Seconded by Commissioner Bo Bofamy.

Motion carried unanimously by voice vote.

5. APPLICATION: SPECIAL EXCEPTION/Retail Nursery and Garden Supplies Facility

CASE NO.: CUSE-26-0001

APPLICANT: Daniel D. and Sandra L. Bordis

STAFF CONTACT: Suzette Cameron, Senior Planner, (386) 506-5676/scameron@port-orange.org

A request by the applicant for a Special Exception to allow the operation of a retail nursery and garden supplies facility within the Agricultural (A) zoning district.

Motion to approve the Special Exception/Retail Nursery and Garden Supplies Facility CASE NO.: CUSE-26-0001, was made by Commissioner Maria Mills-Benat and Seconded by Commissioner Thomas Jordan.

Suzette Cameron, Senior Planner, introduced the item, and provided details to include a presentation.

Dan and Sandy Bordis provided further details on the item.

Motion carried unanimously by roll call vote.

OTHER BUSINESS

6. Commissioner Comments

Commissioners thanked the Planning and IT staff for their continued assistance and patience.

7. Staff Comments

There were none.

PUBLIC COMMENTS

There were none.

ADJOURNMENT - 5:42 p.m.



STAFF REPORT

CASE NO. VARC-26-0002

Variance from LDC, Chapter 16, Section 3(b)(2)(f) and Section 3(b)(3)(a)

REQUEST:	Variance from Chapter 16, Section 3(b)(2)(f) and Section 3(b)(3)(a) of the Land Development Code (LDC), to allow a 6-foot-tall fence to be located less than 5 feet from the right-of-way in lieu of being placed in line with the front plane of the house.
LOCATION:	5968 Shady Creek Lane (Figure 1 – Location Map)
OWNERS:	Victor Francis and Samia Fezy
APPLICANT:	Peter Francis
STAFF RECOMMENDATION:	Denial
STAFF CONTACT:	Tim Burman, Community Development Director, (386) 506-5675
PLANNING COMMISSION:	April 23, 2026

INTRODUCTION

The subject property is located at 5968 Shady Creek Lane, at the northwest corner where two segments of Shady Creek Lane intersect (Figure 1). The applicant is requesting a variance to allow an existing 6-foot-tall fence to remain in a secondary front yard setback less than 5-feet from the Shady Creek Lane right-of-way line in lieu of being placed in line with the front plane of the house as permitted. According to the applicant, the 6-foot-tall fence was installed about 10 years ago to provide privacy and safety for the well-being of a family member with a medical condition that lives at this address with the property owners.

Figure 1. Location Map



DISCUSSION

According to the Land Development Code (LDC), the subject property is a corner lot because it is adjacent to two public rights-of-way (intersection of two sections of Shady Creek Lane) and therefore has two front yards, a primary front yard and secondary front yard. The purpose of the citywide requirement regulating 6-foot-tall fences within the primary and secondary front yards of residential corner lots is to protect public safety and maintain neighborhood character by controlling the placement and height of fences adjacent to public rights-of-way.

For safety, the setback ensures that 6-foot-tall fences do not encroach into required sight triangles at street intersections and driveways. These sight triangles are needed for maintaining adequate visibility for motorists, pedestrians, and cyclists, particularly at corner lots where two street frontages intersect, and visibility conflicts are more likely to occur. By limiting fence height and requiring appropriate setbacks in these areas, the regulation reduces potential hazards associated with obstructed views of oncoming traffic and pedestrian activity.

In this case, the existing 6-foot-tall fence is located outside of the required 25-foot visual clearance triangle for the intersection of two public roadways. The 25-foot sight triangle is established by measuring 25 feet along each of the intersecting rights-of-way and connecting those points to define the area that must remain clear for visibility. Based on this configuration, the fence does not encroach into the sight triangle and is not anticipated to impact visual clearance for vehicles or pedestrians along Shady Creek Lane.

In addition to safety considerations, the requirement supports community design objectives by preserving visual openness within residential neighborhoods. Limiting the height and placement of fences in these areas helps ensure that views from neighboring homes and from the public right-of-way are not unnecessarily blocked. This maintains a more open and visually connected streetscape, where front yards, landscaping, and home façades remain visible and contribute to the overall aesthetic quality of the neighborhood.

Together, these provisions balance safety and livability by ensuring that fencing within visible front yard areas does not block intersection visibility while also preventing front-facing residential areas from being enclosed in a way that reduces openness and visibility along the street.

For the subject property, the east property line along Shady Creek Lane is the primary front yard and the south property line along Shady Creek Lane is the secondary front yard (Figure 1). Both streets are local public roads. According to the LDC, a 6-foot-tall fence in a secondary front yard must be set back either in line with the front plane of the home (approximately 10 - 27 feet from the secondary front lot line) or to the zoning district front yard setback (30 feet), whichever is less (Figure 2). Therefore, the LDC allows a 6-foot-tall fence to be installed up to the front plane of the house.

In this case, while the lot includes a secondary front yard, it does not directly abut any single-family residential lots where a 6-foot-tall fence would obstruct views from adjacent homes. In addition, the proposed fence location is outside of the required sight triangle

areas, and therefore does not interfere with intersection visibility or roadway safety (Figure 2).

Therefore, there are two options for a fence on the subject property that would meet the LDC requirements: 1) A 4-foot-tall fence installed up to 5-feet from the right-of-way for the a primary front yard and secondary front yard; or 2) a 6-foot-tall fence installed in line with the front plane of the house for the a primary front yard (30 feet) and the secondary front yard (10 - 27 feet).

Figure 2. Existing Fence Location Compared to Permitted Fence Location



It should be noted that a 6-foot-tall fence currently exists along the rear property line and extends into the secondary front yard; however, that rear fence is not part of the current variance request. It is located within the HOA common area and is outside the subject property boundary. The variance request applies only to the portion of fence located within the south secondary front yard along the Shady Creek Lane right-of-way on the subject property. The existing 6-foot-tall fence on HOA property is being addressed separately and is not included in this request.

BACKGROUND

The subject property contains a single-family home built in 2000. The applicant states that approximately 10 years ago, a 6-foot-tall fence was installed roughly 5 feet from the south property line along the Shady Creek Lane right-of-way. According to City records, no permit was issued for this portion of the fence. In the applicant's variance request letter, he notes that the fence was installed around 2016 and has remained in place for nearly 10 years with no known complaints to Code Enforcement, the City, or the homeowners' association, aside from a single complaint received by Code Enforcement in 2024, and with no identified adverse impacts to surrounding properties.

As indicated in the applicant's variance request letter, the primary reason for installing the 6-foot-tall fence is to address the safety and well-being of a family member with a medical condition who resides at the property. According to the applicant, the fence serves as a necessary protective measure, allowing this individual to be outdoors within a secure, enclosed yard.

The applicant has stated that a 4-foot-tall fence would not provide adequate security for their family member with a medical condition, as it could be easily climbed or crossed, whereas a 6-foot-tall fence provides an appropriate level of protection while still allowing safe outdoor access. The applicant also notes that similar fence heights are commonly used in residential and care settings for individuals with comparable needs. Based on these concerns, the applicant is requesting a variance to allow the existing 6-foot-tall fence along Shady Creek Lane to remain.

Based on discussions with the applicant, he acknowledges that a permit should have been obtained prior to the installation of the fence. However, the applicant has indicated that if a permit had been requested and subsequently denied in 2016 due to the fence height, he would have pursued a variance to seek approval for the 6-foot-tall fence based on the same safety considerations described above.

REVIEW OF VARIANCE CRITERIA

Chapter 19, Section 1 of the Land Development Code (LDC), outlines the criteria to be used in determining whether the requested variance should be granted. The following summarizes these criteria, along with relevant staff information and the applicant's justification for the variance:

- a) *Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structure 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, etc. that might make installing a 6-foot-tall fence in line with the front plane of the home impractical. There are no special conditions or circumstances which are peculiar and would otherwise prevent installation of either a 6-foot-tall fence in line with the front plane of the home or a 4-foot-tall fence a minimum of 5 feet from the right-of-way along Shady Creek Lane in accordance with the Land Development Code (LDC).

The subject property is a corner lot that has two front yards according to the LDC, which is not a unique condition or circumstance. The subject property is developed with a single-family home. The lot size of the subject property (11,325 SF) exceeds the lot size requirement (9,600 SF) for a corner lot in the Sawgrass Point Planned Unit Development (PUD) zoning district.

According to the applicant, although the property is classified as a corner lot, it differs from a typical residential corner lot because the secondary front yard does not abut another single-family residence, but instead borders a HOA-owned common area. As a result, the applicant asserts that the 6-foot-tall fence does not negatively impact the visibility, aesthetics, or enjoyment of neighboring residential properties. The applicant further notes that the fence provides additional privacy for the subject property from pedestrians and vehicles traveling east on Shady Creek Lane.

The applicant also states that existing mature hedges and landscaping located outside the fence line exceed 6 feet in height and already provide substantial visual screening of the fence (see pictures below). Because landscaping is not regulated under the Land Development Code in the same manner as fence height (provided it does not obstruct sidewalks or roadway visibility), similar screening would remain in place even if the fence were reduced to 4 feet in height.

In addition, the applicant states that the fence does not obstruct visibility near intersections and that there are no known traffic incidents, police reports, or safety concerns associated with its placement. Landscaping along the south side of the property also screens much of the fence from adjacent homes, further reducing its visual impact.

Staff have confirmed with the Police Department that there have been no reported accidents or safety incidents at the intersection of Shady Creek Lane and Shady Creek associated with the fence.



Picture of subject property/fence looking east



Picture of subject property/fence looking west



Picture of subject property/fence looking west from intersection of Shady Creek Lane and Shady Creek Lane

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

There are no special conditions or circumstances.

According to the applicant there are special conditions or circumstances, specifically, that the layout of the roadway, lots, and common areas predate the applicant's ownership of the property; the subdivision was developed in 1997, and the home was constructed in 2000, while the current property owner has only owned the home since 2007. The applicant believes these pre-existing conditions create unique circumstances that justify the requested variance and are not attributable to any action of the current owner.

- c) *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 unnecessary and undue hardship on the applicant.*

When a new fence is installed, it is required to comply with the current requirements of the Land Development Code. These standards are intended to protect public safety and maintain neighborhood character by regulating the placement and height of fences located within primary and secondary front yard areas adjacent to public rights-of-way. From a safety standpoint, the requirements ensure that fences do not encroach into required sight triangles at street intersections and driveways, where clear visibility is necessary for motorists, pedestrians, and cyclists, particularly in corner lot conditions where two street frontages intersect.

In addition, the regulations support neighborhood design objectives by limiting visual obstructions within front yard areas that contribute to the public-facing character of residential subdivisions. These provisions help ensure that front yards, home façades, and streetscapes remain open and visible, rather than enclosed by tall fencing along the roadway.

For corner lots, these standards apply to both primary and secondary front yard areas regardless of adjacent conditions. However, the Land Development Code still provides flexibility in fence placement and height, allowing a 4-foot-tall fence to be installed within the front yard setback closer to the right-of-way, or a 6-foot-tall fence to be installed in alignment with the front plane of the home, provided applicable setback requirements are met.

In this case, the subject property's configuration, with its secondary front yard adjacent to a HOA-owned common area rather than a residential lot, presents a condition that differs from the typical corner lot scenario the standards are primarily intended to address. Based on the current layout, the 6-foot-tall fence does not appear to create the types of impacts the code is designed to prevent, as it does not obstruct required sight triangles, does not interfere with intersection visibility, and does not negatively affect visibility or access related to adjacent residential properties or public safety considerations.

According to the applicant, the variance is requested to allow the existing 6-foot-tall fence to remain in its current location along the Shady Creek Lane right-of-way. The applicant notes that this condition differs from a typical corner lot scenario because the secondary front yard does not abut another residential property but instead fronts a HOA-owned common area. As a result, the applicant asserts that the fence does not impact adjacent residential properties, does not interfere with intersection visibility or sight triangles, and is screened in part by existing landscaping.

The applicant further states that the fence provides enhanced privacy from vehicles and pedestrians traveling along Shady Creek Lane, as well as an added level of safety and security for a family member with a medical condition residing at the property.

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

Although not the applicant's preference, the property owners could install a fence that complies with the setback requirements of the LDC. Doing so would require removing the existing fence and either replacing it with a 4-foot-tall fence or installing a 6-foot-tall fence in line with the front plane of the house from the Shady Creek Lane right-of-way.

According to the applicant, keeping the existing 6-foot-tall fence in its current location is necessary to allow reasonable use of the property by providing safety

and security for a family member with a medical condition who lives at the home. The applicant states that the fence, as it is currently placed, does not affect neighboring residential properties or block sight lines for drivers or pedestrians in the subdivision.

Staff have confirmed with the Police Department that there have been no reported accidents or safety incidents at the intersection of Shady Creek Lane and Shady Creek related to the fence. In addition, there are existing mature hedges and landscaping outside the fence line that are over 6 feet tall and already block much of the view of the fence. Since landscaping is not regulated in the same way as fence height under the Land Development Code (as long as it does not block sidewalks or roadway visibility), similar landscape would remain even if the fence were reduced to 4 feet.

Based on these conditions, the applicant believes keeping the fence in its current location is the smallest change needed to allow reasonable use of the property while meeting the stated safety and security needs.

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

According to the applicant, the subject property is not a typical corner lot. The secondary front yard does not abut or directly adjoin any single-family residential lot but instead borders a HOA-owned common area. As a result, the 6-foot-tall fence does not affect the view, privacy, or enjoyment of any neighboring residential property.

The applicant further notes that this condition differs from most corner lots in residential subdivisions, which typically directly abut other single-family homes along one or more front yard exposures. In this case, there are no adjacent residential lots along the secondary frontage that would experience view obstruction or other impacts from the fence.

In addition, the fence is not located in a position that impacts visibility clearance at the intersection or within required sight triangles, and it does not interfere with the safe movement of vehicles or pedestrians. Based on these conditions, the applicant states that the fence in this location does not create the typical impacts associated with corner lots where fences may directly face or border other homes or obstruct intersection visibility. Accordingly, allowing the 6-foot-tall fence to remain would not provide a special advantage compared to similarly situated properties, since it does not reduce visibility or affect adjacent residential use or safety.

- 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 fence requirements in the LDC are intended to protect the health, safety and general welfare of the citizens of the city, and to enhance the appearance, function and livability of the city and improve the overall quality of life within the community. The intent of the city-wide setback requirement for a residential 6-foot-tall fence in a front yard is to ensure fences that abut streets in residential subdivisions with a narrow right-of-way width are set back off the right-of-way line to provide adjacent properties adequate visual sight lines from their home.

The height and location of the proposed fence is inconsistent with other fences in the neighborhood installed consistent with the LDC. There are 12 corner lots in Sawgrass Point subdivision and 3 of them have fences that conform to the fence height/setback requirements of the LDC and the rest have no fence (Figure 3).

The location of the existing 6-foot fence is located outside of the 25-foot visual clearance triangle requirement for intersections of two public roadways. The 25-foot visual triangle is determined by measuring 25-feet along the two intersecting rights-of-way that form the intersection then connecting those two points and measuring. If a variance is approved, the fence is not anticipated to impact visual clearance for vehicles and pedestrians along Shade Creek Lane.

Figure 3. Corner Lots in Sawgrass Point Subdivision



The applicant notes that the fence, installed around 2016, has remained in place for nearly 10 years with no known complaints, aside from a single complaint received by Code Enforcement in 2024. Staff have confirmed with the Police Department that there have been no accidents or safety incidents at the intersection of Shady Creek Lane and Shady Creek associated with the fence.

- 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 applicant's 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 is not based upon a claim brought under the Bert J. Harris Private Property Rights Protection Act.

PUBLIC NOTICE

Public Notices regarding the variance were 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 April 17, 2026, staff have received two phone calls regarding the proposed variances.

RECOMMENDATION

Based on the findings of this report, staff recommends denial of the variance from Chapter 16, Section 3(b)(2)(f) and Section 3(b)(3)(a) of the LDC to allow for a secondary front yard setback of less than 5 feet for the existing 6-foot-tall fence.

However, if the Planning Commission recommends approval of the variance, it should be limited to the existing fence installed within the secondary front yard setback and should not permit any additional fencing within that setback area.

ATTACHMENT

Exhibit 1 – Applicant's Request Letter

Exhibit 1 – Applicant’s Request Letter

5968 SHADY CREEK LN
PORT ORANGE, FL 32128

Proposed Development Variance Description – Fence

The existing fence was installed approximately in 2015–2016, nearly ten (10) years ago. The fence has remained in place for close to a decade prior to any complaint being received by Code Enforcement regarding its height. During this extended period, there have been no known complaints submitted to the City or the homeowners’ association, nor have there been any identified adverse impacts to surrounding properties.

The fence is set back approximately five (5) feet from the right-of-way and does not obstruct or impede visibility at or near the intersection of Shady Creek Lane. To the best of the property owners’ knowledge, there have been no traffic incidents, police reports or safety concerns attributable to the presence of the fence.

Although the property is classified as a corner lot, it does not function as a traditional corner lot. The secondary front yard abuts a homeowners’ association-owned common area rather than another residential property. As a result, the six (6) foot fence does not negatively affect the visibility, aesthetics, or enjoyment of neighboring residences.

The fence provides practical benefits, including enhanced privacy and reduction of vehicle headlight intrusion into the home during nighttime hours. Additionally, there is an existing hedge and dense landscaping located outside of the fence line that exceeds six (6) feet in height, effectively obscuring the fence from view. If the fence height were reduced to four (4) feet, the hedge would remain, resulting in a similar barrier along Shady Creek Lane.

The primary reason for installing the six (6) foot fence in 2015–2016 relates to the safety and well-being of a family member with a medical condition. The fence serves as a necessary protective measure to prevent unsupervised exit from the enclosed yard area. A four (4) foot fence would not provide adequate containment, as it could be easily climbed or crossed, whereas the six (6) foot fence provides an appropriate level of security while still allowing safe outdoor access. Similar fencing heights are commonly utilized in residential and care settings for individuals with comparable needs.

Based on these factors, the existing fence has functioned without issue for nearly a decade and has not negatively impacted public safety, as demonstrated by its long-standing presence without any incidents. It has also not adversely affected community aesthetics. The variance request is respectfully submitted for consideration.