

**Staff Report to the
Board of Zoning Adjustment
September 27, 2022**

VAR2022-10042

COMMERCIAL VEHICLE PARKING



Location Map

 Subject Site

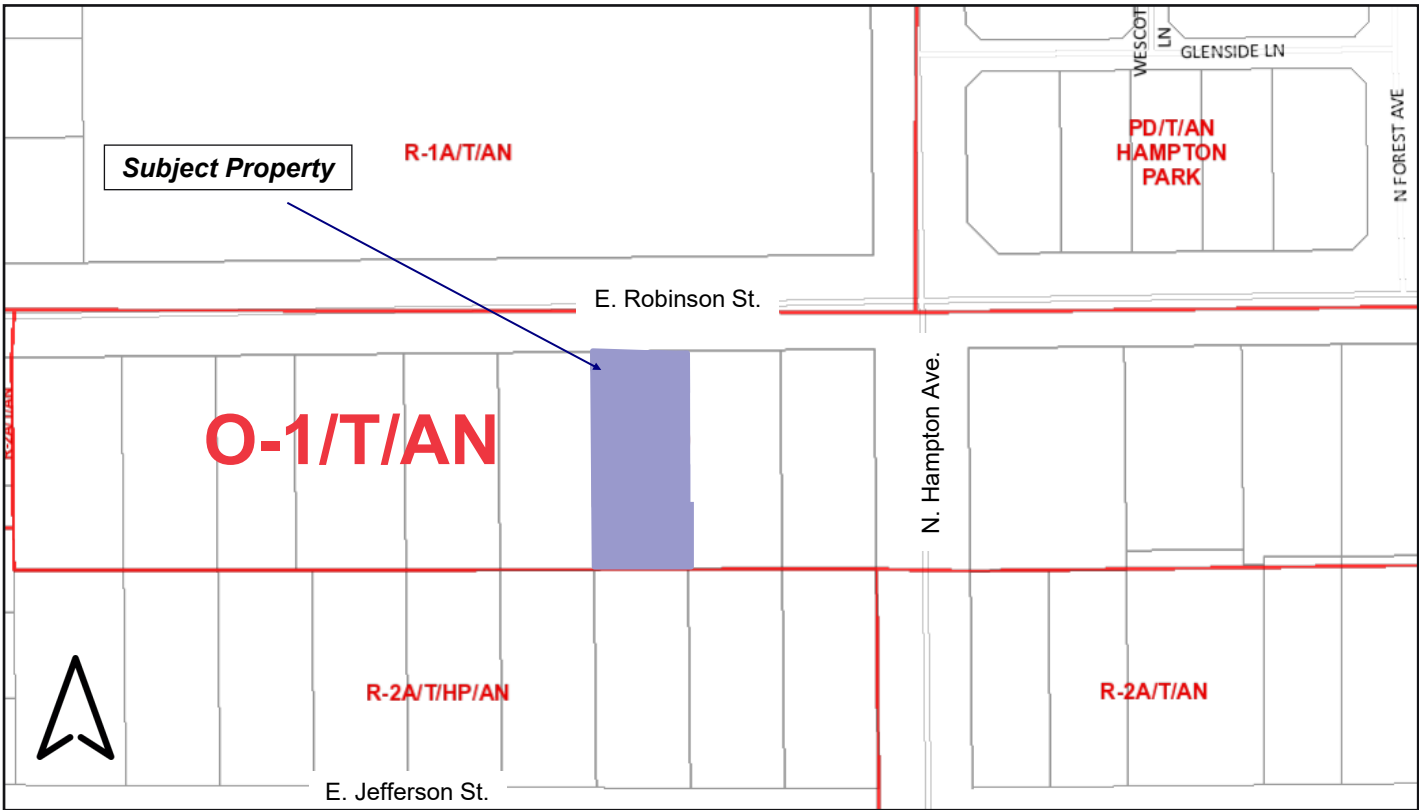
Summary

Applicant Ayanna Walker Domi Italian Ice. Owner Julie York Project Planner Michele Gibbs Updated: September 16, 2022	Property Location: 1910 E Robinson St. (Located south of E. Robinson St., west of N. Hampton Ave., north of E. Jefferson St., east of Rosearden Dr.) (±0.19 acres, District 4). Applicant's Request: The property is developed as a property management and real estate office building. The applicant is requesting a variance to allow the parking of a commercial vehicle in an O-1 zoning district, where the parking of commercial vehicles is prohibited within privately owned driveways or property within all residential or office districts.	Staff's Recommendation: Approval of the requested variance, per conditions on the staff report. Public Comment: Courtesy notices were mailed to property owners within 300 ft. of the subject property during the week of September 12, 2022. As of the published date of this report, staff has not received comments from the public regarding this request.
--	--	--

Future Land Use Map



Zoning Map



Project Analysis

Project Description

The subject property consists of a 1-story property management and real estate office building on a ± 0.19 acre lot in between the Mills 50 and the Milk District neighborhood. The property is zoned O-1/T/AN and is designated as OFFICE-LOW (Low Intensity Office) on the City's Future Land Use Map. Adjacent uses consist of the First Unitarian Church and residential properties.

The subject property has frontage on one (1) street; E. Robinson St to the north. The applicant is requesting for approval to park their commercial vehicle in the rear parking lot of the office building. Below is their variance request:

- A variance is being requested by the applicant to allow their commercial vehicle to be parked in an O-1 zoning district, in the rear of a 1-story office building. The parking of commercial vehicles are prohibited on the public streets or on or within privately owned driveways or property within all residential or office districts as established by this Chapter, except for loading or unloading purposes or when parked within a completely enclosed private garage. (Sec. 58.926)

Background:

1950: Annexed into the City of Orlando (Annexation Document Number: CITY)

2002: BZA Approval for side yard setback, parking lot landscaping and buffer yard requirements (VAR2002-00133)

Intent of District

As previously stated the subject property is zoned O-1/T/AN. The O-1/T/AN district is intended to provide for flexibility in building and site design in locations where development or redevelopment of offices or a mixture of offices and housing is desired. The O-2 and O-3 districts are also intended to allow a fringe of declining intensity adjacent to activity centers. The O-1 district is intended to encourage offices of a scale and design compatible with surrounding residential neighborhoods. The O-3 district is only appropriate adjacent to the Downtown Metropolitan Activity Center.

The T Overlay District is intended to establish urban design standards to perpetuate the positive design elements and the residential and commercial development patterns found within the Traditional City. The traditional City shall be defined by recognizable geographic boundaries of subdivisions platted prior to World War II in which there is a concentration of the positive design elements as defined in Urban Design Goal 1. The purpose of the Aircraft Noise Overlay District is to protect the health, safety, and welfare of persons and property in the vicinity of the OIA and OEA. Aircraft noise may be considered annoying, objectionable, or unhealthy to residents in the community surrounding the airports.

The AN *Overlay* district is intended to reduce *noise* and safety hazards associated with aircraft operations, to preserve the operational stability of the *airports*, and assist in the implementation of policies and recommendations found in the City's Growth Management Plan and in appropriate FAA sponsored Part 150 Studies. The requirements found in the AN *Overlay* District are intended to supplement all other zoning districts in which land may be classified, and the various Chapters of the City Code which might impact on aviation and land development, including, but not limited to, safety, fire, building, and health codes. However, to the extent that any provision of this Part conflicts with another code or ordinance, the provisions of this Part shall govern and control.

Table 1—Project Context

	Future Land Use	Zoning	Surrounding Use
North	RES-LOW	R-1A/T/AN	Church
East	OFFICE-LOW	O-1/T/AN	Offices
South	RES-LOW	R-2A/T/HP/AN	Residential
West	RES-LOW	R-2A/T/AN	Residential

Project Analysis

Analysis

The existing 1-story office building was originally constructed as a 1390 sqft. residential home in 1946. The home was constructed on a 60 width x 138.92 depth lot. The single family residence was converted into an office use in 2002. The setbacks are conforming to the setback requirements of the O-1/T/AN zoning district. For context, City Code requires O-1/T/AN properties to have a minimum front yard setback of 0 ft., side yard setbacks of 0 ft., and a street side setback of 0 ft. The office building is located on a conforming lot as regulated by the O-1/T/AN zoning district.

The office building is located within an OFFICE-LOW (Low Intensity Office). City Code prohibits commercial or recreational vehicle, upon the public streets or on or within privately owned driveways or property within all residential zoning districts or office zoning districts. (Sec. 58.926).

A variance is being requested by the applicant to allow the applicant to park their commercial vehicle in an O-1 zoning district.

The applicant would like to park their 7 ft. wide and 22 ft. long commercial vehicle in the rear parking lot of this 1-story building overnight between the hours of 8pm-7am. This commercial vehicle will be parked in the rear, not visible from the main roadway (E. Robinson St.). This parking lot is not intended for public use and only utilized by the current tenant of the office building. The proposed request will not conflict with any parking requirements for this property. The minimum parking requirements for office use is 2.5:1,000 square feet of the Gross Floor Area. The property meets these code requirements with 3 parking spots including a handicap parking spot. The commercial vehicle will not block any accessway.

There is a fence on 3 sides of the building, allowing for screening from the abutting properties. There is sufficient landscaping on the site with no proposed trees being removed.

Aerial View



Truck photos



View from E. Robinson St.



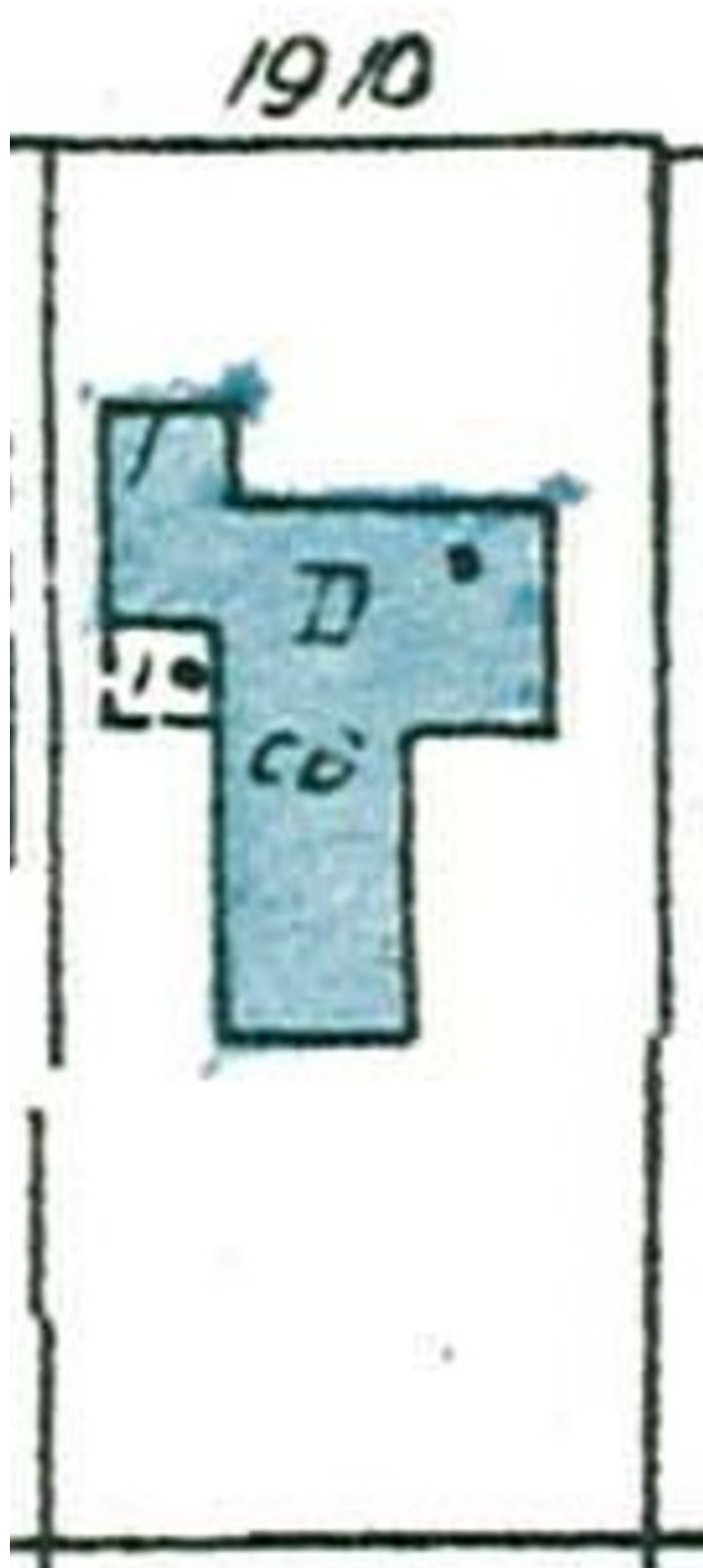
Truck Visibility

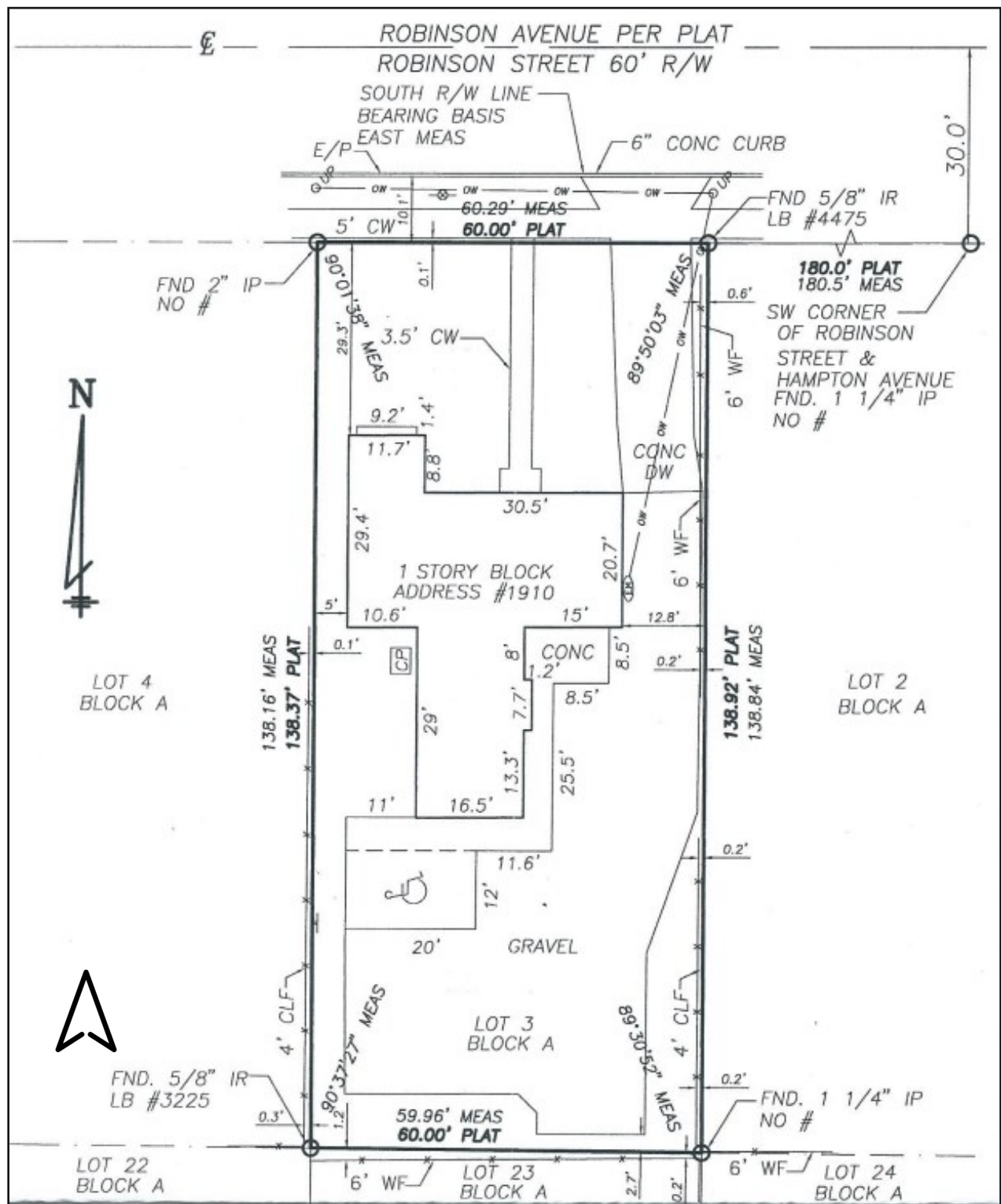


Measurement of building height vs. truck



Sanborn Map





[illegible]

Findings and Recommendations

Requested Variance:

The applicant is requesting approval to park their commercial vehicle overnight in the rear parking of an office building in an O-1 zoning district.

Staff Recommendation: Approval of the requested variance with conditions, based on the finding that it meets the six (6) standards for approval of a variance.

Land Development

1. ADA parking spaces must meet Florida Building Code, this approval does not waive any local, state, or federal regulations.
2. An accurate dimensional site plan or survey must be submitted at time of permitting.
3. Parking of the (1) commercial vehicle must remain at the rear of the building—hidden from visibility on E. Robinson St. as well as meet the conditions stated in this staff report.
4. The commercial vehicle business is not permitted to operate on the current site it is being permitted to park overnight (1910 E. Robinson St.).
5. Development shall be in strict conformance with all conditions and the site plans and elevations found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
6. All City, County, State or Federal permits must be obtained before commencing development.
7. As provided by subsection 166.033(6), Florida Statutes, issuance of a development permit by a municipality does not create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A municipality shall attach such a disclaimer to the issuance of development permits and shall include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.
8. Expiration of the Zoning Variance. A building permit for the work requiring the zoning variance must be received within one year of the zoning variance approval. If the building permit is not received within the year, then the zoning variance is no longer valid and a new variance must be requested (applied for).
8. Administrative Extension of the Zoning Variance. The Zoning Official may extend a zoning variance by up to six months. The holder of the zoning variance must request such an extension by application for a Zoning Official determination at least 30 days, but not more than 90 days, before the expiration of the zoning variance.

Transportation

Recommended for Approval.

Urban Design

Recommended for Approval.

Development Review

Recommended for Approval.

Note to Applicant: *The proposed variance only addresses the Land Development Code standards expressly represented in this staff report and any relief to such standards as approved. The relief granted through the variance(s) is restricted to the subject property as noted in the staff report and is not transferable to other parcels of land.*

The next step in this variance request is City Council consideration of the Board of Zoning Adjustment's recommended action (provided it is not appealed) at an upcoming City Council meeting. Possible City Council approval of this variance request does not constitute final approval to carry out the development proposed in this application. The applicant shall comply with all other applicable requirements of the Land Development Code, including any additional review requirements, and shall receive all necessary permits before initiating development. Please contact the Permitting Services Division of the City of Orlando to inquire about your next steps toward receiving a building permit.

Standards for Variance Approval	A VARIANCE TO ALLOW A COMMERCIAL VEHICLE TO PARK IN AN O-1 ZONING DISTRICT (SEC.58.926).
<i>Special Conditions and Circumstances</i> Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed Zoning Variance.	<i>Meets Standard</i> Yes ☒ No ☐ The subject property will operate during the daytime and is looking to park their commercial vehicle overnight between the hours of 8pm-7am. The commercial vehicle will be parked in the office building parking lot, in the rear, not visible from the E. Robinson St. The office is not intended for public use, meaning the parking lot is utilized by the tenant
<i>Not Self-Created</i> The special conditions and circumstances do not result from actions of the applicant. A self-created hardship shall not justify a Zoning Variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.	<i>Meets Standard</i> Yes ☒ No ☐ There are no special conditions and circumstances that result in actions from the applicant. The request will not create an hardships to the site.
<i>No Special Privilege Conferred</i> Approval of the Zoning Variance requested shall not confer on the applicant any special privilege that is denied by this Chapter to other lands, buildings, or structures in the same zoning district.	<i>Meets Standard</i> Yes ☒ No ☐ Approval of the variance would not confer a special privilege, based on the special conditions and circumstances related to the variance request.
<i>Deprivation of Rights</i> Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition shall not constitute grounds for approval of any variance. Purchase of property with intent to develop in violation of the restrictions of this Chapter shall also not constitute grounds for approval.	<i>Meets Standard</i> Yes ☒ No ☐ Denial of the variance might be perceived as depriving the commercial vehicle of the ability to park on a site overnight safely and cost effectively. Other properties in the City have allowed similar parking requests.
<i>Minimum Possible Variance</i> The Zoning Variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.	<i>Meets Standard</i> Yes ☒ No ☐ The proposed variance is the smallest possible variance in that it allows the applicant to utilize the office building parking lot overnight at a time when no one else would be utilizing it.
<i>Purpose and Intent</i> Approval of the Zoning Variance will be in harmony with the purpose and intent of this Chapter and such Zoning Variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.	<i>Meets Standard</i> Yes ☒ No ☐ Approval of the variance would be viewed as being harmonious with the purpose and intent of the Code. Continued use of the property within Code requirements will promote the appearance and character of the immediate neighborhood. Granting of the variance would not be detrimental to the public welfare.

Applicant Responses

WHAT ARE THE SPECIAL CONDITIONS AND CIRCUMSTANCES UNIQUE TO YOUR PROPERTY?

1. Our company is a mobile Italian Ice business that partners with schools and organizations to help with fundraising. Our vehicle will be in operation most of the day, away from the office, serving schools and other community partners. We are asking for the opportunity and convenience of parking our vehicle at our office location overnight. Much of the time the vehicle is back in service by 7am. We also partner with Colleges and Universities and youth sports leagues, so the vehicle is away from the office and in service on the weekends as well. Again, usually leaving by 7am and returning usually between 8p and 11p.
2. This property is unique in that the parking lot is located in the rear of the building, thereby prohibiting visibility of the vehicles located in the parking lot from the main roadway. There is also a fence on 3 sides of the property.
3. The property will only be occupied by one tenant and the parking lot is only going to be utilized by the tenant only. This office location is not intended for public use. Specifically, we will not be selling ice from this location. Therefore, the proposed variance will not infringe upon any required parking accommodations of any adjacent neighbor or other persons outside of the tenant.
4. The property is located in an office district which is appropriate for our business, however commercial vehicles are not allowed to park in an office district. Our business is mobile and utilizes a commercial vehicle for its operations but requires an office for administrative dealings. The vehicle is also a part of our office as we make frequent monetary transactions to and fro and is therefore preferable to be adjacent to our office building.

HOW WERE THE SPECIAL CONDITIONS NOTED ABOVE CREATED?

1. Our vehicle is 7 feet wide and 22 feet long. It is classified as commercial only because we have dual rear wheeled tires and is therefore grouped together in the same category as a Semi truck. In fact, on the City of Orlando's website the picture that is highlighting this ordinance is a picture of a Semi truck parked in the front yard (see picture). Our intention is far from what is depicted here.
2. Office space was needed as the company is growing and working with more school partners and organizations. We require an office space that allows us to constantly connect with our new and existing community partners. We have not been able to find any location in a commercially zoned district that is affordable given the small amount of square footage we require and that first and foremost allows our vehicle to be protected and secured during transactions and while being idle at night.

Applicant Responses [Cont'd]

3. We were paying for a sublease to park our vehicle at a location near Orange Blossom Trail. Although this was not an ideal location for our vehicle given an issue regarding exposure and security, it was something we had to deal with in our first year of business. During the middle of the work week we were suddenly told we needed to find a new place in the next two days as our subletter's vehicles were broken into and vandalized. This affected our ability to service our school partners given the short notice and put a significant strain on our operations. Despite this hardship and short notice, we were able to sign a parking lease with our commissary. We have been parking there for over 2 years and in the last 6 months have had weekly issues. The parking lot has recently become too full and is significantly impacting our daily operations. At times we are unable to move our truck in and out in a safe manner. In addition, we have lost inventory many times due to the increased traffic in the area affecting our electrical connection. We have spoken numerous times with the property manager regarding our concerns but continue to suffer financial loss and experience hardship.

CAN YOU ACCOMPLISH YOUR OBJECTIVE IN ANOTHER WAY? LIST ALTERNATIVES YOU HAVE CONSIDERED AND EVIDENCE AS TO WHY THEY ARE NOT FEASIBLE.

The objective is to park our work vehicle in a secure location adjacent to our office safety and for ease of operation. It is not logical or feasible to work in the office and then drive to another location to get to the work vehicle, drive to our school event, then drive back to an off site parking location to park the truck, then drive back to the office then drive home. Especially in circumstances such as these where there is parking space available at the office, the work vehicle would not be visible from the roadway, and the office location with the parking lot is not being utilized by the public.

Regarding our current location, given the significant impact to our operations, we paid extra money to make this location more accommodating to our needs. A solution was provided by the property manager such as a designated parking space, but despite our monetary contribution above expectations, this has been inconsistent and abandoned many times. There are significant issues surrounding ingress and egress of our work vehicle that impact us daily. It became clear that we needed to find a location where we could safely and securely park our truck overnight, without the concern of not being able to access our vehicle to attend a school event the next morning and without the fear of being told to evacuate again immediately.

WOULD APPROVAL OF THIS VARIANCE ALLOW YOU TO DO SOMETHING THAT OTHER PROPERTY OWNERS IN THE SAME SITUATION WOULD NOT BE ALLOWED TO DO?

Approval of the variance would not be viewed as conferring a special privilege, based on the special conditions and circumstances of the property, the vehicle, and the fact that the tenants are the owners of the vehicle. Approval would not confer any special privilege that other constituents could not receive, under similar circumstances, if approved by the Board of Zoning Adjustment. The proposed variance represents the minimum impact possible to make the

Applicant Responses [Cont'd]

simplest workable, safe and efficient use of the land and building, while upholding the objectives of the ordinance.

WOULD DENIAL OF THIS VARIANCE DEPRIVE YOU OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTY OWNERS IN SIMILAR SITUATIONS?

Literal interpretation of the code would deprive us of the rights commonly enjoyed by other office tenants that can park their work vehicles at their actual place of work.

It is not sustainable financially for us to lease a place solely for parking and then lease an office space to conduct business. It is also not sustainable or safe for us operationally to continue with a separate parking location. Our vehicle is an integral part of our business and we want to ensure its safety. The way that can be accomplished is to have it on a property in which we are the sole tenants, one in which we can frequently monitor, and one that is secure with no visibility from the roadway.

Having to maintain a lease at two places, simply because of not being able to park our work vehicle at our office location creates an undue financial hardship. We have been searching for almost a year for locations that are zoned for commercial vehicles however many of the available spaces offer much larger square footage than our office space requires. The increased square footage comes with increased cost that our small business cannot afford at this juncture.

WHAT EFFECTS WILL APPROVAL OF THE VARIANCE HAVE ON ADJACENT PROPERTIES OR THE SURROUNDING NEIGHBORHOOD? (FOR EXAMPLE: ADEQUATE LIGHT, AIR, ACCESS, USE OF ADJACENT PROPERTY, DENSITY, COMPATIBILITY WITH SURROUNDING LAND USES, TRAFFIC CONTROL, PEDESTRIAN SAFETY, ETC)

Approval of the variance will not affect the access, density, traffic, safety, light, air or any other factors related to adjacent properties. Approval of the requested variance would be in harmony with the purpose and intent of the zoning district and the variance would not be detrimental to the neighborhood or public welfare.