

## GROWTH AND RESOURCE MANAGEMENT DEPARTMENT PLANNING AND DEVELOPMENT SERVICES DIVISION

123 West Indiana Avenue, DeLand, Florida 32720

(386) 736-5959

**PUBLIC HEARING:** July 18, 2019 - Planning and Land Development Regulation

Commission (PLDRC)

CASE NUMBER: V-19-062

SUBJECT: A variance to the minimum yard requirements on Urban

Single-Family Residential (R-4) zoned property

**LOCATION:** 321 Niagara Street, Orange City

**APPLICANT(S):** Steven Rioux

**OWNER(S):** Same as above

#### I. SUMMARY OF REQUEST

The applicant requests three variances to the minimum yard requirements to construct an approximate 1,600-square-foot garage with solar panels on the roof in the front yard. The parcel is located in Orange City, Florida. The three variance requests are as follows:

- Variance 1: A variance to reduce the east front yard (Niagara Street) from the required 25 feet to 10 feet for an accessory structure with a solar array.
- Variance 2: A variance to reduce the north front yard (Oakwood Road) from the required 25 feet to 10 feet for an accessory structure with a solar array.
- Variance 3: A variance to reduce the west front yard (Oakwood Road) from the required 25 feet to eight feet for an accessory structure with a solar array.

## Staff Recommendation:

- Variance 1: Deny the variance request, case number V-19-062, as the variance fails to meet five of the five criteria for granting said variance.
- Variance 2: Deny the variance request, case number V-19-062, as the variance fails to meet five of the five criteria for granting said variance.
- Variance 3: Deny the variance request, case number V-19-062, as the variance fails to meet five of the five criteria for granting said variance.

## **II. SITE INFORMATION**

1. Location: The southwest corner of the intersection of Niagara Street

and Oakwood Road, Orange City

Parcel Numbers: 8003-31-00-0110
 Property Size: ± 1.18 acres

4. Council District: 1

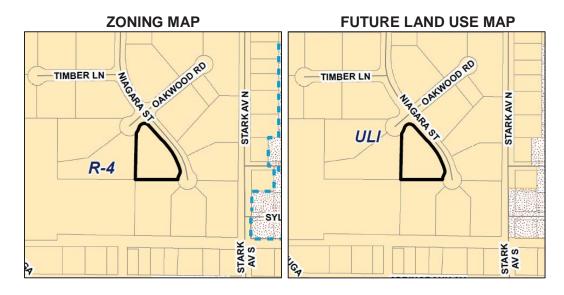
5. Zoning: Urban Single-Family Residential (R-4)

6. Future Land Use: Urban Low Intensity7. Overlays: Not Applicable8. Local Plan Area: Not Applicable

9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	EXISTING USE	
North:	R-4	Urban Low Intensity	Oakwood Road; single- family residence	
East:	R-4	Urban Low Intensity	Niagara Street; single- family residence	
South:	R-4	Urban Low Intensity	Single-family residence	
West:	R-4	Urban Low Intensity	Single-family residence	

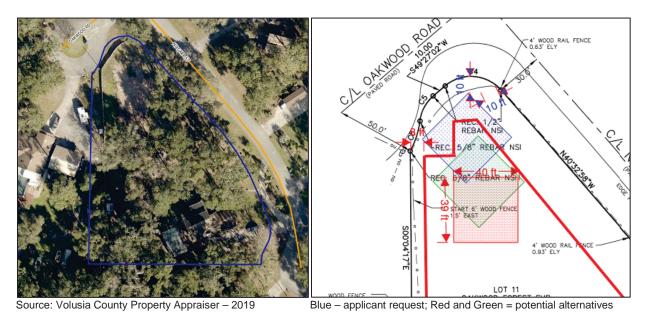
## 10. Location Maps:



### III. BACKGROUND AND OVERVIEW

The subject parcel is at the southwest corner of Niagara Street and Oakwood Road in Orange City. It is a corner lot which has two front yards and two side yards. The property is 1.18 acres in size, and it includes a two-story residence and a screened-in swimming pool near the south side of the property. Access to the property is via a concrete driveway near the southeast corner of the property. The applicant purchased the property in November 2016. He seeks to build an approximate 1,600-square-foot garage with solar panels on the roof that will encroach into the front yards. The structure and solar panels are proposed to be located near the northern edge of the property approximately 10 feet from the property boundary. The applicant is proposing a second driveway access for the new garage near the intersection of Niagara Street and Oakwood Road on the north side of the property.

Section 72-277(1) of the zoning code states that accessory structures cannot be located in the front yard. They must meet the minimum front yard setback of the applicable zoning classification. Additionally, Section 72-277(1)e states that structures exceeding 500 square feet in area shall meet the same yard requirements as the principal structure in all the yards. The applicant needs variances to allow construction of the garage in the front yard and to build in the setbacks. He is requesting the variances to ensure maximum output from his proposed solar array. The graphic below depicts the applicant's request for 10-foot front yards in blue ink. The green and red boxes represent potential alternatives to construct an accessory structure without encroaching into the setbacks.



The minimum yard requirements in the current R-4 zoning classification are: front yard – 25 feet, side yard – 20 feet combined (minimum 8 feet on any one side), and rear yard – 20 feet. Approximately 2/3 of the applicant's property is wooded. The northern 1/3 of the property is generally devoid of trees. A review of historic aerial photographs indicates that the northern portion of the property was wooded prior to 2017 (see attached aerials).

### IV. REVIEW CRITERIA AND ANALYSIS

Section 72-379(1)a.4 of the Zoning Code contains five applicable criteria by which a variance application may be granted. The following staff evaluation is based on these criteria:

i. 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 classification.

Variance 1, 2, and 3: The parcel is a corner lot. It is generally triangular in shape, and it contains two front yards and two side yards. The western property boundary is considered a front yard where it abuts Oakwood Road, and it becomes a side yard south of the curve in the lot line. The parcel is 1.18 acres in size. Even with the unique shape of the property, there is sufficient space to construct the new building without encroaching on the setbacks. Due to the size of the structure, some trees may need to be removed.

Staff finds that this criterion is not met.

## ii. The special conditions and circumstances do not result from the actions of the applicant.

Variance 1, 2, and 3: The applicant is seeking to add a large, detached garage to his property. He has selected the location for the structure, so the circumstances result from the direct actions of the applicant.

Staff finds that this criterion is not met.

iii. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification, under the terms of the ordinance, and would work an unnecessary and undue hardship on the applicant.

Variance 1, 2, and 3: All homeowners in the R-4 zoning classification are required to maintain the same setbacks. No historic or specimen trees were noted by the Environmental Permitting staff during the variance review, so the homeowner would be able install a solar array and could remove trees if they impact the output of the solar generating system.

Staff finds that this criterion is not met.

# iv. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.

Variance 1, 2, and 3: The applicant has stated that the primary purpose for the variance request is to maintain the maximum efficiency of a new solar system. In order to achieve this goal, the applicant believes that he needs to place the solar panels on top of a new 39-foot wide by 40-foot long garage that is proposed to be built in the front yard and in

the setbacks. However, other options are available to the applicant. The panels could be constructed on posts instead of on top of a new garage. The garage could be smaller to reduce the impacts to front yards. The building could be shifted further to the west and south to reduce the impacts to the front yards. Since there are no historic or specimen trees present, and the property shows evidence of prior clearing activities, additional trees could be removed to allow the building to be constructed with little or no impacts to the front yards. In this case, maximizing the efficiency of the solar equipment may require the removal of some additional trees.

Staff finds this criterion is not met.

v. The grant of the variance will be in harmony with the general intent and purpose of this ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, and that such variance will not be injurious to the area involved.

Variance 1, 2, and 3: The intent of the R-4 zoning classification is to provide medium-density residential developments, preserving the character of existing or proposed residential neighborhoods. Setbacks are intended to allow sufficient separation of space between adjacent buildings. Accessory structures are not allowed in front yards. The adjacent neighbors did provide letters of support for the project, so it does not appear that it will be injurious to the current neighbors, but it could start a precedent for other property owners in the area wanting to place large, accessory structures in their front yards.

Staff finds that this criterion is not met.

#### V. STAFF RECOMMENDATION

Deny variance 1, case number V-19-062, as it fails to meet five of the five criteria for granting said variance.

Deny variance 2, case number V-19-062, as it fails to meet five of the five criteria for granting said variance.

Deny variance 3, case number V-19-062, as fails to meet five of the five criteria for granting said variance.

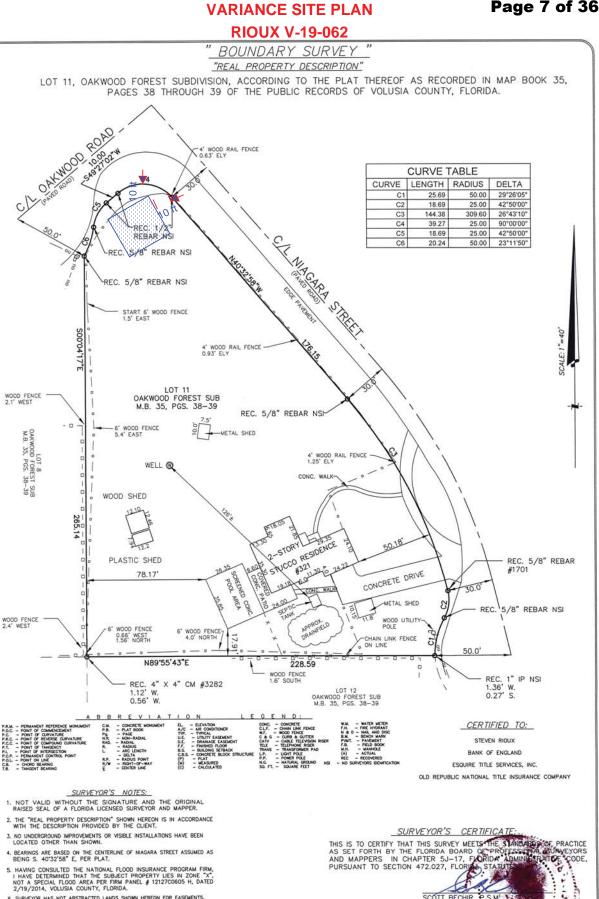
### **VI. ATTACHMENTS**

- Variance Site Plan
- Written Petition
- Survey
- Photographs
- Letters of Support
- Map Exhibits

### VII. AUTHORITY AND PROCEDURE

The commission may, except as otherwise provided in Section 72-379 of the zoning code, authorize, after due public notice upon application on a form prescribed by the zoning enforcement official, such variance or variances from the terms of this ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provision of this ordinance would result in unnecessary and undue hardship. Said variance application shall be heard only if it is presented by the person owning 51 percent or more of the specific area of land involved or upon an administrative application by the county council.

Any new information to be presented at the planning and land development regulation commission meeting for any application will be grounds to continue an application to the next planning and land development regulation commission meeting. Applicant shall inform and provide staff with the new information prior to the planning and land development regulation commission meeting.



- 6. SURVEYOR HAS NOT ABSTRACTED LANDS SHOWN HEREON FOR EASEMENTS, RIGHTS-OF-WAY OR ANY OTHER MATTER OF RECORD WHICH MIGHT AFFECT THE TITLE OR USE OF SAID LANDS.

CLIENT: SANDRA MILLER-KEMP REALTY JOB NUMBER: 16-122 CADD DWG. FILE: 16-122

COMMENTS	FIELD	DATE	OFFICE	DATE
BOUNDARY SURVEY	B.W.	9/23/16	S.R.B.	9/27/16
ADDED SEPTIC TANK	B.W.	10/1/16	S.R.B.	10/4/16
UPDATE SURVEY	B.W.	4/25/19	S.R.B.	5/7/19

SCOTT BECHIR, P.S.M. ) PROFESSIONAL SURVEYOR FLORIDA REGISTRATION NE

SERVICES, SCOTT'S SURVEYING INC LB # 7442

> 8 S. HWY 17-92, SUITE 8-A DEBARY, FLORIDA FAX 668-7337 PH. (386) 668-7332



## Written Petition for a Variance

Section 72-379(1)(a)(4) of the Zoning Ordinance of Volusia County, as amended, requires that each applicant for a variance submit a written petition as part of the application. The written petition must clearly describe how the variance request satisfies all of the specific conditions necessary for the granting of the variance.

The following items must be completed in sufficient detail to allow Current Planning to determine if the application complies with the Ordinance. (Use additional sheets if necessary.)

1.	What special conditions and circumstances exist which are peculiar to your land, structure, building or sign that are not applicable to other lands, structures, buildings or signs in the same zoning classification. Are these special conditions and circumstances the result of actions by you?						
	All avestions answered on attached doc.						
2.	How would literal interpretation of the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning classification? How would this interpretation be an unnecessary and undue hardship on you?						
3.	Explain how the variance you are requesting is the minimum variance that will make possible the						
	reasonable use of your land, building, structure, or sign.						
4.	How is your request consistent with the general intent and purpose of the Volusia County Zoning Ordinance and Comprehensive Plan, which are to promote public health, safety, morals, and the general welfare; and to preserve the character, appearance and aesthetic qualities of Volusia County?						
5.	Explain how your request for a variance will not be injurious to the surrounding area.						

- 1. There are several special conditions for my property that are not the results of action by myself.
  - a. High shading currently there are many trees on my lot and adjacent lots. My current home is shading for most of the day due to these trees. This means that adding solar to my principle residence is not practical, especially since a good number of trees are not on my property and I have no right to remove or trim said trees. For this reason, I would like to build a accessary structure as far north on my property as I can so that it is away from any shading, and would reduce the number of trees I would need to remove or trim in order to have the most productive system.
  - b. Due to the location of our property, we have a large area that requires the 25-foot set back, that classifies roughly 10,000 square feet of our lot as non-buildable area, and further more since this is a corner lot and the building we are planning on is 40 feet long in order to have the front outside the setbacks, it places the building almost 40 feet from the corner.
- 2. There are several consequences for us if we follow the literal interpretation of the zoning ordinance.
  - a. The building would need to be places at about 40 feet from the corner and 25 feet from the front lot line, placing it here would cause shadows over the roof and drop the efficiency of the solar panels. Placing it here also increases the changes of neighboring tree to cast shadows on the building. Currently there is at least 1 tree on a neighboring lot that would cast shadows, this is enough to reduce the system to nearly zero in some cases. Also, this system has an expected life of at least 25 years, so one tree now can easily turn into many trees in the future. By placing the building as far North east on my property as possible gives my more control to maintain trees that may interfere with the efficiency of the system.
  - b. Our goal is to have a sustainable life style on our own land, and to hopefully pass that lifestyle onto our children. Solar is a step to generate our own power and not rely on fossil fuels to do so, unfortunately if we can not place the system in an optimal location it becomes a larger expense and not worth the monetary investment.
  - c. Like the trees, this building will also cast large shadows. As part of our sustainable lifestyle we are adding in raised garden beds to grow some of our own food. To do this we also need natural light on the yard, since the south is already full of shadows from the trees earlier described, it is ideal to place the garden beds in the center of the lot and the building on the north end, allowing the building shadows to not effect out crops.
- 3. The ideal location of the building would be right on the lot line with the peak running east to west, this will give maximum efficiency and increased sun exposure. But I understand that some may not see that esthetically pleasing. Our proposal is to place the building 10 feet back from the front lot line and turn the peak of the building to follow the lot line to make it more appealing visually. Turning the building will also reduce efficiency so its important for me to maintain the location of 10 feet from the front line in order to not continue to reduce the efficiency. Turning the building will place the back corner 10 feet from the north west lot line. I designed the building to be able to handle my current electricity load plus some losses, I will be using some of the most efficient solar panels on the market in order to reduce the building area required. The building is sized so the car port and the south side of the roof (side the carport is

- attached to ) will be covered in solar panels this will allow maximum output. While giving my family a covered area for outside and inside storage.
- 4. Placing the building where I am requesting will allow us to save several trees on our property which is something the county and the state care about. Using solar does have an impact a direct to any community. The system I designed will produce about 15KW of power, this will reduce our electric bill and dependence on fossil fuels and other carbon producing processes to virtual zero. That means that this one system will reduce the carbon footprint of Volusia county by almost 30,000 lbs per year, which is equivalent to planting about 420 trees per year. By being the first people to place solar in our community our goal is to increase interest and hopefully get more of our neighbors to add system to their homes too. Please also note that neighbors are supportive of the building being placed here and I have submitted letters signed by the neighbors.
- Not only will this variance not be injurious to the surrounding area it will hopefully improve it.
   As explained in number 4 there are benefits to the environment, and there are really no negative effects of placing the building in this location.

From: steve rio <srio 88@gmail.com>
To: Patricia Smith pssmith@volusia.org>

**Da :** 6/20/2019 9:02 AM **Subj ct:** Re: shed/solar variance

#### Hi Trish.

ill ork on a dra ing for items 1-4 today.

The inside of the building ill be used for storage of personal items and vehicles. It ill be a garage.

There are 2 reasons that the panels should be installed on the garage:

- 1. The elevation ill reduce obstructions from covering the panels.
- . We ant to be able to use our land, having a building ill give us usable space belo the array, the array itself takes up a considerable amount of area, so having it raised ith storage space belo lets us maximize our space. There are also several older sheds that are on the property, one as built ith the house, the goal is to erect this building and remove those others.

The solar panels on our roof are for pool heating and installed by previous o ner. They are not very efficient because of the amount of sun they get, they actually cool the pool more then heat in the morning and afternoon.

On Thu, Jun 20, 2019 at 8:40 AM Patricia Smith pssmith@volusia.org> rote:

Hi Mr. Rio

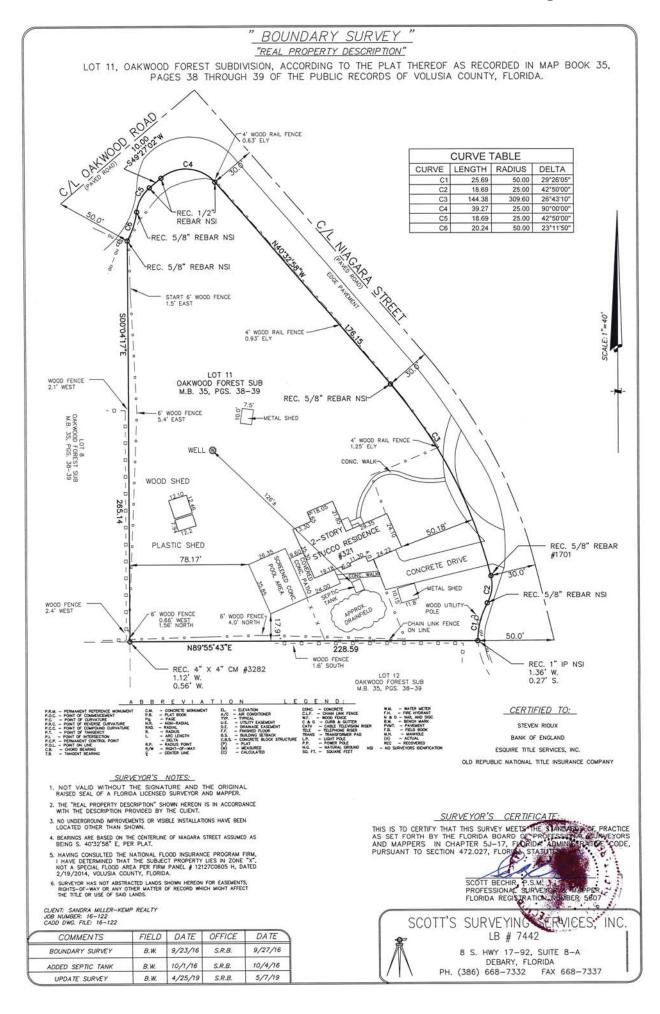
I am the planner working on your variance for the shed combo. We need some additional information before moving forward with this item.

- 1) an elevation of the b ilding that the solar panels will be attached to.
- 2) Dimension for the top of the roof.
- 3) Dimension for the wall height.
- 4) Dimension for the top of the solar panels.
- 5) Floorplan or description of what will be housed inside the b ilding.
- 6) Reason the solar panels need to be installed on the building instead of at ground level.

M ch of yo r application talks abo t the need to place the solar panels where they can provide ma im mo tput. D ring our site visit, we noticed that there are also solar panels on your home. Are these panels currently being sed for your property?

Thanks, Trish

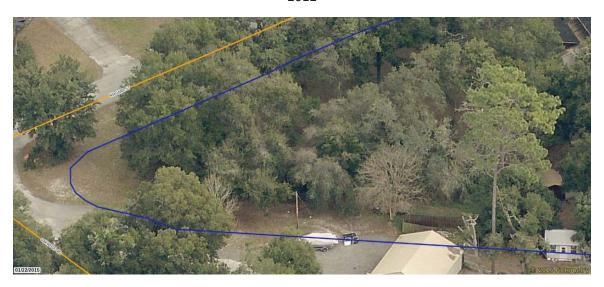
Patricia (Trish) Smith, ICP Planning and Development Services 123 West Indiana ven e. Room 202 DeLand, FL 32720-4604 386.736.5959, e t. 12943 pssmith@vol sia.org



# HISTORIC AERIAL PHOTOGRAPHS (SOIURCE: VOLUSIA COUNTY PROPERTY APPRAISER)



2012



2015



March 2017

# HISTORIC AERIAL PHOTOGRAPHS (SOIURCE: VOLUSIA COUNTY PROPERTY APPRAISER)



September 2017



March 2018



January 2019

## **PHOTOGRAPHS**



Looking west towards the applicant's residence from Niagara Street



Looking west towards the Oakwood Road cul-de-sac from the north side of the applicant' property.

## **PHOTOGRAPHS**



North corner of the applicant's property



Looking south at the applicant's property

## **PHOTOGRAPHS**



Looking south along the applicant's Niagara Street property line



Intersection of Niagara Street and Oakwood Road

Dear Neighbor,

Hello there! We have decided to build a garage / out building on our property. As you may be aware, we have been trying to become more self-sufficient and environmentally friendly. Therefore the main purpose of this building will be to allow us to install solar panels that will provide power for our home. Due to the number of trees on our property it does not make any sense to install the solar panels on our current home. So, we have decided to commission a building located at the North end of our property.

Since we are commissioning this building, we want to place it in an optimal solar location. By placing the building on the North East portion of the property, this will allow all obstructions that would decrease the efficiency of the panels to be on our own property. We will be able to maintain trees without the need to monitor or touch neighboring trees. This will also allow us to not have to clear many trees, if any, to increase the production ability of the system. As an added benefit this system will reduce our carbon foot print by nearly 30,000 lbs., which is equivalent to planting around 420 trees per year!

In order to move forward with the plan, we need to file a variance in order to place the building closer to the road then current set backs allow. Currently we need to maintain a 25-foot set back, but because of the shape of our property the 25-foot setback will be from both Oakwood Road and Niagara Street. Our variance will be requesting a 10-foot setback from both sides.

In order to support an approved decision by the council, we are requesting that you sign and date below, if you have no objection to the proposed variance, as we will be submitting these forms with the variance application. Please do not feel obligated to sign and only do so if you are ok with the addition.

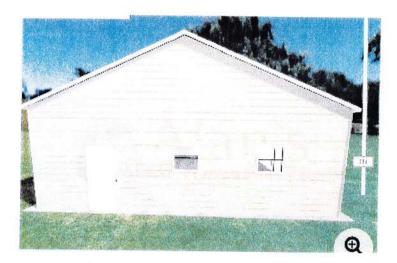
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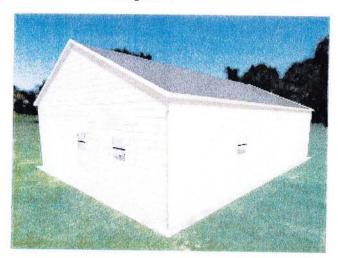
Printed Name

Signed Name

Date



Front View from Niagara St



Corner view from corner of Niagara and Oakwood Road



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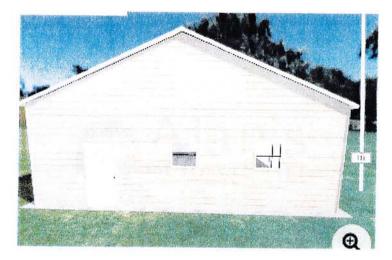
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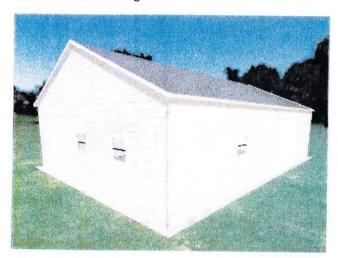
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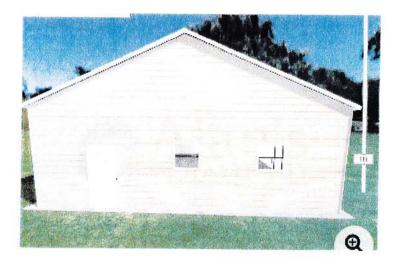
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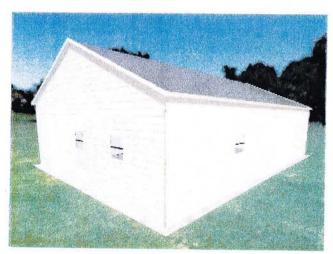
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Signed Name

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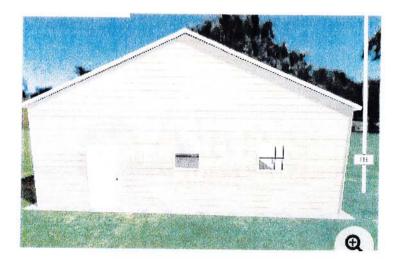
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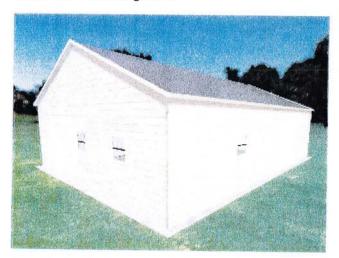
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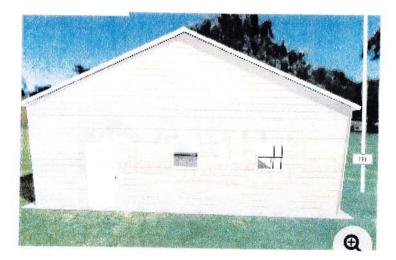
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Steve & Audrey Rioux

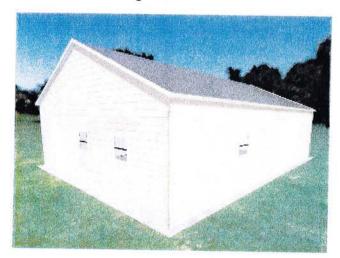
Printed Name

Signed Name

Data



Front View from Niagara St



Corner view from corner of Niagara and Oakwood Road



Dear Neighbor,

Hello there! We have decided to build a garage / out building on our property. As you may be aware, we have been trying to become more self-sufficient and environmentally friendly. Therefore the main purpose of this building will be to allow us to install solar panels that will provide power for our home. Due to the number of trees on our property it does not make any sense to install the solar panels on our current home. So, we have decided to commission a building located at the North end of our property.

Since we are commissioning this building, we want to place it in an optimal solar location. By placing the building on the North East portion of the property, this will allow all obstructions that would decrease the efficiency of the panels to be on our own property. We will be able to maintain trees without the need to monitor or touch neighboring trees. This will also allow us to not have to clear many trees, if any, to increase the production ability of the system. As an added benefit this system will reduce our carbon foot print by nearly 30,000 lbs., which is equivalent to planting around 420 trees per year!

In order to move forward with the plan, we need to file a variance in order to place the building closer to the road then current set backs allow. Currently we need to maintain a 25-foot set back, but because of the shape of our property the 25-foot setback will be from both Oakwood Road and Niagara Street. Our variance will be requesting a 10-foot setback from both sides.

In order to support an approved decision by the council, we are requesting that you sign and date below, if you have no objection to the proposed variance, as we will be submitting these forms with the variance application. Please do not feel obligated to sign and only do so if you are ok with the addition.

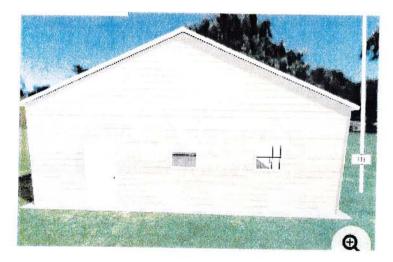
Thanks for the consideration,

Steve & Audrey Rioux

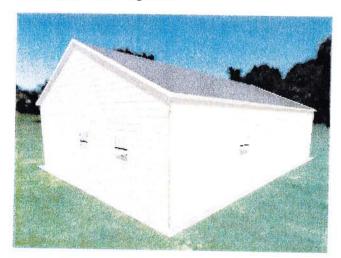
Printed Name

Signed Name

Date



Front View from Niagara St



Corner view from corner of Niagara and Oakwood Road



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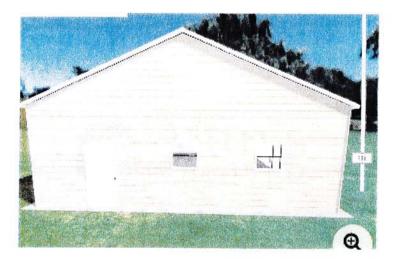
blakwasa

Steve & Audrey Rioux

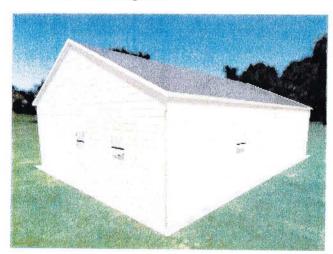
**Printed Name** 

Signed Name /

Date



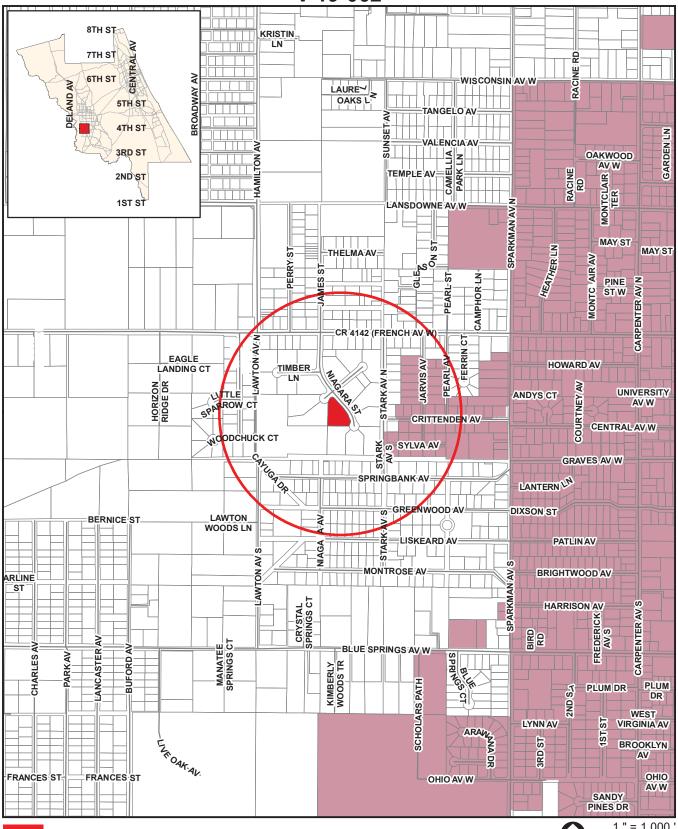
Front View from Niagara St



Corner view from corner of Niagara and Oakwood Road

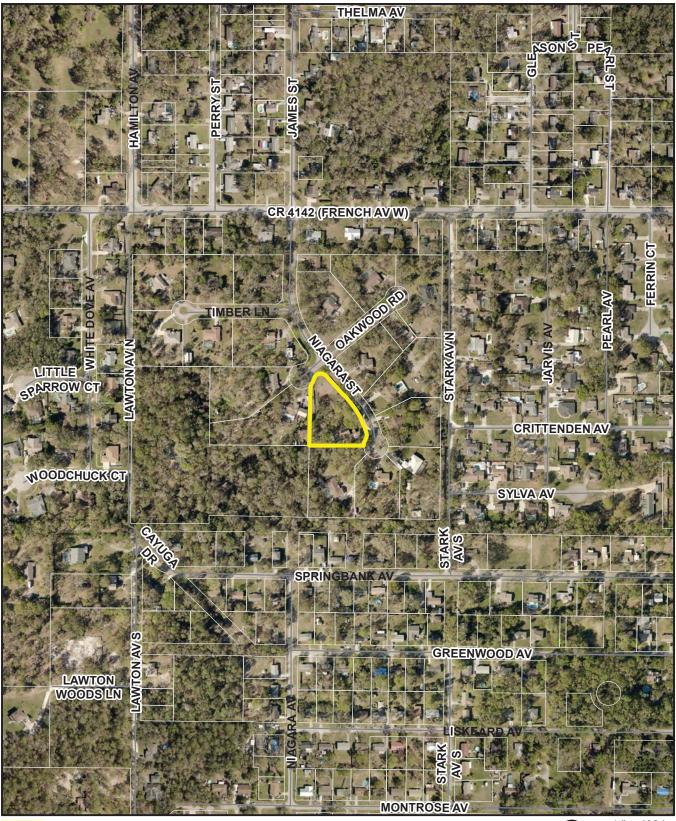


# PROPERTY LOCATION V-19-062

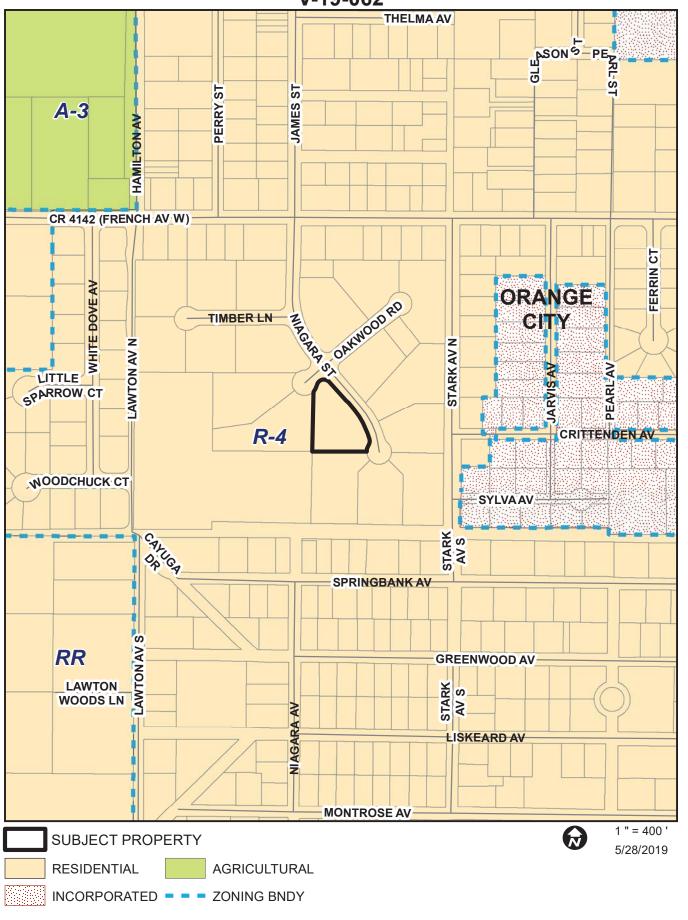


1 " = 1,000 ' 5/28/2019

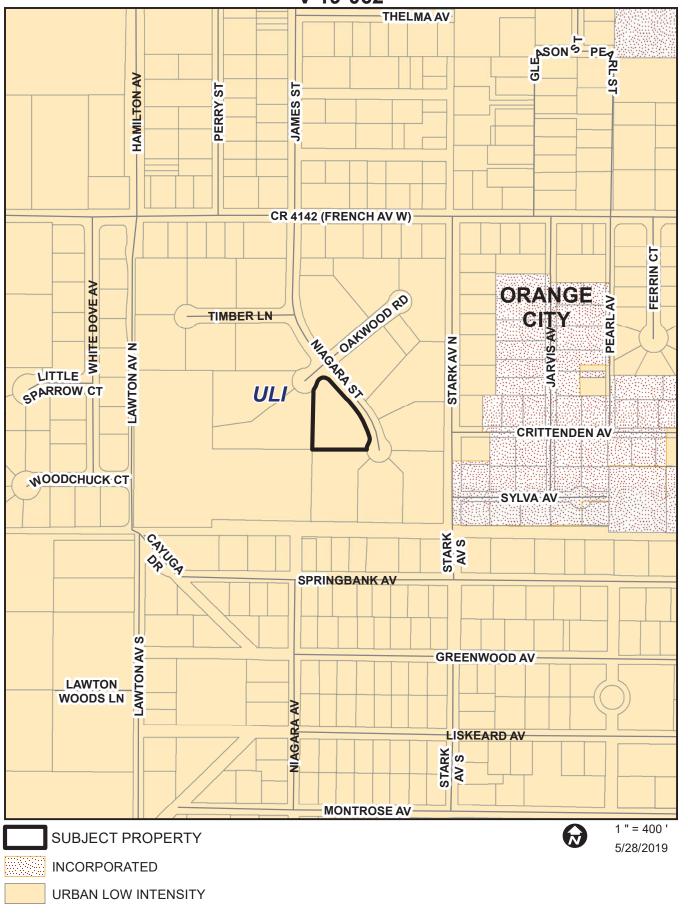
# **AERIAL** V-19-062



## ZONING CLASSIFICATION V-19-062



## FUTURE LAND USE V-19-062



## ECO/NRMA OVERLAY V-19-062

