



STAFF REPORT

LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: 321-733-3042

landdevelopmentweb@palmbayflorida.org

Prepared by

Althea Jefferson, AICP, Assistant Director

CASE NUMBER

V24-00004

PLANNING & ZONING BOARD HEARING DATE

June 5, 2024

PROPERTY OWNER & APPLICANT

Odyssey Preparatory Academy –
Grapefruit League Land Group LLC (Jake
Wise, Rep.)

PROPERTY LOCATION/ADDRESS

Located at the southwest corner of Emerson Drive NW
and Glencove Avenue NW. Parcel I.D. 28-36-22-KO-I;
Tax Account 2804057

SUMMARY OF REQUEST

A **Variance** request to allow a 30-foot structure where the maximum
allowed height is 25 feet, as established by Section 185.042(F)(6)
of the Palm Bay Code of Ordinances.

Existing Zoning

NC, Neighborhood Commercial

Future Land Use

COM, Commercial

Site Improvements

Vacant Land

Site Acreage

Approximately 9.18 acres

SURROUNDING ZONING & USE OF LAND

North

NC, Neighborhood Commercial, Vacant Land

East

NC, Neighborhood Commercial (Vacant Land) and RS-2, Single-
Family Residential

South

RS-2, Single-Family Residential

West

IU, Institutional; Church

BACKGROUND:

The subject property is located at the southwest corner of Emerson Drive NW and Glencove Avenue NW and consists of approximately 9.18 acres in the NC, Neighborhood Commercial Zoning District.

The applicant currently has an application for site plan approval under administrative review to develop a public charter school for students attending kindergarten through eighth (8th) grade. The proposed school features a two-story structure containing 65,310 square feet, a soccer field, basketball courts, two small playgrounds, parking areas with drive isles for student drop-off and pick-up.

The subject application is for a variance request to allow the development of a 30-foot structure where the maximum allowed height is 25 feet, as established by Section 185.042(F)(6) of the Palm Bay Code of Ordinances.

ANALYSIS:

Variances from the terms of the Land Development Code may be granted when special conditions exist that would result in unnecessary hardship if the provisions of the Land Development Code were enforced. However, a variance may not be granted when the public health and safety would be compromised as a result of the variance. A variance request must demonstrate that all criteria in Section 169.009(B)(1) - (7) of the Code of Ordinances have been met, as follows:

Item 1 - *"Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings or structures in the same land use category, zoning district, or situation."*

Applicant Response: "Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands. The property is unique in it's size being 9.17 acres, the school is an allowable use in the zoning, and the zoning allows for two-story. However a modern two-story classroom building with today's technology needs a little more space floor to floor to maximize natural light and provide the best educational setting for school children. The site is unique in that has most likely a future gas station to the east on a currently vacant parcel and a church to the west so the school use is the perfect transition from more intense to less from east to west along a major City corridor being Emerson Road. The building is located as far north, i.e. closer to Emerson Road, to provide the biggest buffer to the single family residential to the south."

Staff Review: Special conditions and circumstances do exist which are peculiar to the structure involved and which are not applicable to other buildings in the same situation.

Item 2 - *"The special conditions and circumstances identified in Item 1 above are not the result of the actions of the applicant."*

Applicant Response: "The special circumstances are not the results of the actions of the applicant."

Staff Review: The special conditions and circumstances peculiar to this property were not created by the applicant.

Item 3 - *"Literal interpretation and enforcement of the Land Development Code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same land use category, zoning district or situation under the terms of the Land Development Code and would work unnecessary and undue hardship on the applicant."*

Applicant Response: "There are multiple schools in Palm Bay with two-story buildings which is allowable in both the land development code and the current zoning. Denial of this variance would deprive the applicant of rights enjoyed by other properties, and would result in an unnecessary and undue hardship on the applicant. The applicant has two other campuses in Palm Bay and has been a great community partner for decades including multiple awards from City Council. They are truly providing a need for the underprivileged school children in the community."

Staff Review: The literal interpretation and enforcement of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same situation.

Item 4 - *"The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building, or structure."*

Applicant Response: "The variance, if granted, is the minimum necessary."

Staff Review: The proposed variance is the minimum necessary relief for construction of the structure, as proposed.

Item 5 - *"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 land use category, zoning district or situation."*

Applicant Response: "Granting of the variance will not confer on the applicant any special privilege that is denied by the development code to other lands."

Staff Review: Granting of the variance will confer a special privilege to the applicant.

Item 6 - *"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."*

Applicant Response: "The granting of the variance is in harmony with the general intent and purpose of the code, and will not be injurious to the surrounding properties or detrimental

to the public welfare. In fact the granting of the variance is the opposite, it provides a real need for the community and is an allowable use in the zoning.”

Staff Review: Granting this 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.

Item 7 - *"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 reasonably burdened the applicant's property, based on the recommendations of the special master appointed in accordance with the act, or the order of a court as described in the act."*

Applicant Response: “Bert Harris is not applicable.”

Staff Review: Staff has not received a claim made upon this property, with respect to the "Bert J. Harris Act," or any development order, as indicated above. Therefore, Item 7 is not applicable to this variance request.

STAFF RECOMMENDATION:

Staff recommends approval of V24-00004, based on the facts presented, as required under Section 169.009 of the City of Palm Bay Code of Ordinances.

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief, is required to meet the needs of the variance being requested, as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.







