**Property Location:** 1586 Eastin Ave. (Parcel ID #23-22-29-0166-00-050, north of Shady Ln. between Edgewater Dr. and Eastin Ave.) (±0.27 acres, District 3).

**Applicant’s Request:**
Variance of 4 ft. to allow a 10 ft. high fence on a residential lot, where a maximum 6 ft. tall fence is allowed (per 58.929). The fence will replace an existing 9.5 ft. fence and serve as a buffer to the more intense (Post Office) use to the north.

**Staff’s Recommendation:** Approval of the requested variance.

**Public Comment:**
Courtesy notices were mailed to property owners within 300 ft. of the subject property the week of May 10, 2016. As of the published date of this report, staff has not received a response from the public concerning this request.
PROJECT ANALYSIS

Project Description
The subject property which is currently under construction with a two-story single family residence is located south of a United States Postal Service Building. The back or loading zone faces the side of the new single family structure. The applicant is requesting a variance to replace the 9.5 ft. high chain link fence which currently sits between the subject property and the post office with a 10 ft. high PVC decorative fence.

The property is zoned R-1/T (One Family Residential in the Traditional Overlay District), and is designated as Residential Low Intensity on the City’s Future Land Use map.

<table>
<thead>
<tr>
<th>Future Land Use</th>
<th>Zoning</th>
<th>Adjacent Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Residential Low Intensity (RES-LOW)</td>
<td>United States Post Office (College Park)</td>
</tr>
<tr>
<td>East (across Eastin Ave.)</td>
<td>Residential Low Intensity (RES-LOW) &amp;</td>
<td>Single-Family Home &amp; Lake Ivanhoe</td>
</tr>
<tr>
<td></td>
<td>Conservation (CONSERV)</td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>Residential Low Intensity (RES-LOW)</td>
<td>Single-Family Homes</td>
</tr>
<tr>
<td>West</td>
<td>Mixed Use Corridor, Medium Intensity (MUC-MED)</td>
<td>Medium Intensity Mixed Use Corridor,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Traditional City, Edgewater Drive SP,</td>
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<tr>
<td></td>
<td></td>
<td>Appearance Review (MU-1/T/SP/AR)</td>
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<tr>
<td></td>
<td></td>
<td>Commercial</td>
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<tr>
<td></td>
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<td>Retail</td>
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<tr>
<td></td>
<td></td>
<td>Office</td>
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</tbody>
</table>

Previous Actions:
2002: Property platted as part of the Andersen Terrace A Replat subdivision
2015: current owners (Zach Sonberg and Erin Day) purchased the property
2015: Applied for building permits to construct a single family residence with attached garage

Conformance with the LDC
The property is zoned R-1/T with lot dimensions of 85.72 ft. wide x 147.6 ft. deep (11,561 sq. ft., per the Orange County Property Appraiser). The 0.27-acre lot meets the minimum lot area (6,000 sq. ft.), lot depth (110 ft.) , and the lot width (55 ft.) requirements.

According to section 58.929 of the Land Development Code, rear and side yard residential fencing shall not exceed 6 feet in height—except where the property is contiguous to a commercial or industrial use in which case higher fencing shall be permitted along the common property line in accordance with the bufferyard requirements of Chapter 60.

The property is considered Class I (One Family Dwelling in a Residential zoning district) and the United States Post Office is generally considered a Class V (public benefit use) which yields the bufferyard C minimum requirements. Bufferyard C requires a minimum:

- Option 1: 12.5 ft. width; 80% tree coverage; 1 row of evergreen shrubs; continuous 6’ height wall; vegetative cover over remainder; or
- Option 2: 20 ft. width; 80% tree coverage; 1 row of evergreen shrubs; vegetative cover over remainder.

The above mentioned bufferyard is required because the existing abutting Class IV, V or VI has no bufferyard or an insufficient bufferyard. No bufferyard is required abutting vacant land.
PROJECT ANALYSIS

Analysis

The applicant has requested a variance of 4 ft. to replace an existing 9.5 ft. chain link fence with a 10 ft. pvc wall/fence along the north side of the lot, where a maximum 6 ft. tall fence is allowed (per 58.929).

Section 58.929 of the Land Development Code states:

The existing 9.5 ft. chain link fence is not a sufficient buffer between the low intensity (single family) use and the high intensity (post office) use to the north. The proposed 10 ft. high wall will be constructed with similar materials used to the west of the property (as a buffer to the office building behind the property). The applicant has provided letters of support from the College Park Post Office, President– Homeowners Association, Vice President– Homeowners Association, and three property owners. Staff recommends approval of the variances per the conditions in this report.

AERIAL PHOTO
SITE PHOTO

Vacant lot, property located south of the subject site.

Single Family Residence with attached garage on subject site

Property located south of the subject site

View of the Post Office from the north side of the subject site

Existing 9.5 ft. chain link fence (along north property line)

Proposed 10 ft high PVC fence

9.5 ft. existing chain link fence

6 ft high PVC fence.

North view of the subject site and single family property
Proposed 10 ft. PVC fence
FINDINGS AND RECOMMENDATIONS

Requested Variance:
Variance of 4 ft. to allow a 10 ft. high fence on a residential lot, where a maximum 6 ft. tall fence is allowed (per 58.929).

Staff Recommendation: Approval of the variance request, based on the findings the variance meets the six standards for approval of a variance, subject to the following conditions:

1. Development shall be in strict conformance with all conditions, the surveys, and the photographs 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.
2. All applicable City, County, State or Federal permits must be obtained before commencing development.
3. A starter landscaping package shall be required. The starter package shall include: turf grass, shrubbery, at least one street tree, and a front yard tree. The projected canopy spread of the tree at maturity shall not be closer to the electric transmission line than ten feet. Review the website listed to assist with tree selection (http://www.cityoforlando.net/trees/)
4. Fence was approved based on information submitted for variance. Installed fence shall be consistent of image provided.

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**

**Special Conditions and Circumstances**

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.

<table>
<thead>
<tr>
<th>Meets Standard</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>The high intensity public benefit (post office) use creates a special condition for the applicant. The close proximity of the back of house operation for the post office to the northern portion of the single family residence create a special circumstance for the applicant to develop on the residential lot.</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

**Not Self-Created**

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.

<table>
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<th>Meets Standard</th>
<th>Yes</th>
<th>No</th>
</tr>
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<tr>
<td>The applicant did not create the need for additional buffer space. The property was platted in 2001, fourteen (14) years prior to the applicant’s purchase of the site in 2015. The post office building was constructed on the 1705 Edgewater Drive site in 1977.</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

**No Special Privilege Conferred**

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.

<table>
<thead>
<tr>
<th>Meets Standard</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>The granting of the variance would not confer a special privilege on the applicant. The applicant would receive a variance to construct a wall similar to an existing wall on the western portion of the site to buffer another high intensity use (along Edgewater Drive).</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

**Deprivation of Rights**

Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other property owners. The loading and delivery operations of the post office to the north is a high intensity use, similar to the use west of the property. Other property owners on the same block face (south of the subject site) have constructed a 10 ft. high brick wall to buffer their residential use and the office/commercial use to the west.

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<tr>
<td>A literal interpretation of the Code would deprive the applicant of rights commonly enjoyed by other property owners. The loading and delivery operations of the post office to the north is a high intensity use, similar to the use west of the property. Other property owners on the same block face (south of the subject site) have constructed a 10 ft. high brick wall to buffer their residential use and the office/commercial use to the west.</td>
<td>Yes</td>
<td>No</td>
</tr>
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</table>

**Minimum Possible Variance**

The Zoning Variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.

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<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>The request is the minimum possible to allow for reasonable use of the subject site/property for single family residential development.</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

**Purpose and Intent**

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.

<table>
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<tr>
<th>Meets Standard</th>
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</tr>
</thead>
<tbody>
<tr>
<td>The granting of this variance request is not contrary to the purpose and intent of the Code, which states that a residential fence shall not exceed 6 feet in height—except where the property is contiguous to a commercial or industrial use in which case higher fencing shall be permitted along the common property line in accordance with the bufferyard requirements of Chapter 60.</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
1) WHAT ARE THE SPECIAL CONDITIONS AND CIRCUMSTANCES UNIQUE TO YOUR PROPERTY?

The properties at 1586 Eastin Avenue and Lot 4, Andersen Terrace A Replat are adjacent to a fully operational Post Office with loading docks that can be in use at all time during the day and night. The proposed variance is to replace an existing, 9 ½ foot, chain link fence with an improved, privacy fence of similar height. Also, adjacent to the existing fence is a knee high retaining wall, approximately 2 feet tall. This effectively reduces the height of the fence by 2 feet on the post office property where the knee high retaining wall exists. As government property, the Post Office use is similar to commercial use where special consideration may be given for fence structures that separate commercial and residential use properties. On the west side of 1586 Eastin Avenue, as well as all properties west of Eastin Avenue in the Andersen Terrace Homeowner’s Association ("HOA"), is an existing 9 foot brick wall with 10 foot columns that separates residential properties from the adjacent, commercial use property.

The Post Office has indicated that a replacement fence should be of similar height to the existing fence. The Post Office has used barbed wire to achieve desired height levels for the other bordering chain link fences on their property.

There is unanimous approval among the HOA and the Post Office, both of whom are most directly affected by the proposed fence replacement.

2) HOW WERE THE SPECIAL CONDITIONS NOTED ABOVE CREATED?

Unknown. It is believed by some of the Andersen Terrace HOA members that the post office erected the existing chain link fence many years ago. Orange County property records show the post office was built in 1977 and has likely maintained a fence ever since it was built.

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

Without the requested privacy fence, we would attempt to utilize landscape options that would provide for a natural screen, but this would likely not mitigate the noise from post office loading dock activity. Effective landscape options would require more space than is available along the entire length of the
APPLICANT’S RESPONSES FOR VARIANCE REQUEST

existing fence. Further, these landscape options would take time (years) to fully mature and in some areas may not achieve the desired screen due to limited space and some of the shade conditions of the existing oak trees. Noise mitigation would also not be as effective as a privacy fence.

The Post Office has indicated that a replacement fence should be of similar height to the existing fence. The Post Office has used barbed wire to achieve desired height levels for the other bordering chain link fences on their property.

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

No. On the west side of 1586 Eastin Avenue, as well as all properties west of Eastin Avenue in the Andersen Terrace HOA, is an existing 9 foot brick wall with 10 foot columns that separates residential properties from the adjacent, commercial use property.

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

Yes. There is an existing 9 foot brick wall with 10 foot columns that separate all Andersen Terrace HOA properties on the west side of Eastin Avenue from the adjacent, commercial use property.

6) 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)

Given the existence of the chain link fence, there would not be an impact of approving a replacement fence of similar height. Further, it is believed a privacy fence would be an upgrade from a chain link fence which would increase the value of properties in the Andersen Terrace HOA.