



Legislation Details (With Text)

File #: 2022-7558
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File created: 1/10/2023 In control: Board of Adjustment
On agenda: 1/23/2023 Final action: 1/23/2023
Title: 10032 Bear Lake Road - Request for a side yard (north) setback variance from ten (10) feet to one (1) foot for a boat dock in the R-1 (Single Family Dwelling) district; BV2022-104 (Amy Wheeler, Applicant) District 3 - Constantine (Angi Gates, Project Manager)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Site Plan, 2. Zoning Map, 3. Justification Statment, 4. Property Record Card, 5. Letter of Support.pdf, 6. photos.pdf, 7. Denial Development Order, 8. Approved Development Order

Table with 5 columns: Date, Ver., Action By, Action, Result. Row 1: 1/23/2023, 1, Board of Adjustment, approve, Pass

Title:

10032 Bear Lake Road - Request for a side yard (north) setback variance from ten (10) feet to one (1) foot for a boat dock in the R-1 (Single Family Dwelling) district; BV2022-104 (Amy Wheeler, Applicant) District 3 - Constantine (Angi Gates, Project Manager)

Department/Division:

Development Services - Planning and Development

Authorized By:

Kathy Hammel

Contact/Phone Number:

Angi Gates - (407) 665-7465

Motion/Recommendation:

- 1. Deny the request for a side yard (north) setback variance from ten (10) feet to one (1) foot for a boat dock in the R-1 (Single Family Dwelling) district; or
2. Approve the request for a side yard (north) setback variance from ten (10) feet to one (1) foot for a boat dock in the R-1 (Single Family Dwelling) district; or
3. Continue the request to a time and date certain.

Background:

- The subject property is located in the McNeils Orange Villa subdivision.
The existing boat dock was built without building permits prior to the applicant purchasing the

home in 2020.

- One letter of support was received from the neighbor located at 1628 Bear Lake Road.
- The request is for a variance to Section 70.10(i) of the Land Development Code of Seminole County, which states:
 - (i) All boat docks, boat houses, gazebos, fishing docks, boardwalks, and related structures must have a minimum deck elevation of one (1) foot above the NHWE. Subject to any further constraints imposed by the site, the structure must not project, when measured perpendicularly to a canal or waterbody, more than twenty-five (25) percent into the navigable width of the canal or waterbody, as determined by the Department, nor at any time pose a hazard in navigable waters as determined by the Department. These structures and boat ramps must not be placed within ten (10) feet of a property line. However, upon application, and except where this Code requires a hearing before the Board of County Commissioners, the Board of Adjustment may grant a variance to the length or setback requirements based upon the criteria established in Section 30.43(b)(3) of this Code and may impose appropriate conditions and safeguards in accordance with Section 30.43(b)(4) of this Code.

There have not been any prior variances for the subject property.

Staff Findings:

The applicant has not satisfied all six (6) criteria under Section 30.43(b)(3) of the Seminole County Land Development Code for granting a variance as listed below:

- a. That special conditions or circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or building in the same zoning district; and
- b. That the special conditions and circumstances do not result from the actions of the applicant; and
- c. That the granting of the variance requested will not confer on the applicant special privileges that are denied by Chapter 30 to other lands, buildings, or structures in the same zoning district; and
- d. That the literal interpretation of the provisions of Chapter 30 will deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification; and
- e. That the variance requested is the minimum variance that will make possible reasonable use of the land, building or structure; and
- f. That the grant of the variance would be in harmony with the general intent of Chapter 30.

Staff finds that the following variance criteria have not been satisfied:

The general intent of the Land Development Code is to maintain consistent setbacks; therefore, the grant of the variance would not be in harmony with the general intent of Chapter 30. Section 30.43(b)(3)(f)

Staff Conclusion:

Based upon the foregoing findings, the requested variance is not in the public interest and failure to grant the variance would not result in an unnecessary and undue hardship.

Staff Recommendation:

Based on the stated findings, staff recommends denial of the request, but if the Board of Adjustment determines that the applicant has satisfied all six (6) criteria under Section 30.43(b)(3) of the Seminole County Land Development Code for granting a variance, staff recommends the following conditions of approval:

1. Any variance granted will apply only to the boat dock as depicted on the attached site plan; and
2. Any additional condition(s) deemed appropriate by the Board of Adjustment, based on information presented at the public hearing.