



# SEMINOLE COUNTY, FLORIDA

COUNTY SERVICES  
BUILDING  
1101 EAST FIRST STREET  
SANFORD, FLORIDA  
32771-1468

## Legislation Details (With Text)

**File #:** 2023-138  
**Type:** Variances  
**Status:** Passed  
**File created:** 1/31/2023  
**In control:** Board of Adjustment  
**On agenda:** 2/27/2023  
**Final action:** 2/27/2023  
**Title:** 105 Bayberry Road - Request for a side yard (west) setback variance from ten (10) feet to seven (7) feet for a pool enclosure in the R-1AA (Single Family Dwelling) district; BV2022-111 (Paul Holmes, Applicant) District 3 - Constantine (Angi Gates, Project Manager)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Site Plan, 2. Zoning Map, 3. Justification Statement, 4. Property Record Card, 5. Letter of Support, 6. Denial Development Order, 7. Approval Development Order

Date	Ver.	Action By	Action	Result
2/27/2023	1	Board of Adjustment	approve	Pass

**Title:**

**105 Bayberry Road** - Request for a side yard (west) setback variance from ten (10) feet to seven (7) feet for a pool enclosure in the R-1AA (Single Family Dwelling) district; BV2022-111 (Paul Holmes, 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 (west) setback variance from ten (10) feet to seven (7) feet for a pool enclosure in the R-1AA (Single Family Dwelling) district; or
2. Approve the request for a side yard (west) setback variance from ten (10) feet to seven (7) feet for a pool enclosure in the R-1AA (Single Family Dwelling) district; or
3. Continue the request to a time and date certain.

**Background:**

- The subject property is located in the Apple Valley subdivision and is within the R-1AA (single family dwelling) district.

- The previous pool screen enclosure was built without a building permit prior to the applicant purchasing the home in 2011. Due to hurricane damage in 2022 the applicant would like to reconstruct the enclosure in the same footprint.
- One letter of support was received by the adjacent neighbor located at 103 Bayberry Road.
- The request is for a variance to Section 30.206(b)(2) of the Land Development Code of Seminole County, which states:  
  
(b) On properties assigned the R-1AA, R-1AAA and R-1AAAA zoning classifications, the following minimum yards shall be observed:  
  
(2) Side. Ten (10) feet inside, twenty-five (25) feet street side.
- 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 pool enclosure 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.