

## Exhibit D

### SEMINOLE COUNTY GOVERNMENT BOARD OF ADJUSTMENT AGENDA MEMORANDUM

**SUBJECT:** 149 ACADEMY OAKS PL

**NAVILINE PROJECT NUMBER:** 23-30000053

**AGENDA DATE:** August 28, 2023

**Variance**

#### TITLE

**149 Academy Oaks Place** – (1) a side yard (west) setback variance from ten (10) feet to two and one-half (2½) feet; and (2) a rear yard setback variance from thirty (30) feet to three (3) feet for a shed in the R-1AA (Single Family Dwelling) district; BV2023-053 (John Julius and Jason Hood, Applicants) District 3 - Constantine (Angi Gates, Project Manager)

#### DEPARTMENT

Development Services

#### DIVISION

Planning & Development Division

#### CONTACT

Angi Gates – (407) 665-7465

#### MOTION/RECOMMENDATION

1. Deny the request for: (1) a side yard (west) setback variance from ten (10) feet to two and one-half (2½) feet; and (2) a rear yard setback variance from thirty (30) feet to three (3) feet for a shed in the R-1AA (Single Family Dwelling) district; or
2. Approve the request for: (1) a side yard (west) setback variance from ten (10) feet to two and one-half (2½) feet; and (2) a rear yard setback variance from thirty (30) feet to three (3) feet for a shed 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 Academy Oaks subdivision.
- The existing shed is 240 square feet and encroaches seven and one-half (7½) feet into the required (west) side yard setback and twenty-seven (27) feet into the required rear yard setback.

- Sec. 30.1345. - Accessory buildings and uses in residential areas. (f) In the case of double frontage lots and where there is a conforming six (6) feet high minimum solid fence or wall to the rear of the property and in the case of detached accessory structures under two hundred (200) square feet in size and under twelve (12) feet in height, there shall be a minimum ten (10) feet rear yard setback.
- The request is for a variance to Section 30.206(b) 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.
    - (3) Rear. Thirty (30) feet.
- Three letters of support were submitted from residents throughout the neighborhood. We did not receive a letter of support from the neighbor that will be directly affected.
- A Code Enforcement violation (23-105) was issued for this structure, resulting in the necessity of this variance.
- 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 shed 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.