

# **SEMINOLE COUNTY, FLORIDA**

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



## **Meeting Minutes**

**Monday, May 22, 2023**

**6:00 PM**

**BCC Chambers**

**Board of Adjustment**

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**CALL TO ORDER AND ROLL CALL**

**Present** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen  
**Absent** Larry Wright, and Heather Stark

**OPENING STATEMENT****VARIANCES**

**1201 Pomelo Court-** Request for a side street (east) setback variance from fifty (50) feet to thirty-seven (37) feet for a detached garage in the A-1 (Agriculture) district; BV2023-011 (James Dunn, Applicant) District 5 - Herr (Angi Gates, Project Manager) [2023-254](#)

Angi Gates, Planner, presented this item as stated in the Staff Report.

James Dunn, Applicant, was present and asked if he was able to get the letters of opposition of the neighbors that were received. The applicant stated that he is not requesting the thirty-five (35) feet, he's asking for twenty-one (21) feet and for permission to build a garage, not a storage shed in his driveway. He explained that if they see the layout of the property, the only place that he can put this garage is on the opposite side. He stated that he has two (2) sons that are going to start driving soon and he needs a garage in the driveway and he can't push it back, because of the septic tank and the drain field is there and the only place that the garage can fit logically is where it's being requested. He has letters from neighbors stating that they don't have an issue with the placement of the garage and there is also a neighbor present that would like to speak in support.

Chairman Bernard Johns asked the applicant if he had a copy of the letters. Mr. Dunn responded yes and he passed them to the Clerk. He further explained that one (1) of the letters is from the neighbor that is not present and the other is from the neighbor that is present to speak in support. Chairman Johns asked if the applicant had any further comments and Mr. Dunn asked why the neighbors are in opposition, because in their subdivision almost every lot has a garage. He further stated that within a three (3) miles radius of him, there are already approved variances so for him not to get a variance for a garage in the driveway would be ridiculous.

Chairman Johns stated that as far as the objectors they would have to see if they will come to speak and the applicant would have a chance for rebuttal on the issues that they raise and as far as reading the opposition letters, the applicant would have to get with staff to get the letters and if it gets denied he would be able to appeal it to the Board of County Commissioners.

Austin Beeghly asked the applicant if he has spoken with the neighbors about this request and he responded that he spoke to about five (5) or six (6) neighbors in the immediate area who all have huge garages. He further explained that there's two (2) neighbors that don't like him because he complained about them driving a four-wheeler.

Jim Hattaway asked staff if they are aware of any of the garages that have been built inconsistent with the Land Development Code. Ms. Gates responded that some of the garages received building permits because they met the setback and further stated that in the vicinity, there are no variances for a garage, but they did have a lot of sheds, but nothing similar to this. Mr. Hattaway asked if there's any Code Enforcement actions, and Ms. Gates responded no.

Mr. Hattaway asked Mr. Dunn if there's a possibility to put the garage on the left side of the house and he responded no and stated that it's nowhere near the driveway, so it will ruin all the grass with a building and a driveway. He further explained that the entrance of the house is on the right side and putting the garage on the left side means they will have to walk outside in the front because the entrance is on the opposite side so they don't prefer to take down two (2) trees and a lot of greenery to put a garage where doesn't fit and the septic tank is there in the back, so there's no way he can put it there.

Chairman Johns asked why not put the garage where the carport is and the applicant responded that then he would lose the carport then he further explained that he will be blocking the garage if he put it there. Chairman Johns asked if he already has a garage and a carport and is now trying to build another detached garage and the applicant responded yes.

Mr. Dunn asked the Board how he can get the names of the neighbors that sent the opposition letters in. Ms. Gates responded that he could give her a call to do a public record request.

Raymond Bowen spoke in support of this item and stated that he has been a resident of this community for more than twelve (12) years and he is the neighbor right behind the applicant. He stated that he doesn't have an objection to the placement of the garage as this request is only for thirteen (13) feet.

Connie Brashear spoke in opposition of this item and stated that she's an engineer and she will like to bring her opinion from an engineering view and explained why the setback is necessary as there's a minimum curve and the line would be affected if the garage was put in this location.

Tom Kunzen explained that he might have a conflict because he worked with Mrs. Brashear before.

Mr. Dunn responded that the utility comes from the back so with that there's not going to be any problems and also explained that the structure doesn't affect the line of sight, even if they go more than the speed limit on that curve.

A motion was made by Tom Kunzen, seconded by Jim Hattaway, to continue this variance request to the next meeting.

Mr. Kunzen added that he reviewed the agenda over the weekend and there wasn't an attachment of neighbors support or opposition for this particular variance and when he

got to the meeting, there were a few letters of opposition, so it seems like this situation is more complicated and for the Board to approve this variance request at this time might be a little immature, because there are so many people in opposition that it would cause a bigger situation in the neighborhood and it would be fair to let the other neighbors that are in opposition talk.

Ms. Gates stated that the reason why they didn't receive all the letters in the agenda is because they didn't receive them in time before the agenda was sent to print and everything received after that is always emailed to the Board. She further stated that the opposition doesn't have to be in attendance to be taken into consideration. Mr. Kunzen responded that he understands that they don't have to be there, but when everyone has so many opinions about this, he thinks that additional time for them to talk would be better.

Chairman Johns asked the applicant if he preferred that the Board vote on this now and Mr. Dunn responded yes he preferred it be voted on tonight. Chairman Johns added that it may not matter what they decide as it might get appealed to the Board of County Commissioners, because there's a big number of people objecting to this.

Mr. Hattaway asked Mr. Dunn if he'd rather take his chances tonight than wait to the next meeting and see if they can come to an agreement with the neighbors and he responded that the differences between the neighbors and him are not going to change because he is a car guy and they do a car show once a month and they have called the police on him because of this so unless he stops his car show that he does on the second Thursday of the month, the issues are not going to get resolved and he is not stopping his car show. Mr. Hattaway added that he strongly suggests considering the idea of talking with the neighbors about this issue. Mr. Dunn replied that if they wait until the next meeting it's an extra month and they might not change their opinion. Mr. Hattaway stated that every time there's a contractor or developer that comes and there's a citizen dispute the Board typically suggest to go and talk to them and find a compromise and it usually works, but you also have the right to say no and vote tonight. The applicant asked if they don't vote tonight and he comes back next month what would happen next. Mr. Hattaway responded that there's no promises or guarantees, but talk to the neighbors and work a compromise with them and maybe the opposition will disappear and that would be a different consideration for this Board.

A motion was made by Tom Kunzen, seconded by Jim Hattaway, to continue this variance request to the next meeting.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**4073 Silverstream Terrace** - Request for a side street (north) setback variance from twenty (20) feet to ten (10) feet for a fence in the PD (Planned Development) district; BV2023-026 (Elroy Pascoe, Applicant) District 5 - Herr (Angi Gates, Project Manager)

[2023-487](#)

Angi Gates, Planner, presented this item as stated in the Staff Report. Ms. Gates further explained that there was an email requesting how many variances for fences

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there were in the subdivision and so far, there have been nine (9) approved by this Board.

Jim Hattaway asked staff if among those, the backyard neighbor is included on that list. Tom Kunzen replied yes, they have an approved variance from 2021.

Elroy Pascoe, Applicant, was present but did not have any comments for the Board.

Chairman Bernard Johns stated that the neighbor's setback is at fifteen (15) feet from the property line, but this request is for ten (10) feet when normally when there's an existing fence most people just want to align the fences. He asked the applicant why he would need that extra five (5) feet and the Mr. Pascoe responded that he just wanted to enjoy more of their backyard. Chairman Johns asked how far that puts the fence from the house and the applicant responded around ten (10) feet.

Austin Beeghly advised the Board that he used to work with the applicant.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Austin Beeghly to approve this item. The motion did not pass due to lack of a second.

A motion was made by Tom Kunzen, seconded by Jim Hattaway, to approve this variance request, at fifteen (15) feet to align the fences.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**347 Beach Avenue-** Request for a side yard (east) setback variance from ten (10) feet to one and one-half (1½) feet for a shed in the R-1AA (Single Family Dwelling) district; BV2023-030 (David S. Huysman III, Applicant) District 4 - Lockhart (Angi Gates, Project Manager) [2023-489](#)

Angi Gates, Planner, presented this item as stated in the Staff Report.

David Huysman, Applicant, was present, but did not have any additional comments for the Board.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Jim Hattaway, seconded by Austin Beeghly, to approve this variance request.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**801 Bill Dot Drive** - Request for a side street (north) setback variance from twenty-five (25) feet to twenty-one (21) feet for a fence in the R-1AA (Single Family Dwelling) district; BV2023-032 (Julio Blanco, Applicant) District 3 - Constantine (Angi Gates, Project Manager)

[2023-491](#)

Angi Gates, Planner, presented this item as stated in the Staff Report.

Austin Beeghly asked staff if the fence was already there and they are just replacing the fence. Ms. Gates responded yes. Mr. Beeghly asked if there wasn't a building permit and she responded correct.

Jim Hattaway asked staff if the previous wooden fence had a building permit and Ms. Gates responded that she could not find a building permit and doesn't know when the wooden fence was placed.

Tom Kunzen asked if the new fence was discovered and that is when the Code Violation came into place. Ms. Gates confirmed.

Julio Blanco, Applicant, was present, but did not have any additional comments for the Board.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Tom Kunzen, seconded by Jim Hattaway, to approve this variance request.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**1080 Dyson Drive** - Request for a side street (east) setback variance from thirty-five (35) feet to twenty-six (26) feet for a fence in the RC-1 (Single Family Dwelling) district; BV2023-034 (Dianne Johnson, Applicant) District 2 - Zembower (Angi Gates, Project Manager)

[2023-493](#)

Angi Gates, Planner, presented this item as stated in the Staff Report.

Dianne Johnson, Applicant, was present and stated that she started trying to have her fence replaced in the same location last December but, she was told that the variance was thirty-five (35) feet. However, the fence that was built before she moved in was at 26.9 feet and the previous owner did not have the fence permitted over ten (10) years ago. She explained that if she had to move it an inch, it would be a hardship on her because she would have to relocate bushes and a swing set and move a gate that is facing Dyson Drive. Ms. Johnson advised that she also has letters from the neighbors stating that they did not have a problem with the placement of the fence.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Austin Beeghly, seconded by Jim Hattaway, to approve this variance request.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**5001 Palmetto Avenue** - Request for a side street (south) setback variance from twenty-five (25) feet to thirteen and one-half (13½) feet for a detached garage in the R-1A (Single Family Dwelling) district; BV2023-028 (Jacob Kuzman, Applicant) District 1 - Dallari (Angi Gates, Project Manager) [2023-488](#)

Angi Gates, Planner, advised the Board that this item is being continued to the June 26, 2023 meeting, because they did not post the placard in time to the property.

**1105 Otter Lane** - Request for a side yard (south) setback variance from twenty (20) feet to thirteen (13) feet eleven (11) inches for an accessory structure in the RC-1 (Country Homes) district; BV2023-025 (James & Krystal Goodman, Applicants) District 2 - Zembower (Hilary Padin, Project Manager) [2023-471](#)

Hilary Padin, Planner, presented this item as stated in the Staff Report.

Chairman Bernard Johns asked staff to clarify if a detached structure with a bathroom was prohibited. Kathy Hammel, Principal Planner, responded that they had a recent determination that as long they can confirm in the building permit process that the structure won't be used for a guest house or converted into an accessory dwelling unit, but the Board of Adjustment can also make it a condition of approval. Chairman Johns replied that there's been a change in the determination and Ms. Hammel responded yes, but they would need to put conditions.

James Goodman, Applicant, was present, but did not have any additional comments for the Board.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Austin Beeghly, seconded by Jim Hattaway, to approve this variance request with the condition that it not being utilized as an accessory dwelling unit or guest house.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**3238 Upland Point** - Request for a side street (south) setback variance from fifteen (15) feet to three and one-half (3.5) feet for a privacy fence in the PD (Planned Development) district; BV2023-029 (Michael & Katrina Dantes, Applicants) District 1 - Dallari (Hilary Padin, Project Manager) [2023-476](#)

Hilary Padin, Planner, presented this item as stated in the Staff Report.

Jim Hattaway asked staff about the fence erected on the rear property line and Kathy Hammel, Principal Planner, replied that upon further research, the fence was approved on the Final Master Plan when they starting preparing the ground before the houses were constructed. She explained that they erected this fence, but it doesn't meet the setbacks for the corner lots and the lots weren't created at that time, so that how the fence was able to get approved.

Tom Kunzen added so that means that the fence was put in first before the lots and Ms. Hammel replied that in the recording of the plat is when the lots are officially created but they did know beforehand the layout, but it wasn't officialized until the recording.

Chairman Bernard Johns stated that it's his understanding that they put fences up for construction all the time, but when the construction is completed, the fences typically go down so if someone decide to leave it there, it would stay. Ms. Hammel responded that in this specific situation it was not constructed for security purposes, probably to make it a selling point. Chairman Johns replied that it was put up inappropriately. Mr. Hattaway added that if it was part of the plat and the Board of County Commissioners approved it, they have blessed it. Ms. Hammel replied that it wasn't part of the plat, it was part of the engineering plans.

Mr. Kunzen asked staff if the required setback in that area it would be fifteen (15) feet and that would include any part of the fence, not just the fence running parallel to the county right-of-way that would also include the perpendicular side. Ms. Padin responded that yes, any fence would be included as part of that. Mr. Kunzen added so that mean that fence would end eleven and one-half (11.5) feet shorter than it actually does. Mrs. Padin responded correct.

Mr. Kunzen asked if there have been any other variances approved in that subdivision for corner lots. Ms. Padin responded yes there have been multiple and listed out that 2662 Estuary Loop was approved to five (5) feet was approved in April 2022, 2715 Estuary Loop was approved to three (3) feet in 2020, 3096 Cristal Water Run was approved to five (5) feet in 2021 and 2641 Estuary Loop was denied twice at three (3) feet and eight (8) feet.

Michael Dantes, Applicant, was present and stated that he was able to get an approval from his HOA and provided a copy of it to the Clerk. He advised that they have spoken to the neighbors and they don't have any issues with it. He stated that they are currently building a pool, so this fence would bring privacy and security for the kids.

Chairman Johns asked Mr. Dantes how much distance he wanted to leave in between the edge of the pool and the fence, and the applicant responded ten (10) feet. Chairman Johns asked if they were going to erect the fence at the edge of the of the patio deck, how far that would put it off from the corner of the house and Mr. Dantes responded it would be right off the lanai and he further stated that there were previous variances that they approved for more or less and the builder told him that they were able to attach to that fence. He advised that the variance that was approved for five (5) feet is actually measured at almost three (3) feet from the sidewalk. Chairman Johns



replied that if they put it in the wrong place, that would be a Code Enforcement issue and just because this happened doesn't make it right and the setback is measured from the property line, not the sidewalk.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Jim Hattaway, seconded by Tom Kunzen, to deny this variance request.

Mr. Hattaway stated that it's unfortunate to the homeowner that he is going through this, but that doesn't give him an entitlement.

Chairman Johns asked the Board if there's a lesser distance that they could agree on and Mr. Hattaway replied that this homeowner already has these expectations since they are putting in a pool and he sympathized with him, but this situation is self-inflicted harm. Mr. Kunzen replied there might be a larger setback that is acceptable to the homeowner to give some space in between the pool deck and the fence, because there are some variances in the same subdivision that they approved down to three (3) feet. Mr. Hattaway asked staff if they know the average of the approved variances and Ms. Padin responded that the other two (2) were at five (5) feet. Mr. Kunzen asked when that three (3) foot variance was granted, and she responded on July 27, 2020. Mr. Kunzen added that it seems that the reason the homeowner is requesting the three (3) feet is because the developer put that fence on the rear property line.

Austin Beeghly stated that he understands everyone's perspective, but they already have approved three (3) feet before, so he gets that they don't want to let everyone request that but that already happened.

Mr. Hattaway withdrew his motion to deny.

The applicant asked what he would do with the fence that was already there the part that is sticking out and Chairman Johns responded that it's not in front of them, but staff mentioned that it's something that they're working on and if he had further questions he can contact staff.

A motion was made by Austin Beeghly to approve this item. The motion did not pass due to lack of a second.

A motion was made by Tom Kunzen, seconded by Jim Hattaway, to approve this variance request at five (5) feet.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**1301 Blue Stem Lane** - Request for a side street (north) setback variance from fifteen (15) feet to eight (8) feet for a privacy fence in the PD (Planned Development) district; BV2023-031 (Alexander & Brittany) [2023-477](#)

Baumgartner, Applicants) District 1 - Dallari (Hilary Padin, Project Manager)

Hilary Padin, Planner, presented this item as stated in the Staff Report.

Brittany Baumgartner, Applicant, was present and stated that she wants to emphasize that there's mailboxes on the side of the house and many of her neighbors have said that they are able to see inside of the house on many occasions and they just want the proposed fence to be where the existing fence is, so they can cover the mailboxes to get some privacy.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Jim Hattaway, seconded by Tom Kunzen, to approve this variance request.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**3153 Cecelia Drive** - Request for a rear yard setback variance from thirty (30) feet to twenty three (23) feet for a swimming pool in the R-1AA (Single Family Dwelling) district; BV2023-033 (Jonathan & Eva Albert, Applicants) District 3 - Constantine (Hilary Padin, Project Manager) [2023-481](#)

Hilary Padin, Planner, presented this item as stated in the Staff Report.

Tom Kunzen asked staff if the seawall was maintained by Seminole County and Ms. Padin responded no, its on their property.

Jim Hattaway asked staff what the purpose of Section 30.1345 of the Land Development Code was in keeping swimming pools a distance from the normal high-water line. Ms. Padin responded that it's to keep swimming pools from being too close to the water. Mr. Hattaway asked what happens if they are too close to the water and she responded that it acts like another front yard so it's to keep the appearance of an open front yard from the lakeside. Mr. Hattaway replied so this would act more for the aesthetic than protecting environmental concerns and she confirmed. Mr. Kunzen added that its more for aesthetic than for the integrity of the sea wall and she responded that it's up to the pool company to go through the Building Code and those processes. Kathy Hammel, Principal Planner, added that for new subdivisions they have changed the regulation to fifty (50) feet away from the water edge for environmental reasons, but they consider this to be a front yard.

Jonathan Albert, Applicant, was present, but did not have any additional comments for the Board.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Jim Hattaway, seconded by Austin Beeghly, to approve this variance request.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**605 Oranole Road** - Request for: (1) a front yard setback variance from [2023-490](#) twenty-five (25) feet to 24.9 feet; and (2) a side yard (east) setback variance from ten (10) feet to 8.3 feet for an addition in the R-1AA (Single Family Dwelling) district; BV2023-035 (Sebastian Jimenez, Applicant) District 3 - Constantine (Hilary Padin, Project Manager)

Hilary Padin, Planner, presented this item as stated in the Staff Report.

Chairman Bernard Johns added that the point one is surprising because they are not requesting the whole foot and Ms. Padin responded that it's already an existing structure they are converting that is encroaching.

Jim Hattaway asked staff if they know if it's an unlawful non-conforming structure and Ms. Padin responded that the structure was built before the zoning regulations were put in place.

Sebastian Jimenez, Applicant, was present, but did not have any additional comments for the Board.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Tom Kunzen, seconded by Austin Beeghly, to approve this variance request.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**CLOSING BUSINESS**

Kathy Hammel, Principal Planner, advised that she requested a motion for the Planning Manager's appeal at the last meeting, but there was a conflict with the applicant and they asked to be continued to the June 26, 2023 meeting.

**APPROVAL OF THE MINUTES**

A motion was made by Jim Hattaway, seconded by Austin Beeghly, that the March 27, 2023, minutes be approved, as submitted. The motion passed unanimously.

**Aye:** Bernard Johns, James Hattaway, Austin Beeghly, and Thomas Kunzen

**Absent:** Larry Wright, and Heather Stark

**ADJOURN**

Having no further business, the meeting was adjourned at 7:12 p.m.

