



Legislation Details (With Text)

File #: 2024-0626
Type: Variances **Status:** Passed
File created: 4/26/2024 **In control:** Board of Adjustment
On agenda: 5/20/2024 **Final action:** 5/20/2024

Title: 940 Lake Markham Road - Request for a front yard setback variance from thirty-five (35) feet to ten (10) feet for a gate with pillars in the RC-1 (Country Homes) district; BV2024-048 (Robert Bass, Applicant) District 5 - Herr (Hilary Padin, Project Manager)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Site Plan, 2. Zoning Map, 3. Justification Statement, 4. Property Record Card, 5. Original Site Plan, 6. Similar Fence Photos, 7. Denial Development Order, 8. Approval Development Order

Date	Ver.	Action By	Action	Result
5/20/2024	1	Board of Adjustment	approve	Pass

Title:

940 Lake Markham Road - Request for a front yard setback variance from thirty-five (35) feet to ten (10) feet for a gate with pillars in the RC-1 (Country Homes) district; BV2024-048 (Robert Bass, Applicant) District 5 - Herr (Hilary Padin, Project Manager)

Department/Division:

Development Services - Planning and Development

Authorized By:

Kathy Hammel

Contact/Phone Number:

Hilary Padin - (407) 665-7331

Motion/Recommendation:

1. Deny the request for a front yard setback variance from thirty-five (35) feet to ten (10) feet for a gate with pillars in the RC-1 (Country Homes) district; or
2. Approve the request for a front yard setback variance from thirty-five (35) feet to ten (10) feet for a gate with pillars in the RC-1 (Country Homes) district; or
3. Continue the request to a time and date certain.

Background:

- The request is to construct two (2) five (5) feet tall, two (2) feet by two (2) feet

square decorative pillars with a sliding gate twenty-five (25) feet into the front yard setback.

- The applicant plans to put four (4) foot hedging along the sides of the pillars.
- The request is for a variance to Section 30.1349(a) of the Land Development Code of Seminole County, which states that on property assigned a residential zoning classification, a closed fence or wall in excess of three (3) feet in height shall maintain the same district front yard setback requirement as the main or principal dwelling structure except where backing up to a limited access highway or where regulations require such fences.
- There have not been prior variances for the subject property.

Staff Findings:

The applicant has not satisfied all six (6) criteria under Section 30.3.3.2(b) of the Seminole County Land Development Code for granting a variance as listed below:

1. That 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 classification; and
2. That the special conditions and circumstances do not result from the actions of the applicant; and
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by Chapter 30 to other lands, buildings, or structures in the same zoning classification; and
4. That the literal interpretation of the provisions of Chapter 30 would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification and would work unnecessary and undue hardship on the applicant; and
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
6. That the grant of the variance will be in harmony with the general intent and purpose of Chapter 30, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

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

The general intent of the Land Development Code is to maintain consistent setbacks; therefore, the grant of the variance will not be in harmony with the general intent and purpose of Chapter 30, would be injurious to the neighborhood, and otherwise detrimental to the public welfare (Section 30.3.3.2(b)(6)).

In addition, placement of the pillars this distance from the front property line may cause

vehicles waiting to enter the proposed gate to overhang the existing sidewalk in this area.

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 30.3.3.2(b) 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 gate with pillars 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.