

Legislation Text

File #: 2023-641, **Version:** 1

Title:

209 Collins Drive - Request for a rear yard setback variance from thirty (30) feet to six (6) inches for a guest house in the R-1A (Single Family Dwelling) district; BV2021-56 (Ninive Castillo, Applicant) District 2 - Zembower (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 rear yard setback variance from thirty (30) feet to six (6) inches for a guest house in the R-1A (Single Family Dwelling) district; or
2. Approve the request for a rear yard setback variance from thirty (30) feet to six (6) inches for a guest house in the R-1A (Single Family Dwelling) district; or
3. Continue the request to a time and date certain.

Background:

- The subject property is located in the Sunland Estates subdivision.
- The detached guest house is approximately 392 square feet (24.2' x 16.2')
- The request is for a variance to Section 30.186(a)(3) of the Land Development Code of Seminole County, which states:
 - (a) In the R-1 Single-Family Dwelling District, the following minimum yards shall be observed:
 - (3) Rear. Thirty (30) feet.
- The variance granted applies only to the size (16.2' x 24.2') and setbacks as depicted on the site plan.
- A building code violation was issued for unpermitted construction (CV19-254).
- The applicant applied for a building permit in 2020 (20-10445) however, it was denied because a special exception and rear yard setback variance was needed.

- The use of the guest house is contingent on the approval of the Special Exception by the Board of County Commissioners. (P&Z August 2, 2023 and BCC September 12, 2023)
- 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 guest house as depicted on the attached site plan; and
2. The use of the guest house is contingent on the approval of the Special Exception by the Board of County Commissioners. (P&Z August 2, 2023 and BCC September 12, 2023)
3. Any additional condition(s) deemed appropriate by the Board of Adjustment, based on information presented at the public hearing.