

## Legislation Text

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**File #:** 2024-0759, **Version:** 1

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### **Title:**

**301 4<sup>th</sup> Street** - Request for a side yard (east) setback variance from ten (10) feet to three and one-half (3.5) feet for a swimming pool in the R-1 (Single Family Dwelling) district; BV2024-053 (Clayton Campo, Applicant) District 2 - Zembower (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 side yard (east) setback variance from ten (10) feet to three and one-half (3.5) feet for a swimming pool in the R-1 (Single Family Dwelling) district; or
2. Approve the request for a side yard (east) setback variance from ten (10) feet to three and one-half (3.5) feet for a swimming pool in the R-1 (Single Family Dwelling) district; or
3. Continue the request to a time and date certain.

### **Background:**

- The subject property is located in the Whitcomb's Second Addition to Geneva subdivision.
- The request is to construct a fifteen (15) foot by twenty-six (26) foot swimming pool six and one-half (6.5) feet into the east side yard setback.
- The property is a corner lot and abuts a twelve and one-half (12.5) foot alley on the affected side.
- The site plan drawn by the applicant includes a future twenty-four (14) foot by

thirty (30) foot metal detached garage. This structure is not part of this request and would require variances in the future if the applicant planned to proceed with it.

- The request is for a variance to Section 30.7.2.4(a) of the Seminole County Land Development Code, which states that the water's edge of a pool shall be located a minimum distance of ten (10) feet from the side and rear property line of a lot.
- 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)

### **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 swimming pool (15' x 26') 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.