

Legislation Text

File #: 2024-0779, Version: 1

Title:

10032 Bear Lake Road - Request for: (1) a height variance from four (4) feet to eight (8) feet; and (2) a setback variance from thirty (30) feet to eight (8) feet to the Normal High Water Line for a fence that exceeds four (4) feet in height located on a natural water body in the R-1 (Single Family Dwelling) district; BV2024-060 (Amy Wheeler, Applicant) District 3 - Constantine (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: (1) a height variance from four (4) feet to eight (8) feet; and (2) a setback variance from thirty (30) feet to eight (8) feet to the Normal High Water Line for a fence that exceeds four (4) feet in height located on a natural water body in the R-1 (Single Family Dwelling) district; or
2. Approve the request for: (1) a height variance from four (4) feet to eight (8) feet; and (2) a setback variance from thirty (30) feet to eight (8) feet to the Normal High Water Line for a fence that exceeds four (4) feet in height located on a natural water body 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 McNeil's Orange Villa subdivision.
- The proposed privacy fence will be ninety-three (93) linear feet and will exceed four (4) feet over the maximum fence height requirement of four (4) feet for a fence located on a natural water body.

- There were five (5) prior variance approvals for the subject property.

October 30, 2006: a side yard (north) setback variance from seven and one-half (7½) feet to five and one-half (5½) feet; and a side yard (south) setback variance from seven and one-half (7½) feet to four and one-half (4½) feet for a proposed single family dwelling.

January 23, 2023: a side yard (north) setback variance from ten (10) feet to one (1) foot for a boat dock.

August 28, 2023: a side yard (north) setback variance from seven and one-half (7½) feet to one (1) foot for two (2) sheds.

- The request is for a variance to Section 30.14.19(f)(4) of the Seminole County Land Development Code, which states:

(f) Setback distance requirements will be as follows:

(4) Any fence, wall, hedge, planting (except plants defined as shoreline vegetation in FAC 62-340-450), or other obstruction adjacent to a natural water body is limited to a maximum height of four (4) feet. Any fence or wall greater than four (4) feet must be located a minimum distance of thirty (30) feet from the Normal High Water Elevation of a natural water body. Building permit applications for fences or walls adjacent to a natural water body must include a certified survey no less than five (5) years old indicating the Normal High Water Elevation.

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 have not been satisfied:

The general intent of the Land Development Code is to maintain consistent heights 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 fence 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.