

## Legislation Text

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File #: 2024-0771, Version: 1

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### Title:

**313 Gary Boulevard** - Request for: (1) a side yard (west) setback variance from seven and one-half (7.5) feet to two (2) feet; (2) a side yard (west) setback variance from seven and one-half (7.5) feet to two and one-half (2.5) feet; and (3) a rear yard setback variance from thirty (30) feet to 1.2 feet for two (2) accessory structures in the R-1 (Single Family Dwelling) district; BV2024-038 (Jeffrey Phelan, Applicant) District 4 - Lockhart (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: (1) a side yard (west) setback variance from seven and one-half (7.5) feet to two (2) feet; (2) a side yard (west) setback variance from seven and one-half (7.5) feet to two and one-half (2.5) feet; and (3) a rear yard setback variance from thirty (30) feet to 1.2 feet for two (2) accessory structures in the R-1 (Single Family Dwelling) district; or
2. Approve the request for: (1) a side yard (west) setback variance from seven and one-half (7.5) feet to two (2) feet; (2) a side yard (west) setback variance from seven and one-half (7.5) feet to two and one-half (2.5) feet; and (3) a rear yard setback variance from thirty (30) feet to 1.2 feet for two (2) accessory structures 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 Longwood Park subdivision.
- The requests are to bring into compliance the construction of two (2) accessory

structures:

- The first structure is an 8.2 foot by ten (10) foot shed that encroaches five and one-half (5.5) feet into the side yard setback.
- The second structure is an approximately 28.4 foot by 21.9 foot shed/garage that encroaches five (5) feet into the side yard setback at the closest point and 28.8 feet into the rear yard setback.
- In 2004, building permit 04-4914 was issued for a ten (10) foot by twelve (12) foot shed meeting the setbacks in this approximate area. That shed does not appear to exist at this time.
- The property abuts a nominal twelve (12) foot strip of land privately owned in the rear and the property to the west is owned by a Conservation Enterprises Trust LLC as it is the edge of a large wetland area.
- A Code Enforcement violation (23-331) was issued for these structures, resulting in the necessity of this variance.
- The request is for a variance to Section 30.7.3.1 of the Seminole County Land Development Code, which states that the side yard setback is seven and one-half (7.5) feet and the rear yard setback is thirty (30) feet.
- Section 30.7.3.1(1) of the Seminole County Land Development Code requires any accessory building exceeding 200 square feet in size and/or twelve (12) feet in height, and any accessory dwelling unit, regardless of size, to meet all of the setback requirements applicable to the main residential structure located on the parcel.
- 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 two (2) accessory structures (8.2' x 10' and 21.9' x 28.4') 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.