



## Legislation Details (With Text)

**File #:** 2023-493

**Type:** Variances

**Status:** Passed

**File created:** 4/24/2023

**In control:** Board of Adjustment

**On agenda:** 5/22/2023

**Final action:** 5/22/2023

**Title:** 1080 Dyson Drive - Request for a side street (east) setback variance from thirty-five (35) feet to twenty-six (26) feet for a fence in the RC-1 (Single Family Dwelling) district; BV2023-034 (Dianne Johnson, Applicant) District 2 - Zembower (Angi Gates, Project Manager)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Site Plan, 2. Zoning Map, 3. Justification Statement, 4. Property Record Card, 5. Letters of Support, 6. Photos, 7. Denial Development Order, 8. Approval Development Order

Date	Ver.	Action By	Action	Result
5/22/2023	1	Board of Adjustment	approve	Pass

**Title:**

**1080 Dyson Drive** - Request for a side street (east) setback variance from thirty-five (35) feet to twenty-six (26) feet for a fence in the RC-1 (Single Family Dwelling) district; BV2023-034 (Dianne Johnson, 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 side street (east) setback variance from thirty-five (35) feet to twenty-six (26) feet for a fence in the RC-1 (Single Family Dwelling) district; or
2. Approve the request for a side street (east) setback variance from thirty-five (35) feet to twenty-six (26) feet for a fence in the RC-1 (Single Family Dwelling) district; or
3. Continue the request to a time and date certain.

**Background:**

- The subject property is located in the Winter Springs subdivision.
- The subject property is a corner lot and is considered to have two (2) front yards for setback purposes. The front of the house faces Dyson Drive and the Deer Run side is where the

variance is being sought.

- Traffic Engineering has no objection to the placement of the fence as it relates to sight visibility.
- Five letters of support were received from surrounding neighbors.
- The replacement privacy fence will be forty-nine (49) feet from the edge of pavement. There are no sidewalks in place at this time.
- The request is for a variance to Section 30.166 of the Land Development Code of Seminole County, which states:
  - (a) The following minimum front, side, and rear yard setbacks shall be observed with regard to all primary structures:
    - (1) Front. Thirty-five (35) feet.
- The request is for a variance to Section 30.1349 of the Land Development Code of Seminole County, which states:
  - (a) 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. In the case of corner lots, the lot shall be considered to have a front yard or yards on any side or sides abutting a road right-of-way.
- 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 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.