

Legislation Text

File #: 2023-624, **Version:** 1

Title:

9709 Bear Lake Road - Request for: (1) a rear yard setback variance from thirty (30) feet to 6.8 feet; and (2) a side yard (south) setback variance from ten (10) feet to 2.19 feet for an accessory structure in the R-1AA (Single Family Dwelling) district; BV2023-28 (Maria Bonilla, Applicant) District 3 - Constantine (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 rear yard setback variance from thirty (30) feet to 6.8 feet; and (2) a side yard (south) setback variance from ten (10) feet to 2.19 feet for an accessory structure in the R-1AA (Single Family Dwelling) district; or
2. Approve the request for: (1) a rear yard setback variance from thirty (30) feet to 6.8 feet; and (2) a side yard (south) setback variance from ten (10) feet to 2.19 feet for an accessory structure in the R-1AA (Single Family Dwelling) district; or
3. Continue the request to a time and date certain.

Background:

- The subject property is located in the McNeils Orange Villa subdivision.
- The request is to bring into compliance the construction of a 338 square foot shed that encroaches 7.81 feet into the south side yard setback and 23.2 feet into the rear yard setback.
- Section 30.1345 of the Seminole County Land Development Code requires any detached accessory building exceeding 200 square feet to meet all of the setback requirements applicable to the main residential structure located on the parcel, which in this zoning district is thirty (30) feet in the rear and ten (10) feet on the sides.
- A Code Enforcement violation (22-87) was issued for this structure, resulting in the necessity of this variance.
- There have been prior variances granted for the subject property. On May 19, 2003, the Board of Adjustment approved nine (9) variance requests for the subject property. They are as

follows:

- South side yard setback variance from 10 feet to 1.79 feet for an existing home
- North side yard setback variance from 10 feet to 0 feet for a carport
- South side yard setback variance from 10 feet to 5 feet for an existing pool enclosure
- South side yard setback variance from 10 feet to 2.66 feet for an existing accessory building
- North side yard setback variance from 10 feet to 9 feet for an existing accessory building
- Rear yard setback variance from 30 feet to 14 feet for an accessory building
- Rear yard setback variance from 10 feet to 8.7 feet for an accessory building
- Minimum lot width at the building line variance from 90 feet to 50 feet
- Minimum lot size variance from 11,700 square feet to 11,635 square feet

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 has 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 accessory structure (27.7' x 12.2') 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.