



Legislation Text

File #: 2024-1458, Version: 1

Title:

1518 Balmy Beach Drive - Request for: (1) a side street (north) setback variance from five (5) feet to zero (0) feet for a fence; and (2) a side yard (west) setback variance from seven and one-half (7½) feet to five and one-half (5½) feet for a shed in the R-1A (Single Family Dwelling) district; BV2024-125 (Leticia Lopez, 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 side street (north) setback variance from five (5) feet to zero (0) feet for a fence; and (2) a side yard (west) setback variance from seven and one-half (7½) feet to five and one-half (5½) feet for a shed in the R-1A (Single Family Dwelling) district; or
2. Approve the request for: (1) a side street (north) setback variance from five (5) feet to zero (0) feet for a fence; and (2) a side yard (west) setback variance from seven and one-half (7½) feet to five and one-half (5½) feet for a shed in the R-1A (Single Family Dwelling) district; or
3. Continue the request to a time and date certain.

Background:

- The subject property is located in the Paradise Point 3rd Section. 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 Balmy Beach Drive, and the unimproved Cameilla Lane street side is where the variance is being sought for

the privacy fence.

- The existing shed is 100 square feet (10' x 10') and encroaches two (2) feet into the required side yard (west) setback and the existing privacy fence encroaches five (5) feet into the required side street setback.
- On October 7, 2024, a Building Code violation (case #: 24-274) was issued for the privacy fence and shed for unpermitted construction without the required permits, 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 rear yard setback for this zoning district is seven and one-half (7½) feet.
- The request is for a variance to Section 30.14.19(f)(2) of the Seminole County Land Development Code, which states that on corner lots in residentially zoned properties, the secondary front yard or side street setback may be reduced to five (5) feet provided the visual clearance requirements can be met and with approval by the Seminole County Traffic Engineering Division.
- There have not been any prior variances for the subject property.

Staff Findings:

The applicant has not satisfied all six (6) criteria under Section 30.3.3.2(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 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 shed and privacy 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.