

**From:** [Hall, Dale](#)  
**To:** [Marc Jones](#)  
**Cc:** [Hammock, Rebecca](#); [Moreno, Jealyn](#); [Znorowski, Meggan](#); [Borkert, Neysa](#)  
**Subject:** Variance App, 2064 Shady Lane - Planning Manager Administrative Interpretation  
**Date:** Friday, September 27, 2024 4:35:00 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)

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Mr. Jones:

To proceed with the setback variance request, **a conversion building permit must be issued for the existing garage or an approved and issued building permit for a principal dwelling.**

Staff has previously conveyed the reasons for this interpretation to you on the following occasions:

July 5, 2023 – Lot Research Report

The report indicated that the lot split was illegal, two structures do not meet setbacks, and floodplain issues exist on the property.

October 2023 - Staff Meeting

Attendees discussed site issues and agreed to officialize this illegal lot split allowing the accessory structures to remain on-site provided that the detached garage would be converted into a primary residence and variances for the detached garage, boathouse and dock were obtained.

June 13, 2024 - Special Magistrate Hearing

- Meggan Znorowski, Project Coordinator, stated a setback variance will be required and a primary residence is needed on-site.
- Officer Cara Hill reaffirmed that compliance with the final order is contingent on the existence of a primary structure on the property.
- The Special Magistrate provided additional time until December 4, 2024, for compliance.

August 2, 2024 – Staff Correspondence

Jealyn Moreno, Planning Coordinator – BOA Clerk, stated in an email the requirement for a conversion permit or a principal dwelling unit plan prior to proceeding with the variance application received on July 30, 2024.

The Land Development Code of Seminole County (LDCSC) defines the existing on-site constructions, including the detached garage, boathouse and dock, as accessory structures (LDCSC Chapter 2 – Definitions & Section 110.1 Definitions).

*Further, the LDCSC specifically provides that “in no event shall an accessory building, boat dock, or structure be established prior to the principal use to which it is accessory.” (LDCSC Sec. 30.6.1 Accessory buildings and uses).*

The illegal lot split resulted in the accessory uses being established on a property prior to the principal structure, thus, a principal structure is needed on the property to allow for the existing accessory structures to remain.

The LDCSC prohibits a variance to be taken to the Board of Adjustment prior to legitimizing

the accessory structures on the property. A variance “is authorized only for height, area, and size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance...” (LDCSC Sec 2.3 Definitions). The current use of the property for accessory structures is not a legal use of the property. Thus, the variance requested cannot be processed further as the legal use of the accessory structures cannot be established by the variance. Granting the variance would effectively establish an illegal use on the property. As provided above, a building permit for either conversion of the garage to a single-family residence or for a separate single-family residence is necessary (LDCSC Sec. 30.3.3 Board of Adjustment, most particularly, 30.3.3.2(d)).

It seemed as if the requirement for a primary structure was understood, as at the Special Magistrate Hearing you had stated that the property owners had every intent of moving forward with building permit (BP24-3480), the plans were with you, and available for submittal in the record. Additionally, you stated that the compliance date set by the Magistrate would allow time for your clients to put a mobile home on the property.

Staff has continued to work with your client to resolve this matter. However, Staff has no authority to proceed with this variance unless **a conversion permit or an application for a principal dwelling unit plan has been applied for and approved by the County.**

To assist in resolving this issue, Staff may consider review of a variance application, if your client submitted a complete **building permit for either conversion of the existing structure to a single-family home or a new principal structure.** Upon determination that the building permit application is sufficient for County review, processing of a variance request could begin. I would anticipate recommendations in the Variance Staff Report to mandate that the final building permit and the certificate of occupancy be obtained by the applicant within a specified time frame or the variance, if approved, would become null and void.

The foregoing is an administrative interpretation being provided by the Planning Manager to you and your client pursuant to Section 30.3.2.3, LDCSC. Appeals of the Planning Manager’s interpretation to the Board of Adjustments decision may be taken pursuant to Section 30.3.3.3, LDCSC. The notice of appeal must be filed within thirty (30) days of the date of this letter with the Planning Manager. The notice of appeal must specify the decision being appealed, the grounds for appeal, and the alleged error in the decision.



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