

SEMINOLE COUNTY, FLORIDA

COUNTY SERVICES BUILDING
1101 EAST FIRST STREET
SANFORD, FLORIDA
32771-1468



Meeting Minutes

Monday, April 24, 2023

6:00 PM

BCC Chambers

Board of Adjustment

CALL TO ORDER AND ROLL CALL

Present	Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen
Absent	Heather Stark

OPENING STATEMENT**VARIANCES**

- 1 **1201 Pomelo Court-** Request for a side street (east) setback variance from fifty (50) feet to thirty-seven (37) feet for a detached garage in the A-1 (Agriculture) district; BV2023-011 (James Dunn, Applicant) District 5 - Herr (Angi Gates, Project Manager) [2023-254](#)

Angi Gates, Planner, advised the Board that this item is being continued to the May 22, 2023 meeting, because they did not post the placard in time to the property.

- 2 **1090 Druid Drive -** Request for: (1) a side street (south) setback variance from twenty-five (25) feet to ten (10) feet for a fence; and (2) a side street (south) setback variance from twenty-five (25) feet to fifteen (15) feet for a detached garage in the R-1AA (Single Family Dwelling) district; BV2023-014 (Mary Hite, Applicant) District 3 - Constantine (Angi Gates, Project Manager) [2023-255](#)

Angi Gates, Planner, presented this item as stated in the Staff Report.

Chairman Bernard Johns asked staff if there are proposed sidewalks for that area and Ms. Gates responded that she is not sure.

Austin Beeghly asked staff if the north part is Seminole County and the south is Orange County and Hilary Padin, Planner, responded yes, the south part is Orange County.

Mary Catherine Hite, applicant, was present and stated that she doesn't have any comments for the Board.

Jim Hattaway asked the applicant where the properties are located for the two (2) letters that they received in support. Ms. Hite responded that her property is uniquely situated, because its right on the border of Orange County, so the neighbors that provided the letters of support one of them is 440 Stonewood Lane, which is in Altamonte Springs and the other one is 1112 Druid Road so for her those two (2) neighbors are who would be directly impacted, because the fence would be coming south.

Larry Wright stated that the proposed garage is twenty (20) feet off the existing house and asked the applicant if there is any reason in particular that she would want that distance between the house and garage causing the encroachment on the easement and setback requirements. Ms. Hite responded that her house is really long but narrow and they have a courtyard in that area and she would like to expand the courtyard so they can add a pergola to maximize the space, so the further she can put the garage to

the south, the more space she has for the courtyard as it is the only usable part of her backyard. Mr. Wright stated that the reason he is asking is because on the site plan, it doesn't show how she can get to the garage and if she was going to put a driveway straight to the road, she will be into the curve of the road where people turn. Ms. Hite replied that they would be putting motorcycles and a hobby workshop, so it won't be for cars. She advised that she does not plan to put a driveway there, just a fence for aesthetics and security purposes. Chairman Johns added that if she decides to do the driveway to make sure to talk to the County for the requirements on where its allowed to be.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Austin Beeghly, seconded by Jim Hattaway, to approve this variance request.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

- 3 **358 Glenholly Court** - Request for a side street (south) setback variance from twenty (20) feet to thirteen (13) feet for a fence in the PD (Planned Development) district; BV2023-019 (David Sweat, Applicant) District 1 - Dallari (Angi Gates, Project Manager) [2023-334](#)

Angi Gates, Planner, presented this item as stated in the Staff Report.

Maria Arevalo, Consultant, was present and stated that this property has an existing fence that they are trying to replace and the gate would be the only access point that he would have as he has a shed and the pool equipment on the other side with no way to pass a lawnmower through, so they cant move the fence any further in.

Chairman Bernard Johns asked Ms. Arevalo if she is just trying to put the fence where the old one was, and she responded yes it's only a replacement. Chairman Johns also asked if she knows how long the fence has been there and she responded probably over twenty (20) years.

Jim Hattaway stated that when it comes to the six (6) criteria for the variance, the second one is what special conditions and circumstances currently exist that are not the result of the actions of the applicant, it sounds like what you are using to justify the application is something that the applicant has done. Ms. Arevalo responded that the applicant just bought this house with the existing fence there so he inherited the issue and they just trying to replace the fence and put it where it was and it only makes sense to put a gate on that side, because on the opposite side they have a shed and they would not have easy access for maintenance. Mr. Hattaway asked if the fence is going to be parallel to the house and she responded yes and added that they are not trying to expand it any further.

Mr. Hattaway asked if they have spoken to the neighbors and she responded that they have spoken to the HOA and they have approved the request and the applicant also

spoke to both of his neighbors, on the back and on the right.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Thomas Kunzen, seconded by Austin Beeghly, to approve this variance request.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

- 4 **2770 Tuskawilla Road** - Request for a height variance from six and one-half (6½) feet to eight (8) feet for a wall in the R-1AA (Single Family Dwelling) district; BV2023-023 (Alan Prescott, Applicant) District 1 - Dallari (Angi Gates, Project Manager) [2023-337](#)

Angi Gates, Planner, presented this item as stated in the Staff Report.

Allan Prescott, Applicant, was present and stated that he bought the house about a year ago and the existing wall is about 1,000 feet long and about 150 feet of it collapsed, so there was a temporary vinyl fence there and he is just trying to rebuild the wall. He advised that the neighbors are in support of this variance request as all of the neighbors asked him if he considered rebuilding the wall. He stated that his house was built ten (10) years prior to that neighborhood on the side and they built the subdivision up so they can see into his pool, backyard, bedroom, and kitchen. Mr. Prescott advised that they don't have an HOA, but the other neighborhood does and their HOA is in strong support of this variance request.

No one from the audience spoke in favor or opposition to this request

A motion was made by Austin Beeghly, seconded by Jim Hattaway, to approve this variance request.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

- 5 **2843 Chapelwood Court** - Request for: (1) a side yard (east) setback variance from seven and one-half (7½) feet to five (5) feet; and (2) a rear yard setback variance from thirty (30) feet to fifteen (15) feet for an ADU in the R-1A (Single Family Dwelling) district; BV2023-010 (Christine Jakubcin, Applicant) District 1 - Dallari (Angi Gates, Project Manager) [2023-321](#)

Angi Gates, Planner, presented this item as stated in the Staff Report.

Larry Wright asked staff where the five (5) feet come from and Ms. Gates responded that is what they gave her so he will have to ask the applicant and she further stated that they are never drawn to scale as there is a fifteen (15) foot drainage easement in

the back and there's definitely space between it.

Christine Jakubcin, applicant, was present and stated that the reason for the accessory dwelling unit is that her dad is eighty-five (85) years old and currently living with her brother, but he would like to spend time in both places, but he is getting to the point that he needs close proximity care and they just wanted to make a room for him. She advised that she has approval from her HOA.

Mr. Wright asked her if the request was for five (5) feet from the property line but back of the house is 24.2 and the building is only twenty-one (21) feet and you already have twelve and one-half (12.5) feet to the side of the house. Ms. Jakubcin responded that they are not going any bigger than that they are just trying to make sure they have enough space as they spoke to an architect and the builder, but they haven't decided on anything yet because they said to do this variance process first to make sure it would be approved. Mr. Wright responded that on the floor plan it already falls within the twenty-one (21) feet by twenty one (21) feet and if they use that five (5) foot, it would be bigger and it would make it twenty-eight (28) feet, so he was just trying to confirm what the request is for.

Mr. Wright asked staff based on what the applicant said that they are actually looking for a five (5) foot setback, which means that they can increase the size of the structure and Ms. Gates responded that they can go smaller, but they can't go any bigger. Chairman Bernard Johns added that they are not approving the structure, they are approving the setback. Mr. Wright responded that he understands but wants to make sure that something that is bigger than what is shown on the site plan isn't built, because they don't need the five (5) foot setback. Chairman Johns added that they can just amend it. Ms. Gates added that they can't go larger because they approve it to the site plan so it can be twenty-one (21) feet by twenty-one (21) feet or smaller and they it would have to not be any closer to the setback that they approved if it is approved tonight.

Jim Hattaway asked the applicant if they spoke with the neighbors to the rear and the applicant replied that they didn't because there's a fence up and it wasn't going to be two (2) story, so they didn't think to say anything to the rear neighbors.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Jim Hattaway, seconded by Larry Wright, to approve this variance request.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

- 6 1252 Valley Creek Run - Request for a side street (west) setback variance from twenty-five (25) feet to six (6) inches for a fence in the R-1A (Single Family Dwelling) district; BV2022-79 (Marta Barcia & Andrew Gotschall, Applicants) District 1 - Dallari (Angi Gates, Project Manager) [2023-322](#)
- Angi Gates, Planner, presented this item as stated in the Staff Report.

Maria Arevalo, Consultant, was present.

Chairman Bernard Johns asked Ms. Arevalo if the applicants built the fence even though the Board denied their original variance request and she responded no that the home originally had a wood fence which was where the vinyl fence was placed and the applicant had no knowledge and felt that she was misled from the company that installed the fence, because she already had the HOA's approval and thought she didn't have to take the extra steps. She stated that she is a first-time home buyer and didn't know about this process when she received the Code Enforcement violation letter, so she applied for the variance and she was denied. Ms. Arevalo explained that she believes that part of the reason that she was denied was because the survey was unclear, and she didn't know how to explain all the obstacles in the yard. She stated that she did a site visit and saw all the issues and realized why the fence was put where it was originally. She referred to documents that she provided for the Board to look at and stated that the only reason why they asked for the six (6) inches is because the majority of the fence is at 5.4 inches from the property line and beyond that there's another 3.4 inches that belong to the HOA, so most of that fence in the middle of it is 8.8 inches, but because the closest point at the top corner is half an inch away from the property line. Ms. Arevalo explained that the other big issue is that she has two (2) big trees in the middle of the yard that the HOA is not going to allow be removed, so there is nowhere else to put the fence. She stated that another issue is that the back neighbor owns the majority of the fence so she only has a small gap between where her property line ends and where the neighbor's fence ends, so she doesn't have any other choice but to extend the fence if she wants privacy. Ms. Arevalo advised that theirs is also a twelve (12) foot by sixteen (16) foot concrete pad in the top corner and a retention wall that is around the pool for drainage, so there's no space there to build on that side and she wants to keep that small space that she has for her children to play. She further explained that this property is at the very beginning of the subdivision, so any incoming traffic goes right to her house and there is also a gas meter that she wants covered for safety reasons. She also advised that she has thirty-two (32) signatures from the neighbors in support, because there's always been a fence there.

Austin Beeghly stated that he remembers this case because of a lot of reasons and why it was denied, but it still went up. He stated that Ms. Arevalo mentioned the gas lines which is an easement thing and asked if she wants to enclose where the main pipe of gas is. Ms. Arevalo responded that yes, it is close to her house and he asked how the utility company is supposed to get in the back if they enclose that area. Ms. Arevalo responded that's where the gate is at because on the other side she has pool equipment, her AC unit, she can barely fit her lawn mower so the main gate is going to go on that side as there's still some adjustment that they have to do as part of the fence on the back line is installed 0.6 inches outside of the property line, so they do have to fix that issue. Mr. Beeghly asked her if that is interfering with the utility easement and she responded not as long as there's a gate, they are allowed to have the utility boxes on the other side.

Jim Hattaway asked Ms. Arevalo if the existing vinyl fence was erected where the wooden fence was, and she confirmed. He further asked who erected the wooden

fence and Ms. Arevalo replied that she does not know as it was there for over twenty (20) years. He further clarified and asked which property owner erected it and she replied that she just recently purchased the home. Mr. Beeghly asked who erected the vinyl fence and she responded that the homeowner replaced the wood fence with the vinyl fence.

Tom Kunzen asked Ms. Arevalo if the erection of the vinyl fence was before or after the first variance application and she responded that it was before the first variance application and further stated that the original wooden fence had an approved permit from 2005.

Mr. Hattaway asked who approved the covered patio and Ms. Arevalo replied that it was a pop-up tent that was removed because she got a Code Enforcement violation for it.

Ms. Gates asked to see the signatures and stated that in her research, there were no permits found for the original fence and the pool screen enclosure was given approval by Traffic Engineering for a side street setback variance, which they were allowed to do because of the zoning district. Ms. Arevalo asked if they wanted the permit number and Ms. Gates responded yes. Ms. Arevalo stated that the permit number was for the first variance not the first building permit for the wood fence, but there was a fence there as stated by the thirty-two (32) homeowners that signed it around the neighborhood. She further stated that she believes at the past meeting, the other picture of the fence was up which was the original fence. Ms. Gates replied that the fence might have been up, but in her records, she couldn't find any permits for any fence.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Jim Hattaway to continue this item, because there's been hearsay, statements of a timeline, statements of what it is on the ground and he doesn't think anyone is comfortable and saying any of those things happened definitely and just to give the applicant a fair chance so perhaps we should continue it and let them research it and then decide. The motion died for lack of a second.

The next motion was a motion made by Austin Beeghly, seconded by Jim Hattaway, to deny this variance request.

In discussion, Tom Kunzen stated that it's his understanding that if a variance application gets disapproved by this Board, the proper protocol at that point if the property owner wants to dispute, they can take it directly to the Board. Chairman Bernard Johns replied yes, they would file an appeal to the Board of County Commissioners. Mr. Kunzen asked staff if an appeal was filed and Ms. Gates responded no. Mr. Kunzen asked what has change substantially in this application from the previous one in October 2022 as he sees that the distance is six (6) inches from what it was previously, but the fence hasn't moved and the property owner essentially is asking for the fence to still be approved in the current location, so even though that number might be a little different they are asking for the same thing. He asked if it is proper protocol for the same variance application be submitted repeatedly if nothing

has changed about the subject property or the structure. Deziree Elliot, Assistant County Attorney, responded but it was inaudible. Mr. Hattaway asked Ms. Elliot if they appeal the to the Board of County Commissioners, is it de novo or are they are limited to the facts at that hearing and she responded that it would be de novo.

A motion was made by Austin Beeghly, seconded by Jim Hattaway, to deny this variance request.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

- 7 **401 Lakeshore Drive** - Request for a side street (north) setback variance from twenty-five (25) feet to nineteen (19) feet for a privacy fence in the PD (Planned Development) district; BV2023-012 (Adam & Susan Sullivan, Applicants) District 4 - Lockhart (Hilary Padin, Project Manager) [2023-365](#)
- Hilary Padin, Planner, presented this item as stated in the Staff Report.

Jim Hattaway asked staff if the existing fence was lawfully erected and Ms. Padin responded that she is not sure.

Adam Sullivan, Applicant, was present, but did not have any additional comments for the Board.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Austin Beeghly, seconded by Thomas Kunzen, to approve this variance request.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

- 8 **3635 Leota Drive** - Request for a front yard setback variance from twenty-five (25) feet to zero (0) feet for a privacy fence in the R-1AA (Single Family Dwelling) district; BV2023-016 (Dilys Schwerdt, Applicant) District 3 - Constantine (Hilary Padin, Project Manager) [2023-368](#)
- Hilary Padin, Planner, presented this item as stated in the Staff Report.

Dilys Schwerdt, Applicant, was present, but did not have any additional comments for the Board.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Austin Beeghly, seconded by Jim Hattaway, to approve this variance request.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

- 9 **2461 Worthington Road** - Request for a rear yard setback variance from [2023-369](#) thirty (30) feet to twenty-one (21) feet for a screen room addition in the R-1A (Single Family Dwelling) district; BV2023-020 (Stephen & Linh DeShazo, Applicants) District 4 - Lockhart (Hilary Padin, Project Manager)
Hilary Padin, Planner, presented this item as stated in the Staff Report.

Linh DeShazo, Applicant, was present and asked the Board to approve the variance request so they can build the screen room so they can enjoy the weather and protect their doors.

Jim Hattaway asked Ms. DeShazo if she has spoken to the neighbors about this and she responded yes she spoke with them and all the neighbors around her, including the HOA, don't have any issues with this variance request. Chairman Bernard Johns replied that is always good to talk to the HOA, but their decision is not influenced on what they say, but its always good to let the HOA know.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Thomas Kunzen, seconded by Jim Hattaway, to approve this variance request.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

- 10 **2355 Beverly Street** - Request for: (1) a rear yard setback variance from [2023-375](#) thirty (30) feet to ten (10) feet; and (2) a side yard (north) setback variance from ten (10) feet to five (5) feet for a detached garage in the R-1AA (Single Family Dwelling) district; BV2023-021 (Bradly Peterson, Applicant) District 1 - Dallari (Hilary Padin, Project Manager)
Hilary Padin, Planner, presented this item as stated in the Staff Report.

Bradly Peterson, Applicant, was present and stated that there was already a building there when he purchased this property in 2020 and then he immediately deployed for the Middle East and now that he is home, he is trying to remodel it and make the property look nicer and he came into this issue. He stated that the structure had an approved permit, but it's in the wrong spot and its been like that since 2013. He stated that he now needs a bigger one because he has big trucks and will soon have a boat and he doesn't have a garage and in the house they don't have attic space either, so it would also be for storing his wife's decorations. He explained that the neighbors in the back say they don't have any problems with the variance request and the other neighbors around don't care. Mr. Peterson pointed out on the aerial that there's an easement in the back five (5) feet from the vinyl fence and the previous owners put the

metal shed in the back corner of the house, but he has already removed it because it wasn't in the right spot. He stated that he is just trying to improve the property and he just needs a little more space on the north side away from the house, so he can put the building that he needs.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Austin Beeghly, seconded by Jim Hattaway, to approve this variance request.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

- 11 **805 Francis Street** - Request for a side street (west) setback variance from twenty-five (25) feet to eleven and one-half (11.5) feet for a privacy fence in the R-1AA (Single Family Dwelling) district; BV2023-022 (Melissa Boreman, Applicant) District 4 - Lockhart (Hilary Padin, Project Manager) [2023-376](#)

Hilary Padin, Planner, presented this item as stated in the Staff Report.

Melissa Escoffery, Applicant's Representative, was present and stated that the fence has always been on the property since 1998 and the only thing that has changed is in 2018 with the hurricane, they had to replace six (6) panels and she repaired them and didn't know that she would need a permit for that. Ms. Escoffery advised that if she had to move the fence in its entirety, her master bedroom would be visible.

Jim Hattaway asked if this item is before them because there was enough storm damage to make it no longer conforming and Ms. Padin replied that any repair would require a building permit, which at that time it would be noticed if the fence wasn't permitted or in the wrong place.

Mr. Hattaway asked Ms. Escoffery who installed the fence incorrectly and she responded that after the storm she hired a local handyman. Mr. Hattaway stated that in the fourth paragraph of the variance criteria, she mentioned that this would deprive her of her rights and asked Ms. Escoffery which rights she's referring to. She responded that it would be her position that it would deprive her rights because the damage that was done to the fence it wasn't her fault and that the damage was done because of a natural disaster and she did what she possibly could to address it, so she just believed that because it's not something that the applicant did intentionally that it would. Mr. Hattaway replied that he understands, but she put in this paragraph that the applicant would be deprived of her rights, what right would she be deprived of and she responded that she thinks it would be if there are fines or fees put on her, it could create a hardship for her. Mr. Hattaway asked if her suggestion is that natural disasters are sufficient to create justifications for variances and she confirmed yes that would be her position.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Austin Beeghly, seconded by Larry Wright, to approve this

variance request.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

CLOSING BUSINESS

Kathy Hammel, Principal Planner, asked the Board if an appeal of the Planning Manager's decision could be scheduled at the next meeting.

Discussion ensued regarding the appeal.

A motion was made by Jim Hattaway and seconded by Larry Wright to authorize the appeal of the Planning Manager's decision to be scheduled for the May 22, 2023 meeting.

Aye: Bernard Johns, James Hattaway, Larry Wright, Austin Beeghly, and Thomas Kunzen

Absent: Heather Stark

APPROVAL OF THE MINUTES

ADJOURN

Having no further business, the meeting adjourned at 7:03 PM.