

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Appeal of the Board of Adjustment decision to deny a rear yard setback variance from 30 feet to 15 feet for an addition in the Planned Unit Development District; 3123 Foxwood Drive (William Gribben, applicant)

DEPARTMENT: Planning and Development **DIVISION:** Planning

AUTHORIZED BY: Dori DeBord

CONTACT: Kathy Fall

EXT: 7389

MOTION/RECOMMENDATION:

1. Uphold the Board of Adjustment decision to deny a rear yard setback variance from 30 feet to 15 feet for an addition in the Planned Unit Development District; 3123 Foxwood Drive (William Gribben, applicant).
2. Reverse the Board of Adjustment decision to to deny a rear yard setback variance from 30 feet to 15 feet for an addition in the Planned Unit Development District; 3123 Foxwood Drive (William Gribben, applicant).
3. Continue the request to a time and date certain.

District 3 Dick Van Der Weide

Kathy Fall

BACKGROUND:

At the March 24, 2008, regular meeting, the Board of Adjustment denied the applicant's request for a rear yard setback variance from 30 feet to 15 feet for a proposed addition. On March 31, 2008, the applicant appealed the decision to the Board of County Commissioners.

STAFF FINDINGS:

The Board of County Commissioners shall have the power to hear and decide appeals from Board of Adjustment decisions, including variances the Board of Adjustment is specifically authorized to pass under the terms of the Land Development Code upon determination that all of the following provisions of Section 30.43(b)(3) are satisfied:

a) 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.

No special conditions or circumstances exist which are peculiar to the land.

b) That the special conditions and circumstances do not result from the actions of the applicant.

No special conditions or circumstances exist as a result of the actions of the applicant.

c) 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.

The granting of the variance would confer on the applicant special privileges that are denied by Chapter 30 to other lands, buildings, and structures in the same zoning classification.

d) That 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.

The literal interpretation would not deprive the applicant of rights commonly enjoyed by others.

e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The applicant will still retain reasonable use of the property without the requested variance.

f) 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.

The grant of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

STAFF RECOMMENDATION:

Staff recommends that the Board of County Commissioners uphold the Board of Adjustment decision to deny a rear yard setback variance from 30 feet to 15 feet for an addition in the Planned Unit Development District.

ATTACHMENTS:

1. Notice of Appeal to BCC
2. appeal pictures
3. Appeal pictures
4. appeal pictures
5. Appeal pictures
6. BOA Meeting Minutes
7. Property Appraiser Data
8. Proposed Site Plan
9. Location Map

- 10. Board of Adjustment staff report
- 11. Opposition Letter

Additionally Reviewed By: <input checked="" type="checkbox"/> County Attorney Review (Kathleen Furey-Tran)
--

William Gribben
3123 Foxwood Drive
Apopka Florida 32703
liam@bluedogkeys.com
407.774.6583

Board of County Commissioners
1101 East First Street
Sanford Florida 32771
407.665.7444

RECEIVED MAR 31 2008

Sirs,

Re BV2008-08

In January of this year I hired an Architect to draw up plans for an addition to my two-bedroomed 1,380 square foot home. The Architect explained that I would need to add 620 square feet to the house to receive the extra inside room that I requested.

He further explained that to extend the rear of the house I would need to apply for a variance to the zoning rules as the setback to the fence is zoned at thirty feet and we needed that setback to be fifteen feet.

The Architect is familiar with the neighborhood and has done similar work previously, in fact he was responsible for my immediate neighbor's extension and we were following a similar plan.

A rear setback of fifteen feet is common in this development just as it is common in other similar PUD's. Such a variance approval is rarely contrary to the public interest and I am not asking for a special consideration refused to others in the same zoning district. I do not want to be forced into the time and expense of building a 2-story extension, never mind the fact that I don't want to be running up and down stairs as I approach 60 years of age.

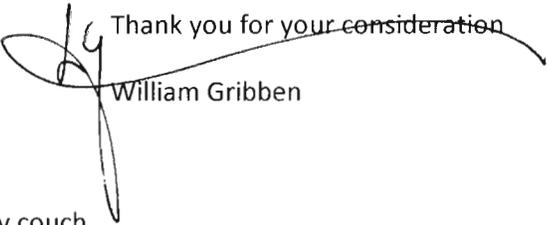
At the hearing my rear-fence neighbor claimed that he would be able to see the extension and it would infringe on his enjoyment of his property: my application was denied on that basis. My neighbor is correct; he will be able to see the extension just as any average person in the neighborhood can stand in their yard and see houses all around them.

Please note that the privacy fences are 6' tall, lots in Foxwood are a minimum of 7,500 square feet, side yard setbacks are 7.5', house heights can be as high as 35'. We have 40 lots in 13.3 acres: we do not have any houses in this development that can not be seen by their respective neighbors on all sides.

While I have great sympathy for my neighbor's fear that he will be 'hemmed-in' on all sides if my extension is built, it should be noted that now that he has finished *his* extension, his rear door is now only 20' from our fence, his pool was added to what little set-back was left and parking his boat in his side yard probably doesn't help his situation either.

In closing, I would like the board to reconsider the denial of my application for a variance. My neighbor is a nice guy, but I believe he is being unreasonable in his objection to the variance being granted. The extension would only be a further 30" beyond my existing pool screen and only a total of 60" closer to the fence than his house is at present.

Thank you for your consideration

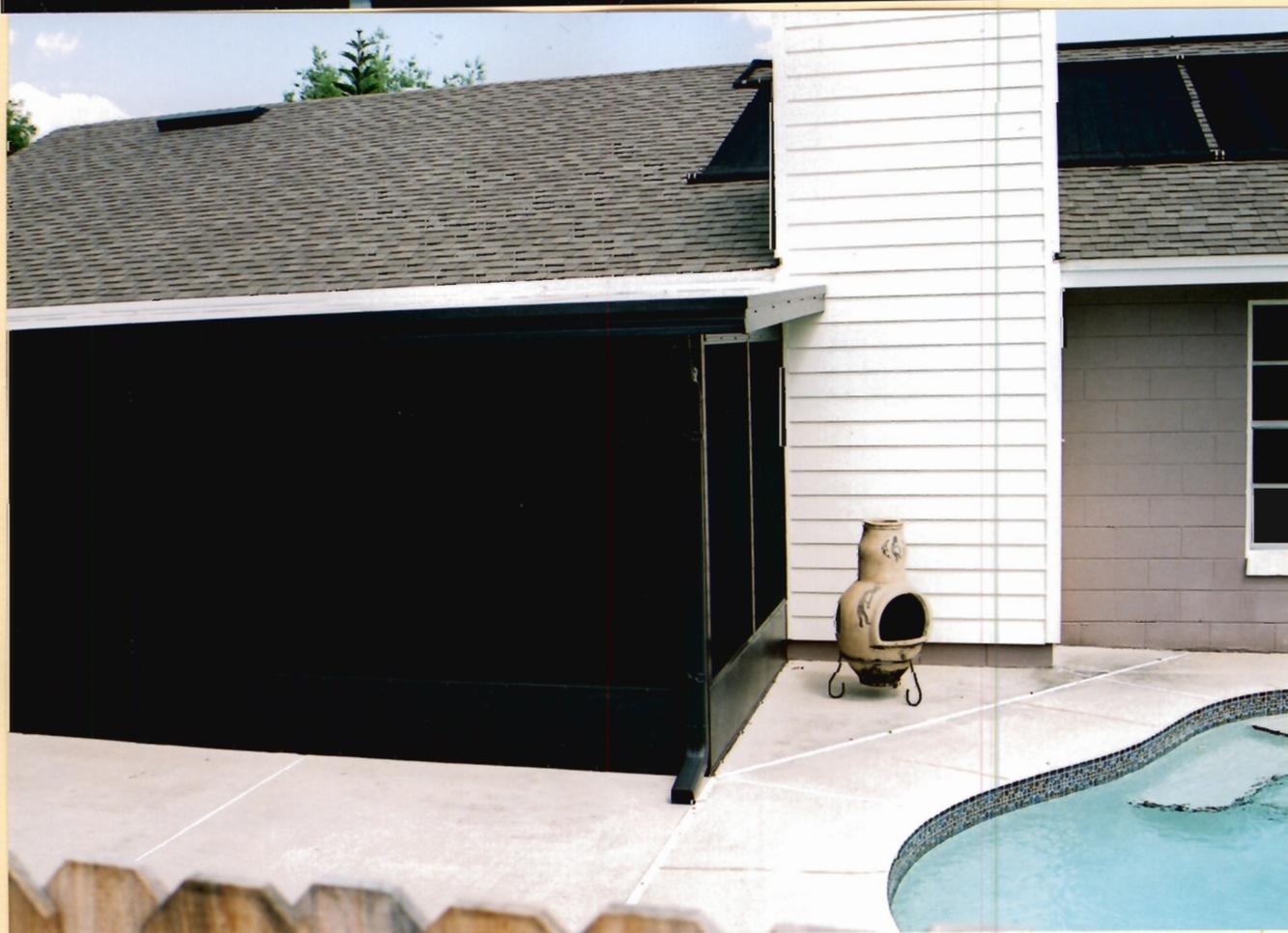

William Gribben

Enclosures 6

- 1 A view of the neighbor's house taken from my couch
- 2 My neighbor's house from my fence
- 3 My neighbour and his neighbor to the North
- 4 My neighbor and his neighbor to the South
- 5 My neighbor's pool abutting the fence
- 6 Stakes and tape marking the requested setback of 15 feet



1,



2,





3,



4.



5.





6.

MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT MARCH 24, 2008 MEETING ITEM #10

Members Present: Mike Hattaway, Chairman; Dan Bushrui, Bob O'Malley, Tom O'Daniel and Stephen Coover

Staff Present: Kathy Fall, Principal Planner; Denny Gibbs, Senior Planner; Joy Williams, Planner; Darlene McGuire, Technician; and Tina Williamson, Assistant Planning Manager

3123 Foxwood Drive – William Gribben, applicant; Request for a rear yard setback variance from 30 feet to 15 feet for an addition in PUD (Planned Unit Development District); Located on the east side of Foxwood Drive approximately 100 feet south of Autumnwood Trail; (BV2008-08). (District 3)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant proposed to construct a one story addition that would consist of two bedrooms and a bathroom that would encroach 15 feet into the required 30 feet rear yard setback. She further stated there were currently no code enforcement or building violations for the property. She then stated there was no record of prior variances granted for the property.

William Gribben stated the house currently was 1250 square feet with two bedrooms, probably the smallest house in Apopka. He further stated technically the architect said he could get three bedrooms if he made them small enough. He then stated he was requesting the variance from 30 feet to 15 feet. He also stated he had approval from the President of the Homeowner's Association and nine letters of support from neighbors.

Carl Spala stated he lived in the house next to the applicant. He further stated the applicant was trying to sell his house about 3 or 4 months ago and he asked him not to because he was a good neighbor. He then stated he did the same addition three years ago without any problems, so he asked the applicant to apply for the variance. He lastly stated he hoped the applicant didn't get denied otherwise the applicant would have to sell his house.

Leon Dunning stated he was the property directly behind the applicant's property and they lived there for five years. He further stated he had some photographs taken as you come directly out of his house facing west and some taken looking left of Mr. Spala home. After showing the

pictures to the Board of Adjustment, he stated that the pictures gave an ideal of how close the applicant's house would be to the fence line. He then stated that when he comes out of his house he would see a large over bearing property.

William Gribben stated that his house would look like the house in the photographs, but he didn't want a two story house.

After a brief discussion the Board of Adjustment asked Mr. Leon Dunning to come back up to the podium and Mr. Hattaway asked if he would be in opposition of the request if it were 20 feet, which is the same distance as Mr. Spala addition.

Leon Dunning stated yes sir I would still be in opposition. He further stated Mr. Spala property was off to the left it was not directly behind him, therefore he didn't mind it. He then stated that when he would come out the back of his house the applicant's proposed addition would be directly in his face.

Mr. Coover made a motion to deny the request.

Mr. O'Daniel seconded the motion.

The motion passed by unanimous consent (5-0).

<p>PARCEL DETAIL</p> <p>DAVID JOHNSON, CFA, ASA</p> <p>PROPERTY APPRAISER</p> <p>SEMINOLE COUNTY FL.</p> <p>1101 E. FIRST ST SANFORD, FL 32771-1468 407-665-7506</p>																																																			
<p style="text-align: center;">GENERAL</p> <p>Parcel Id: 07-21-29-505-0000-0420</p> <p>Owner: GRIBBEN WILLIAM</p> <p>Mailing Address: 3123 FOXWOOD DR</p> <p>City,State,ZipCode: APOPKA FL 32703</p> <p>Property Address: 3123 FOXWOOD DR APOPKA 32703</p> <p>Subdivision Name: FOXWOOD PHASE 2 FIRST ADD</p> <p>Tax District: 01-COUNTY-TX DIST 1</p> <p>Exemptions: 00-HOMESTEAD (2000)</p> <p>Dor: 01-SINGLE FAMILY</p>		<p>2008 WORKING VALUE SUMMARY</p> <p>Value Method: Market</p> <p>Number of Buildings: 1</p> <p>Depreciated Bldg Value: \$142,015</p> <p>Depreciated EXFT Value: \$12,110</p> <p>Land Value (Market): \$37,000</p> <p>Land Value Ag: \$0</p> <p>Just/Market Value: \$191,125</p> <p>Assessed Value (SOH): \$114,435</p> <p>Exempt Value: \$25,000</p> <p>Taxable Value: \$89,435</p> <p style="text-align: center;"><u>Tax Estimator</u> <u>Tax Reform Calculator</u></p>																																																	
<p style="text-align: center;">SALES</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Deed</th> <th>Date</th> <th>Book</th> <th>Page</th> <th>Amount</th> <th>Vac/Imp</th> <th>Qualified</th> </tr> </thead> <tbody> <tr> <td>SPECIAL WARRANTY DEED</td> <td>07/1998</td> <td><u>03473</u></td> <td><u>0047</u></td> <td>\$85,300</td> <td>Improved</td> <td>No</td> </tr> <tr> <td>SPECIAL WARRANTY DEED</td> <td>04/1998</td> <td><u>03430</u></td> <td><u>0086</u></td> <td>\$100</td> <td>Improved</td> <td>No</td> </tr> <tr> <td>CERTIFICATE OF TITLE</td> <td>05/1998</td> <td><u>03422</u></td> <td><u>0436</u></td> <td>\$72,600</td> <td>Improved</td> <td>No</td> </tr> <tr> <td>WARRANTY DEED</td> <td>01/1988</td> <td><u>01923</u></td> <td><u>0930</u></td> <td>\$76,300</td> <td>Improved</td> <td>Yes</td> </tr> <tr> <td>WARRANTY DEED</td> <td>03/1986</td> <td><u>01720</u></td> <td><u>0822</u></td> <td>\$69,900</td> <td>Improved</td> <td>Yes</td> </tr> <tr> <td>WARRANTY DEED</td> <td>06/1981</td> <td><u>01342</u></td> <td><u>1169</u></td> <td>\$63,500</td> <td>Improved</td> <td>Yes</td> </tr> </tbody> </table> <p style="text-align: center;"><u>Find Comparable Sales within this Subdivision</u></p>		Deed	Date	Book	Page	Amount	Vac/Imp	Qualified	SPECIAL WARRANTY DEED	07/1998	<u>03473</u>	<u>0047</u>	\$85,300	Improved	No	SPECIAL WARRANTY DEED	04/1998	<u>03430</u>	<u>0086</u>	\$100	Improved	No	CERTIFICATE OF TITLE	05/1998	<u>03422</u>	<u>0436</u>	\$72,600	Improved	No	WARRANTY DEED	01/1988	<u>01923</u>	<u>0930</u>	\$76,300	Improved	Yes	WARRANTY DEED	03/1986	<u>01720</u>	<u>0822</u>	\$69,900	Improved	Yes	WARRANTY DEED	06/1981	<u>01342</u>	<u>1169</u>	\$63,500	Improved	Yes	<p style="text-align: center;">2007 VALUE SUMMARY</p> <p>Tax Amount(without SOH): \$2,575</p> <p>2007 Tax Bill Amount: \$1,280</p> <p>Save Our Homes (SOH) Savings: \$1,295</p> <p>2007 Taxable Value: \$86,644</p> <p style="text-align: center;">DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS</p>
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POOL GUNITE	2002	384	\$6,528	\$7,680
COOL DECK PATIO	2002	408	\$1,214	\$1,428
SCREEN ENCLOSURE	2002	1,722	\$2,756	\$3,444

NOTE: Assessed values shown are NOT certified values and therefore are subject to change before being finalized for ad valorem tax purposes.

*** If you recently purchased a homesteaded property your next year's property tax will be based on Just/Market value.

PLAT OF SURVEY

LEGAL DESCRIPTION:

LOT 42, FOXWOOD PHASE II FIRST ADDITION
AS RECORDED IN PLAT BOOK 22, PAGE(S) 43, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

Liam Gribben

Home 407.774.6583

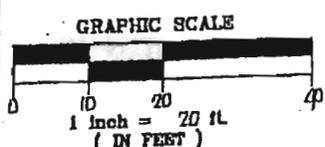
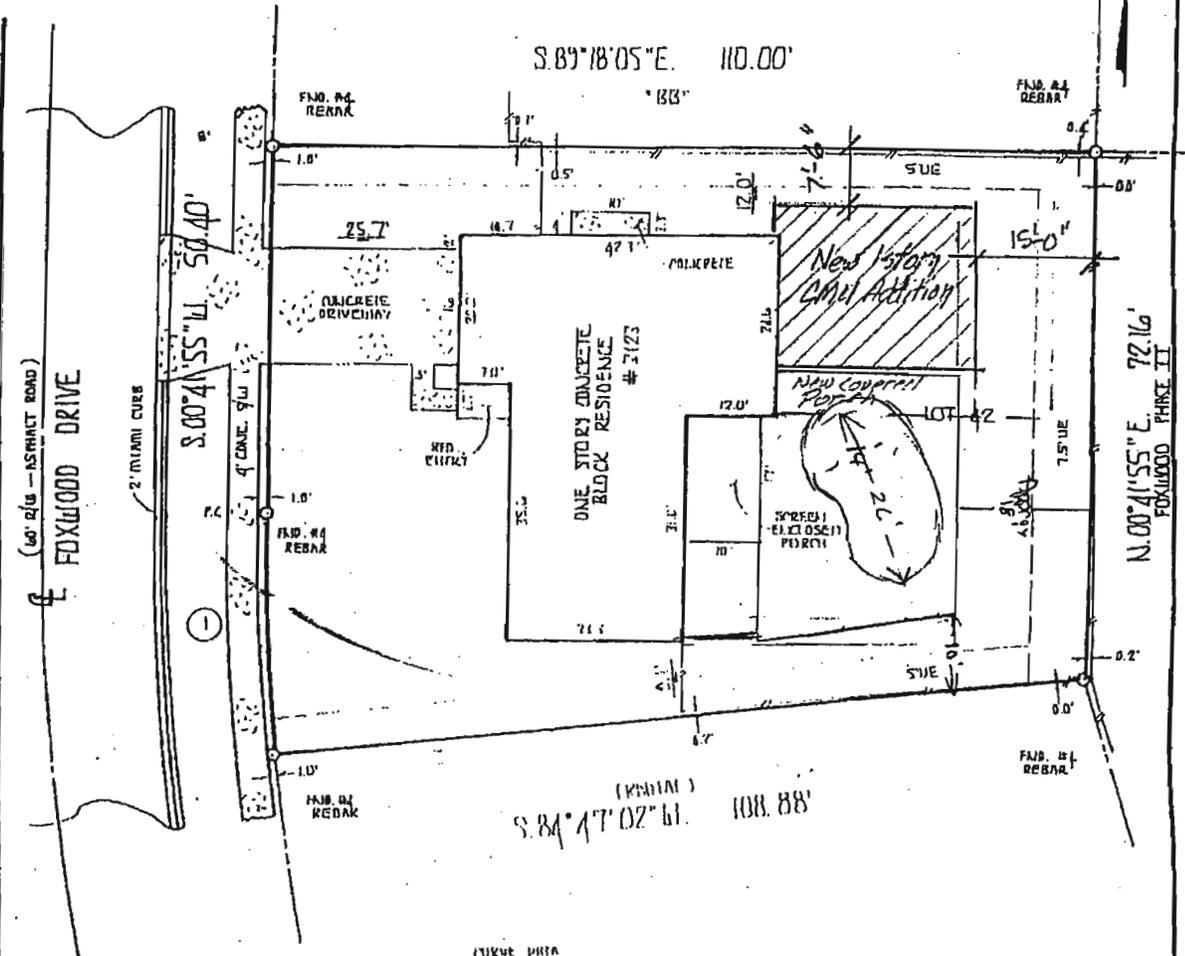
Work 407.774.0100

Fax 407.774.6054

e-mail oddbri@msn.com

Box 160-006 Altamonte Springs FL USA 32716

LIAM GRIBBEN
3123 FOXWOOD DR
APOPKA FL 32703



FIELD DATA
(1)
K=311.00'
Δ=05° 54' 53"
L=33.04'

PLAT OF SURVEY PREPARED FOR: WILLIAM GRIBBEN PLAT OF SURVEY CERTIFIED TO: FIRST AMERICAN TITLE INSURANCE COMPANY SPECTRUM INTERNATIONAL MORTGAGE SERVICES; CROSSLAND MORTGAGE CORP WILLIAM GRIBBEN		NOTES: PLUMB LINE DETERMINATION SHOWN HEREON IS SUBJECT TO OWN ACCEPTANCE BY FIELD. SURVEY IS BASED ON THE LEGAL DESCRIPTION SET FORTH BY PLAT.
FIELD DATE: 7-21-98 SCALE: 1"=20' DRAWN BY:	THIS BUILDING/LOT IS NOT IN A FLOOD PRONE AREA, ZONE "X", BASED ON FLOOD INSURANCE RATE MAP 120269 PANEL NO. 0112C DATED 4-17-95. BEARING STRUCTURE IS BASED UPON THE LINE DENOTED WITH "BB".	UNDERGROUND UTILITIES AND STRUCTURES HAVE NOT BEEN LOCATED UNLESS OTHERWISE NOTED. SUBJECT TO ANY EASEMENTS AND/OR RESTRICTIONS OF RECORD.
IRELAND SURVEYING, INC. 2950 ALOMA AVENUE SUITE 401 WINTER PARK, FLORIDA 32782		I HEREBY CERTIFY THAT THIS PLAT OF SURVEY OF THE ABOVE DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS ACCURATELY SURVEYED UNDER MY DIRECTION ON THE DATE SHOWN BASED ON INFORMATION FURNISHED TO ME. AS NOTED AND CONFORMS TO THE MEASUREMENT TECHNIQUES AND STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA IN ACCORDANCE WITH CHAPTER 610-6, FLORIDA ADMINISTRATIVE CODE. JAMES P. IRELAND LB 5687 PLS 4200

William Gribben
3123 Foxwood Drive
Apopka, Florida 32703

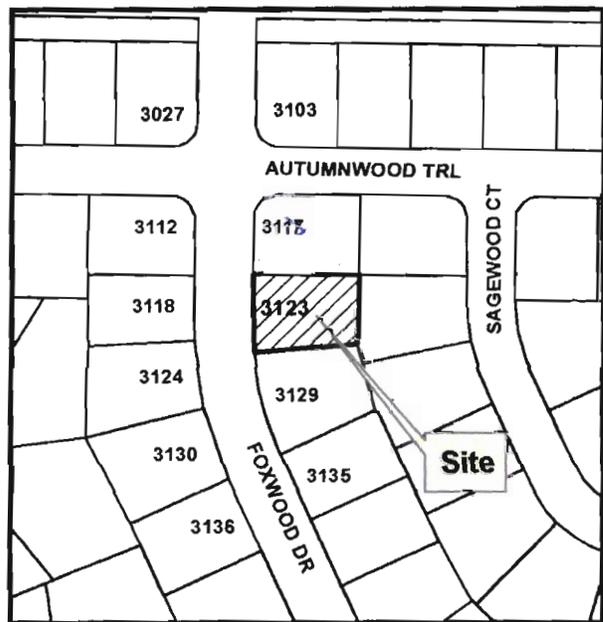


Case: BV2008-08 (Map 3154, Grid A5)
Parcel No: 07-21-29-505-0000-0420

Zoning

-  BV2008-08
-  R-3A
-  PUD





**SEMINOLE COUNTY GOVERNMENT
BOARD OF ADJUSTMENT
AGENDA MEMORANDUM**

SUBJECT: 3123 Foxwood Drive – William Gribben, applicant; Request for a rear yard setback variance from 30 feet to 15 feet for an addition in PUD (Planned Unit Development District).

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: Kathy Fall **CONTACT:** Kathy Fall **EXT.** 7433

Agenda Date 3/24/08 **Regular** **Consent** **Public Hearing – 6:00**

MOTION/RECOMMENDATION:

1. **Deny** the request for a rear yard setback variance from 30 feet to 15 feet for an addition in PUD (Planned Unit Development District); or
1. **Approve** the request for a rear yard setback variance from 30 feet to 15 feet for an addition in PUD (Planned Unit Development District); or
2. **Continue** the request to a time and date certain.

GENERAL INFORMATION	Applicant: William Gribben Location: 3123 Foxwood Drive Zoning: PUD Subdivision: Foxwood
BACKGROUND / REQUEST	<ul style="list-style-type: none"> • The applicant proposes an addition that will encroach 15 feet into the 30 foot rear yard setback. • There are currently no code enforcement or building violations for this property. • There is no record of prior variances for this property.
STAFF FINDINGS	The applicant has not satisfied the criteria for the grant of a variance. Staff has determined that: <ul style="list-style-type: none"> • No 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.

	<ul style="list-style-type: none">• Special conditions and circumstances result from the actions of the applicant.• The granting of the variance requested would confer on the applicant special privileges that are denied by Chapter 30 to other lands, buildings, or structures in the same zoning district.• The literal interpretation of the provisions of Chapter 30 would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification.• The variance requested is not the minimum variance that will make possible reasonable use of the land, building or structure.• The applicant would still retain reasonable use of the land, building or structure without the granting of the variance.• The grant of the variance would not be in harmony with the general intent of Chapter 30.
STAFF RECOMMENDATION	<p>Based on the stated findings, staff recommends denial of the request, unless the applicants can demonstrate a hardship. If the Board should decide to grant a variance, staff recommends the following conditions of approval:</p> <ul style="list-style-type: none">• Any variance granted shall apply only to the proposed addition as depicted on the attached site plan; and• Any additional condition(s) deemed appropriate by the Board, based on information presented at the public hearing.

Seminole County Planning Division
Room 2201
1101 East First Street
Sanford, FL 32771

June 2, 2008

Robert L. Saunders & Brenda J. Saunders
164 Sagewood Court
Apopka, FL 32703

Re: Setback Variance Request from William Gribben

To Our County Commissioners:

Please uphold your denial of Mr. William Gribben's request for a rear yard setback variance from 30 feet to 15 feet for an addition in PUD, located on the east side of Foxwood Drive approximately 100 feet south of Autumnwood Trail. Codes and ordinances ensure that neighborhoods continue to maintain the uniformity and design of their original development and prevent homeowners from dramatically changing the appearance of the community. Setbacks assure owners of desired distances from their neighbors' properties, thereby maintaining the privacy of the original design.

Our property would be adversely affected if Mr. Gribben were to be allowed to construct an addition that comes to within 15 feet of his property line. We bought our house believing that the rules and regulations in place would help to maintain our property value at the highest possible level. If it should become necessary in the future to place our property on the market, it would be desirable to be able to assure prospective buyers that the neighborhood is faithfully regulated by the Seminole County Planning Division, and that they can buy with confidence that any changes that the County allows will enhance, not detract from the overall appearance and comfort of all homeowners.

Please remember that those of us who own property within 50 to 300 feet of Mr. Gribben's property would be most adversely affected by the setback variance. The addition would place his house closer to ours, thereby reducing the amount of privacy that we now have and enjoy.

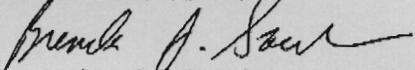
Lastly, please consider the fact that the allowance of one variance makes it more difficult to disallow future requests for other variances within the community because precedence has been established. Those who bring variance requests in the future will believe that theirs are just as worthy of approval by the Board of County Commissioners as those that have already been granted.

Thank you for your serious consideration of our request for denial!

Sincerely,



Robert L. Saunders



Brenda J. Saunders