
**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Appeal of the Board of Adjustment decision to deny a side yard (south) setback variance from 10 feet to 6 feet for an existing room addition in PUD (Planned Unit Development District); 2521 Thicket Ridge Court (Janet Work, applicant)

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

AUTHORIZED BY: Dori DeBord

CONTACT: Denny Gibbs

EXT: 7387

MOTION/RECOMMENDATION:

1. CONTINUE the request to the August 28, 2007 public hearing; (Janet Work, applicant); or
2. UPHOLD the Board of Adjustment decision to deny a side yard (south) setback variance from 10 feet to 6 feet for an existing room addition in PUD (Planned Unit Development District); (Janet Work, applicant); or
3. REVERSE the Board of Adjustment decision to deny a side yard (south) setback variance from 10 feet to 6 feet for an existing room addition in PUD (Planned Unit Development District); (Janet Work, applicant).

District 3 Dick Van Der Weide

Denny Gibbs

BACKGROUND:

On July 5, 2007 the applicant requested a continuance of this item in order to allow them to continue negotiations with the Home Owner Association following the mediation hearing. Please see the attached letter. This request is for a date certain continuance to August 28, 2007 as this has been advertised as a public hearing.

The applicant constructed a 10.5 foot by 11.83 foot addition (approximately 125 square feet) without securing the proper building permits and requested a side yard setback variance from 10 feet to 6 feet after the fact. At the August 28, 2006 regular meeting, the Board of Adjustment denied the applicant's variance request based upon staff's findings.

The applicant submitted the application to appeal the Board of Adjustment's decision to the Planning Division on September 6, 2006 in order to meet the required deadline for appeal. Shortly after, the applicant filed for mediation as provided through the State of Florida Division of Florida Land Sales, Condominiums, and Mobile Homes. The applicant subsequently requested that the Appeal of the BOA Decision be considered after the mediation hearing which is set for June 28, 2007.

STAFF FINDINGS:

The Board of County Commissioners shall have the power to hear and decide appeals from Board of Adjustment decisions, including variances that 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..

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

No special conditions and circumstances exist.

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 requested variance will confer on the applicant special privileges.

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. The applicant had the ability to construct the addition within the required setback.

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 granting of the variance will not be in harmony with the trend of development of the neighborhood. All variances that have been granted in this area were for screen enclosures that were in the rear yards.

STAFF RECOMMENDATION:

Staff recommends the Board CONTINUE the request to the August 28, 2007 public hearing.

ATTACHMENTS:

1. Continuance request 7/5/07
2. Location Map
3. Picture of addition
4. Notice of Appeal to BCC
5. Site Plan of Existing Condition
6. Code Enforcement Notice
7. BOA Meeting Minutes

Additionally Reviewed By:

County Attorney Review (Kimberly Romano)

WILLIAM GLENN ROY, JR.
ATTORNEY AT LAW
411 WEST CENTRAL PARKWAY
ALTAMONTE SPRINGS, FLORIDA 32714
TELEPHONE (407) 869-6167
FAX: (407) 869-9559

July 5, 2007

Mrs. Denny Gibbs
Seminole County Planning and Zoning
Administrative Building
Sanford, Florida 32771

FAX 407-665-7385

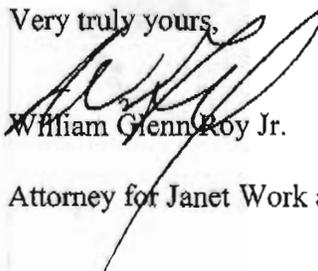
RE: Janet Work Variance Appeal.
REQUEST FOR CONTINUANCE JULY 07 HEARING.

Dear Mrs. Gibbs:

This law firm is now representing Mr. and Mrs. Work in their continuing attempts to resolve all issues with the Sabal Point HOA. Settlement discussions are still on-going.

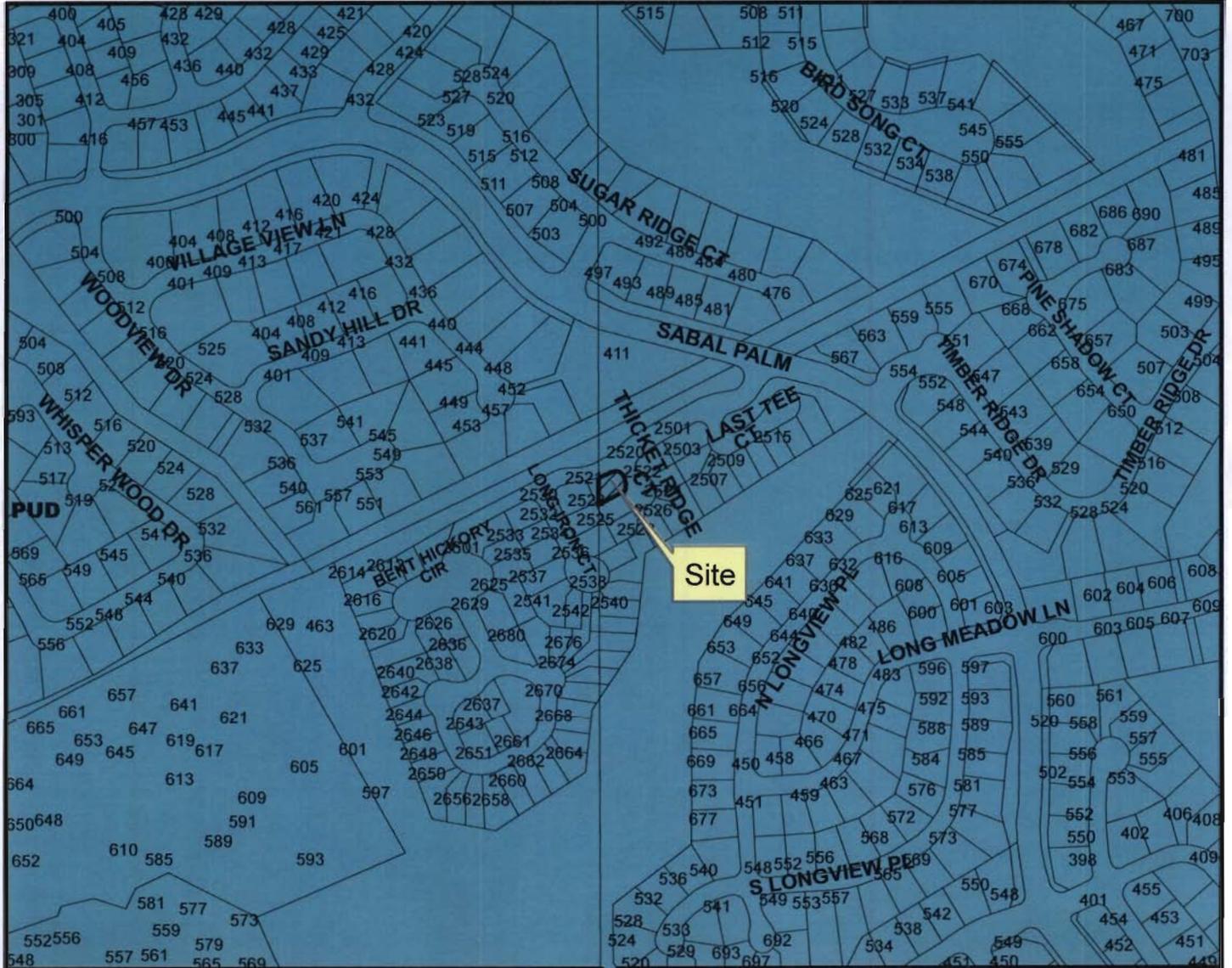
Please continue the Work variance appeal to the August, 07, calendar; and please send a copy of the new notice to this office.

Very truly yours,


William Glenn Roy Jr.

Attorney for Janet Work and Robert Work

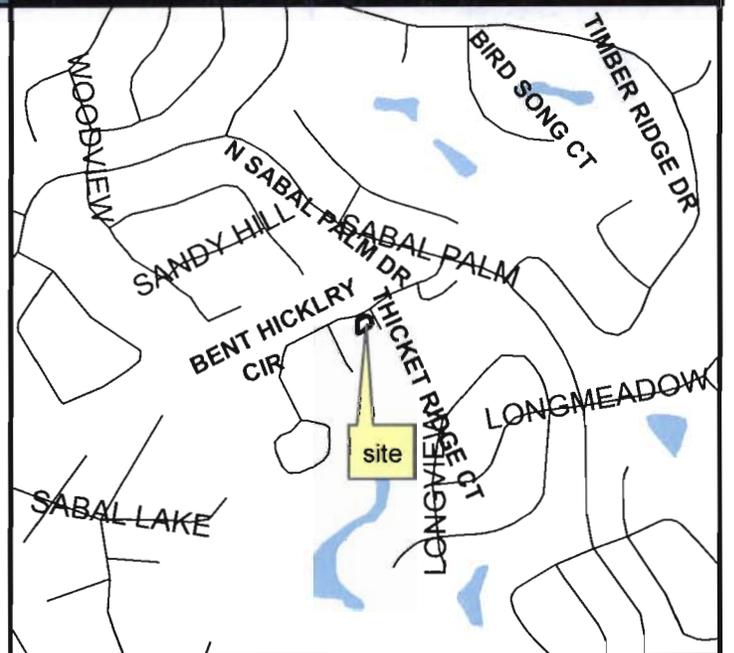
Janet & Robert Work
2521 Thicket Ridge Ct
Longwood, FL 32779



Seminole County Board of Adjustment
August 28, 2006
Case: BV2006-111
Parcel No: 33-20-29-5FP-0000-0170

Zoning

-  BV2006-111
-  PUD





September 6, 2006

Board of County Commissioners
Seminole County, Florida

Re: 2521 Thicket Ridge Ct. (BV2006-111)

Dear Sirs:

In response to the denial for a variance request for Parcel #33-20-29-5FP-0000-0170 on August 28, 2006 by the Seminole County Board of Adjustment, we feel we have no choice but to appeal in order to state the true facts surrounding the building of an extension to the existing roof line and enclosure of an existing patio at our residence in Sabal Point, **which took place in August & September of 2004.**

We apologize for any non-compliance in obtaining a building permit; but as repairs to our residence, resulting in the above building extension, were made during the hurricane season of 2004 - during which time announcements were being made over the radio and in the newspaper that building permits were being waived - we did not think a permit was necessary. When we received a Code Violation in April of 2006 from the county we called immediately to comply, resulting in our request for a variance in order to obtain the requested permit.

We were "shocked" and disappointed at the false statements and accusations made by the "opposition" to the variance request during the Board of Adjustments meeting.

When approached by the Homeowners' Association **over a year after the enclosure of our patio, in the fall of 2005**, we replied to them in the form of two letters, one of which was written and signed by our next-door neighbor Larry Bennett, and the completion of an Application for Approval - after the fact & at their request - with our apology for not knowing that we should have requested their approval in advance. We furnished them all the information we had in our possession, stating that we did not apply for a building permit and could not locate a survey or plat map of our property. At that time we requested a copy of their "Rules & Regulations", so we would know what to do in the future - only to have the **Application for Approval denied** and returned to us by mail **without** a copy of the requested "Rules & Regulations",

Page Two
Board of County Commissioners
September 6, 2006

In surveying other properties in Sabal Point, it appears there have been several "variances" and/or "approvals" granted for existing pool enclosures, additions, fences and recently built homes that do not appear to be in compliance with the Rules & Regulations. (We did finally receive a copy - after we verbally requested a copy of the representative of our Homeowners' Association during the August 28th meeting.)

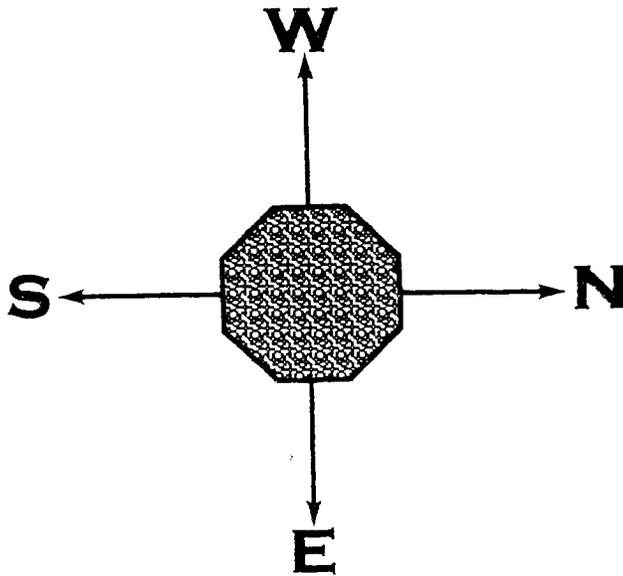
We are submitting this letter as a written request for an appeal, along with pictures of the existing "addition in question" and the required form and fee.

Sincerely,



Robert & Janet Work
2521 Thicket Ridge Court
Longwood, FL 32779

407-869-9427



Bob & Janet Work Residence

2521 Thicket Ridge Ct
Longwood, FL 32779
(407) 869-9427 Res
(407) 230-2308 Cell

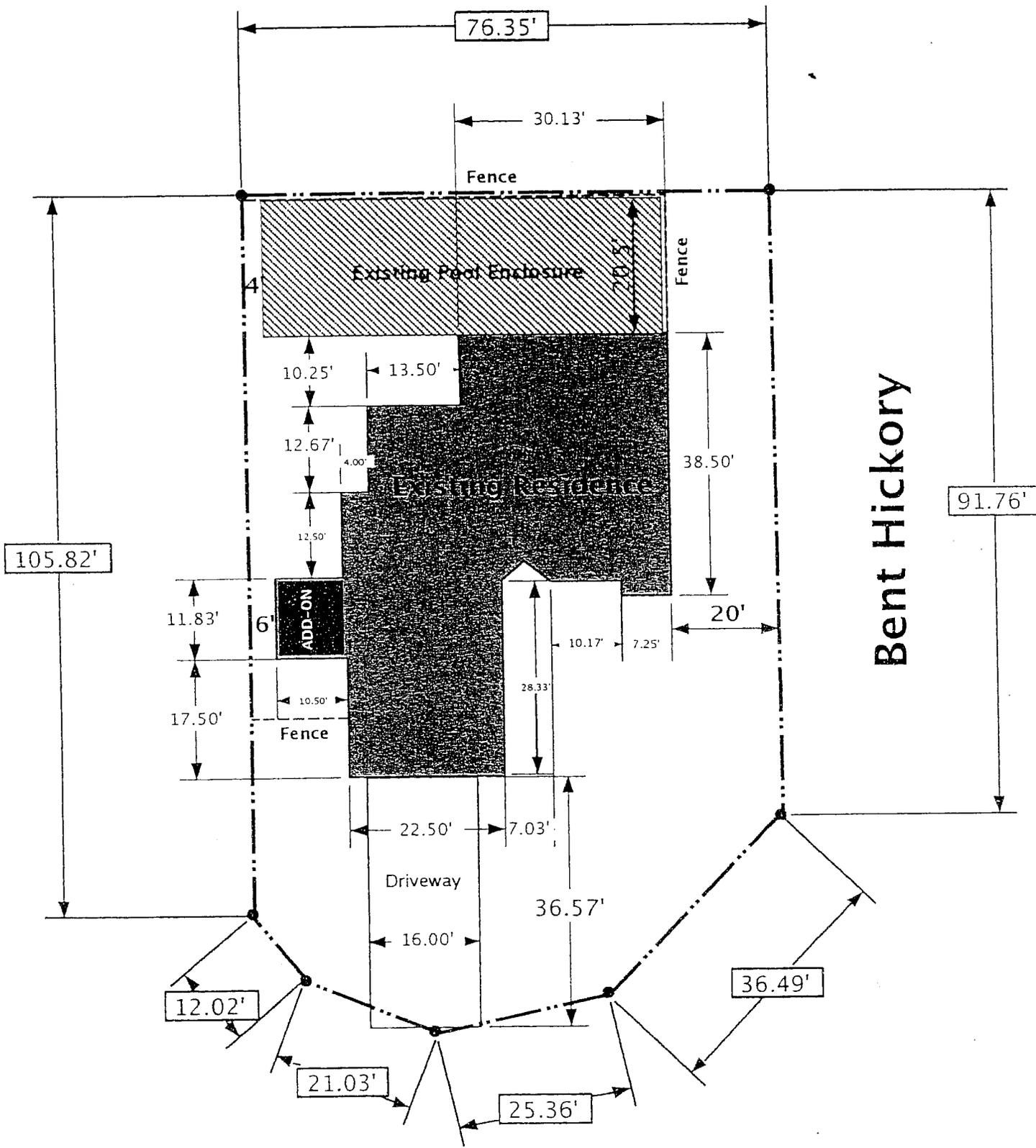
Legal Description:

Leg Lot 17, Sabal Green at Sabal
Parcel ID: 33-20-29-5FP-0000-0170
Point PB 25 PGS 41-43

Legend:

Property Lines - Green
Residence Dimensions - Blue
Residence Footprint - Brown
Setbacks - Red

Scale: 1" = 20'



Thicket Ridge Ct.

NOTICE OF CODE VIOLATION

LOCATION OF VIOLATION: 2521 Thicket Ridge Court
IN ACCORDANCE WITH SEMINOLE COUNTY CODES YOU ARE HEREBY NOTIFIED THAT
THE ABOVE DESCRIBED PROPERTY IS IN VIOLATION OF FIA Bldg Code
CHAPTER/ARTICLE 1 SECTION 105.1

DESCRIPTION OF VIOLATION: Constructed an addition
without permits

CORRECTIVE ACTION: Secure the required permits

THE ABOVE CORRECTIVE MEASURES MUST BE TAKEN BY 5-19-06

FAILURE TO CORRECT THE ABOVE VIOLATION WILL RESULT IN THE MATTER BEING TURNED OVER TO THE CODE ENFORCEMENT BOARD FOR FURTHER ACTION. THE CODE ENFORCEMENT BOARD HAS THE AUTHORITY TO LEVY FINES UP TO \$250.00 A DAY FOR EVERY DAY THE VIOLATION EXISTS.

IF CHECKED, A LICENSE REVOCATION HEARING WILL BE SCHEDULED FOR APPLICABLE CONTRACTOR VIOLATIONS.



For further information contact:
Building and Fire Inspection Division
Seminole County Services Building
1101 East First Street, Room 1020
Sanford, FL 32771
PHONE: (407) 665-7338 OR (407) 665-7423

DATE: 4-25-06 ^{3.3.06} **INSPECTOR:** Jim Helle Janya

CASE NO: 05-613
Have 30 Extension 'til June 19th
Day see reverse side

**MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT
AUGUST 28, 2006 MEETING
ITEM #16**

2521 Thicket Ridge Court – Janet Work, applicant; Request for a side yard (south) setback variance from 10 feet to 6 feet for an existing room addition in PUD (Planned Unit Development District); Located on the southwest corner of Bent Hickory Circle and Thicket Ridge Court approximately 500 feet west of Sabal Palm Drive; (BV2006-111)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant constructed an addition that encroaches 4 feet into the 10 feet side yard setback. She further stated that the side yard setback in Sabal Point Planned Unit Development is established at 10 feet between buildings and therefore the setback of this addition is based on the placement of the adjacent structure which is on the lot line. She then stated that Code Enforcement had issued a violation and also an extension for compliance. She lastly stated that there was no record of prior variances granted for the property.

Janet and Bob Work stated that they had lived in the neighbor for 14 years. Janet Work stated that the addition happen after the hurricane season in 2004. She further stated that there was a patio with a wooden deck on it that they removed several years ago because the wood rotten. She then stated that their sons came and tiled that area for them. She also stated that during the hurricane season they had damage to the roof and they couldn't afford to have it fixed professionally because she and her husband were both retired and they didn't have a lot of money. She further stated that her son got someone to help him fix the roof and at that time they constructed the addition. She then stated that they didn't know they needed a permit until they received a notice from the Building Department. She also stated that since they remained inside the fence they thought they could do what they wanted to the property. She lastly stated that they were sorry they were requesting the variance after the fact.

Mr. Hattaway asked if the Sable Point Homeowners Association been involved.

Janet Work stated that the Homeowners Association came to them last fall and wondered how the addition got there.

Mr. Work stated that the structure was built to code, it had a nice appearance and it fit in very well. He further stated they would not have done it if they knew they needed to apply for a variance.

Mr. Pennington asked was it a mandatory Homeowners Association.

Janet Work stated that she assumed it was. She then stated that they had done a lot to the property since they had lived there and they didn't know they needed to ask for permission for anything. She further stated that when the Homeowner Association came to them and gave them a list of the things they could not do they had already done several of them such as painting and putting on a roof twice.

Mr. Bushrui asked if they paid dues.

Janet Work stated yes.

Mr. Bushrui stated that it was a mandatory Homeowners Association.

Larry Bennett stated that he lived in the house next door and the addition didn't bother him. He further stated that it is an improvement and it matches the house.

Wayne Hunicke stated that he was the President of the Sable Point Community Services Association and they represent about 800 families. He then stated that the Work's live in a village of about 72 homes, which have special plans and restrictions. He further stated that he had been a Sabal Point resident for 20 years and President for about 5 years. He then stated that he would briefly outline the Association concerns about the request.

- The work was done without their Architectural Review Board approval
- No drawings or specifications for the addition
- No County permits or code inspections

He further stated that it is always easier to ask for forgiveness than it is to get permission. He then stated that he would ask the Board to consider the principal as they evaluate the case. He also stated that the Work's did expand their residence and reduced what was already a close proximity between buildings in that area. He further stated that the addition was currently being used as a kitchen as he understood. He then stated he had concerns about the fire code with the buildings being so close to each other. He also stated that the request was denied by their Architectural Review Board. He further stated that in this community every resident is legally required to receive a copy of the covenants. He then stated that they have a community newsletter and about once a year they run an article on when is architectural review required, and about every month

they have a summary of what kinds of actions had been submitted and what was required. He also stated that they have user friendly forms and they work to keep residents informed.

Mr. Pennington asked if the Homeowners Association approved any similar situation.

Wayne Hunicke stated no sir this is something that rarely happens in our community.

Bob Harper stated that he lives directly across the street from the structure. He then stated that he was a member of the Sable Green Homeowners Association, which is a sub Board of Sable Point. He further stated that he strongly objected to the structure because it was built without inspections, without any drawings and it presented a fire danger. He then stated that in this community of 72 units each house has a 0 lot line on one side and a neighbor that has 10 – 12 feet between buildings, and to encroach in that area would decrease the property values.

Tom Snow stated that he lived in the Sable Green Subdivision, and this subdivision was planned out from the beginning with houses at a 10 feet separation. He further stated that every newsletter always mention that all changes to the structure have to go in front of the Architectural Review Board. He then stated that all homeowners know that there are special conditions in this community. He also stated that this addition to the structure is not in keeping with the architectural integrity of the neighborhood. He lastly stated that he was concerned that if the Board of Adjustment approved this request his next door neighbor would build an addition and endanger his home.

Claudette Jaillet stated that she was currently the Chairperson of the Sable Green Homeowners Association. She then stated that she had received several complaints from neighbors about the addition. She further stated that the construction began in January of 2005. She then stated that the roof line of the addition is much closer than 6 feet which is the applicant request. She lastly stated that all the homes are wood frame.

Janet Work stated that she wanted to clear up some misunderstandings, the construction of the addition was done in August and September of 2004. She further stated that the addition was not a kitchen, they had a very small kitchen with no eating room and the addition is a room that they eat in. She then stated that she had letters of all communication between them and the Homeowners Association, which she gave to the Board of Adjustment. She lastly stated that there was a screened in area in the back when they purchased the home which had only 4.5 feet from the

other neighbor which was one reason why they were not concerned about the addition.

Mr. Pennington made a motion to deny the request.

Mr. Rozon seconded the motion.

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