

STAFF RECOMMENDATION:

Staff recommends the Board of County Commissioners (BCC) uphold the Board of Adjustment's decision to affirm the Planning Manager's approval of an administrative front yard setback variance from 25 feet to 23.76 feet in the R-1AA (Single-Family Dwelling District) based on the findings stated in this report.

GENERAL INFORMATION:

Owner/Applicant:	Steven Gladwell
Appellant:	Anne Carr
Subject Property Location:	1654 Pine Valley Drive
Zoning District:	R-1AA (Single-Family Dwelling District)
Applicable Regulations:	LDC, Sections 30.206 (Yard Regulations in the R1AA District), 30.42 (Current Planning Manager), 30.43 (BOA), & 30.1348 (Nonconforming Uses)

BACKGROUND:

- Section 30.1348(b) of the Land Development Code prevents the extension or enlargement of buildings or structures, which are nonconforming.
- The existing home encroaches 1.24 feet into the minimum front yard setback, based on the Land Development Code's definition of a structure:
 - Anything constructed, erected or placed upon the ground (having 75 percent or more of its total area under roof and 75 percent or more of its total area enclosed by walls.
- The existing planters to the front of the home are not considered a component of the single-family structure by definition of the code and are allowed to encroach into the minimum front yard setback.
- In order to construct a compliant addition into the (north) side yard, the owner and applicant (Steven Gladwell) requested a front yard setback variance from 25 feet to 23.73 feet to reduce the minimum front yard setback of an existing nonconforming home constructed in 1962.
- In seeking the requested variance, the applicant intended to free the property's title from encumbrances prior to its sale by making the existing home legally nonconforming.
- Section 30.42 (Planning Manager) of the Land Development Code authorizes the Planning Manager to grant administrative variances in residential zoning districts when the request equals or is less than ten (10) percent of the required setback requirement, provided that only one (1) variance is granted under this procedure; the requested variance from 25 feet to 23.76 feet met this definition by constituting only five (5) percent of the required setback, and the Planning Manager approved the same on October 22, 2003, after determining the criteria for granting a variance had been satisfied by the applicant.

- The Land Development Code does not require a public hearing for the granting of an administrative variance by the Planning Manager, which explains why public notice wasn't provided to surrounding property owners. However, notice was provided to affected property owners regarding the appeal of that decision to the Board of Adjustment, as well as, the current appeal request to the Board of County Commissioners.
- On November 5, 2003, the appellant (Anne Carr) appealed the Planning Manager's approval of the administrative variance, for reasons stated in the attached letter of appeal, dated November 5, 2003.
- At its November 24, 2003 regular meeting, the Board of Adjustment unanimously affirmed the Planning Manager's decision to approve an administrative front yard setback variance from 25 feet to 23.76 feet in the R-1AA (Single-Family Dwelling District). The Board of Adjustment made it clear that the intent of the property owner or future purchaser was not relevant to determining hardship.
- In accordance with Section 30.43(f) of the Land Development Code, Damon Chase (Attorney for appellant, Anne Carr) appealed the Board of Adjustment's decision on November 26, 2003 for reasons stated in the attached letter of appeal.

STAFF FINDINGS:

- The existing home is a nonconforming structure, built in 1962 after the County's adoption of comprehensive zoning in 1960.
- Available records indicate the subject property was designated R-1AA at that time, where a 25 foot front yard setback applied. In spite of a 1.24 foot encroachment into the minimum front yard setback, the existing home received both a building permit and occupancy certificate.
- The county's permittance of the structure based on the existing dimensions and its subsequent construction in observance of those dimensions constitutes a special circumstance, which would result in a hardship if the existing home had to be reduced in size by 1.24 feet to comply with the 25 foot front yard minimum setback requirement.
- The existing home, which has remained a nonconforming structure for 41 years without detriment to the surrounding community, erroneously received building and occupancy permits in 1962, resulting in a special circumstance or hardship for which the applicant is not responsible.
- For this reason, a variance is the appropriate remedy for ensuring reasonable use of the subject property is allowed for the preservation of the existing structure, as well as the approval of the proposed addition.
- The requested front yard setback variance would not confer on the applicant any special privileges denied to other properties in the same zoning classification and is the minimum that would ensure the continued reasonable use of the property.
- The proposed addition, which is not relevant to determining hardship for the existing nonconforming home, would not further this nonconformity and would comply with the 10 foot minimum (north) side yard setback, as depicted on the proposed site plan. Therefore, the grant of the requested variance would be in harmony with the general intent and purpose of the land development code and would not otherwise

adversely impact the surrounding community, and the addition is not relevant to determining hardship for the existing house.

BOARD OF ADJUSTMENT DECISION:

At its November 24, 2003 regular meeting, the Board of Adjustment affirmed the Planning Manager's decision to approve an administrative front yard setback variance from 25 feet to 23.76 feet in the R-1AA (Single-Family Dwelling District).

STAFF RECOMMENDATION:

Based on the stated findings, staff recommends the Board of County Commissioners uphold the Board of Adjustment's decision to affirm the Planning Manager's approval of an administrative front yard setback variance from 25 feet to 23.76 feet for an existing single family house located at 1654 Pine Valley Drive in the R-1AA (Single-Family Dwelling District).

Should the Board of County Commissioners decide to uphold the Planning Manager's decision for the requested variance or any modification thereof, staff recommends the imposition of the following conditions:

1. Any variance granted shall apply only to the existing home, as depicted on the proposed site plan; and
2. Any additional condition(s) deemed appropriate by the Board, following information presented at the public hearing.

Attachments:

Applicable Regulations
Decision on Appeal
Applications for Variance & Appeal
Application for Appeal of BOA's Decision
Correspondence
Site Map
Property Appraiser Report
Recorded Development Order
Minutes of the October 27, 2003 BOA Meeting

SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS
DECISION ON APPEAL

This decision is made by the Board of County Commissioners of Seminole County, Florida, this 13th day of January 2004, in accordance with Section 30.43 of the Land Development Code of Seminole County (LDC), as amended, upholding the Board of Adjustment's decision to affirm the Planning Manager's decision to approve an administrative front yard setback variance from 25 feet to 23.76 feet in the R-1AA (Single-Family Dwelling District).

A. FINDINGS OF FACT

1. On November 24, 2003, the Board of Adjustment affirmed the Planning Manager's approval of an administrative front yard setback variance from 25 feet to 23.76 feet in the R-1AA (Single-Family Dwelling District).
2. The Board of County Commissioners has the authority and responsibility to adjudge this appeal by virtue of Section 30.43(f), LDC.
3. On January 13, 2004, the Board of County Commissioners heard an appeal of this decision.

B. CONCLUSIONS OF LAW

The Board of County Commissioners finds that the Board of Adjustment's affirmation of the Planning Manager's approval of an administrative front yard setback variance from 25 feet to 23.76 feet in the R-1AA (Single-Family Dwelling District) is consistent with Sections: 30.206 (Yard Regulations in the R1AA District), 30.42 (Current Planning Manager), & 30.1348 (Nonconforming Uses) of the Land Development Code of Seminole County. The Board hereby agrees with and adopts the staff recommendations as reflected in the Agenda Memorandum, Item # _____.

C. DECISION

Based upon the foregoing and having fully considered the application submitted, and the testimony presented at the Board of County Commissioners public hearing on January 13, 2004 it is determined by majority vote of members of the Board of County Commissioners of Seminole County, Florida, that the subject decision of the Board of Adjustment is **UPHELD** and the requested variance is approved.

DATED this 13th day of January 2004

Board of County Commissioners
Seminole County, Florida

Daryl G. McLain, Chairman

Sec. 30.206. Yard regulations (front, side, rear).

The following minimum front, side, and rear yards shall be observed:

(a) On properties assigned the R-1A zoning classification, the following minimum yards shall be observed:

(1) *Front.* Twenty-five (25) feet.

(2) *Side.* Seven and one-half (7 1/2) feet inside, twenty-five feet (25') street side; provided, however, that the twenty-five feet (25') street side minimum yard shall be reduced to fifteen feet (15') for corner lots to be located on intersections without geometric restrictions or other sight limitations. Where there are corner sight obstructions or restrictions due to the horizontal or vertical controls, each case must be individually reviewed and approved by the Traffic Engineer to ensure a safe design in accordance with the AASHTO requirements.

(3) *Rear.* Thirty (30) feet.

(b) On properties assigned the R-1AA, R-1AAA and R-1AAAA zoning classifications, the following minimum yards shall be observed:

(1) *Front.* Twenty-five feet (25').

(2) *Side.* Ten (10) feet inside, twenty-five feet (25') street side.

(3) *Rear.* Thirty feet (30').

(§ 5.206, LDC, through Supp 16; Ord. No. 00-44, § 16, 8-22-00).

Sec. 30.42. Current planning manager.

(a) A **current planning manager** shall be designated by the **county manager** as the administrative official to direct the activities of the **current planning office** or its successor, to furnish information and assistance to the **planning and zoning commission**, to the board of county commissioners, and to enforce the provisions of the zoning regulations.

(b) It is the intent of these land development regulations that questions of interpretation and enforcement shall first be presented to the **current planning manager** that such questions shall be presented to the board of adjustment only on appeal.

(c) The **current planning manager** shall have the power to act upon applications certain setback variances as to all in residential zoning classifications when the requested variance equals or is less than ten (10) percent of the required setback requirement; provided, however, that only one (1) variance may be granted under this procedure. If the **current planning manager** denies an application for a variance, such denial may be appealed to the board of adjustment in accordance with the provisions of Section 30.43(c).

(§ 13, Ord. No. 88-10, 9-13-88; § 5.42, LDC, through Supp 16; Ord. No. 97-18, § 2, 5-13-97).

Sec. 30.43. Board of adjustment.

(a) *Appointment.* The Board of Seminole County Commissioners shall appoint a **board of adjustment** which shall have not less than five (5) nor more than ten (10) members. Said members shall be appointed for four-year terms and not more than a minority of the terms of such members shall expire in any one (1) year. In addition, the **board of commissioners** may appoint not more than two (2) alternate members, designating them as such. Such alternate members may act in the temporary absence or disability of any regular member or may act when a regular member is otherwise disqualified in a particular case that may be presented to the **board**. No member or alternate member of the **board of adjustment** shall be a paid or elected official or employee of the governing body involved.

(b) *Powers and duties.* The **board of adjustment** shall have the following powers and duties:

(1) *Appeals from current planning manager.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the current planning manager under the provisions of this Code. In exercising its powers, the **board of adjustment** may, upon appeal and in conformity with provisions of this Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by current planning manager, and make such order, requirement, decision or determination as ought to be made and, to that end, shall have all powers of the current planning manager. A majority vote of all members of the **board** shall be necessary to reverse any order, requirement, decision, or determination of the current planning manager or to decide in favor of the applicant on any matter upon which the **board** is required to pass under this Code.

(2) *Special exceptions/conditional uses.* To hear and decide only special exceptions as the **board of adjustment** is specifically authorized to pass on under the terms of this Code; to decide such questions as are involved in determining when special exceptions should be granted; to grant special exceptions with appropriate conditions and safeguards; or to deny special exceptions when not in harmony with the purpose and intent of this Code. After review of an application and a public hearing thereon, with due public notice, the **board of adjustment** may allow any uses for which a special exception is required; provided, however, that said **board** may allow said uses only upon a determination that the use requested:

- a. Is not detrimental to the character of the area or inconsistent with trends of development in the area;
- b. Does not have an unduly adverse effect on existing traffic patterns, movements and intensity; and
- c. Is consistent with the county's comprehensive plan. In granting any special exception, the **board** shall find that such grant will not adversely affect the public interest.

(3) *Variances.* To grant variances that are not contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of Chapter 30 will result in unnecessary and undue hardship. In order to grant a variance, the **board of adjustment** must first determine:

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

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

(4) *Conditions on special exceptions and variances.* In granting any special exception or variance, the **board of adjustment** may prescribe appropriate conditions and safeguards. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. The **board of adjustment** may prescribe a reasonable time limit within which the action for which the special exception or variance is required shall be begun or completed, or both.

(5) *Limitation of powers.* Under no circumstances shall the **board of adjustment** grant a special exception or variance to permit a use not generally or by special exception permitted in the zoning classification involved, or any use expressly or by implication prohibited by the terms of this chapter in the said zoning classification. No nonconforming use of neighboring lands, structures, or buildings in the same zoning classification, and no permitted use of lands, structures, or buildings in other zoning classifications shall be considered grounds for the authorization of a variance.

(c) Appeal to the **Board of Adjustment** from Decision of the Current Planning Manager. Appeals to the **Board of Adjustment** may be taken by any person aggrieved or by any officer, board, or bureau of the County affected by any decision of the Current Planning Manager under this Code. Such appeal shall be taken within thirty (30) days after such decision is made by filing with the Current Planning Manager a notice of appeal specifying the grounds thereof. The appeal shall be in such form which provides a notice of the decision appealed and a discussion of the alleged error in the decision. The Current Planning Manager shall, upon notification of the filing of the appeal, forthwith, transmit to the **Board of Adjustment** all the documents, plans, papers, or other materials constituting the record upon which the action appealed from was taken.

(d) Notice Required on Hearing of Appeal. The **Board of Adjustment** shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney. For procedural purposes, an application for a special exception and an appeal of a decision of the Current Planning Manager shall be presented by the Current Planning Manager before the applicant or appellant makes a presentation.

(e) Appeals from **Board of Adjustment** Decision. Any person, or persons, jointly or severally, aggrieved by any decision of the **Board of Adjustment**, may, within fifteen (15) days after the filing of any decision in the office of the Current Planning Division, but not thereafter, apply to the **Board of County Commissioners** for relief. The appeal before the **Board of County Commissioners** shall be de novo. The applicant for the special exception shall make the initial presentation to the **Board** after County staff has advised the **Board** of the procedural history of the case.

(f) An appeal to the **Board of County Commissioners** shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the **Board of County Commissioners**, after the notice of appeal shall have been filed with him, that by reason of acts stated in the certificate, a stay would, in his opinion, cause imminent peril to lives or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the **Board of County Commissioners** or by a court of record on application, on notice to the officer or board from which the appeal is taken, and on due cause shown. The **Board of County Commissioners** shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the rendering of a decision, any party may appeal. Decisions shall be rendered by filing a copy of the order of the **Board** with the Clerk to the **Board**. Upon approval of a special exception or variance by the **Board** or the **Board** making a ruling relative to the appeal of a decision made by the Current Planning Manager, any development orders or permits may be issued consistent with the **Board's** decision unless stayed or enjoined by a court of competent jurisdiction.

(§ 8, Ord. No. 81-26, 5-12-81; § 1, Ord. No. 84-46, 8-7-84; § 5.43, LDC, through Supp 16; Ord. No. 97-18, § 3, 5-13-97; Ord. No. 00-44, § 2, 8-22-00).

Sec. 30.1348. Nonconforming uses.

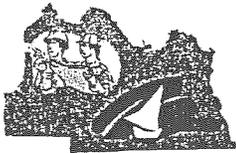
(a) A **nonconforming** building may be maintained and repairs and alterations may be made, except that, in a building which is **nonconforming** as to **use** regulations, no structural alterations shall be made except those required by law. Repairs such as plumbing or the changing of partitions or other interior alterations are permitted.

(b) Buildings or structures or **uses** of land which are **nonconforming** shall not be extended or enlarged.

(c) When a **nonconforming use** of land has been discontinued for one hundred eighty (180) days or longer, its future **use** shall revert to the **uses** permitted in the district in which said land is located.

(d) A **nonconforming** building or structure, which is hereafter damaged or destroyed to the extent of fifty (50) percent or more of its value by flood, fire, explosion, earthquake, war, riot, or act of God, may be reconstructed or restored for the same **use** in compliance with the regulations of this section.

(§ 5, Ord. No. 81-14, 3-24-81; § 5.1027, LDC, through Supp 16).



APPLICATION TO THE SEMINOLE COUNTY BOARD OF ADJUSTMENT

Applications to the Seminole County Board of Adjustment shall include all applicable items listed in the Board of Adjustment Process Checklist. No application will be scheduled for Board of Adjustment consideration until a complete application (including all information requested below) has been received by the Planning & Development Department, Planning Division.

APPLICATION TYPE:

- VARIANCE** FYSBV from 25 FT to 23.76 FT for existing nonconforming home
- SPECIAL EXCEPTION** _____
- MOBILE HOME SPECIAL EXCEPTION** _____
- EXISTING PROPOSED REPLACEMENT
 MOBILE HOME IS FOR _____
 YEAR OF MOBILE HOME _____ SIZE OF MOBILE HOME _____
 ANTICIPATED TIME MOBILE HOME IS NEEDED _____
 PLAN TO BUILD YES NO IF SO, WHEN _____
 MEDICAL HARDSHIP YES (LETTER FROM DOCTOR REQUIRED) NO
- APPEAL FROM DECISION OF THE PLANNING MANAGER**

	PROPERTY OWNER	AUTHORIZED AGENT *
NAME	STEPHEN MICHAEL GLADWELL	
ADDRESS	1654 PINE VALLEY DR. LONGWOOD, FL. 32750	
PHONE 1	321-207-0937	
PHONE 2	321-217-1047	
E-MAIL	Steve G	

PROJECT NAME: N/A
 SITE ADDRESS: 1654 Pine Valley Drive
 CURRENT USE OF PROPERTY: SF
 LEGAL DESCRIPTION: See attached
 SIZE OF PROPERTY: _____ acre(s) PARCEL I.D. 01-21-29-508-0600-0010
 UTILITIES: WATER WELL SEWER SEPTIC TANK OTHER _____
 KNOWN CODE ENFORCEMENT VIOLATIONS _____

IS PROPERTY ACCESSIBLE FOR INSPECTION YES NO

This request will be considered at the Board of Adjustment regular meeting on N/A (Administrative) (mo/day/yr), in the Board Chambers (Room 1028) at 6:00 p.m. on the first floor of the Seminole County Services Building, located at 1101 East First Street in downtown Sanford, FL.

I hereby affirm that all statements, proposals, and/or plans submitted with or contained within this application are true and correct to the best of my knowledge.

Stephen Michael Gladwell 10-16-03
 SIGNATURE OF OWNER OR AGENT* DATE

* Proof of owner's authorization is required with submittal if signed by agent.

ADDITIONAL VARIANCES

VARIANCE 2:

VARIANCE 3:

VARIANCE 4:

VARIANCE 5:

VARIANCE 6:

VARIANCE 7:

VARIANCE 8:

APPEAL FROM BOA DECISION TO BCC

	PROPERTY OWNER	AUTHORIZED AGENT *
NAME	DANIEL LEE CARR	
ADDRESS	1667 PALM HILL DR. LONGWOOD, FL 32750	
PHONE 1	407-339-5244	
PHONE 2	407-889-9844	
E-MAIL	DLCARR@IX.NETCOM.COM	

NATURE OF THE APPEAL _____

BCC PUBLIC HEARING DATE _____

FOR OFFICE USE ONLY

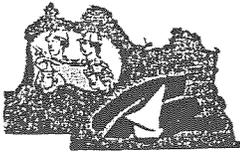
PROCESSING:

FEE: \$150 _____ COMMISSION DISTRICT 34 _____ FLU/ZONING R-1AA _____

LOCATION FURTHER DESCRIBED AS NE corner of Pine Valley Dr. & Pressview Drive _____

PLANNER RS _____ DATE 11-04-03 _____

SUFFICIENCY COMMENTS _____



Appeal

APPL. NO. BV2003-171

APPLICATION TO THE SEMINOLE COUNTY BOARD OF ADJUSTMENT

Applications to the Seminole County Board of Adjustment shall include all applicable items listed in the Board of Adjustment Process Checklist. No application will be scheduled for Board of Adjustment consideration until a complete application (including all information requested below) has been received by the Planning & Development Department, Planning Division.

APPLICATION TYPE:

- VARIANCE**
- SPECIAL EXCEPTION**
- MOBILE HOME SPECIAL EXCEPTION**
 - EXISTING PROPOSED REPLACEMENT
 - MOBILE HOME IS FOR _____
 - YEAR OF MOBILE HOME _____ SIZE OF MOBILE HOME _____
 - ANTICIPATED TIME MOBILE HOME IS NEEDED _____
 - PLAN TO BUILD YES NO IF SO, WHEN _____
 - MEDICAL HARDSHIP YES (LETTER FROM DOCTOR REQUIRED) NO

APPEAL FROM DECISION OF THE PLANNING MANAGER *granting FYSBY from 25 ft. to 23.76 ft. for existing nonconforming home (BV2003-171)*

	PROPERTY OWNER	AUTHORIZED AGENT *
NAME	<i>STEVEN MICHAEL GLADWELL</i>	
ADDRESS	<i>1654 PINE VALLEY DR. LONGWOOD, FL. 32750</i>	
PHONE 1		
PHONE 2		
E-MAIL		

PROJECT NAME: 1654 Pine Valley Drive

SITE ADDRESS: "

CURRENT USE OF PROPERTY: SF

LEGAL DESCRIPTION: See attached

SIZE OF PROPERTY: _____ acre(s) PARCEL I.D. 01-21-29-508-0000-0010

UTILITIES: WATER WELL SEWER SEPTIC TANK OTHER _____

KNOWN CODE ENFORCEMENT VIOLATIONS _____

IS PROPERTY ACCESSIBLE FOR INSPECTION YES NO

This request will be considered at the Board of Adjustment regular meeting on _____ (mo/day/yr), in the Board Chambers (Room 1028) at 6:00 p.m. on the first floor of the Seminole County Services Building, located at 1101 East First Street in downtown Sanford, FL.

I hereby affirm that all statements, proposals, and/or plans submitted with or contained within this application are true and correct to the best of my knowledge.

SIGNATURE OF OWNER OR AGENT* _____ DATE _____

* Proof of owner's authorization is required with submittal if signed by agent.

ADDITIONAL VARIANCES

VARIANCE 2:

VARIANCE 3:

VARIANCE 4:

VARIANCE 5:

VARIANCE 6:

VARIANCE 7:

VARIANCE 8:

APPEAL FROM BOA DECISION TO BCC

	PROPERTY OWNER	AUTHORIZED AGENT *
NAME		
ADDRESS		
PHONE 1		
PHONE 2		
E-MAIL		

NATURE OF THE APPEAL _____

BCC PUBLIC HEARING DATE _____

FOR OFFICE USE ONLY

PROCESSING:

FEE: \$150 COMMISSION DISTRICT 3-YanDerWeide FLU / ZONING R-1AA

LOCATION FURTHER DESCRIBED AS Northeast corner of Pine Valley Dr. & Pressview Drive

PLANNER ERM/AS DATE 10-16-03

SUFFICIENCY COMMENTS _____

November 5, 2003

Board of Adjustment
Seminole County
1101 East First Street
Sanford, Florida 32721

To Whom It May Concern:

We appeal the above referenced administrative variance recently granted.

The administrative variance procedure was conducted and a variance granted with no notice to homeowners.

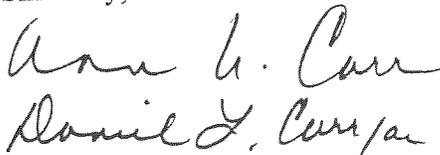
The variance was not sought for the owner to improve his property but at the request of a prospective buyer.

The adjacent property owners on which the variance has the most impact had been denied the opportunity to express an opinion or to demonstrate the negative impact of the variance of their property. Now we have to pay \$150 for the opportunity to be heard.

Property owners in the neighborhood also have been denied the opportunity to express their opinions regarding the negative impact of the precedent of a procedure whereby variances are granted with no opportunity to voice opinions and concerns.

It is our understanding that before a variance is to be granted, the petition is advertised, posted and property owners notified. None of this occurred.

Sincerely,

Handwritten signatures of Ann U. Carr and Daniel L. Carr. The signature of Ann U. Carr is written in a cursive style, and the signature of Daniel L. Carr is also in cursive, appearing below the first signature.

Ann U. Carr
Daniel L. Carr

BA 2003-004

CHASE LAW OFFICES, P.A.
1009 E. Hwy. 436, Altamonte Springs, FL 32701

COPY

Phone: 407-834-0000

Fax: 407-834-6900

TO: Seminole County Board of County Commissioners; and
Seminole County Board of Adjustment

FROM: Damon A. Chase, Esquire

DATE: November 26, 2003

RE: Notice of Appeal

To whom it may concern:

Pursuant to instructions by the office of the Seminole County Planner, the following shall serve as Notice of Appeal to the Seminole County Board of County Commissioners of a decision by the Seminole County Board of Adjustment.

Statement of Facts:

On October 16, 2003, Stephen Gladwell (Applicant) applied for, and was ultimately granted, a variance on his property located at 1654 Pine Valley Drive, Longwood, Florida 32750. The County Planner granted the variance administratively without hearing contending that the subject property was less than 10 percent non-conforming.

On November 04, 2003, Ann Carr and Daniel Carr (Appellants), of 1667 Palm Hill Drive, Longwood, Florida 32750, appealed the administrative grant to the Seminole County Board of Adjustment (the SCBA). The appeal was heard as agenda item 15 at the November 24, 2003 meeting of the SCBA.

At the November 24, 2003 hearing, Chairman, Mike Hattaway, was not present. A substitute for Mr. Hattaway chaired the meeting.

At the November 24, 2003 hearing, Appellants, by and through the undersigned counsel, argued that:

- (a) The variance should not have been granted administratively because the building was more than 10 percent non-conforming, and therefore required a public hearing.
- (b) Granting of the variance was contrary to the intent, purpose, and letter of Seminole County Ordinances.

- (c) Applicant failed to present evidence supporting a finding that granting the variance was warranted.
- (d) Applicant failed to allege a hardship required by law for the granting of a variance.

In support of their position, Appellants presented to the SCBA copies of the application, the appeal, the relevant Seminole County Ordinances, case law supporting Appellants' position, and a petition signed by all but one of the nearly fifty home owners in the affected area (many of whom filled the room during the hearing but were not allowed to speak). Appellants also presented photographic and survey evidence in support of their position.

From the beginning of the hearing it was apparent that the substitute chair, the members of the board, and the acting county attorney were unfamiliar with the appellate procedure. The substitute chair admitted several times he was confused and didn't understand what was happening, members of the board expressed confusion as to what they were to decide, and the acting county attorney was unable to assist the board as to procedure.

Ultimately, the Board voted three to zero (with two members abstaining) to deny the appeal. The reason given for denying the appeal was that the board had granted similar variances in the past. Respectfully, that standard of review is shockingly contrary to Seminole County Ordinances and Florida law.

For the foregoing reasons, Appellants file this appeal with the Seminole County Board of County Commissioners and enclose a check for \$150 in accordance with Seminole County procedure.



DAMON A. CHASE, ESQUIRE
Florida Bar No.: 642061
Chase Law Offices, P.A.
1009 E. Hwy. 436
Altamonte Springs, FL 32701
Telephone: 407-834-0000
Facsimile: 407-834-6900
Attorney for Appellants

Legal Description

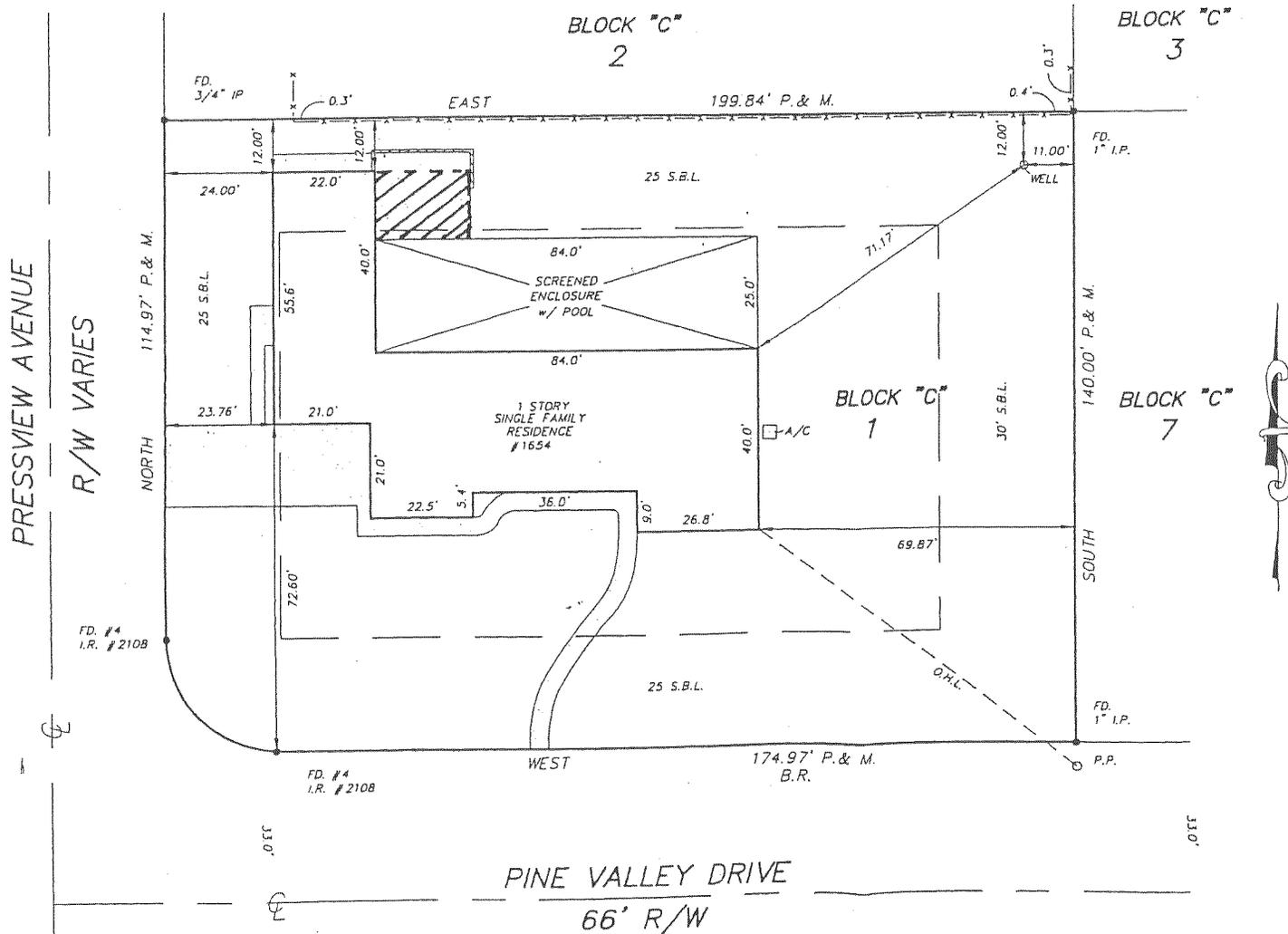
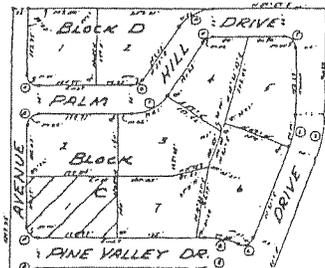
Lot 1, Block C, SANLANDO COUNTRY CLUB, according to the Plat thereof, as recorded in Plat Book 11, Page 55, of the Public Records of Seminole County, Florida.

Community Number: 120289 Panel: 0120
 Suffix: E F.I.R.M. Date: 4/17/95 Flood Zone: X
 Field Work: 10/11/00 Completed: 10/16/00

Certified To:
 Stephen Gladwell; Trina Gladwell; Greater Florida Title Company; Commonwealth Land Title Insurance Company; SunTrust Bank, Central Florida, N.A., its successors and/or assigns.

Property Address:
 1654 Pine Valley Drive
 Longwood, Florida 32750

Survey Number: O-68147



- x - x -	WIRE FENCE
F.N.	NAIL
●	PROPERTY CORN
R	RECORD
M	FIELD MEASURED
C	CALCULATED
CL	CLEAR
ENCR	ENCROACHMENT
CL	CENTERLINE
CONC	CONCRETE
PL	PROPERTY LINE
C.M.	CONCRETE MONU
F.I.R.	FOUND IRON ROD
F.I.P.	FOUND IRON PIPE
R.W.	RIGHT OF WAY
N&D	NAIL & DISK
D.E.	DRAINAGE EASEM
U.E.	UTILITY EASEMEN
FD.	FOUND
P	PLAT
ASPH	ASPHALT
O.H.L.	OVERHEAD UTIL.
P.P.	POWER POLE
TX	TRANSFORMER
CATV	CABLE RISER
WM	WATER METER
TEL.	TELEPHONE FACIL
CA	COVERED AREA
B.R.	BEARING REFERE
CH	CHORD
RAD	RADIAL
N.R.	NON RADIAL
A/C	AIR CONDITIONER
B.M.	BENCH MARK
C.B.	CATCH BASIN
C.	CALCULATED

- GENERAL NOTES:
- LEGAL DESCRIPTION P.
 - THE LANDS SHOWN HE OTHER RECORDED ENI
 - UNDERGROUND PORTI IMPROVEMENTS WERE
 - WALL TIES ARE TO THE
 - ONLY VISIBLE ENCROA
 - NO IDENTIFICATION FO
 - DIMENSIONS SHOWN A
 - ELEVATIONS IF SHOWN OTHERWISE NOTED
 - BEARINGS REFERENCE
 - THIS IS A BOUNDAR
 - NOT VALID UNLESS SE

I HEREBY CERTIFY THAT THIS BOUNDAR REPRESENTATION OF A SURVEY PR

SIGNED _____
 RALPH SWERDLOFF

SIGNED _____
 CARL MICHAEL SMITH

SIGNED _____
 NOE AGUILAR

SIGNED _____
 CLYDE D. McNEAL

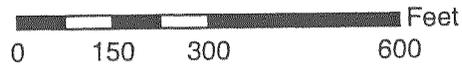
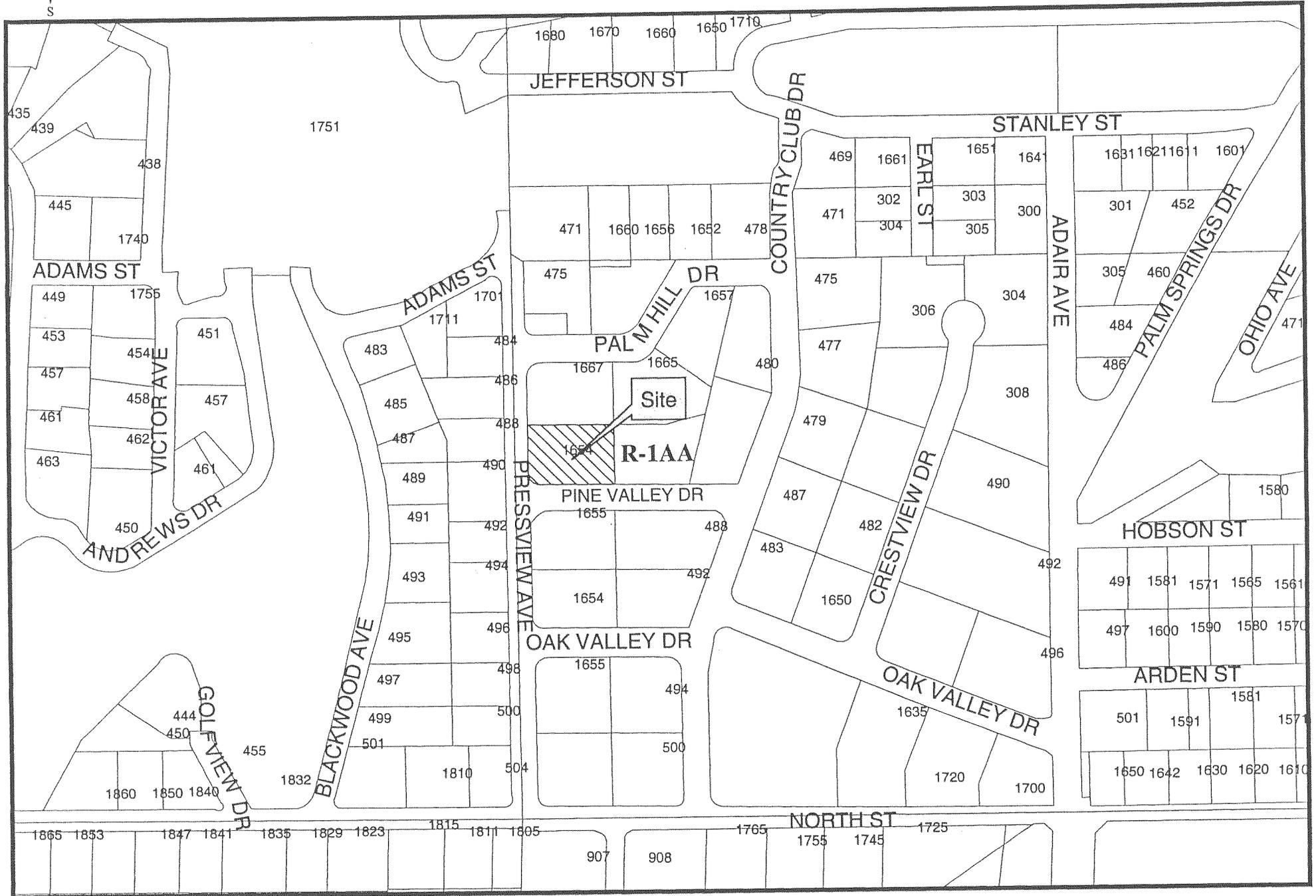
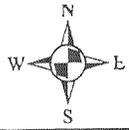
SIGNED _____
 CECILIO E. PADRON

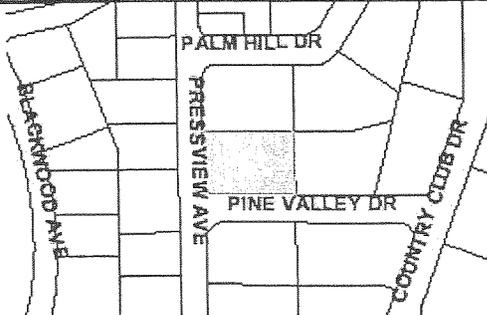
THIS SURVEY IS INTENDED FOR USE BY THOSE TO WHOM IT IS CERTIF DESIGN OR ANY OTHER USE WITH

First Financial Surveyors Inc.

AND AFFILIATED (L.B. 6387 (FLORID.)
 365 Aulin Avenue
 Oviedo, Florida 32765
 (407) 977-7010 Fax (407) 97
 (800) 787-8266 Fax (800) 78

Stephen Gladwell 1654 Pine Valley Dr.



PARCEL DETAIL	REAL ESTATE	PERSONAL PROP.	TAX ROLL	SALES SEARCH	◀ Back ▶																																																						
 Seminole County Property Appraiser Services 1101 E. First St. Sanford Fl. 32771 407-665-7506																																																											
	<p style="text-align: center;">GENERAL</p> Parcel Id: 01-21-29-508-0C00-0010 Tax District: 01-TX DIST 1 - COUNTY Owner: GLADWELL STEPHEN M & TRINA Exemptions: 00-HOMESTEAD Address: 1654 PINE VALLEY DR City,State,ZipCode: LONGWOOD FL 32750 Property Address: 1654 PINE VALLEY DR LONGWOOD 32750 Subdivision Name: SANLANDO COUNTRY CLUB ESTATES Dor: 01-SINGLE FAMILY <div style="text-align: right; margin-top: 10px;"><i>R-1AA</i></div>			<p style="text-align: center;">2004 WORKING VALUE SUMMARY</p> Value Method: Market Number of Buildings: 1 Depreciated Bldg Value: \$166,963 Depreciated EXFT Value: \$11,972 Land Value (Market): \$35,462 Land Value Ag: \$0 Just/Market Value: \$214,397 Assessed Value (SOH): \$212,045 Exempt Value: \$25,000 Taxable Value: \$187,045																																																							
<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> </tr> </thead> <tbody> <tr> <td>WARRANTY DEED</td> <td>10/2000</td> <td>03942</td> <td>0206</td> <td>\$230,000</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>02/1998</td> <td>03379</td> <td>0174</td> <td>\$100</td> <td>Improved</td> </tr> <tr> <td>SPECIAL WARRANTY DEED</td> <td>04/1996</td> <td>03068</td> <td>1046</td> <td>\$162,000</td> <td>Improved</td> </tr> <tr> <td>CERTIFICATE OF TITLE</td> <td>02/1996</td> <td>03030</td> <td>0954</td> <td>\$179,500</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>05/1990</td> <td>02186</td> <td>1333</td> <td>\$194,500</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>12/1984</td> <td>01604</td> <td>0536</td> <td>\$150,000</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>01/1978</td> <td>01153</td> <td>1737</td> <td>\$94,500</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>01/1974</td> <td>01021</td> <td>1676</td> <td>\$80,200</td> <td>Improved</td> </tr> </tbody> </table> <p style="text-align: center;">Find Comparable Sales within this Subdivision</p>			Deed	Date	Book	Page	Amount	Vac/Imp	WARRANTY DEED	10/2000	03942	0206	\$230,000	Improved	WARRANTY DEED	02/1998	03379	0174	\$100	Improved	SPECIAL WARRANTY DEED	04/1996	03068	1046	\$162,000	Improved	CERTIFICATE OF TITLE	02/1996	03030	0954	\$179,500	Improved	WARRANTY DEED	05/1990	02186	1333	\$194,500	Improved	WARRANTY DEED	12/1984	01604	0536	\$150,000	Improved	WARRANTY DEED	01/1978	01153	1737	\$94,500	Improved	WARRANTY DEED	01/1974	01021	1676	\$80,200	Improved	<p style="text-align: center;">2003 VALUE SUMMARY</p> 2003 Tax Bill Amount: \$3,122 2003 Taxable Value: \$182,075		
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Bld Num	Bld Type	Year Blt	Fixtures	Gross SF	Heated SF	Ext Wall	Bld Value	Est. Cost New																																																			
1	SINGLE FAMILY	1962	9	4,226	3,318	CB/STUCCO FINISH	\$166,963	\$214,055																																																			
	Appendage / Sqft		OPEN PORCH FINISHED / 272																																																								
	Appendage / Sqft		UTILITY FINISHED / 48																																																								
	Appendage / Sqft		BASE / 1100																																																								
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	Appendage / Sqft		GARAGE FINISHED / 462																																																								
EXTRA FEATURE																																																											
	Description	Year Blt	Units	EXFT Value	Est. Cost New																																																						
	SCREEN ENCLOSURE	2002	2,696	\$5,033	\$5,392																																																						
	FIREPLACE	1962	1	\$600	\$1,500																																																						
	COOL DECK PATIO	1979	1,225	\$1,715	\$4,288																																																						

SEMINOLE COUNTY APPROVAL DEVELOPMENT ORDER

On October 22, 2003, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG LOT 1 BLK C SANLANDO COUNTRY CLUB ESTATES PB 11 PG 55

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

FINDINGS OF FACT

Property Owners: STEPHEN M. & TRINA GLADWELL
1654 PINE VALLEY DRIVE
LONGWOOD, FL 32750

Project Name: 1654 PINE VALLEY RD

Requested Development Approval:

ADMINISTRATIVE FRONT YARD SETBACK VARIANCE FROM 25 FT TO 23.76 FT IN THE R-1AA (SINGLE-FAMILY DWELLING DISTRICT) AS DEPICTED IN THE ATTACHED SITE PLAN

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: Rich Steiger, Planner
1101 East First Street
Sanford, Florida 32771

MARYANNE MORSE, CLERK OF CIRCUIT COURT
CLERK OF SEMINOLE COUNTY
BK 05078 PG 0852
FILE NUM 2003194197
RECORDED 10/29/2003 10:57:44 AM
RECORDING FEES 19.50
RECORDED BY J Eckenroth

CERTIFIED COPY
MARYANNE MORSE
CLERK OF CIRCUIT COURT
SEMINOLE COUNTY, FLORIDA
BY Eva Roach
DEPUTY CLERK

RETURN TO SANDY MCCANN

Order**NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

- (1) The aforementioned application for development approval is **GRANTED**.
- (2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.
- (3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:
 - a. This Order applies only to the existing home as depicted on the attached site plan.
- (4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.
- (5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

Done and Ordered on the date first written above.

By: Matthew West
Matthew West
Planning Manager

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____ who is personally known to me or who has produced _____ as identification and who executed the foregoing instrument.

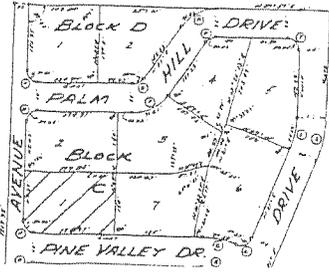
WITNESS my hand and official seal in the County and State last aforesaid this 22 day of October, 2003.

Karen Mathews
Notary Public, in and for the County and State
Aforementioned

My Commission Expires:



Karen Mathews
My Commission # 00144950
Expires August 26, 2006



Legal Description

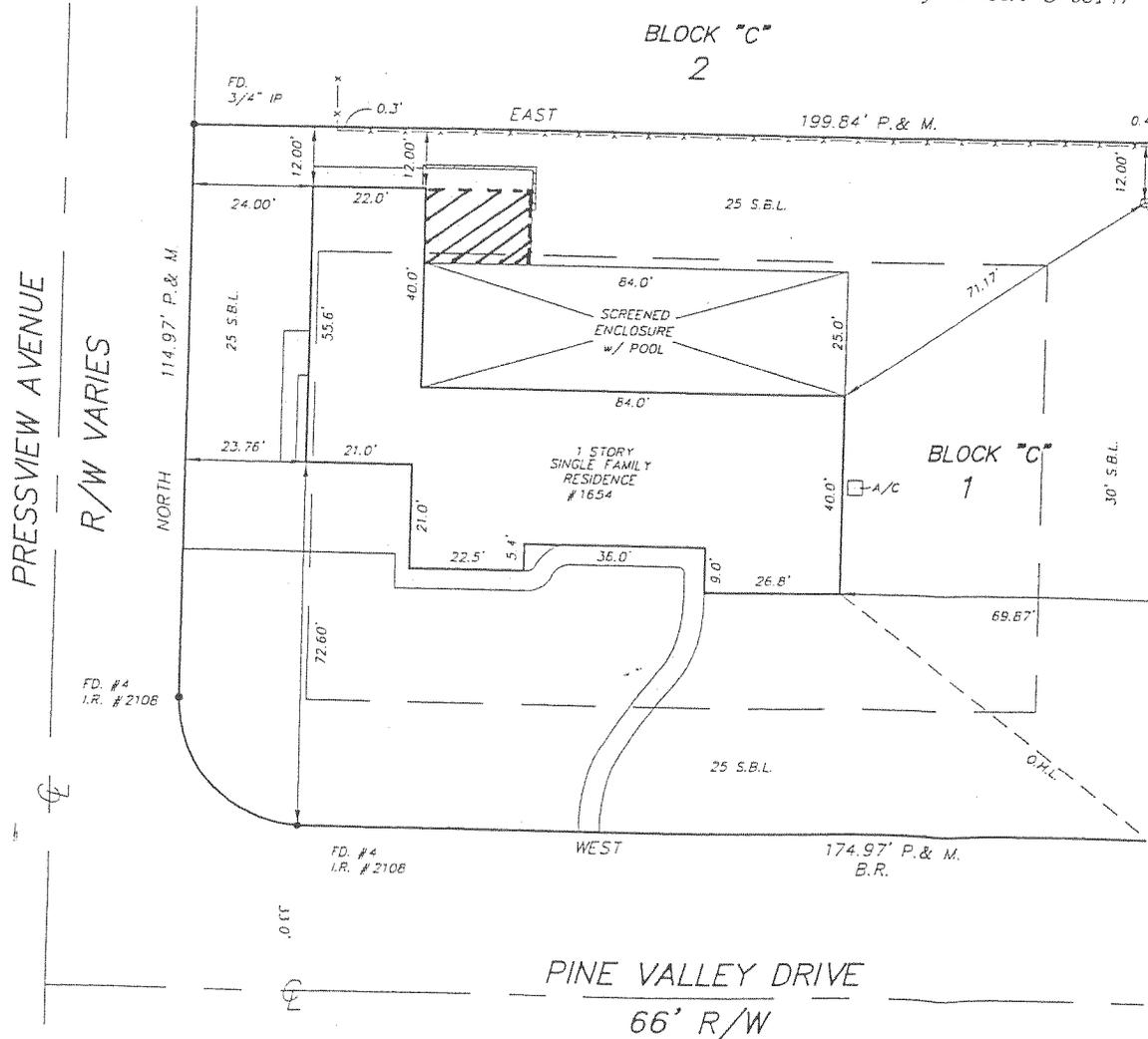
Lot 1, Block C, SANLANDO COUNTRY CLUB,
according to the Plat thereof, as recorded in Plat Book
11, Page 55, of the Public Records of Seminole County,
Florida.

Community Number: 120289 Panel: 0120
Suffix: E F.I.R.M. Date: 4/17/95 Flood Zone: X
Field Work: 10/11/00 Completed: 10/16/00

Certified To:
Stephen Gladwell; Trina (Title Company); Commonwealth Company; SunTrust Bank, successors and/or assigns.

Property Address:
1654 Pine Valley Drive
Longwood, Florida 32750

Survey Number: O-68147



water wasn't going to be used in their area, he don't understand the reason why the site was needed in the proposed location.

Dorothy Holtz stated that she turned in the petition requesting a continuance of the item, because she wanted more information from the City of Casselberry about the proposal. She also stated that a number of the residents were away for the Thanksgiving holiday and they could not provide their input in time for the meeting. She further stated that the City of Casselberry had not contacted any of the residents to inform them of its plans.

Tom Hill stated that he had lived in the neighborhood for a very long time and was under the impression the site would eventually be converted to a park. He also stated that he was concerned about the value of their homes going down because of the project. He further stated that he didn't think the residents had been given any consideration.

William Goucher, from the City of Casselberry requested a continuance stating that there had been a lot of mis information about the project and he wanted an opportunity to meet with the Homeowners Association and the residents. He also stated that the city was committed to being a good neighbor.

The Board agreed to continue the item to the December 16, 2003 meeting.

APPEAL FROM ADMINISTRATIVE DECISION:

15. 1654 PINE VALLEY DRIVE - Ann Carr, appellant; Request to reverse the Planning Manager's decision to approve an administrative front yard setback variance from 25 feet to 23.76 feet in the R-1AA (Single-Family Dwelling District); Located on the northeast corner of Pine Valley Drive and Pressview Drive; (BV2003-171).

District 4 - Henley

Rich Steiger, Planner

Rich Steiger introduced the location of the application and stated that the criteria for the granting of the variance had been satisfied based on the submitted site plan and survey of the subject property; therefore staff recommended the Board uphold the planning Manager's decision to grant the variance.

Damon Chase, Attorney for the appellant, (Ann Carr) spoke on behalf of the application. He stated that the variance granted should not have been, because it was in violation of the code. He also stated that the supervisor granted the variance in error, since no hardship had been demonstrated. He provided a petition with signatures from everyone in the neighbor, except for one neighbor, in opposition of the granted variance.

Dr. Buchanan made a motion to deny the appeal and uphold the Administrative decision.

Mr. Bass seconded the motion.

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

APPROVAL OF MINUTES

Mr. Bushrui made a motion to approve the October 27, 2003 minutes.

Mr. Pennington seconded the motion.

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

ADOPTION OF 2004 MEETING SCHEDULE

The Board decided to continue adoption of the 2004 Meeting Schedule to the December 2003 regular meeting to allow approval by the regular board members.

ADJOURNMENT

Time of Adjournment was 9:55 P.M.