

Item # 46

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Appeal of the Board of Adjustment decision to approve a width at building line variance from 90 feet to 80 feet, and a lot size variance from 11,700 square feet to 11,200 for a proposed home in the R-1AA (Single-Family Dwelling District); located on the south side of Arden Street, at the intersection of Arden Street and Palm Springs Drive; (Todd & Jennifer Christy, appellant).

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

AUTHORIZED BY: Dan Matthys **CONTACT:** Michael Rumer **EXT.** 7387

Agenda Date <u>01/24/06</u> Regular <input type="checkbox"/> Consent <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/>
Public Hearing – 1:30 <input checked="" type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>

MOTION/RECOMMENDATION:

1. **REVERSE** the Board of Adjustment decision to approve a width at building line variance from 90 feet to 80 feet; and a lot size variance from 11,700 square feet to 11,200 for a proposed home in the R-1AA (Single-Family Dwelling District); located on the south side of Arden Street, at the intersection of Arden Street and Palm Springs Drive; (Todd & Jennifer Christy, appellant); or
2. **UPHOLD** the Board of Adjustment decision to approve a width at building line variance from 90 feet to 80 feet; and a lot size variance from 11,700 square feet to 11,200 for a proposed home in the R-1AA (Single-Family Dwelling District); located on the south side of Arden Street, at the intersection of Arden Street and Palm Springs Drive; (Todd & Jennifer Christy, appellant); or
3. **CONTINUE** the request to a time and date certain.

Commission District #4, Henley Michael Rumer, Senior Planner

BOARD OF ADJUSTMENT'S DECISION:

At the November 07, 2005 regular meeting, the Board of Adjustment approved a width at building line variance request from 90 feet to 80 feet, and a lot size variance from 11,700 square feet to 11,200 square feet. The Board of Adjustment voted 4-1 to approve the request. The findings stated were that the proposed home would be an enhancement to the subdivision, the health department would permit a septic tank, and the requested variance to width at building line would be the minimum variance that would make possible reasonable use of the land. Staff recommended denial of the request

Reviewed by: <u>KL</u> Co Atty: _____ DFS: _____ Other: _____ DCM: <u>SS</u> CM: <u>DR</u> File No. <u>ph130pdp02</u>
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based on the trend of development consisting of 100 foot wide lots in the surrounding neighborhood and on the basis a hardship was not present which would deny the applicant reasonable use of the land without the granting of the variance. The lots are combined with one single-family residence on them and the applicant has the opportunity to place home additions and accessory structures on the parcel without the need for a variance.

On November 21, 2005, Todd & Jennifer Christy, the neighbor to the east of the lot that received the variances; appealed the Board of Adjustment decision to the Board of County Commissioners.

STAFF RECOMMENDATION:

Reverse the Board of Adjustment decision to approve a width at building line variance from 90 feet to 80 feet; and a lot size variance from 11,700 square feet to 11,200 for a proposed home in the R-1AA (Single-Family Dwelling District), based on staff's findings.

ATTACHMENTS:

Staff Report
Future Land Use Location Map
Zoning Location Map
Aerial
Site Plan
Appeal Letter with pictures (11/21/05)
BOA Minutes

STAFF REPORT

BACKGROUND / REQUEST:

- Connie Shepherd owns three platted lots, 10 thru 12. There is an existing home within the platted boundaries of lot 12. In order to create a second building lot, Ms. Shepherd proposed to split lot 11 allowing the existing home to be on lot 12 and a portion of lot 11. This creates a lot that meets the minimum requirements of the R-1AA zoning district. The remainder of 11 would be combined with lot 12 to create a second lot. The second proposed lot does not meet the minimum zoning requirements of 11,700 square feet for the lot size and the minimum width at the building line of 90 feet. Ms. Shepherd requested a lot size variance from 11,700 square feet to 10,500 square feet and a lot width at building line variance from 90 feet to 75 feet.
- On November 7, 2005, the Board of Adjustment approved the lot size variance from 11,700 square feet to 11,200 square feet and the lot width at building line variance from 90 feet to 80 feet. The granted variances gave an additional five (5) feet from lot 12 to lot 11 to create a lot that is more consistent with the dimensions of the surrounding lots. Granting the additional five (5) feet to the proposed lot 11 created a deficiency in the lot with the existing home, lot 12.
- The adjacent property owner to the east, Todd & Jennifer Christy appealed the BOA's decision on November 21, 2005. In the appellant's letter, they stated they want to protect the trend of development and protect their residence from flooding.

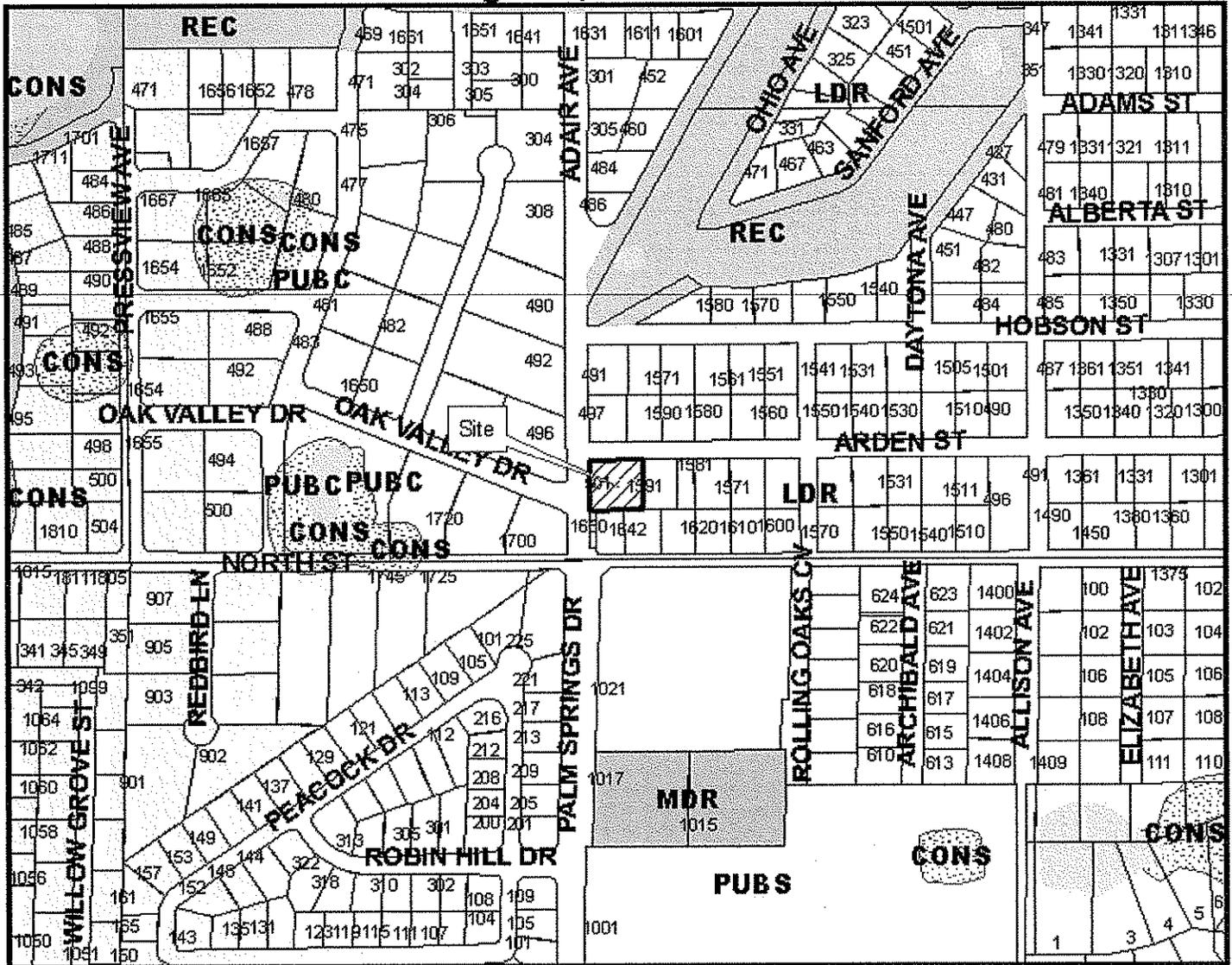
ZONING & FUTURE LAND USE (FLU)

Direction	Existing Zoning	Existing FLU	Use of Property
Site	R-1AA	Low Density Residential	Vacant
North	R-1AA	Low Density Residential	Single-Family (Conventional)
South	R-1AA	Low Density Residential	Single-Family (Conventional)
East	R-1AA	Low Density Residential	Single-Family (Conventional)
West	R-1AA	Low Density Residential	Single-Family (Conventional)

STAFF FINDINGS:	<p>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 <u>all</u> of the following provisions of Section 30.43(b)(3) are satisfied:</p>
	<p>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.</p> <p>No special conditions or circumstances exist. The existing single-family home was built because it met the zoning requirements of the R-1AA zoning district by combining lots 10 – 12.</p> <p>Policy FLU 3.2, adopted on September 11, 1991, states the county shall resolve environmental and infrastructure issues by requiring the combining of lots. The lots currently are combined and contain one single-family residence.</p> <p>b) That the special conditions and circumstances do not result from the actions of the applicant.</p> <p>As previously stated, staff has not been presented with any special circumstances that would support the need for the requested variance.</p> <p>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.</p> <p>Because there are no identified special circumstances that support the need for the requested variance, staff believes the granting of the same would confer special privileges denied to other properties in the R-1AA District with lots that do not meet the minimum zoning requirements.</p> <p>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.</p>

	<p>As previously stated, staff does not believe the literal interpretation of the provisions of Chapter 30 would deprive the applicant of rights commonly enjoyed by other properties, since the property is developed with a single-family home.</p> <p>e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.</p>
	<p>The requested variance is not the minimum since reasonable use of the property already exists.</p> <p>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.</p> <p>The trend of development is for lots with minimum lot widths of 100 feet or more.</p>
<p>STAFF RECOMMENDATION:</p>	<ul style="list-style-type: none"> • Based on the stated findings, staff recommends the Board of County Commissioners <u>reverse</u> the decision of the Board of Adjustment to approve a width at building line variance from 90 feet to 80 feet; and a lot size variance from 11,700 square feet to 11,200 for a proposed home in the R-1AA (Single-Family Dwelling District).

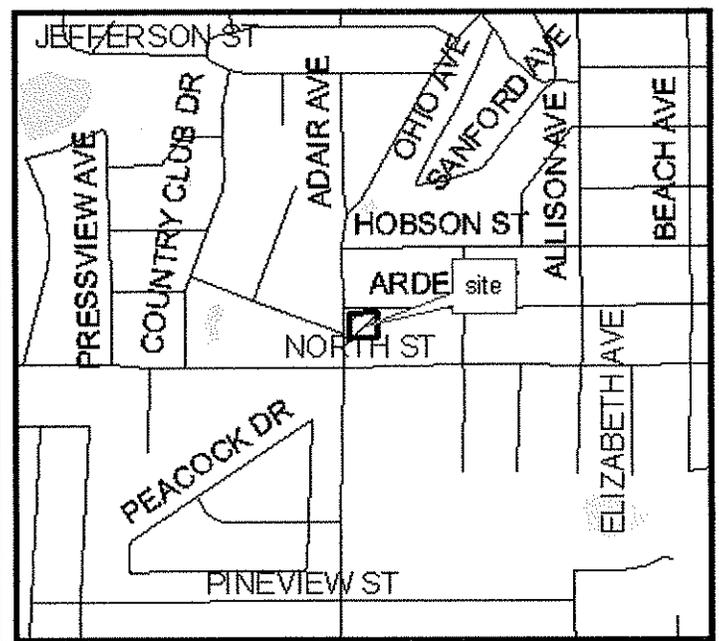
Tony Bole/Carol Shepherd
501 Palm Springs Road
Longwood, FL 32750



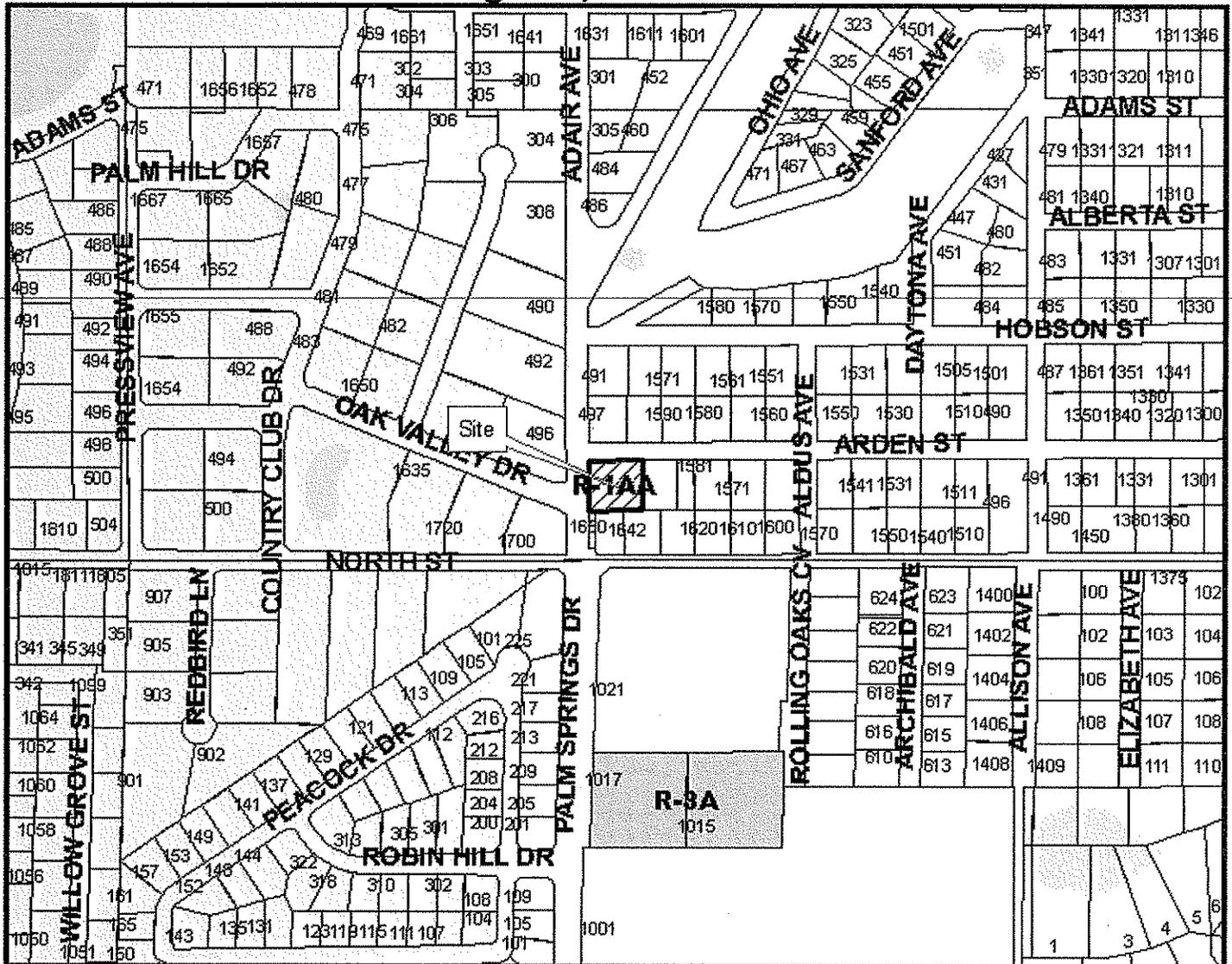
Seminole County Board of Adjustment
October 24, 2005
Case: BV2005-150
Parcel No: 01-21-29-5CK-140G-0100

Future Land Use

	CONS, REC	PUBC, NONE
	CONS, PUBC	PUBS, NONE
	CONS, PUBS	LDR, NONE
	CONS, LDR	MDR, NONE
	REC, NONE	BV2005-150



Tony Bole/Carol Shepherd
 501 Palm Springs Road
 Longwood, FL 32750

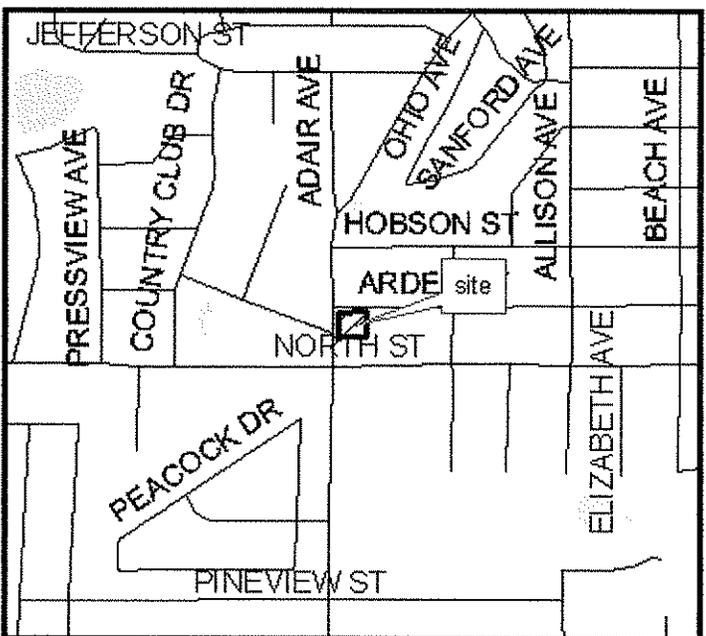


Seminole County Board of Adjustment
 October 24, 2005
 Case: BV2005-150
 Parcel No: 01-21-29-5CK-140G-0100

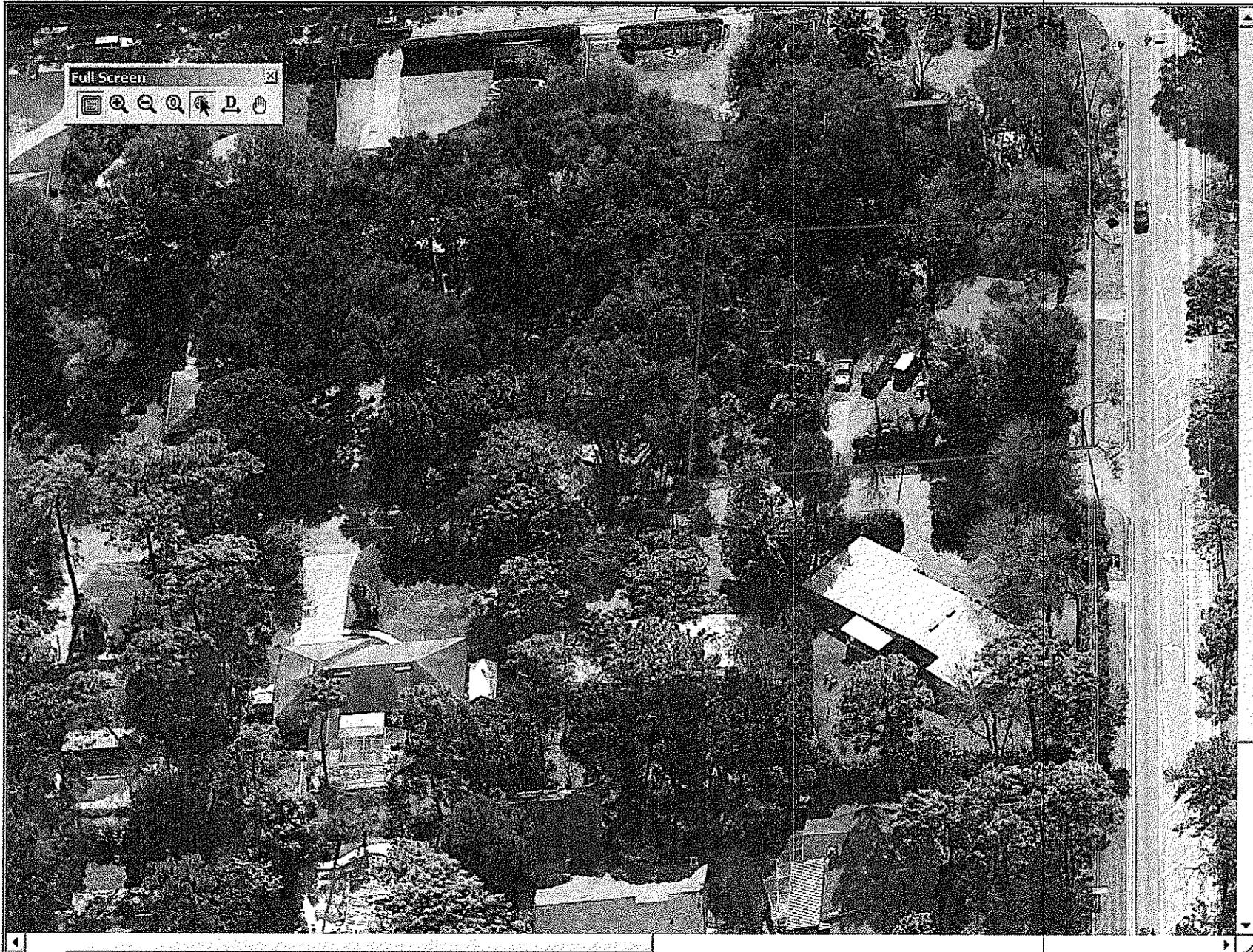
Zoning

- R-1AA Single Fam-11700
- R-3A Multi-Family-10DU
- BV2005-150

0 90 180 360 540 720 Feet



2004 AERIAL



Letter of Appeal

Regarding: (1) minimum width at building line variance from 90 feet to 75 feet for a proposed home and a; (2) Lot size variance from 11,700 square feet to 10,500 square feet for a proposed home in the R-1AA (Single Family Dwelling District) located on the south side of Arden Street at the intersection of Arden street and Palm Springs Drive (BV2005-150)

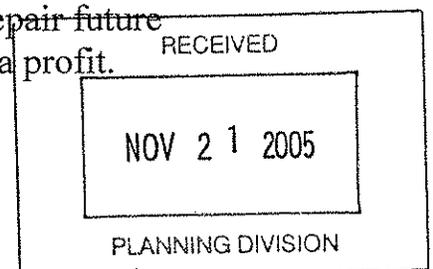
Please allow this letter to serve as a letter of appeal regarding the decision made on the issues listed above. I write this letter on behalf of myself, the adjacent homeowner and the entire block of Arden Street (petition attached).

The basis this appeal is to try to maintain the trend of the neighborhood in keeping the lot sizes consistent with the area. Everyone on our block owns a minimum of 2 to 3 lots with only 1 home built on them. Allowing variance to add an additional home would change the trend and flow of our neighborhood. We as neighbors feel this would negatively affect the value of our properties.

The second basis for this appeal is the drainage situation on 1591 Arden Street. The county paved the dirt roads the flow of rainwater has not been proper and often collects my driveway and garage. I have 3 documented cases where Seminole County has had to come out to address this problem. Our home is the lowest lying on the street, building a home next door would only add to the problem, especially with our well, drain field and septic system all on the side of our home that would face the proposed property.

The homes mentioned in the owners variance application as allowed to have a 75 foot frontage were applied and approved in the late 1970's up to 1983 when the neighborhood was originally developed with dirt roads. Also, the homes mentioned by the owner's application that have the 75-foot frontage currently are several blocks away.

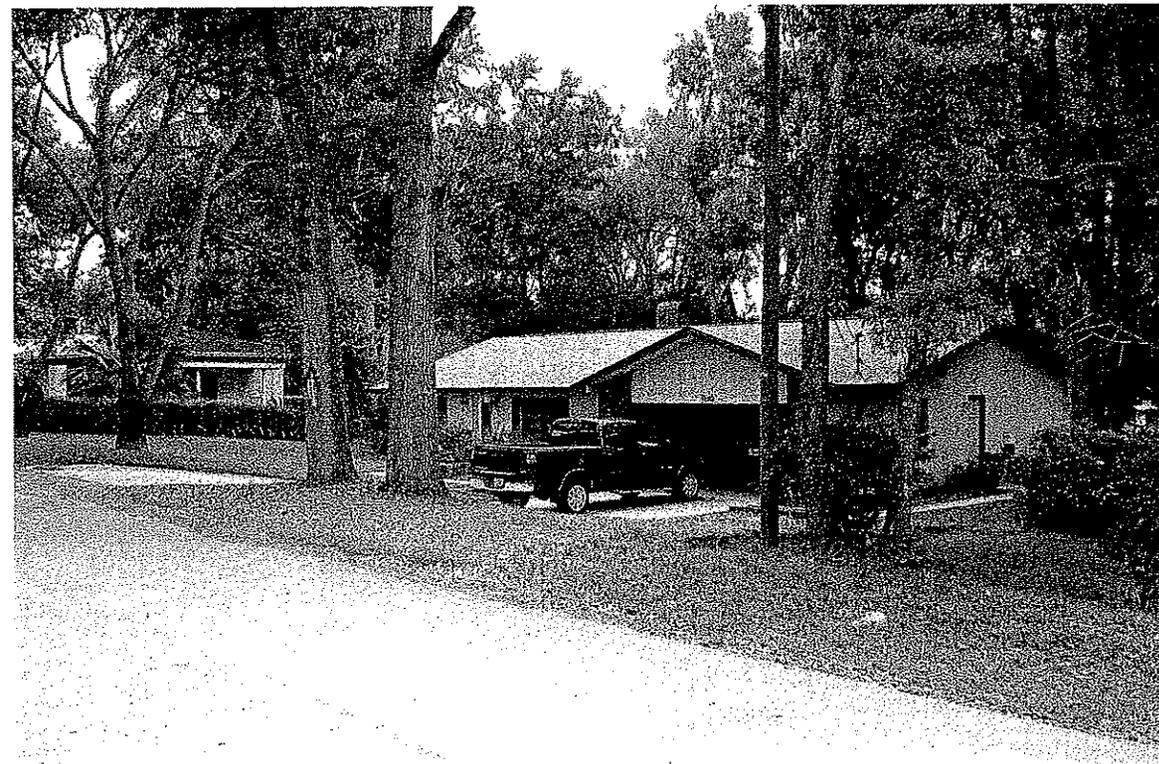
Another reason that we are appealing this decision is that this is our home and we live at this residence. The above-mentioned variance is being applied for by 2 Investor's who Do Not currently reside in the neighborhood and purchased the property to turn a profit. It is not in the best interests of the families that currently reside in this area to allow this to happen so 1 person can profit, as you can see on the attached Petition the entire street is against this variance and feel that it is not in the best interest of our neighborhood. We feel that it should not be our burden to repair future problems caused by this variance so that 1 person can make a profit.

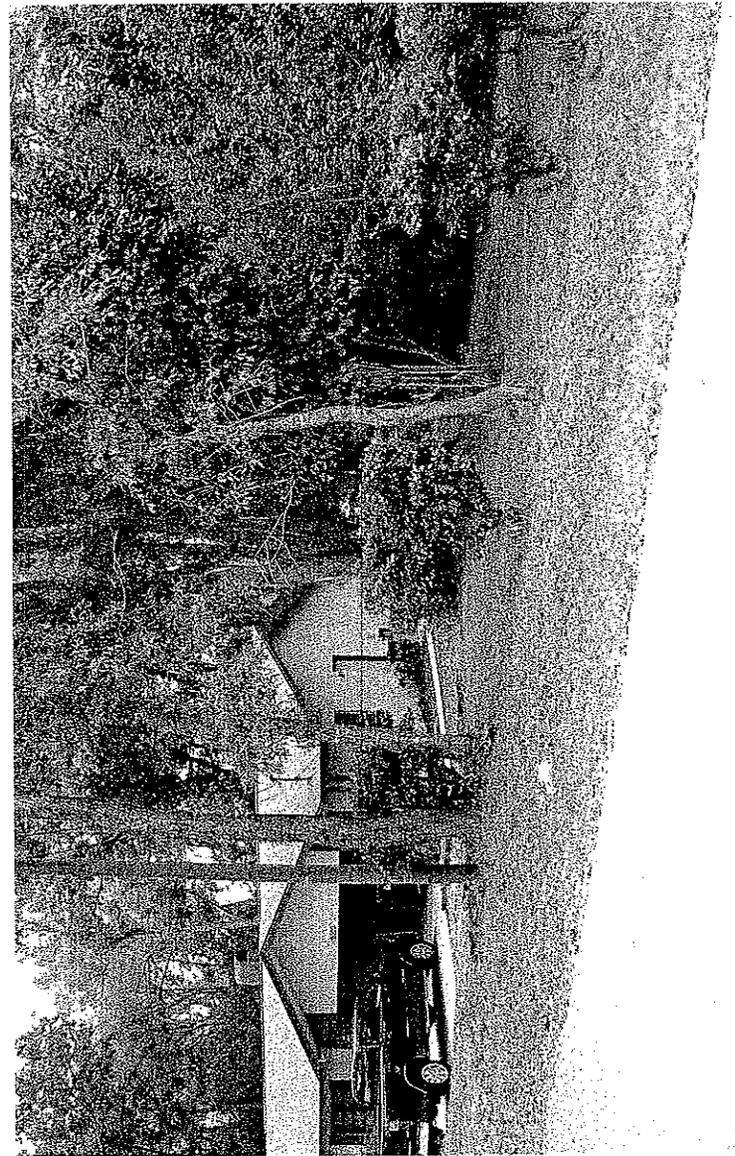
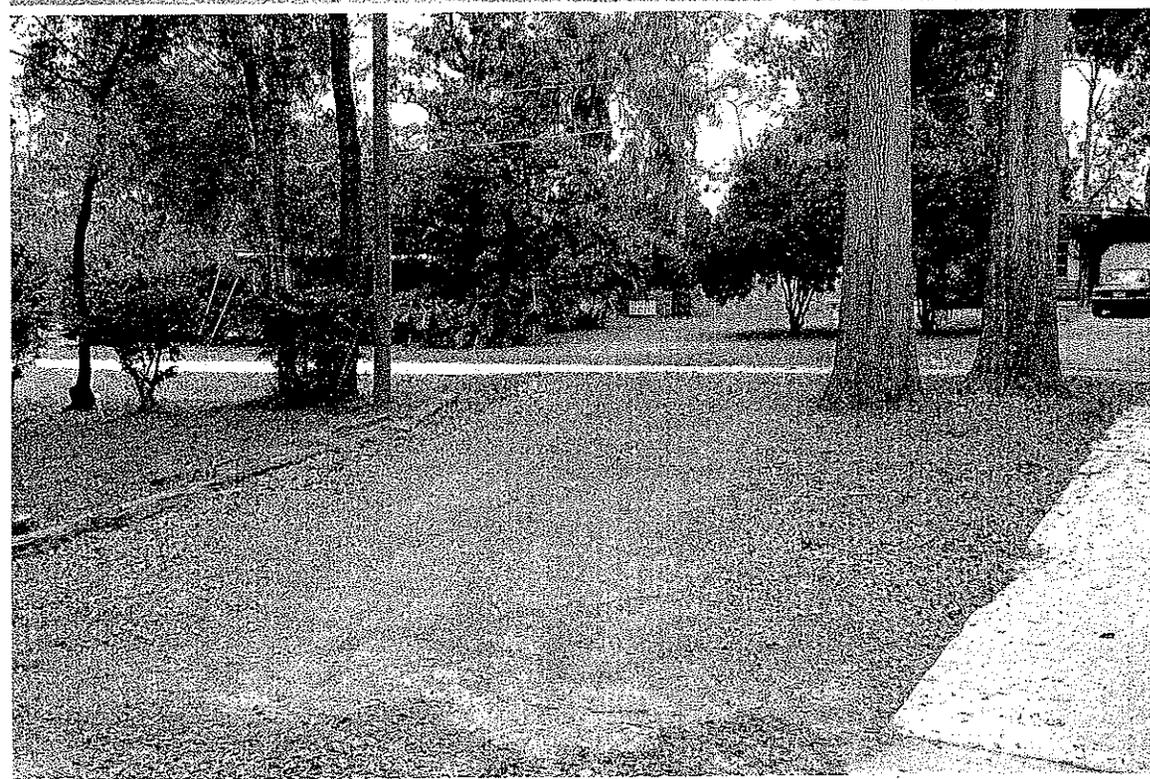
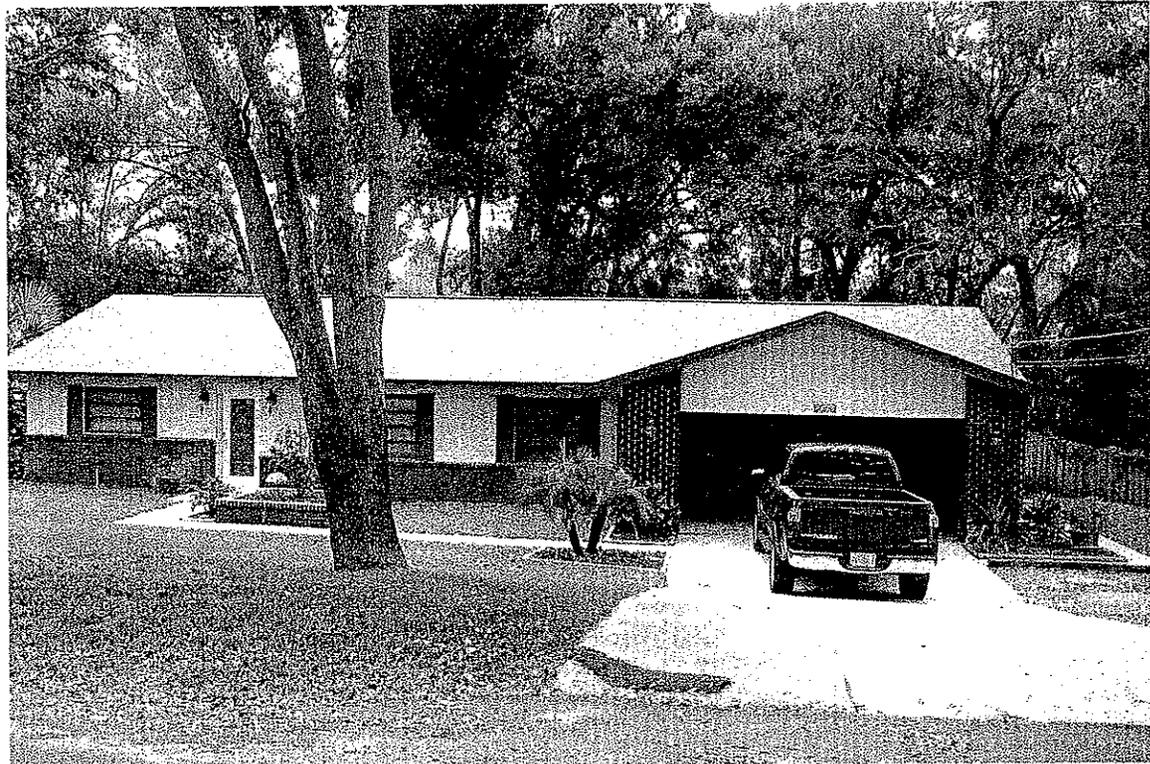


Questions For the Board of Commissioners:

1. If this variance is approved and we have drainage issues who is responsible for repairs once the current owners sell the property?
2. When we begin to experience septic/well issues who will be responsible for correcting the problems?
3. When our garage and home flood due to drainage issues who will be responsible for repairs?

4. Will there be any type of funds set aside by the current owners to repair issues in the future that can be used to fix issues at our home once we begin to have problems?
5. It seems that even if every precaution is taken to prevent the current issues addressed above that inevitably there will be problems, so then why should we as neighbors have to deal with these issues?
6. Will the county be taking the responsibility for future repairs and the money that this will cost, taking money away from other county projects, this would not seem to be in the best interest of the public for 1 persons gain?
7. If the owner's are planning on living in the home with their mother, then why are their 2 Investor Owner's, the answer is simply to profit from this property and the neighborhood at the expense of the all owners who do reside here and call this home?
8. We as neighbors are unable to understand how this can be approved when the entire street is against this and it seems that the rights of 1 owner are seemingly outweighing the rights of an entire neighborhood; **I ask that if this were happening next to your families home would you want this or would you also call on your county leaders to help stop this?**





Minutes for Item 20 Board of Adjustment November 7, 2005 Meeting

501 PALM SPRINGS ROAD – Fanny Boles & Connie Sheppard, applicants; Request for (1) minimum width at building line variance from 90 feet to 75 feet for a proposed home and a; (2) lot size variance from 11,700 square feet to 10,500 square feet for a proposed home in the R-1AA (Single-Family Dwelling District); Located on the south side of Arden Street at the intersection of Arden Street and Palm Springs Drive; (BV2005-150).

Michael Rumer, Senior Planner

Michael Rumer introduced the location of the property and stated that the applicant proposes to separate lot 10 and half of lot 11 from lots 10, 11, and 12 which contain an existing single – family residence. He further stated that the trend of development is for lot sizes on 100 feet or more.

Connie Sheppard stated that she and her mom purchased the three adjacent lots with the one home existing on lot 1, hoping we could build another home for my mom. She further stated that they would like to build a home similar to the other homes in the neighborhood. She also stated that they had made major improvements to the lot and that some neighbors have come by and thanked them for the improvements. She further stated that the Health Department had already approved the proposed well and septic system. She then showed the Board a site plan showing the lots and where they planned to put the proposed home and stated that it would be within the setbacks. She lastly stated that none of their neighbors had expressed any issues.

Mrs. Chase asked if she had any thing in writing from her neighbors.

Connie Sheppard stated no I don't have anything in writing from anyone.

Todd Christie stated he was the neighbor that lived next to Connie Sheppard lot. He further stated that we are opposing this request due to the fact our home sits very low, and we have three (3) documented cases of drainage problems already. He also stated that most of the homes in the area are on two (2) or three (3) lots. He further stated that he was concerned about septic and drainage problems. He stated that he had a petition of opposition and he felt the propose home would negatively effect the value in the area. He lastly stated that he didn't want his house to flood.

Mr. Hattaway asked how building there would flood his home.

Todd Christie stated that their home sits very low and that when they put the roads in they had some flooding issues with water coming in the garage. He further stated that the other lots are high and with Connie Sheppard building her home it would bring the water to his house.

Connie Sheppard stated that the flooding problem is pre-existing. She showed the plans of the proposed home and stated that her home would not be elevated. She further stated that the Health Department had already approved the septic system and her home would be well above the required setbacks. She lastly stated that the home would be a positive contribution to the area.

Mr. Hattaway asked Connie Sheppard if she would be willing to alter her request from 75 feet to 80 feet splitting the entire property.

Connie Sheppard said yes.

Mr. Bass made a motion to approve; Request for (1) minimum width at the building line from 90 feet to 80 feet and a (2) lot size variance from 11,700 square feet to 10,500 square feet for a proposed home.

Mr. Rozon seconded the motion.

The motion passed by (4-1) vote. Mrs. Chase was in opposition.