

Item # 46

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Appeal of the Board of Adjustment decision to deny a rear yard setback variance from 10 feet to 1.4 feet and a side yard setback variance from 10 feet to 1.1 feet for an existing shed located at 2849 North Morningside Court; (Juan Carlo Coronado, applicant).

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

**AUTHORIZED BY:** Dan Matthys **CONTACT:** Michael Rumer **EXT.** 7337

<b>Agenda Date</b> <u>03/22/05</u> <b>Regular</b> <input type="checkbox"/> <b>Consent</b> <input type="checkbox"/> <b>Work Session</b> <input type="checkbox"/> <b>Briefing</b> <input type="checkbox"/> <b>Public Hearing – 1:30</b> <input type="checkbox"/> <b>Public Hearing – 7:00</b> <input checked="" type="checkbox"/>
--

**MOTION/RECOMMENDATION:**

1. **UPHOLD** the Board of Adjustment decision to deny a rear yard setback variance from 10 feet to 1.4 feet and a side yard setback variance from 10 feet to 1.1 feet for an existing shed located at 2849 North Morningside Court; (Juan Carlo Coronado, applicant); or
2. **REVERSE** the Board of Adjustment's decision to deny a rear yard setback variance from 10 feet to 1.4 feet and a side yard setback variance from 10 feet to 1.1 feet for an existing shed located at 2849 North Morningside Court; (Juan Carlo Coronado, applicant); or
3. **CONTINUE** the request to a time and date certain.

Commission District #1, Dallari

Michael Rumer, Planner

**BOARD OF ADJUSTMENTS DECISION:**

At the January 24, 2005 regular meeting, the Board of Adjustment denied a rear yard setback variance from 10 feet to 1.4 feet and a side yard setback variance from 10 feet to 1.1 feet for an existing shed. The Board of Adjustment based the denial for the rear and side yard variances on staff recommendation and on the basis that the shed could have been constructed, or relocated, to comply with the minimum setback requirements.

On February 08, 2005, the applicant, Juan Carlo Coronado, filed to appeal the Board of Adjustment decision.

<b>Reviewed by:</b> <b>Co Atty:</b> <u>KR</u> <b>DFS:</b> _____ <b>Other:</b> <u>MW</u> <b>DCM:</b> _____ <b>CM:</b> _____ <b>File No.</b> <u>ph700pdp02</u>
--

**STAFF RECOMMENDATION:**

Uphold the Board of Adjustment decision to deny a rear yard setback variance from 10 feet to 1.4 feet and a side yard setback variance from 10 feet to 1.1feet for an existing shed, based on the stated findings.

<b>STAFF REPORT</b>	
<b>BACKGROUND / REQUEST:</b>	<ul style="list-style-type: none"><li>• The applicant constructed a 12 x 14 foot shed without receiving a building permit. An anonymous call reporting the shed was placed with the building division.</li><li>• The applicant has since applied for a building permit, which is dependent upon the variances requested.</li><li>• The shed encroaches 8.9 feet into the side yard setback and 8.6 feet into the rear yard setback. The aforementioned variances are requested.</li><li>• The shed encroaches 6.1 feet into a drainage and utility easement along the rear property line, which has a drainage swale. A drainage engineer from Seminole County staff reviewed photos of the swale located within the easement and reviewed approved drainage plans for this subdivision. The drainage engineer believes the brick pavers used as a foundation for the shed will cause an impediment to stormwater flow to an inlet located on the next lot south of this property.</li><li>• The shed also encroaches 3.9 feet into a drainage and utility easement along the south (side) property line.</li><li>• There is no record of prior variances having been granted for this property.</li></ul>
<b>STAFF FINDINGS:</b>	<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 the following provisions of <b>Section 30.43(b)(3)</b> are satisfied:</p> <p><b>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.</b></p> <p>The R-2 District establishes a minimum rear and side yard setback of 10 feet for accessory structures. No special circumstances have been identified or presented by the applicant to support the requested variances. The shed could have been constructed or could be relocated to comply with the minimum setback requirements.</p>

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

As previously stated, staff has not been presented with any special circumstances that would support the need for the requested variances.

**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.**

Because there are no identified special circumstances that support the need for the requested variances, staff believes the granting of the same would confer special privileges denied to other properties in the R-2 District by allowing encroachment into the rear and side yards without the demonstration of a hardship.

**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.**

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.

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

The requested variances are not the minimum since reasonable use of the property already exists.

**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 requested variances would not be compliant with the Land Development Code and would potentially allow structures that are inconsistent with the trend of

	<p>neighborhood development.</p> <p>The existing shed was constructed over a drainage swale that channels stormwater from the rear of the subject property to an inlet to the south. Consequently, the granting of the requested variances would allow the continued encroachment of an unpermitted structure into a drainage easement, which is believed by engineering staff to adversely impact the overall drainage system for Phase I of Stillwater Subdivision. The attached correspondence from James Potter, Senior Engineer in the Development Review Division, recommends that the vacation of the drainage easement not be approved unless the applicant demonstrates through engineering design and analysis that the drainage would not be adversely affected.</p> <p>Should the Board of County Commissioners reverse the Board of Adjustment decision and approve the requested variances, there is no assurance that additional engineering would mitigate what appears to be a drainage problem arising from the current placement of the shed. For this reason, staff does not support the granting of the requested variances, nor would staff support the vacation of the drainage easement that would be required following the granting of the variances.</p>
<p><b>STAFF RECOMMENDATION:</b></p>	<p>Based on the stated findings, staff recommends the Board of County Commissioners <u>uphold</u> the decision of the Board of Adjustment to deny a request for rear yard setback variance from 10 feet to 1.4 feet and a side yard setback variance from 10 feet to 1.1 feet. If the Board should decide to reverse the Board of Adjustment decision to deny the variances, staff recommends the following conditions of approval:</p> <ul style="list-style-type: none"> <li>• Any variances granted should be conditioned upon the vacation of the drainage and utility easements along the east (rear) and south (side) property lines and/or the acquisition of letters of no objection from all applicable utility providers with an interest in the identified easements and a letter of no objection from Seminole County to the encroachment into the drainage easement.</li> <li>• Any variances granted should be dependent upon the applicant's ability to demonstrate engineering measures that would mitigate any adverse impacts to the overall drainage system for Stillwater Phase I.</li> <li>• Any variances granted should apply only to the existing shed as depicted on the attached site plan; and</li> </ul>

	<ul style="list-style-type: none"><li>• Any additional condition(s) deemed appropriate by the Board, based on information presented at the public hearing.</li></ul>
--	--

- ATTACHMENTS:** Variance & Appeal Application  
Supporting Documentation  
Proposed Site Plan  
Site Map  
Recorded Development Order  
Property Appraiser Report  
BOA Minutes



SEMINOLE COUNTY PLANNING & DEVELOPMENT DEPARTMENT  
 PLANNING DIVISION  
 1101 EAST FIRST STREET  
 SANFORD, FL 32771  
 (407) 665-7444 PHONE (407) 665-7385 FAX

**COPY**

Appeal  
 BV 2004-175

**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. Applications for SPECIAL EXCEPTION shall only be received for processing following pre-application conference.

- APPLICATION TYPE:
- VARIANCE** Set back on property lines 30ft to 1. 10ft to 5
  - SPECIAL EXCEPTION**
  - MOBILE HOME SPECIAL EXCEPTION**
  - EXISTING (YEAR \_\_\_\_\_)  PROPOSED (YEAR \_\_\_\_\_)
  - REPLACEMENT (YEAR \_\_\_\_\_) 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	<u>Juan Carlo Carrasco</u>	
ADDRESS	<u>2849 North Morningside Ct</u>	
	<u>Orlando FL 32765</u>	
PHONE 1	<u>407-941-3378</u>	
PHONE 2	<u>321-303-8858</u>	
E-MAIL		

RECEIVED  
 NOV 22 2004

PROJECT NAME: 2849 North Morningside Ct  
 SITE ADDRESS: Same  
 CURRENT USE OF PROPERTY: Residential  
 LEGAL DESCRIPTION: See attached

SIZE OF PROPERTY: \_\_\_\_\_ acre(s) PARCEL I.D. 27-21-31-508-0000-0950  
 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 01/24/05  
 (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]  
 SIGNATURE OF OWNER OR AGENT\* 11-22-04  
 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:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPEAL FROM BOA DECISION TO BCC**

APPELLANT INFORMATION	
NAME:	<i>Juan Carlo Coronado</i>
ADDRESS:	<i>2849 North Morningside Ct.</i>
PHONE 1:	<i>407-941-3378</i>
PHONE 2:	<i>321-303-8058</i>
E-MAIL:	

NATURE OF THE APPEAL \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ APPELLANT SIGNATURE *[Signature]*

*02-08-05*

**FOR OFFICE USE ONLY**

PROCESSING:  
FEE(S): *200.00* COMMISSION DISTRICT *1* FLU/ZONING *R-2 MOR*  
BCC HEARING DATE \_\_\_\_\_ (FOR APPEAL)  
LOCATION FURTHER DESCRIBED AS *East side of N. Morningside Ct.*  
*Approx 441 ft North of intersection of Stillwater Dr & Morningside Ct.*  
PLANNING ADVISOR \_\_\_\_\_ DATE \_\_\_\_\_  
SUFFICIENCY COMMENTS \_\_\_\_\_

James Potter/Seminole  
01/07/2005 04:50 PM

To Michael Rumer/Seminole@Seminole  
cc  
bcc  
Subject

Mike,

I did not find the entire set of plans, but the information below seems to indicate that there is a drainage swale that takes the stormwater from the rear of this lot and eventually flows to the inlet to the south. I do not believe that we could support the drainage easement being vacated. They could possible work around this issue but it would require engineering and quite a bit of expense.

Thanks,

Jim



# SWERDLOFF & LONG

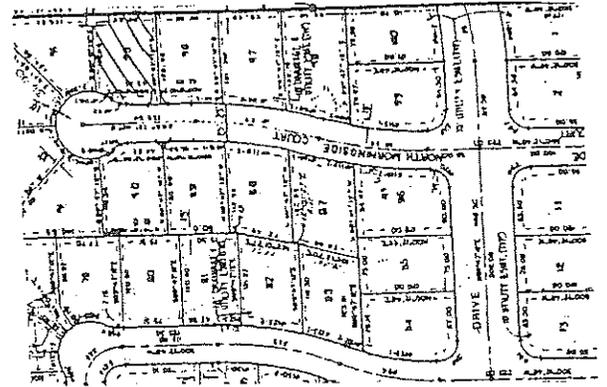
SURVEYING, INC.

## Legal Description

Lot 95, STILLWATER PHASE 1, according to the plat thereof, as recorded in Plat Book 33, Page(s) 45 through 48, of the Public Records of Seminole County, FL.

Community number: 120289 Panel: 0165  
 Suffix: E F.I.R.M. Date: 4/17/1995 Flood Zone: X  
 Date of field work: 7/14/2004 Completion Date: 7/15/2004

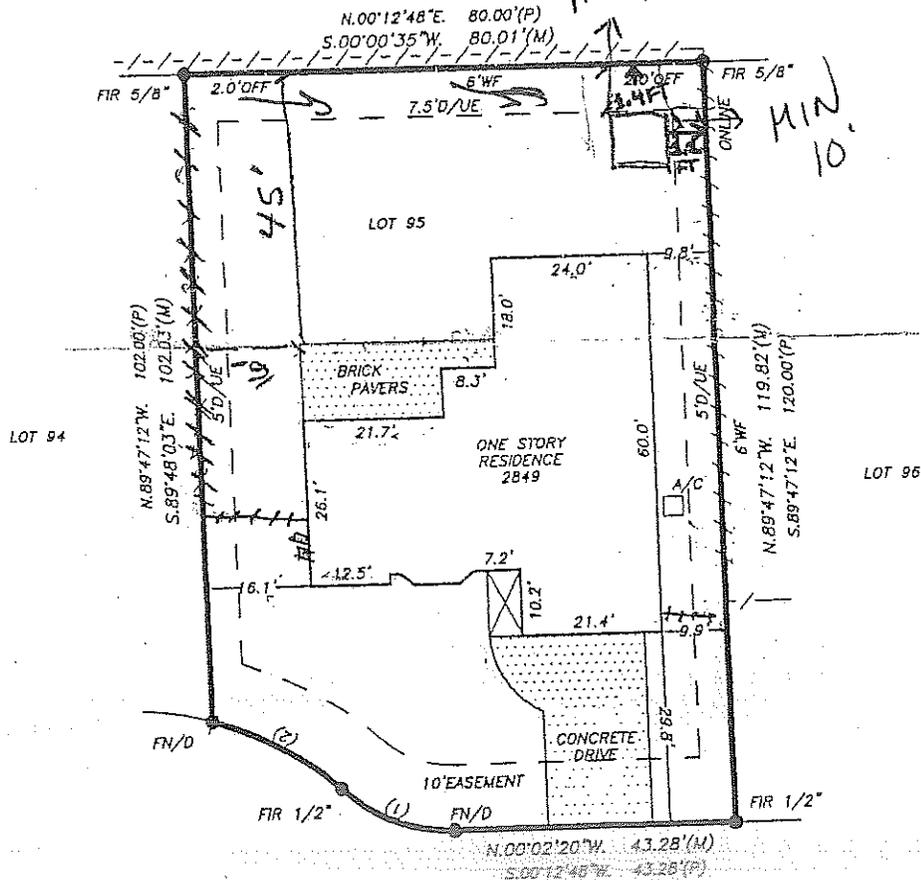
Certified to:  
 Juan Coronado; Marival Coronado; Fidelity National Title Company;  
 Fidelity National Title Insurance Company of New York; First Franklin  
 Financial Corporation, its' successors and/or assigns.



## CURVE TABLE

NO.	RADIUS	DELTA	ARC	TANGENT	CHORD	CHORD BEARING
1	25.00'	43°36'31"	19.03'	10.00'	18.57'	N.21°49'37"E.
2	50.00'	25°43'45"	22.45'	11.42'	22.26'	S.29°24'27"W.

SCALE: 1" = 30'

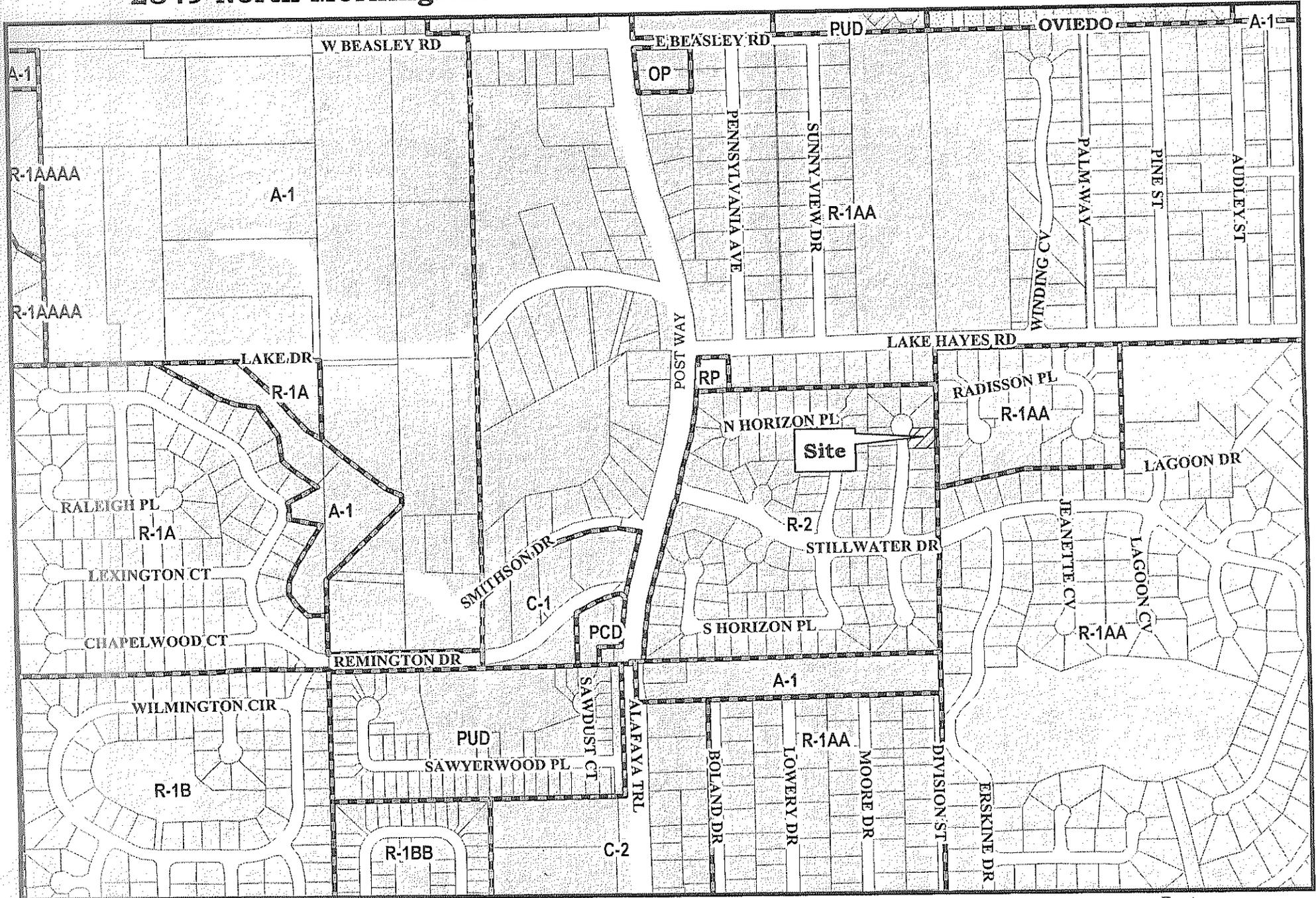
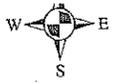


NORTH MORNINGSIDЕ COURT  
 50'R/W

Property Address:  
 2849 North Morningside Co  
 Oviedo, FL 32765

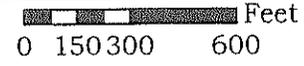
Survey number: SI. 37552

# Juan Carlo Coronado 2849 North Morningside Ct.



Parcel: 27-21-31-508-0000-0950 / District: 1

**BV2004-175**  
**JANUARY 24, 2005**



**SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER**

On January 24, 2005, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG LOT 95 STILLWATER PH 1 PB 33 PGS 45 TO 48

**FINDINGS OF FACT**

**Property Owners:** JUAN CARLO CORONADO  
2849 NORTH MORNINGSIDE COURT  
OVIEDO, FL 32765

**Project Name:** 2849 NORTH MORNINGSIDE COURT  
**Requested Development Approval:**

1. (EAST) REAR YARD SETBACK VARIANCE FROM 10 FEET TO 1.4 FEET FOR AN EXISTING SHED IN THE R-2 (ONE AND TWO FAMILY DWELLING DISTRICT).
2. (SOUTH) SIDE YARD SETBACK VARIANCE FROM 10 FEET TO 1.10 FEET FOR AN EXISTING SHED IN THE R-2 (ONE AND TWO FAMILY DWELLING DISTRICT).

The Development Approval sought is inconsistent with the Seminole County Comprehensive Plan and would adversely impact neighborhood character by allowing the continuance of an accessory structure that is inconsistent with the applicable standards of the Land Development Code.

The requested development approval is hereby denied.

Prepared by: Michael Rumer, Planner  
1101 East First Street  
Sanford, Florida 32771

MARYANNE MORSE, CLERK OF CIRCUIT COURT  
CLERK OF SEMINOLE COUNTY  
BK 05601 PGS 1022-1023  
FILE NUM 2005018343  
RECORDED 02/02/2005 02:52:19 PM  
RECORDING FEES 18.50  
RECORDED BY B Harford

CERTIFIED COPY  
MARYANNE MORSE  
CLERK OF CIRCUIT COURT  
SEMINOLE COUNTY, FLORIDA  
BY: *Eva Beach*  
DEPUTY CLERK

RETURN TO SANDY MCCANN



PARCEL DETAIL

REAL ESTATE

PERSONAL PROP.

TAXROLL

SALES SEARCH

◀ ◁ Back ▷ ▶



**Seminole County**  
**Property Appraiser**  
**Services**  
 1101 E. First St.  
 Sanford FL 32771  
 407-665-7506

**GENERAL**

Parcel Id: 27-21-31-508-0000-0950      Tax District: 01-COUNTY-TX DIST 1  
 Owner: CORONADO JUAN & MARIVEL      Exemptions: 00-HOMESTEAD  
 Address: 2849 N MORNINGSIDE CT  
 City,State,ZipCode: OVIEDO FL 32765  
 Property Address: 2849 MORNINGSIDE CT N OVIEDO 32765  
 Subdivision Name: STILLWATER PH 1  
 Dor: 01-SINGLE FAMILY

**2005 WORKING VALUE SUMMARY**

Value Method: Market  
 Number of Buildings: 1  
 Depreciated Bldg Value: \$112,886  
 Depreciated EXFT Value: \$86  
 Land Value (Market): \$20,400  
 Land Value Ag: \$0  
 Just/Market Value: \$133,372  
 Assessed Value (SOH): \$102,938  
 Exempt Value: \$25,000  
 Taxable Value: \$77,938

**SALES**

Deed	Date	Book	Page	Amount	Vac/Imp
WARRANTY DEED	07/2004	05437	0733	\$180,500	Improved
WARRANTY DEED	06/1999	03681	1796	\$109,000	Improved
WARRANTY DEED	07/1987	01874	1096	\$83,500	Improved
WARRANTY DEED	01/1986	01701	0859	\$139,700	Vacant

Find Comparable Sales within this Subdivision

**2004 VALUE SUMMARY**

Tax Value(without SOH): \$1,842  
 2004 Tax Bill Amount: \$1,285  
 Save Our Homes (SOH) Savings: \$557  
 2004 Taxable Value: \$76,019  
 DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS

**LAND**

Land Assess Method	Frontage	Depth	Land Units	Unit Price	Land Value
LOT	0	0	1.000	20,400.00	\$20,400

**LEGAL DESCRIPTION PLAT**

LEG LOT 95 STILLWATER PH 1 PB 33 PGS 45 TO 48

**BUILDING INFORMATION**

Bld Num	Bld Type	Year Blt	Fixtures	Base SF	Gross SF	Heated SF	Ext Wall	Bld Value	Est. Cost New
1	SINGLE FAMILY	1987	7	1,806	2,295	1,806	CB/STUCCO FINISH	\$112,886	\$120,734
Appendage / Sqft		GARAGE FINISHED / 441							
Appendage / Sqft		OPEN PORCH FINISHED / 48							

**EXTRA FEATURE**

Description	Year Blt	Units	EXFT Value	Est. Cost New
WOOD UTILITY BLDG	1989	36	\$86	\$216

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.

BACK

PROPERTY APPRAISER  
 HOME PAGE

CONTACT

**Mrs. Chase seconded the motion.**

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

**VARIANCES:**

- 6. 2802 NORTH HORIZON PLACE** - Otto Phanstiel, applicant; Request for minimum side street setback variance from 25 feet to 16 feet for a proposed replacement fence in the R-2 (One and Two-Family Dwelling District); Located on the west side of North Horizon Place, approximately 420 feet north of the intersection of North Horizon Place and Stillwater Drive; (BV2004-174).

Michael Rumer, Planner

Michael Rumer introduced the location of the application and stated that the applicant had failed to satisfy the criteria for granting a variance. He further stated that staff recommended denial of the request.

Otto Phanstiel stated that the fence was demolished by the storm and he asked that the Board move the setback to 16 feet for his replacement fence. He also stated that there would be no visual impairment. He further stated that he received approval from his Home Owner's Architectural Board and ten (10) neighbors.

**Mr. Pennington made a motion to approve the request.**

**Mrs. Chase seconded the motion.**

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

- 7. 2849 NORTH MORNINGSIDE COURT** - Juan Carlo Coronado, applicant; Request for (1) minimum rear yard setback variance from 10 feet to 1.4 feet (16 inches) for a proposed shed; and (2) minimum side yard setback variance from 10 feet to 1.10 feet (22 inches) for a proposed shed in the R-2 (One and Two-Family Dwelling District); Located on the east side of North Morningside Court, approximately 440 feet north of the intersection of Stillwater Drive and North Morningside Court; (BV2004-175).

Michael Rumer, Planner

Michael Rumer introduced the location of the application and stated that the existing shed encroaches almost 4 feet into an existing 7.5 foot drainage easement which contains a swale. He also stated that the Engineering Staff does not support the shed encroachment into the drainage swale, as it appears to be an impediment to stormwater flow to an inlet south of the property. He further stated that the applicant had failed to satisfy the criteria for granting a variance. He also stated

that staff recommended denial of the request. He lastly stated that the application didn't speak English clearly, therefore he had some one to speak on his behalf.

Pedro Ramos stated that the applicant, Juan Carlo Coronado, didn't know about the existing swale and he was willing to listen to any of the Board's recommendations. He also stated the Juan was willing to paint the shed. He further stated that the shed was used for storage.

Stacy Schmidt stated that she was the neighbor to the rear of the property. She also stated her three (3) primary concerns.

- Drainage issue in the rear of the yard.
- Long term maintenance and care of the shed that is close to her fence.
- Size of the shed.

She further stated that they called the Building Department to inquire about the shed. She also stated that in her opinion the shed could have been built within the setbacks and it would probably be less expensive to move it within the setbacks.

Francisco Torregrosa stated that the application, Juan Carlo Coronado stated that it would be difficult to move the shed. He also stated that he didn't realize he needed a permit and he put the shed where he saw the other sheds in the neighborhood.

**Mr. O'Daniel made a motion to deny the request.**

**Mrs. Chase seconded the motion.**

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

- 8. 916 MILLSHORE DRIVE** - Mike A. Skees, applicant; Request for (1) rear yard setback variance from 30 feet to 26 feet for a proposed pool abutting a water body; and (2) rear yard setback variance from 25 feet to 22 feet for a proposed pool screen enclosure abutting a water body in the R-1A (Single Family Dwelling District); Located on the east side of Millshore Drive, approximately 90 feet south of the intersection of Magnolia Drive and Millshore Drive; (BV2004-183).

Michael Rumer, Planner

Michael Rumer introduced the location of the application and stated that the applicant had failed to satisfy the criteria for granting a variance. He further stated that staff recommended denial of the request.

Mike Skees stated that the existing structure was there when he bought the house. He also stated that the existing structure had a Jacuzzi which was much closer than his proposed pool. He further stated that they have made the pool fairly