

SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM

**SUBJECT:** Appeal of the Board of Adjustment's decision to grant a variance for width at building line from 150 feet to 66 feet and a lot size variance from 43,560 square feet to 16,550 square feet (Lot 1P) (Linda Davies, appellant)

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

**AUTHORIZED BY:** Donald S. Fisher **CONTACT:** Kathy Fall **EXT.** 7389

<b>Agenda Date:</b> <u>03/25/03</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 checked="" type="checkbox"/> <b>Public Hearing – 7:00</b> <input type="checkbox"/>

**MOTION/RECOMMENDATION:**

1. Uphold the decision of the Board of Adjustment to approve a width at building line variance from 150 feet to 66 feet and a lot size variance from 43,560 square feet to 16,550 square feet for Lot P, based on attached site. (Linda Davies, appellant); or
2. Overturn the decision of the Board of Adjustment to approve a width at building line variance from 150 feet to 66 feet and a lot size variance from 43,560 square feet to 16,550 square feet for Lot P, based on attached site. (Linda Davies, appellant); or
3. Continue the appeal to a time and date certain.

( District 2 – Commissioner Morris)

(Kathy Fall, Senior Planner)

**BACKGROUND:**

Subsequent to the update of Seminole County's Comprehensive Plan in 1991, the zoning of the applicants' property was administratively changed from A-1 to A-5. The 1991 Comprehensive Plan and the currently approved Comprehensive Plan (Vision 2020 Plan) contain Policy FLU 11.15(C) which allows for lots and parcels of record to be developed in accordance with zoning designations that predate the application of the Plan.

This policy allows for the applicants (C.W. and Janet Mann) to develop the subject property under the A-1 district regulations rather than A-5 zoning. The applicants' property is a lot of record created in 1970 and does not meet the minimum lot size

<b>Reviewed by:</b>
<b>Co Atty:</b> _____
<b>DFS:</b> _____
<b>Other:</b> <u>MW</u>
<b>DCM:</b> _____
<b>CM:</b> _____
<b>File No.</b> <u>ph130pdp02</u>

or lot width at the building line in the A-1 zoning district.

The applicant, C.W. Mann, applied for variances in November, 2002, to reduce the lot width at the building line and lot size for lots 1P and 1D, owned by Jean Neal and located on Jane Creek Drive. The Board of Adjustment, on December 16, 2002, approved the request for a lot width at the building line variance from 150 feet to 66 feet and a lot size variance from 43,560 square feet to 16,550 square feet for lot 1P and for the adjacent lot 1D on Jane Creek Drive. Staff recommended that the applicant combine the lots, based on staff findings. There was opposition in attendance at the BOA hearing.

On December 30, 2002, Linda Davies filed an appeal of the Board of Adjustment's decision regarding the variances approved for lot width and lot area.

**GENERAL INFORMATION:**

<b>Appellant:</b>	Linda Davies
<b>Applicants:</b>	C.W. & Janet Mann
<b>Property Owner:</b>	Jean Neal
<b>Variance Request:</b>	Width at building line from 150 feet to 66 feet & lot size variance from 43,560 SF to 16,560 SF
<b>Proposed Use:</b>	Single Family Dwelling
<b>Address:</b>	Jane Creek Drive (1P)
<b>Existing Zoning:</b>	A-5

**STANDARDS FOR GRANTING VARIANCES:**

In order to grant a variance, the Land Development Code requires a finding that literal enforcement of applicable regulations will result in an unnecessary and undue hardship upon the applicant. The Board of Adjustment must determine compliance with all of the following criteria:

Section 30.43 (b)(3)(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
Section 30.43(b)(3)(b)	That the special conditions and circumstances do not result from the actions of the applicant; and
Section 30.43(b)(3)(c)	That granting of 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
Section 30.43(b)(3)(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
Section 30.43(b)(3)(e)	That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure; and

Section 30.43(b)(3)(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.
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**STAFF FINDINGS:**

1. The request does not comply with Section 30.43 (b)(3)(e). The requested variance is not the minimum variance that would make reasonable use of the land, building, or structure. The applicant owns the adjacent lot (1D) and could combine the lots to make the minimum variance needed for reasonable use of the land.
2. Policy FLU 3.2 (Antiquated Plats) of the Seminole County Vision 2020 Comprehensive Plan requires the combination and replatting of antiquated lots that predate the code. Available records indicate the applicants own Lot 1D, which is adjacent to the subject property and the location of a similar and concurrent variance request. Therefore, the grant of the variance should be conditioned upon the future combination of the subject property and Lot 1D pursuant to the creation of a conforming lot, which would meet the intent of this policy.

**STAFF RECOMMENDATION:**

Staff recommends that the Board of County Commissioners overturn the decision of the Board of Adjustment to grant a variance from the minimum width at building line from 150 feet to 66 feet and a lot size variance from 43,560 square feet to 16,550 square feet, based on staff findings.

Staff further recommends that the Board of County Commissioners approve a variance from the minimum width at the building line from 150 feet to 130 feet and a lot size variance from 43,560 to 32,350, conditioned upon the combining of lots 1P and 1D on Jane Creek Drive through unity of title agreement.

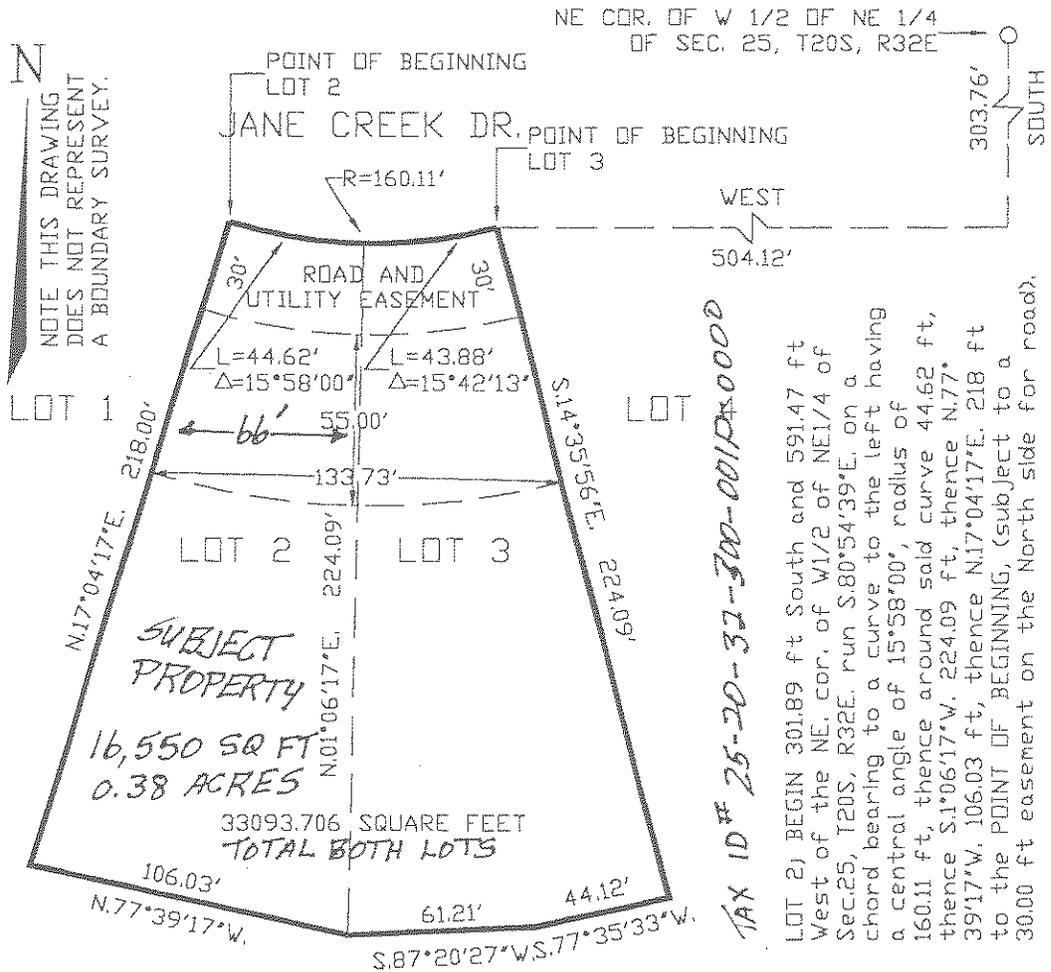


# Jane Creek Drive (Lot 1P)

Zoning									
A-1	C-2	OP	R-1AA	R-3	RM-2				
A-10	C-3	PCD	R-1AAA	R-3A	RM-3				
A-3	CN	PLI	R-1AAAA	R-4	RP				
A-5	CS	PUD	R-1B	R-AH	UC				
C-1	M-1	R-1	R-1BB	RC-1					
	M-1A	R-1A	R-2	RM-1					

# PHILLIP E. HAMPTON, PLS "CONSULTING LAND SURVEYING SERVICES"

293 CRYSTAL CIRCLE, OVIEDO, FLORIDA, 32765  
PHONE (407) 365-6091 FAX (407) 971-1931



DESCRIPTION: SPECIAL PURPOSE SURVEY TO SHOW AREA AND LOT WITH AT BUILDING SET BACK.

LOT 3; BEGIN 303.76 ft South and 504.12 ft West of the NE. cor. of W1/2 of NE 1/4 of Sec. 25, T20S, R32E. run S.14°35'56"E. 224.09 ft, thence S.77°35'33"W. 44.12 ft, thence S.87°20'27"W. 61.21 ft, thence N.1°06'17"E. 224.09 ft, thence N.83°15'10"E. on a chord bearing to a curve to the left having a central angle of 15°42'13", radius of 160.11 ft, thence around said curve 43.88 ft to the POINT OF BEGINNING, (subject to a 30.00 ft easement on the North side for road).

NOTES: Not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

SCALE: 1" = 50'

FILE: JUNGLE HARBOR

JOB NO: 028194

DATE: October 30, 2002

FOR:

JEAN D. NEAL

I HEREBY CERTIFY, to the parties listed hereon, that this drawing [redacted] made by me or my representatives, in accordance with the information supplied to me, by said parties, without benefit of a title search unless they so supplied, and meets the MINIMUM TECHNICAL STANDARDS FOR SURVEYS in the State of Florida, (as set forth by the Board of Professional Land Surveyors in Chapter 61G17 of the Florida Administrative Code).

  
PHILLIP E. HAMPTON, RLS 3744  
PROFESSIONAL LAND SURVEYOR  
STATE OF FLORIDA

December 30, 2002

Ms. Kathy Fall, Senior Planner  
Planning and Development Dept.  
Planning Division, Seminole County  
1101 East First Street  
Sanford, FL 32771-1468

Re: Case # BV2002-159, and Case #BV2002-160

Dear Ms. Fall,

I wish to appeal the Board of Adjustment's decision to approve the variances as requested in the referenced cases. This appeal is being submitted with the support of the other homeowners on Jane Creek Drive.

Sincerely,



Linda S. Davies  
105 Jane Creek Drive  
Geneva, FL 32732-9616  
407-349-2432  
[shslinda@yahoo.com](mailto:shslinda@yahoo.com)

cc: Kenneth and Lynn Realand  
Geoffrey Tuck and Diane Hippler  
Larry and Alice Dorcik  
Jeffrey Hart

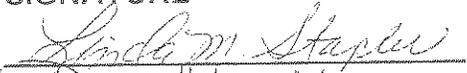
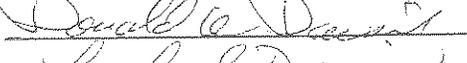
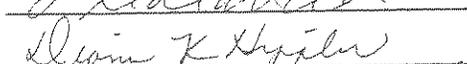
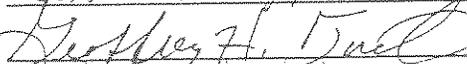
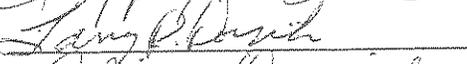
February 21, 2003

To: Kathy Fall, Seminole County Planning and Development Department  
Seminole County Board of County Commissioners

Re: Case #BV2002-159 and Case #BV2002-160 submitted by C.W. Mann

I, am appealing the Board of Adjustments decision to approve variances as referenced above for the following reasons:

1. Allowing one home to be built on Lot D and one home on Lot P does not comply with the Comprehensive Plan. Although combining both lots and building one home will not satisfy the requirements of the Comprehensive Plan, it will be closer to the A-1 zoning requirement of one home per acre lot.
2. At present there are 6 homes on Jane Creek Drive, (a private road maintained by the residents), having additional homes will impact the environment with septic tanks, drain fields, and additional stress on the Geneva Bubble which is the main water source for the area.
3. It was stated by Mr. Mann that there has already been a precedence set by other homes in the area concerning lot sizes that do not adhere to the present Comprehensive Plan. These are a different zoning and do not apply to the Jane Creek Drive area.
4. The variances granted to Mr. Mann, who does not presently own the property, would appear to be different for the present owner, Jean Neal.

RESIDENT/OWNER	LOT	SIGNATURE
Linda M. Stapler	001H	
Ron Korth	001H	
Donald W. Davies	001U	
Linda S. Davies	001U	
Kenneth A. Realander	001K and 001N	
Lynn M. Realander	001K and 001N	
Diane K. Hippler	001J	
Geoffrey H. Tuck	001J	
Larry Dorcik	001L	
Alice Dorcik	001L	
Jeffry A. Hart	001R	
Brenda Meek	001R	

**MINUTES FOR THE SEMINOLE COUNTY  
BOARD OF ADJUSTMENT  
DECEMBER 16, 2002 AT 6:00 P.M.**

The meeting was called to order by the Chairman at 6:00 P.M.

**Members present:** Mike Hattaway, Dan Bushrui, and Alan Rozon, and Wes Pennington.

**Alternate present:** Mike Bass

**Absent:** Lila Buchanan

**Also present:** Kathy Fall, Senior Planner, Earnest McDonald, Principal Coordinator, Cathleen Consoli, Planner, Karen Consalo, Deputy County Attorney, Matt West, Planning Manager, and Candace Lindlaw-Hudson, Senior Staff Assistant.

The Chairman read into the record the manner in which the meeting is to be conducted.

Mr. Hattaway then announced to the audience that item 3 under the regular variances, Steven G. & Amanda T. Mason of 280 Rollingwood Trail, has been withdrawn. Also, items 2 and 3 in the regular agenda are requesting to be continued to the next regularly scheduled meeting of the Board on January 27, 2003.

**Alan Rozon made a motion to continue items 2 and 3 to the January 27, 2003 meeting.**

**Dan Buchrui seconded the motion.** There was no discussion.

**The motion passed by a unanimous vote of 5 – 0.**

**CONSENT AGENDA:**

**VARIANCES:**

1. **C.W. & Janet Mann** - Jane Creek Drive (1D); variance from width at building line from 150 feet to 65 feet and lot size variance from 43,560 square feet to 15,790 square feet on property zoned A-5 (Agriculture), located on the south side of Jane Creek Drive, approximately 325 feet south of Fort Lane Road. (BV2002-159)

BCC District 2 - Morris

Kathy Fall, Senior Planner

Kathy Fall, introduced the application with the observation that the lot had 2 variances previously granted in 1983.

There were concerns on the request from the audience. Mr. Hattaway explained that the item could be put on the regular agenda to be heard in it's entirety. The item was moved to the top of the regular agenda.

Mr. Mann spoke next. He explained that the lot width variance previously granted was for 88 feet. Mr. Mann had the lot surveyed and found that the dimensions do not allow construction. He stated that the lot is owned by Mr. Donald Bush. If a three car garage were to be put on the lot, a variance was needed.

Ms. Fall explained that the 68 feet would allow the house to be constructed closer to the road than the location would allow. The 84-foot width is not allowing for the construction of the house where he wants it.

Mr. Hattaway said that he did not see what difference the lot width would make.

Mr. Rozon stated that the reason for Mr. Mann's request is not clear.

Ms. Fall demonstrated the spot where Mr. Mann wanted to put the house in the future. Due to the shape of the lot, with the house having a garage, the placement of the house needs to be in the more narrow section of the lot, thus necessitating the width at building line variance.

Speaking from the audience was Don Davies of 105 Jane Creek Drive. He stated that the area in question was next to his driveway. There is a bad drainage problem from the property in question onto his property. He has a problem with the house being put on a lot with bad drainage. The variance being granted without plans being shown is a problem to Mr. Davies.

Mr. Hattaway explained that this type of variance was granted without plans. He also stated that the County is very concerned with drainage problems, and those concerns were addressed by the Building Department at the time of application for permits.

Mr. Davies pointed out that a building could only be 48 feet wide at the point that Mr. Mann is requesting.

Mr. Davies stated that the Jane Creek canal had been dredged and the hard soil had been deposited on his lot and the neighboring lots. Drains had been put on all of the lots but the lot in question. There is a flooding problem with the road as well.

Jeff Hart of 155 Jane Creek Drive asked what the distance was from the canal to the area of the proposed house location. Mr. Hart stated that there would be a 50 foot setback from the canal to the proposed house.

Kathy Fall stated that there is a 30 foot setback from the high water line of the canal.

No one else spoke from the audience.

**Mike Bass made the motion to approve the granting of the variance.**

**Wes Pennington seconded the motion.**

**The vote was 5 – 0 in favor of the motion.** The variance was granted.

Prior the introduction of the Regular Agenda, Kathy Fall read for the record the standards for granting a variance as found in Chapter 30 of the Land Development Code (LDC).

## REGULAR AGENDA

### VARIANCES:

1. **Mary Ruth Struble** – Nova Drive; lot size variance from 43,560 square feet to 16,520 square feet and width at building line from 150 feet to 80 feet, on property zoned A-1 (Agriculture); located east of the Wekiva River, approximately 1,000 feet north of the convergence of SR 46 and Lake County Line. (BV2002-157)

BCC District 3 – Van Der Weide

Earnest McDonald, Principal Coordinator

Earnest McDonald introduced the next variance application. Mr. McDonald stated that the lot had been drawn in 1952. Zoning standards changed in 1960. Mr. McDonald stated that the Staff recommendation was for approval of the two variance requests.

Mr. Bushrui asked if there were any variances granted in the area. Mr. McDonald said there were not.

Mr. Hattaway asked about the unity of title agreement mentioned on page three of the Staff report.

Karen Consalo stated that she agreed with the Staff report about the necessity of unity of title. She said that it depended on what the uses of the lots were to be.

Mr. McDonald stated that the purpose of the policy was to eliminate non-conforming lots of record. If there is an opportunity to combine non-conforming lots of record to bring them up to code. This is a policy.

Mr. Hattaway asked if all three lots would be involved. Would it be required to combine lots?

Mr. McDonald explained that it was the intent of the policy to bring the lots into

compliance.

Karen Consalo read extended portions of the Future Land Use Policy 3, 3.1 and 3.2 which strive to eliminate antiquated plats, nonconforming zoning and uses by the implementation of the plan. The technique of combining antiquated lots to bring them into compliance was one method mentioned.

Mr. McDonald repeated his recommendation for approval, based on the conditions outlined in his staff report.

Mary Ruth Struble spoke next. She stated that she bought the land in 1969.

Mr. Pennington asked if Mrs. Struble had seen the conditions listed in Mr. McDonald's staff report.

Mrs. Struble said she had not seen them.

Mr. McDonald then read the conditions from the staff report pertaining to the granting of the variance:

Section 30.122 of the Land Development Code states that A-1 zoning permits the building of one house and guest cottage per lot. The lots would have to be combined through a unity of title agreement before building permits could be issued. The granting of the variance should be contingent on the combining of the lots in question.

Secondly, the lots should obtain waivers for not fronting on a public road, assuming there is adequate access to the site, soils should meet septic standards if requested, soils should meet drainage standards, and lastly, that the request will receive recommendation by the District Commissioner.

**Mr. Bushrui made the motion to approve the granting of the variance with the conditions included from Mr. McDonald's staff report.**

**Mr. Bass seconded the motion.**

**The vote was 5 – 0 for approval of the motion.** The variance was granted.

2. **Harris & Marilyn Dvores** – 5141 Garlanger Trail; front yard setback from 100 feet to 70 feet for an accessory structure (cottage), on property zoned A-1 (Agriculture); located on the west side of Garlanger Trail, approximately 1,800 feet west of SR 417. (BV2002-149)

BCC District 1 – Maloy

Earnest McDonald, Principal Coordinator

Mr. McDonald presented the request by the Dvores for a front yard variance. A stand of oak trees, a well, a flood prone area, and a pond all make it difficult to build an accessory building where it should be put. Mr. McDonald stated that due to the unusual circumstances of the conditions on the lot Staff's recommendation was for approval of the granting of the variance.

Mr. Harris Dvores stated that his lot was the last lot on the street. Due to the natural conditions on the lot a variance is necessary for his project to be built.

**Mr. Pennington made a motion to approve the granting of the variance. Mr Rozon seconded the motion.**

There was no discussion. **The vote was 5 – 0 in favor of the granting of the variance.**

3. **Steven G. & Amanda T. Mason** - 280 Rollingwood Trail; east side yard setback variance from 10 feet to 8.5 feet for a pool screen enclosure, on property zoned R-1AA (Single-Family Dwelling); located at the end of Rollingwood Trail, approximately 200 feet west of Wymore Road. (BV2002-150)  
BCC District 3 – Van Der Weide  
Cathleen Consoli, Planner

**This item was withdrawn from consideration.**

4. **Alan L & Kathleen Berry** - 399 Kapok Court; east side yard setback variance from 7.5 feet to 1 foot 6 inches and a side street setback variance from 25 feet to 15 feet for an addition, on property zoned R-1A (Single-Family Dwelling); located at the intersection of Kapok Court and Sand Lake Road. (BV2002-156)  
BCC District 3 – Van Der Weide  
Cathleen Consoli, Planner

Ms. Consoli stated that the Berry's are requesting only the east side yard variance from 7.5 feet to 1.5 feet. The other request had been granted by the County Traffic Engineer. Ms. Consoli stated that her recommendation was for denial, since all criteria for the granting of a variance had not been met. However, if the Board decides to grant the variance she recommended that approval should be based on the site plan submitted, including height.

Kathleen Berry spoke next. Mrs. Berry said that there is no home behind or in front of the house. There is a green belt behind with a dry retention pond.

No one spoke from the audience concerning the request.

**Wes Pennington made the motion to approve the variance**, stating that he did not agree with the staff report. He saw no reason due to the surrounding

circumstances of the lot to put conditions on the approval of the variance.

**Mr. Bass seconded the motion.**

Mr. Hattaway stated that the project has no impact to the surrounding areas. He agreed with the granting of the variance.

**Mr. Pennington restated that his motion is only for the addition itself, and includes the terms stated in the staff report.**

**The vote was 5 – 0 in favor of the motion. The variance was granted.**

5. **Angie Fincannon** – 5704 Aloma Woods Blvd; rear yard variance from 30 feet to 21 feet for a proposed room addition, on property zoned R-1AA (Single-Family Dwelling District); located on the east side of Aloma Woods Boulevard, approximately 200 feet south of Bayhead Circle. (BV2002-153)

BCC District 1 - Maloy

Kathy Fall, Senior Planner

Kathy Fall introduced the next variance request. She stated that Staff recommendation was for denial, however, if approved, Staff requests that the variance be applied only to the addition shown on the site plan.

Angie Fincannon spoke next. She stated that the owners were putting in a glass room, replacing an existing screen room.

Mr. Rozon asked if the screen room has a variance.

Kathy Fall stated that the new room will be bigger than the existing screen room.

**Mr. Rozon made the motion to approve the granting of the variance.**

**Mr. Bushrui seconded the motion.**

There was no discussion.

**The vote was 5 – 0 in favor of the granting of the variance.**

6. **Michael & Laurie Berlant** – 708 Riverbend Blvd; side yard setback variance from 25 feet to 6 ½ feet for an addition, on property zoned PUD (Planned Unit Development); located on the southeast corner of Riverbend Boulevard and Sweetwater Island Drive. (BV2002-155)

BCC District 3 – Van Der Weide

Kathy Fall, Senior Planner

**This item was continued to the January 27, 2003 meeting of the Board.**

7. **C.W. & Janet Mann** – Jane Creek Drive (1M); lot width variance from 88 feet to 68 feet on property zoned A-5 (Agriculture), located on the east side of Jane Creek Drive, approximately 200 feet south of Fort Lane Road. (BV2002-158)

BCC District 2 – Morris

Kathy Fall, Senior Planner

Kathy Fall stated that Staff was making the recommendation for granting the variance by combining of parcels 1P and 1D.

Mr. Mann stated that this lot is almost identical with the lot previously considered at this meeting. Mr. Mann stated that this property is adjacent to Lake Harney and that he wants to get a variance to build for his own use. He wants to use the land for himself and his children.

Mr. Hattaway said that it is the staff recommendation to combine this lot with the next lot on the agenda.

Mr. Mann stated he did not want to do that. He said that all of the land to the south (350 acres across Jane Creek from this property) has been zoned for a subdivision.

Jeff Hart, 155 Jane Creek Drive, stated that he has a substantially larger lot than this one. He would like to see the lot and house size be consistent with the larger size. He also had concerns for the water situation. There is only a 2 inch line feeding water to the neighborhood. Fewer houses would be better. Mr. Hart lives 4 lots down, on Lot 1R.

Mr. Mann stated that he had reserved water meters for the lots. He is willing to address drainage concerns. 3 lots down is a new house built on a single lot.

Mr. Bushrui asked if Mr. Mann was building on this lot, what will become of Lot 1B.

Mr. Mann stated that he was holding them for the grandchildren. He had no intention of developing them at this time.

Mr. Hattaway asked if there was a choice for not combining the lots to grant the variance.

Ms. Fall stated that she believed the Board had a choice.

Ms. Consalo stated that the Comprehensive Plan was very broad. The Land

Development Code does require the unity of title, due to the availability of the second lot.

Mr. Hattaway asked if the lots were ever legal lots.

Ms. Fall stated that in 1968 the full acre was required, but when the lots were created, they were legal.

Karen Consalo then read from the Land Development Code concerning unrecorded lots and lots recorded with the County prior to July 20, 1970.

Ms. Fall stated that these parcels are parcels of record from 1969. They are unrecorded parcels. The deed is dated December 11, 1969.

Ms. Consalo stated that the warranty deed has a legal description. The lots in question could therefore be considered parcels of record.

**Mr. Bushrui made the motion to approve item number 5.**

**Mr. Pennington seconded the motion.**

Brenda Meek stated that if they have 2 lots, why not combine them? What is to stop the applicant from building 3 little houses?

**The vote was 5 – 0 in favor of the granting of the variance.**

8. **C.W. & Janet Mann** - Jane Creek Drive (1P); variance for width at building line from 150 feet to 66 feet and a lot size variance from 43,560 square feet to 16,550 square feet on property zoned A-5 (Agriculture), located on the south side of Jane Creek Drive, approximately 325 feet south of Fort Lane Road. (BV2002-160).

BCC District 2 - Morris

Kathy Fall, Senior Planner

Ms. Fall stated that this is the adjacent parcel. Staff recommendation had been to combine the parcels. However, due to the granting of the variance on the previous parcel, that is not possible.

Mr. Rozon asked if there were any way to hold the Mann's to the plan stated at the meeting. What if they are not intending to hold the property, or if events change.

Mr. Bushrui stated that the Board cannot deny the owner of any property to have financial gain.

Mr. Pennington stated that if the Mann's had only owned one lot, the variance would probably have been granted. Mr. Pennington said that he would take Mr. Mann at his word on how he is going to develop the lots.

Mr. Rozon also questioned Mr. Mann's intentions, and stated that he would like to believe Mr. Mann's stated intentions.

Mr. Bushrui stated that the lots had been conforming at one time. He was not depriving a person from developing their own property.

**Mr. Pennington made the motion to approve the granting of the variance.  
Mr. Bushrui seconded the motion.**

**The vote was 5 – 0 in favor of the motion.** The variance requests were granted.

Kathy Fall next brought up to the Board the 2003 meeting calendar. She explained that due to holidays, certain meetings were moved off of the usual meeting day. Memorial Day is on the 4<sup>th</sup> Monday, so it is requested that the meeting be moved up a week. The same is true of November and December.

May 19<sup>th</sup>, November 24<sup>th</sup>, and December 15<sup>th</sup> were set for the meetings.

**Wes Pennington made the motion to adopt the calendar as reviewed by Ms. Fall.**

**Dan Bushrui seconded the motion.**

**The calendar was unanimously adopted by a vote of 5 – 0.**

**Update by the Planning Manager:**

Matt West came forward to review recent BCC actions for the Board. Mr. West first discussed the Florida Road variance which had been denied by the Board of Adjustment. It was appealed to the BCC. Traffic engineers were consulted about this request and it was determined that if the Stop Bar was moved up five feet, the variance could be approved. The wall was approved at 6 feet in height.

The second case was the daycare facility application by Bruce King located on Orange Boulevard. The BCC overturned the denial of the Board of Adjustment and granted the request for 233 students on site.

There being no further business, the meeting adjourned at 9:35 P.M.

**SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS**  
**DECISION ON APPEAL**

This decision is made by the Board of County Commissioners of Seminole County, Florida, this 25<sup>th</sup> day of March 2003, in accordance with Section 30.43 of the Land Development Code of Seminole County (LDC), as amended, and Future Land Use Element Policy 3.2 of the Vision 2020 Plan, reversing a decision by the Board of Adjustment to approve a variance for a width at building line from 150 feet to 66 feet and a variance for a lot size from 43,560 square feet to 16,550 square feet in unincorporated Seminole County.

**A. FINDINGS OF FACT**

1. On December 16, 2002, the Board of Adjustment approved the applicant's request for a variance for a width at building line from 150 feet to 66 feet and a variance for a lot size from 43,560 square feet to 16,550 square feet in unincorporated Seminole County on the property further described by the attached legal description.

2. The subject property is assigned the Rural-5 future land use designation under the terms and provisions of the Vision 2020 Plan and the A-5 (Agriculture) zoning classification under the terms and provisions of the LDC.

3. On December 30, 2002, Linda Davies filed a letter of appeal with Seminole County, seeking an appeal of this approval before the Board of County Commissioners.

4. The Board of County Commissioners has the authority and responsibility to adjudge this appeal by virtue of Section 30.43, LDC.

**B. CONCLUSIONS OF LAW**

The Board of County Commissioners finds that the variances are not in conformance with Section 30.43(b)(3) of the Land Development Code of Seminole County, and with Future Land Use Element Policy 3.2, due to the following:

1. The requested special exception does not meet the criteria in Section 30.43 (b)(3), LDC, for granting variances because:
  - a. The requested variances are not the minimum variance that would make reasonable use of the land, building, or structure.
  - b. The applicant owns the adjacent lot and could combine the lots for a lesser variance needed.
  - c. Policy FLU 3.2 (Antiquated Plats) of the Seminole County Vision 2020 Comprehensive Plan requires the combination and replatting of antiquated lots that predate the code.

**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 March 25, 2003, 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 **OVERTURNED** and the variance request is denied.

**DATED** this 25th day of March 2003.

Board of County Commissioners  
Seminole County, Florida

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Daryl G. McLain, Chairman

## SEMINOLE COUNTY DEVELOPMENT ORDER

On December 16, 2002, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG SECTION 25, TOWNSHIP 20S, RANGE 32E  
BEGINNING 303.76 FEET SOUTH + 504.12 FEET WEST  
OF NORTHEAST CORNER OF WEST ½ OF NORTHEAST  
¼ RUN SOUTH 14 DEG 35 MIN 56 SEC EAST 224.09  
FEET SOUTH 77 DEG 35 MIN 33 SEC WEST 44.12 FEET  
SOUTH 87 DEG 20 MIN 27 SEC WEST 61.21 FEET  
NORTH 1 DEG 6 MIN 17 SEC EAST 224.09 FEET  
EASTERLY ON CURVE TO BEGINNING

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

### FINDINGS OF FACT

**Property Owner:** Jean Neal  
1540 SW Pendarvis Court  
Palm City, FL 34990

**Project Name:** BV2002-160

**Requested Development Approval:** Lot size variance from 43,560 to 16,550 square feet and a variance for width at building line from 150 feet to 66 feet, based on 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: Kathy Fall  
1101 East First Street  
Sanford, Florida 32771

**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.

(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 above.**

By: \_\_\_\_\_  
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 did take an oath.

**WITNESS** my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Notary Public, in and for the County and State  
Aforementioned

My Commission Expires: