

Item # 62

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: LEE AVENUE (LOT 14) – APPEAL OF BOARD OF ADJUSTMENT DENIAL OF MINIMUM LOT SIZE AND SETBACK VARIANCES (Appellant Scott Ryan)

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

AUTHORIZED BY: Donald S. Fisher **CONTACT:** Tony Walter **EXT.** 7375

Agenda Date <u>7/27/04</u>	Regular <input type="checkbox"/>	Consent <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input type="checkbox"/>	Public Hearing – 7:00 <input checked="" type="checkbox"/>		

MOTION/RECOMMENDATION:

1. UPHOLD the Board of Adjustment’s decision to deny a minimum lot size variance from 43,560 square feet to 17,845 square feet, a front yard setback variance from 50 feet to 10 feet and a rear yard setback variance from 30 feet to 10 feet for Lot 14, Lee Avenue; (Scott Ryan appellant); or
2. REVERSE the Board of Adjustment’s decision to deny a minimum lot size variance from 43,560 square feet to 17,845 square feet, a front yard setback variance from 50 feet to 10 feet and a rear yard setback variance from 30 feet to 10 feet for Lot 14, Lee Avenue; (Scott Ryan appellant); or
3. CONTINUE the request to a time and date certain.

Commission District #1 Maloy

Tony Walter, Assistant Planning Manager

BACKGROUND:

GENERAL INFORMATION	Appellant:	Scott Ryan
	Location:	Lee Avenue
	Zoning:	A-1 (Agriculture District)
	Land Use:	LDR (Low Density Residential)

BOARD OF ADJUSTMENT DECISION:

At its May 24, 2004 regular meeting, the Board of Adjustment denied the request for a minimum lot size variance from 43,560 square feet to 17,845 square feet, a front yard setback variance

Reviewed by:	
Co Atty:	<u>KZC</u>
DFS:	
Other:	<u>MW</u>
DCM:	<u>SS</u>
CM:	<u>KB</u>
File No.	<u>ph700pdp02</u>

feet to 10 feet for Lot 14, Lee Avenue. On June 7, 2004 the appellant, Scott Ryan, appealed the Board of Adjustment's decision to the Board of County Commissioners.

STAFF RECOMMENDATION:

Uphold the Board of Adjustment's decision to deny a minimum lot size variance from 43,560 square feet to 17,845 square feet, a front yard setback variance from 50 feet to 10 feet and a rear yard setback variance from 30 feet to 10 feet for Lot 14, Lee Avenue.

STAFF REPORT

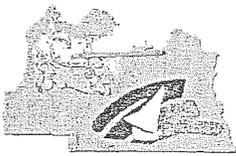
BACKGROUND/ REQUEST	<ul style="list-style-type: none"> • The applicant proposes to construct a home on a vacant, nonconforming lot of record that is deficient in the A-1 district minimum lot size. • There is no record of previously granted variances on this property. • The property is a lot of record on the 1971 Tax Rolls and shown on Page 6 of Plat Book 1.
	<ul style="list-style-type: none"> • The applicant owns the adjacent 4.58 acre property to the north, Lot 002A. • Based on the submitted site plan, the proposed residence would encroach into both the minimum front and rear yard setbacks; the aforementioned variances are thereby requested.

The Board of County commissioners shall have the power to hear and decide appeals from the 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 Section 30.43(b)(3) as satisfied:

STAFF FINDINGS	<p>The applicant has failed to demonstrate a hardship for the granting of the requested variances, as stated below:</p> <ul style="list-style-type: none"> • The subject property is a non conforming lot of record, which does not meet the minimum lot size standard of the A-1 District. While the lot exceeds the 150 FT width at building line standard, the buildability of the lot is nearly reduced to zero when the respective 50 ft and 30 ft front and rear yard setbacks are applied to a lot depth of 83 ft. • However, the applicant owns the adjacent 4.58 acre property to the north, lot 002A thus having the opportunity to combine the subject property with the abutting parcel and negate the need for the requested variances, pursuant to Comprehensive Plan Policy FLU 3.2. This property also has LDR (Low Density Residential) land use and A-1 (Agriculture District) zoning. <p>Policy FLU 3.2 Antiquated Plats – The County shall continue to resolve land use compatibility, environmental and infrastructure issues related to antiquated plats by way of, but not limited to, the following techniques:</p> <ol style="list-style-type: none"> 1. Requiring the combining of lots; and 2. Allowing for replatting and vacating and abandonment procedures.
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STAFF RECOMMENDATION	<p>Based on the stated findings, staff recommends the Board of County Commissioners <u>uphold</u> the Board of Adjustment's decision to deny a minimum lot size variance from 43,560 square feet to 17,845 square feet, a front yard setback variance from 50 feet to 10 feet and a rear yard setback variance from 30 feet to 10 feet for Lot 14, Lee Avenue.</p>
	<p>If the Board should decide to <u>reverse</u> the Board of Adjustment's decision to deny a minimum lot size variance from 43,560 square feet to 17,845 square feet, a front yard setback variance from 50 feet to 10 feet and a rear yard setback variance from 30 feet to 10 feet for Lot 14, Lee Avenue, staff recommends the following conditions of approval:</p> <ul style="list-style-type: none"> • Any variance granted shall apply only to the subject property, as depicted on the attached site plan; and. • Any additional conditions(s) deemed appropriate by the Board, based on information presented at the public hearing.

Attachments: Variance & Appeal Application
Supporting Documentation
Proposed Site Plan
Site Map
Property Appraiser Report
Minutes of the May 24, 2004 BOA meeting



APPEAL

APPL. NO. BV2004-063

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.

VARIANCE #1 ^{VARIANCE} Minimum Lot Size from 43560' to 17845' ^{VARIANCE}
 #2 Front Set Back Var. from 50' to 10'; #3 Rear Set Back from 30' to 10'

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	SCOTT RYAN	SCOTT RYAN
ADDRESS	PO BOX 620226 Oviedo FL 32762	
PHONE 1	407-402-3405	
PHONE 2		
E-MAIL	SRBuilds@EarthLink.net	

PROJECT NAME: _____

SITE ADDRESS: Lee Ave Oviedo 32765

CURRENT USE OF PROPERTY: Vacant

LEGAL DESCRIPTION: Leg Lot 14 BIK A Less Rd Fries
Survey of Lake Cham PB 2 Pg 6

SIZE OF PROPERTY: 17845 sq. ' acre(s) PARCEL I.D. 11-21-31-501-0A00-0140

UTILITIES: WATER WELL SEWER SEPTIC TANK OTHER _____

KNOWN CODE ENFORCEMENT VIOLATIONS N/A

IS PROPERTY ACCESSIBLE FOR INSPECTION YES NO

This request will be considered at the Board of Adjustment regular meeting on May 24, 6PM (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*

2 April 04
 DATE RECEIVED

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

JUN 07 2004

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: \$250 COMMISSION DISTRICT 2 FLU/ZONING LDR/A-1

LOCATION FURTHER DESCRIBED AS LOCATED AT THE NORTHERN
END OF LEE AVE.

PLANNER VB DATE 4/02

SUFFICIENCY COMMENTS * CHECK WITH BUILDING ABOUT - IF A ROAD
EMSEMENT IS LOCATED ON PARCEL'S SOUTH PROPERTY LINE.

NOTES:

1. THIS SURVEY WAS PREPARED FROM TITLE INFORMATION FURNISHED TO THIS SURVEYOR. THERE MAY BE OTHER RESTRICTIONS OR UNRECORDED EASEMENTS THAT AFFECT THIS PROPERTY.
2. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
3. THIS SURVEY IS PREPARED FOR THE SOLE BENEFIT OF THOSE CERTIFIED TO AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY. DIMENSIONS SHOWN FOR THE LOCATION OF IMPROVEMENTS HEREON SHOULD NOT BE USED TO RECONSTRUCT BOUNDARY LINES.
4. BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BASE BEARING (BB).
6. PROPERTY HEREON LOCATED IN ZONE " X " PER F.I.R.M. COMMUNITY PANEL NO. 120193 0165 E DATED 12-06-00.

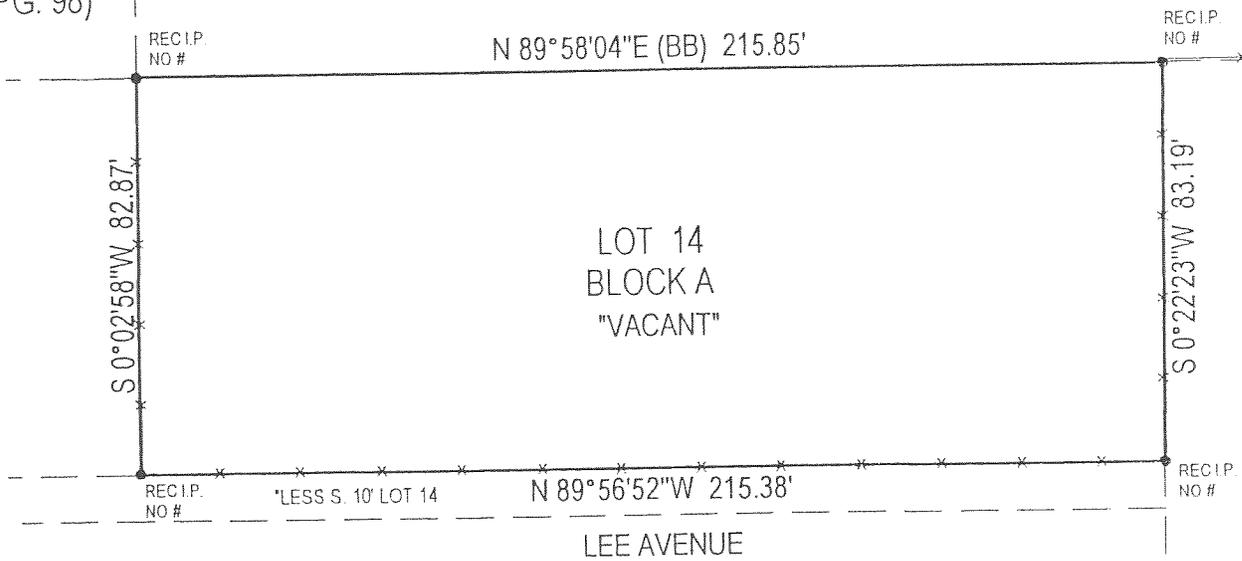
GARDEN GROVE
UNIT ONE
(P.B. 18 PG. 98)

NOT PLATTED

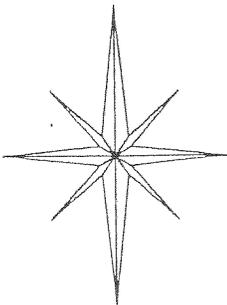
13

LOT 14
BLOCK A
"VACANT"

7



N



SCALE 1" = 40'

CERTIFIED TO:
S.R. BUILDERS

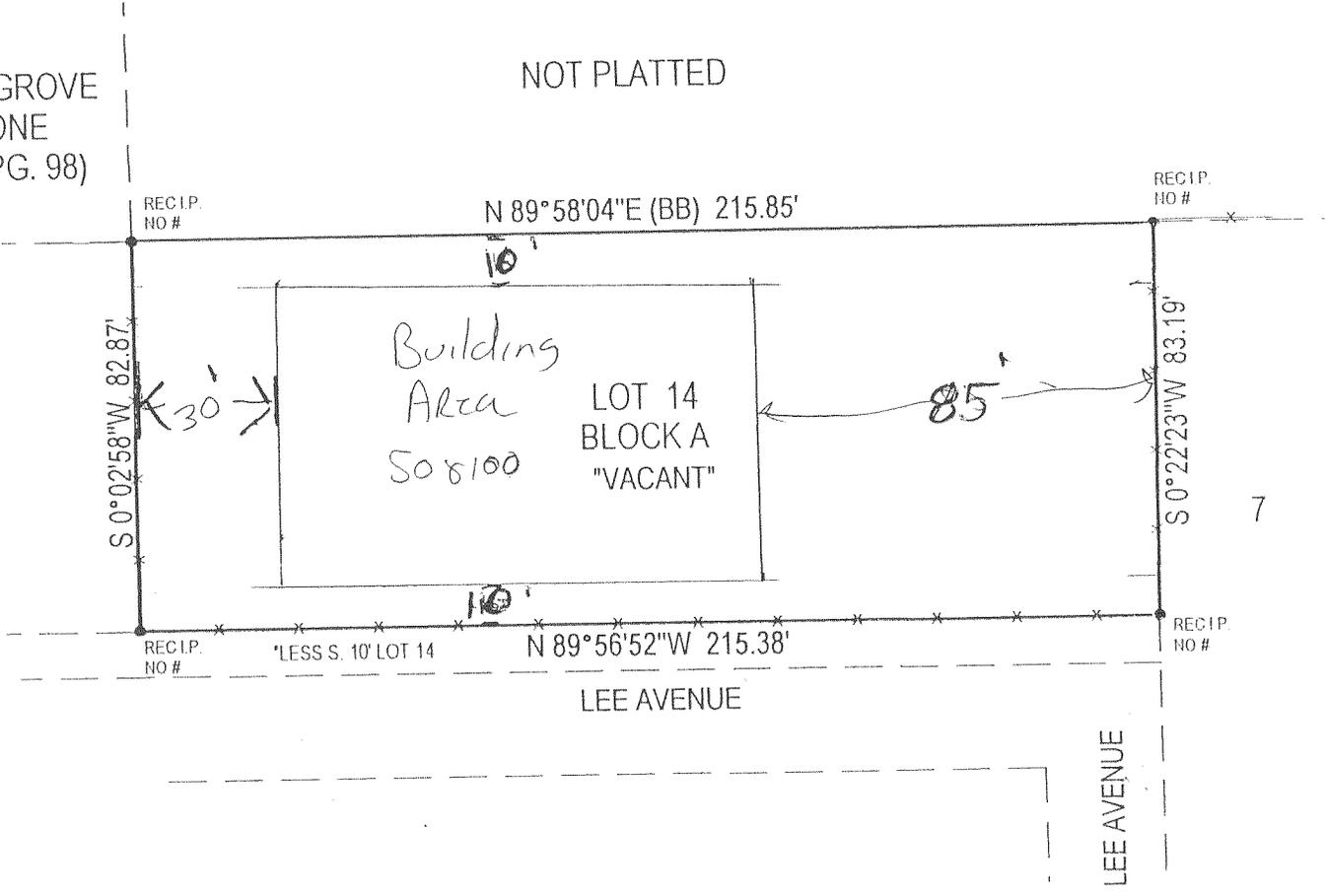
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UNIT ONE
(P.B. 18 PG. 98)

NOT PLATTED

13

7



GARDEN GROVE UNIT ONE

OVIEDO, SEMINOLE COUNTY
FLORIDA

SECTION II, TOWNSHIP 21 SOUTH, RANGE 31 EAST

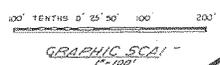
UNPLATTED



LEGEND

- ⊙ DENOTES P.R.M.'S
- ⊙ DENOTES S.P.C.'S

NOTE:
THERE IS A 50 FT UTILITY EASEMENT
ON THE SIDE OF ALL LOTS EXCEPT THOSE
LOT LINED ABUTTING STREET FRONT
UNLESS OTHERWISE NOTED.

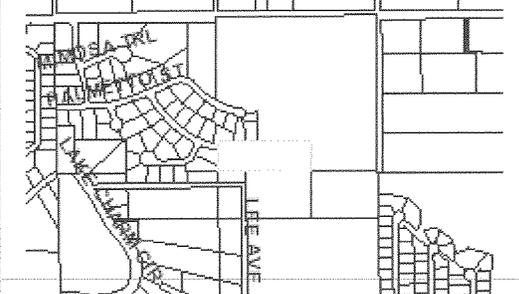


Property Location in
Proximity to
Garden Grove
Unit 1

PLAT BOOK 18 PAGE 98

PARCEL DETAIL	REAL ESTATE	PERSONAL PROP.	TAX ROLL	SALES SEARCH	◀ Back ▶																																																
 <p>Seminole County Property Appraiser Services 1101 E. First St. Sanford FL 32771 407-665-7506</p>																																																					
<p align="center">GENERAL</p> <p>Parcel Id: 11-21-31-501-0A00-0140 Tax District: 01-TX DIST 1 - COUNTY</p> <p>Owner: RYAN SCOTT K Exemptions:</p> <p>Address: PO BOX 620226</p> <p>City,State,ZipCode: OVIEDO FL 32762</p> <p>Property Address: LEE AVE OVIEDO 32765</p> <p>Subdivision Name: FRIES SURVEY OF LAKE CHARM</p> <p>Dor: 00-VACANT RESIDENTIAL</p>				<p align="center">2004 WORKING VALUE SUMMARY</p> <p>Value Method: Market</p> <p>Number of Buildings: 0</p> <p>Depreciated Bldg Value: \$0</p> <p>Depreciated EXFT Value: \$0</p> <p>Land Value (Market): \$14,192</p> <p>Land Value Ag: \$0</p> <p>Just/Market Value: \$14,192</p> <p>Assessed Value (SOH): \$14,192</p> <p>Exempt Value: \$0</p> <p>Taxable Value: \$14,192</p>																																																	
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<p>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.</p>																																																					

[BACK](#) ● [PROPERTY APPRAISER HOME PAGE](#) ● [CONTACT](#)

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NOTE: Assessed values shown are NOT certified values and therefore are subject to change before being finalized for ad valorem tax

**Excerpt of the Minutes for the Seminole County Board of
Adjustment
May 24, 2004
6:00 P.M.**

Members Present: Mike Hattaway, Chairman, Lila Buchanan, Alan Rozon, Mike Bass and Bob Goff

Staff Present: Earnest McDonald, Principal Coordinator, Matt West, Planning Manager, Tony Walter, Assistant Planning Manager, Kathy Fall, Senior Planner, Francisco Torregrosa, Planner, Arnold Schneider, County Attorney, Patty Johnson, Sr. Staff Assistant

PUBLIC HEARING ITEMS

VARIANCES:

1. **(LOT 14) LEE AVENUE** - Scott Ryan, applicant; Request for (1) minimum lot size variance from 43,560 square feet to 17,845 square feet and; (2) front yard set back variance from 50 feet to 10 feet and; (3) rear yard setback variance from 30 feet to 10 feet for a proposed home in the A-1 (Agriculture District); Located at the northern terminus of Lee Avenue, approximately 0.3 mile north of the intersection of Lee Avenue and Lake Harney Avenue; (BV2004-063).

Tony Walter, Assistant Planning Manager

Tony Walter introduced the location of the application and stated that staff recommended denial of the request, unless the applicant could demonstrate a hardship.

Karen Kassik stated that she was representing the applicant, Scott Ryan in his absence. She further read a letter from Scott stating that he purchased two parcels of land, the smaller parcel being the Lee Avenue parcel and the second parcel, which is the larger parcel to the northeast. She further stated from the letter that he had no intentions of joining the properties. She stated that he wanted to build a speculative home on the Lee Avenue parcel and leave the larger parcel open for future development. She also stated that his home would be consistence with the homes in the neighborhood.

Matt Russ stated that he had a letter from nine residents in opposition of the request. He also stated that this requested house would be to close to the existing houses. He further stated that as residents they were concerned about their property values. He also stated that there was no

hardship and the ordinances are in place to oppose this type of situation. He lastly stated that if this was approved it would be setting a prescient with the property next to him.

Reggie Davidson stated that his property is the biggest lot in the neighborhood and he can't see a small house in this neighborhood. He also stated that the size of his house is 2,400 square feet and the trees make the neighborhood.

Karen Kassik stated that at some point the large parcel to the east of Lee Avenue would be developed and this would take away the neighbors privacy. She also stated that a single family residence would not be detrimental.

Mr. Goff made a motion to approve the (1) minimum lot size variance and; (2) a 25 feet front yard set back variance and; (3) a 10 feet rear yard set back variance.

The motion dies for a lack of a second.

Mrs. Buchanan made a motion to deny the request.

Mr. Bass seconded the motion.

The motion passed by (3-2) consent. Mr. Hattaway and Mr. Goff were in opposition

Hewitt

RECEIVED

MAY 21 2004

Facsimile Transmission

Date May 19, 2004

To Seminole County Planning Division

(KAREN)

Company Seminole County Planning Division

Fax Number 407-665-7385

From Matthew Rust

Hewitt Associates LLC
2300 Discovery Drive
Orlando, FL 32826

Number of Pages 3
(Including this sheet)

Message

Attn. Seminole County Planning Division-

The attached letter is objection to the proposed rezoning and setback variance for (Lot 14) Lee Avenue, scheduled for a public hearing on May 24, 2004. This letter has been drafted and signed by 10 neighbors in the adjacent residential area, living on Woodcrest Way.

We will have representatives attend the public hearing on the 24th to present our oral input as well.

Thanks for allowing our input into this matter.

CASE # BV2004-063

Should there be any problems with the transmission of this material, please contact the sender at 407-471-2114.

This fax is intended only for the use of the addressee and may contain confidential information. If you are not the intended recipient, you are notified that any dissemination, distribution, or copying is strictly prohibited. If you have received this fax in error, please notify us immediately by telephone and return it to us at the above address via the United States Postal Service. We will reimburse any costs you incur in notifying us and returning it to us. Thank you.

May 18, 2004

Dear Seminole County Planning Division,

RE: We the undersigned are writing to express our clear and strong opposition to the request for a rezoning/lot size variance of Lot 14 (Lee Avenue).

As residents of the Garden Grove subdivision, we have lived on Woodcrest Way for many years, some in-fact, over twenty-five years. Our opposition to the above request is based upon the following facts and rationale:

1. It is our position that the special exception requested is uniquely inappropriate in an established and fully developed neighborhood where all surrounding property owners are in compliance with the existing setback requirements.
2. The existing land use restrictions that have created our neighborhood's character and charm (spacious lots with mature landscaping) would be irreparably undermined if this variance request is approved.
3. There is extreme concern with the close proximity of the proposed building to surrounding property owners' lot lines and the proposed excessive breach of the existing setback requirements. Our concerns are threefold: Visual, Functional & Need.
 - a. Visual, in that the proposed structure will appear fundamentally out of place in the midst of a well planned neighborhood conforming to uniform setbacks.
 - b. Functional, in that issues relating to noise from voice, vehicles, maintenance equipment and pets as well as the placement of mechanical air handling equipment, yard use, parking and storage of personal belongings will have no buffers as exist within present setbacks.
 - c. Need - The land use and setback restrictions were in effect prior to the "developer's" purchase of the property. The "need" for this request is clearly financial gain. We feel the granting of a variance should not be considered based on the financial gain of an individual but rather upon the established principles of sound land use planning.
4. The purpose for the setback ordinance itself would be needlessly compromised as there is no reported legitimate need for this variance to justify granting a special exception or variance aside from the singular financial gain of the developer.
5. There is reasonable concern over the potential negative impact the proposed building project would have on surrounding property values... properties that have been invested in for over 25 years.
6. The proposed setbacks are excessive... three times or sixty percent less than the present (existing) setback requirements.
7. If this variance is granted, it is our firm conviction and belief as property owners, that we may suffer irreversible damages.

Please allow us to remind the board that most of us purchased our homes after researching the nearby properties and zoning restrictions. We put our faith in planning commissions to uphold the

zoning and property restrictions in the future against unnecessary and unreasonable changes or variances. To us the right decision is "cut-and-dried": Support a community of neighbors with over 25 years of homeownership, who only have one place to call "home" or support an upstart personal investment idea that requires an outrageous distortion of the minimum setbacks to realize a profit.

We encourage the legal development of land surrounding our properties but we do not wish to see our homes adversely impacted by the potential development aspirations of Mr. Ryan, who already owns three other income/rental properties in Oviedo. We acknowledge that the board cannot make their decision based on whether this property will be owner occupied or a rental, but we as established homeowners can express our concern with the thought of having income property built behind our neighborhood inconsistent with established setbacks, and this makes his request even more difficult to embrace.

Progress and development are facts of life. Having a house built behind one's established home is a reality and is in most cases desirable. But when the proposed building project is grossly inconsistent with neighboring setback requirements and the variance request differs significantly from the established communities of Garden Grove and historic Lake Charm Circle, *we feel that to grant this request would be a disgrace to the surrounding property ownership and contrary to sound, equitable and balanced community planning.*

We are asking you to render the only fair and equitable decision possible...**DENY THIS REQUEST.**

We appreciate your time and extending to us the ability to provide this input into your decision. Thank You

Woodcrest Way Homeowners:

Name:	Address:	Date
<i>Math M. R...</i>	964 Woodcrest Way	5/18/04
<i>David Bellis</i>	984 Woodcrest Way	5/18/04
<i>Dan H. Lewis</i>	819 ORANGEWOOD DR	5/18/04
<i>Steve H...</i>	819 ORANGEWOOD DR.	5/18/04
<i>Russell...</i>	923 Woodcrest Way	5/18/04
<i>Ally...</i>	923 Woodcrest Way	5/18/04
<i>Jo...</i>	912 Woodcrest Way	5/18/04
<i>Raven D. Morgan</i>	912 Woodcrest Way	5/18/04
<i>Michael...</i>	886 Woodcrest Way	5/18/04
<i>Julie W. Ernst</i>	904 Woodcrest	5/18/04