

Item #. 60

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Appeal of the Board of Adjustment's decision to deny a side street (north) setback from 20 feet to 9 feet for a proposed fence in the Wekiva Hunt Club PUD (Planned Unit Development District); (Beatrice Myers, appellant/applicant).

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

**AUTHORIZED BY:** Donald S. Fisher **CONTACT:** Ian Sikonia **EXT.** 7398

<b>Agenda Date</b> <u>09/12/06</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"/>
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**MOTION/RECOMMENDATION:**

1. **UPHOLD** the Board of Adjustment's decision to deny a side street (north) setback from 20 feet to 9 feet for a proposed fence in the Wekiva Hunt Club PUD (Planned Unit Development District); (Beatrice Myers, appellant/applicant); or
2. **REVERSE** the Board of Adjustment's decision to deny a side street (north) setback from 20 feet to 9 feet for a proposed fence in the Wekiva Hunt Club PUD (Planned Unit Development District); (Beatrice Myers, appellant/applicant); or
3. **CONTINUE** the request to a time and date certain.

Commission District #3, Van Der Weide

Ian Sikonia, Planner

**BACKGROUND:**

At the June 26, 2006 regular meeting, the Board of Adjustment heard the applicant's request for a side street (north) setback variance from 20 feet to 9 feet for a proposed fence at 101 Bilsdale Court. The Board of Adjustment voted 4-0 to deny the request based on a determination that a fence in that location would take away from the openness and would detract from the neighborhood. Staff recommended denial of this request because it did not meet the six criteria required for determination of a hardship (Land Development Code Section 30.43(b)(3)).

If the Board of County Commissioners reverses the Board of Adjustment's decision the proposed fence could be located 9 feet from the northern (side street) property line. If the Board of County

<b>Reviewed by:</b> <u>[Signature]</u> <b>Co Atty:</b> _____ <b>DFS:</b> _____ <b>Other:</b> <u>[Signature]</u> <b>DCM:</b> _____ <b>CM:</b> <u>[Signature]</u> <b>File No.</b> <u>ph130pdp01</u>
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Commissioners upholds the Board of Adjustment's decision, the proposed fence could not be located 9 feet from the northern (side street) property line and the 20 foot side street setback would remain. In addition the current location of the fence is 26 feet from the northern (side street) property line, therefore the applicant could extend the proposed fence 6 feet closer to the northern (side street) property line without having to apply for a variance.

**STAFF RECOMMENDATION:**

Uphold the Board of Adjustment decision to deny a side street (north) setback from 20 feet to 9 feet for a proposed fence based on staff findings.

**ATTACHMENTS:**

Staff Report  
Future Land Use Map  
Zoning Map  
Aerial  
Site Plan  
Appeal Letter  
BOA Minutes from June 26, 2006 (BV2006-077, Beatrice Myers)  
Wekiva Hunt Club Community Association approval letter  
Pictures of proposed fence location

## STAFF REPORT

**BACKGROUND / REQUEST:**

- The appellant (variance applicant) has an existing fence on the northern side of the property which is 26 feet from the property line. The requested variance would extend that fence 17 feet closer to the northern property line, and violate the required setback of 20 feet by 11 feet.
- A fence on a corner lot shall have the same setback requirement as the front yard setback of the main or principal dwelling on property lines abutting public road rights-of-way, which in this case is 20 feet due to the PUD zoning district. The applicant is requesting the side street setback for the proposed fence be 9 feet, therefore a variance request was submitted.
- The applicant received approval on March 13, 2006 from the Wekiva Hunt Club Community Association for the proposed fence.
- The applicant then submitted a request for a side street setback variance on April 10, 2006 to the Planning Division for the proposed fence.
- At the June 26, 2006 Board of Adjustment hearing, the applicant's request for a side street setback variance from 20 feet to 9 feet at 101 Bilsdale Court was denied. The Board of Adjustment voted 4-0 to deny the request based on a determination that a fence in that location would take away from the openness and would detract from the neighborhood.
- The applicant then submitted the application to appeal the Board of Adjustment's decision to the Planning Division on July 10, 2006.
- There is no record of any approved variances for fences in the immediate area of the subject property.

**ZONING & FUTURE LAND USE (FLU)**

Direction	Existing Zoning	Existing FLU	Use of Property
Site	PUD	Planned Development	Single-Family
North	PUD	Planned Development	Single-Family
South	PUD	Planned Development	Single-Family
East	PUD	Planned Development	Single-Family
West	PUD	Planned Development	Single-Family

**STAFF FINDINGS:**

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 all of the following provisions of **Section 30.43(b)(3)** are satisfied:

**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.**

No special conditions or circumstances exist on this property that would warrant a fence to be located 9 feet from the northern property line.

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

No special conditions or circumstances exist that would prevent the property owner from constructing a fence in compliance with the Land Development Code. In addition, the property owner may construct a fence 6 feet closer to the property line without having to apply for a variance because the existing fence is presently located 26 feet from the northern property line.

**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.**

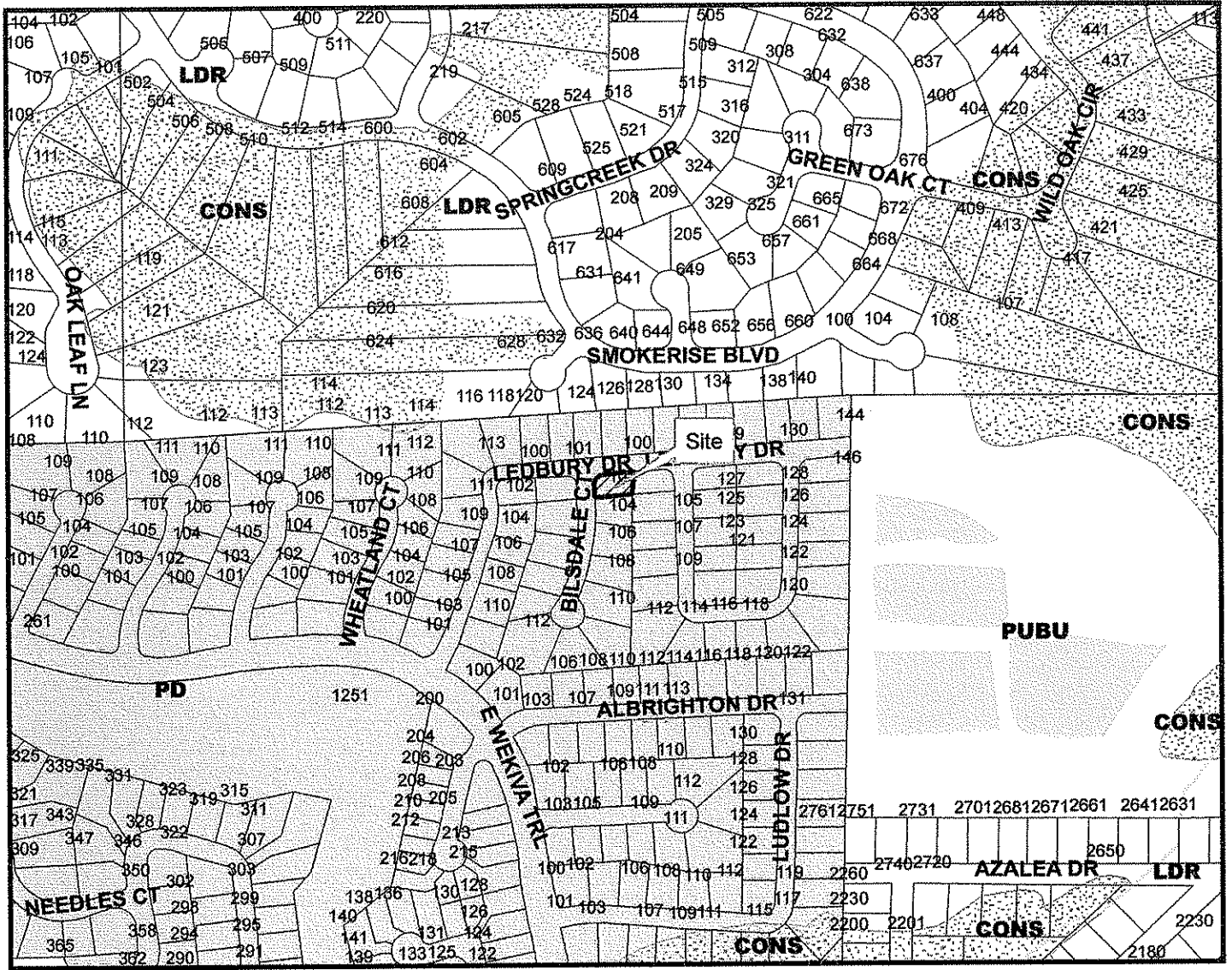
The grant of the requested variance will confer on the applicant special privileges due the fact that other property owners in the Wekiva Hunt Club Subdivision have fences that comply with the regulations of the Land Development Code.

**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.**

The literal interpretation would not deprive the property owner of rights commonly enjoyed by others due to the fact that other residents of the Wekiva Hunt Club Subdivision have fences that comply with the regulations of the Land Development

	<p>Code.</p> <p><b>e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.</b></p> <p>The property owner will still retain reasonable use of the property without the requested variance because a fence could be built 6 feet closer to the property line without having to apply for a variance due to the fence's current location of 26 feet.</p> <p><b>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.</b></p> <p>The grant of the variance will not be in harmony with the trend of development of the neighborhood because other residents of the subdivision have fences that comply with the regulations of the Land Development Code.</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 side street (north) setback variance from 20 feet to 9 feet for a proposed fence in the Wekiva Hunt Club PUD (Planned Unit Development District).</p>

Beatrice Myers  
 101 Bilsdale Ct  
 Longwood, FL 32779

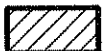
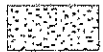




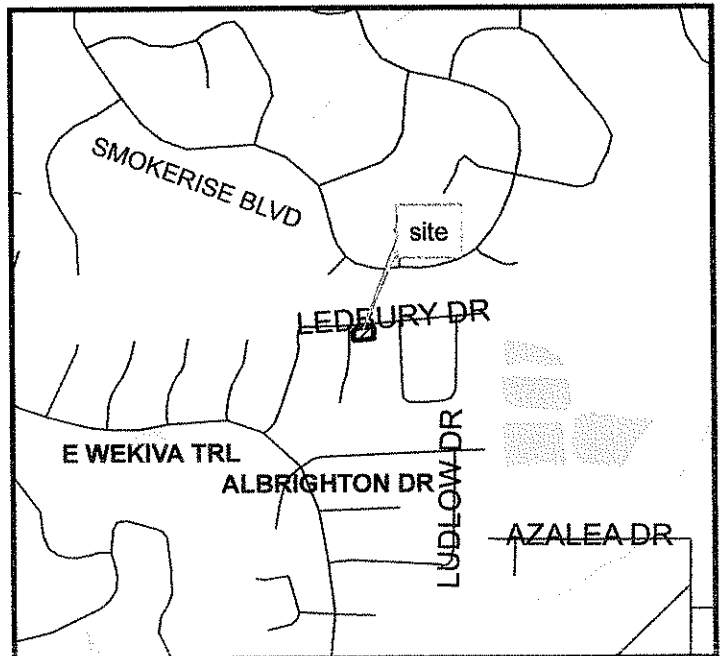
Seminole County Board of Adjustment  
 June 26, 2006

Case: BV2006-077

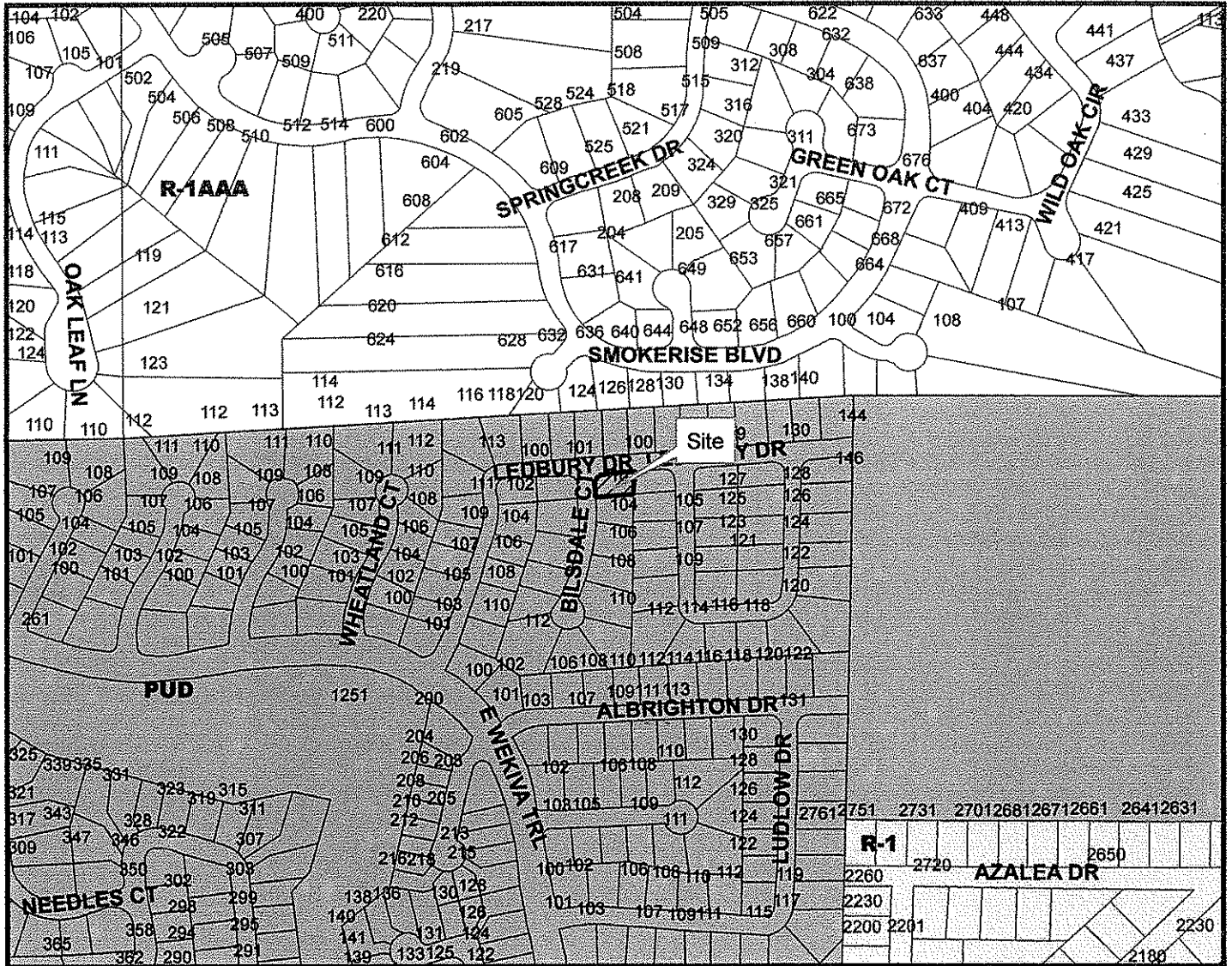
Parcel No: 05-21-29-507-0000-1000

**Future Land Use**

-  BV2006-077      PUBU
-  CONS, PUBU      LDR
-  CONS, LDR      PD
-  CONS, PD







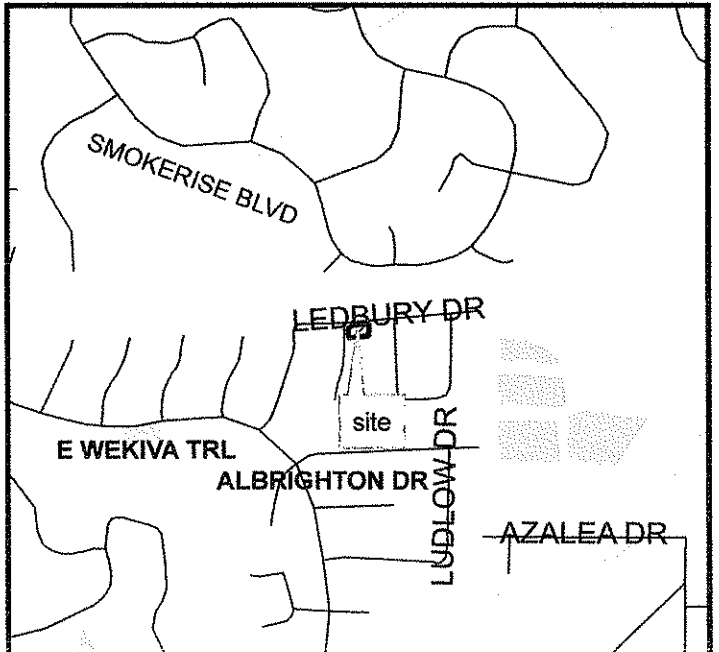
Beatrice Myers  
 101 Bilsdale Ct  
 Longwood, FL 32779



Seminole County Board of Adjustment  
 June 26, 2006  
 Case: BV2006-077  
 Parcel No: 05-21-29-507-0000-1000

**Zoning**

-  BV2006-077
-  R-1AAA
-  R-1
-  PUD



# 2006 Aerial





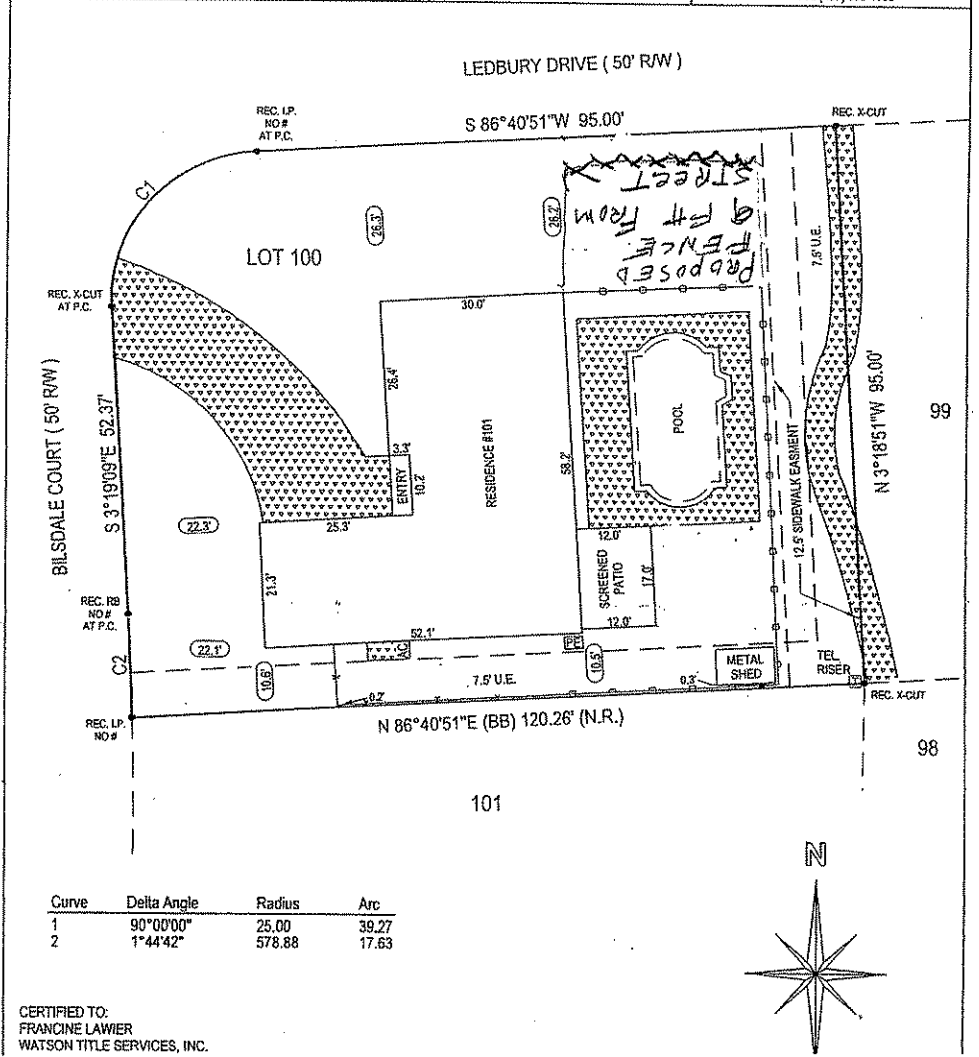
**NOTES:**

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.
4. DIMENSIONS SHOWN FOR THE LOCATION OF IMPROVEMENTS HEREON SHOULD NOT BE USED TO RECONSTRUCT BOUNDARY LINES.
5. BEARINGS ARE BASED ON RECORD PLAT DATUM AND ON THE LINE SHOWN AS BASE BEARING (BB).
6. PROPERTY HEREON LOCATED IN ZONE "X" PER F.J.R.M. COMMUNITY PANEL NO. 120289 0105 E DATED 04-17-95.

LAND SURVEYORS  
LB 4565

**Boundary  
And  
Mapping  
Associates, Inc.**

189 WEST ORANGE STREET  
ALTAMONTE SPRINGS, FL  
32714  
PH. (407) 696-1155



July 10, 2006

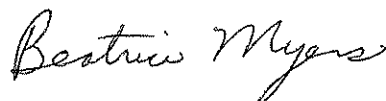
Seminole County Board of Adjustment  
1101 E. 1<sup>st</sup> St.  
Sanford, FL 32771

Re: BV2006-077

Dear Sir or Madam:

My name is Beatrice Myers residing at 101 Bilsdale Ct. Longwood, FL 32779. I will like to appeal the decision made by the board on June 26, 2006 in regards parcel #05-21-29-507-0000-1000: denying my request for a side street (north) setback from 20 feet to 9 feet for a proposed fence. Please advise me of a new hearing regarding this matter. I could be reach at 407-788-0243 or 561-385-7453

Sincerely,

A handwritten signature in cursive script that reads "Beatrice Myers".

Beatrice Myers

**MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT  
JUNE 26, 2006  
ITEM #7**

**101 BILSDALE COURT** – Beatrice Myers, applicant; Request for a side street (north) setback from 20 feet to 9 feet for a proposed fence in the PUD (Planned Unit Development District); Located at the southeast section of the intersection of Bilsdale Court and Ledbury Drive; (BV2006-077).

Ian Sikonia, Planner

Ian Sikonia introduced the location of the property and stated that the applicant proposed to extend the existing fence on the northern side of the property 17 feet closer to the property line. He then stated that the property had a 12 foot sidewalk easement that ran along the eastern property line. He further stated that there were currently no code enforcement or building violations for this property and no record of any prior variances granted for the property. He lastly stated that the applicant received approval from the Wekiva Club Community Association on March 3, 2006.

Francine Lawler stated that she was the daughter of the applicant Beatrice Myers. She further stated that they wanted to move the fence out 9 feet from the property line and have an open area behind the fence. She then stated that they wanted to extend the backyard to make a playground for her children. She lastly stated that there were two (2) other homes in the area with extended fences 9 feet from the property line.

**Mr. Rozon made a motion to deny the request.**

**Mr. Pennington seconded the motion.**

**The motion passed by unanimous consent (4-0).**

Please click anywhere on this form and then print as usual...

# Wekiva Hunt Club Community Association Architectural Control Committee Exterior Improvement Approval Form

### Section 1: Name and Location

Name:

FRANCINE LAWLER / BEATRICE MYERS  
Mailing Address (if different from property):

Property Address:

101 Bilsdale Court

City:

Longwood

State:

FL

Zip:

32779

Day Phone:

561-434-3694 / 407-238-0243

Evening Phone:

Cell Phone

561-385-7453

### Section 2: Change Descriptions (include dimensions, materials, color finish, location, etc.)

Moving Fence & remove 1 Tree next to Garage

### Section 3: Request for Approval

I request approval to make the above changes. I understand that some types of changes require County Permits and I will acquire any required permits prior to making the above changes.

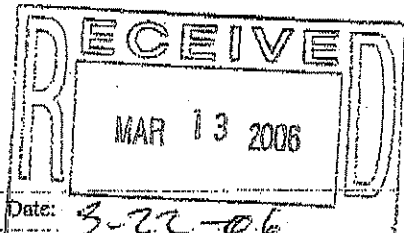
Francine Lawler / Beatrice Myers  
Signed

Date 3/13/06

### Section 4: Approval or Denial (WHCCA ONLY)

- Approved
- Approved - subject to the following:
- Denied - comments:

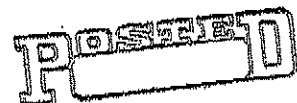
Received



Signed (WHCCA ACC): C. Hess

Instructions: Changes must be completed within 120 days from the date of approval. If more time is needed you must submit a written request for an extension. Please fill out sections 1,2 and 3. Attach a plot survey showing locations of changes. For paint color, please attach "color chips" with the colors desired clearly marked (larger samples may be requested). If construction is to occur in an easement, an additional form is also required. This form will be returned via U.S. Mail either approved or denied within 30 days from the date received. You may contact the association office at (407) 774-6111 if you have any questions. Please return this form and required attachments to:

Wekiva Hunt Club Community Association, Inc.-ACC  
239 Hunt Club Blvd. Suite 101  
Longwood, FL 32779-7115



# Looking eastbound down Ledbury Drive



# Looking westbound down Ledbury Drive

