

Item # 52

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Appeal of the Board of Adjustment decision to deny a side street setback variance from 25 feet to 7.5 feet for a proposed home on Lot 1 Pendleton Subdivision; (Rosy Rios, appellant).

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

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

<b>Agenda Date</b> <u>09/13/05</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 checked="" type="checkbox"/>	<b>Public Hearing – 7:00</b> <input type="checkbox"/>		

**MOTION/RECOMMENDATION:**

1. **UPHOLD** the Board of Adjustment decision to deny a side street setback variance from 25 feet to 7.5 feet for a proposed home on Lot 1; Pendleton Subdivision; (Rosy Rios, applicant); or
2. **REVERSE** the Board of Adjustment decision to deny a side street setback variance from 25 feet to 7.5 feet for a proposed home on Lot 1; Pendleton Subdivision; (Rosy Rios, applicant); or
3. **CONTINUE** the request to a time and date certain.

Commission District #3, Van Der Weide

Michael Rumer, Senior Planner

**BOARD OF ADJUSTMENT'S DECISION:**

At the June 27, 2005 regular meeting, the Board of Adjustment denied a side street setback variance from 25 feet to 7.5 feet for a proposed home on vacant Lot 1 of the Pendleton Subdivision. The Board of Adjustment based the denial for a side street setback variance on staff recommendation and on the basis that the applicant did not show up to the June 27th or May 23rd scheduled Board of Adjustment hearings.

On July 08, 2005, the applicant, Rosy Rios, appealed the Board of Adjustment decision to the Board of County Commissioners.

<b>Reviewed by:</b>	
<b>Co Atty:</b>	<u>RL</u>
<b>DFS:</b>	
<b>Other:</b>	<u>MW</u>
<b>DCM:</b>	<u>RE</u>
<b>CM:</b>	<u>KG</u>
<b>File No.</b> <u>ph130pdp03</u>	

**STAFF RECOMMENDATION:**

Uphold the Board of Adjustment decision to deny a side street setback variance from 25 feet to 7.5 feet for a proposed home, based on the staff findings.

**ATTACHMENTS:** Staff Report  
Appeal Letter (07/08/05)  
Site Plan  
Aerial  
Zoning Location Map  
Future Land Use Location Map  
Recorded Development Order  
BOA Minutes (06/27/05)

## STAFF REPORT

<b>BACKGROUND / REQUEST:</b>	<ul style="list-style-type: none"> <li>The applicant proposes to construct a home that would encroach 17.5 feet into the minimum 25 foot side street setback of the R-1A zoning district. The R-1A zoning district permits an administrative variance to 15 feet if the variance does not obstruct the line of sight to the intersection. The applicant is requesting a variance greater than the permitted 15 feet, so the aforementioned variance is thereby requested.</li> <li>The side street setback the applicant is seeking a reduction to is located on a dead end street that terminates at a driveway to an existing single-family residence.</li> <li>There is no record of prior variances having been granted for this property.</li> </ul>																								
<b>ZONING &amp; FUTURE LAND USE (FLU)</b>	<table border="1"> <thead> <tr> <th>Direction</th> <th>Existing Zoning</th> <th>Existing FLU</th> <th>Use of Property</th> </tr> </thead> <tbody> <tr> <td>Site</td> <td>R-1A</td> <td>Low Density Residential</td> <td>Vacant)</td> </tr> <tr> <td>North</td> <td>R-1A</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> <tr> <td>South</td> <td>R-1A</td> <td>Public School</td> <td>Teague Middle School</td> </tr> <tr> <td>East</td> <td>R-1A</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> <tr> <td>West</td> <td>R-1A</td> <td>Low Density Residential</td> <td>Single-Family (Conventional)</td> </tr> </tbody> </table>	Direction	Existing Zoning	Existing FLU	Use of Property	Site	R-1A	Low Density Residential	Vacant)	North	R-1A	Low Density Residential	Single-Family (Conventional)	South	R-1A	Public School	Teague Middle School	East	R-1A	Low Density Residential	Single-Family (Conventional)	West	R-1A	Low Density Residential	Single-Family (Conventional)
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<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 <u>all</u> of 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-1A District establishes a minimum side street setback of 25 feet with a reduction to 15 feet allowed if approved by Seminole County Traffic Engineering. No special</p>																								

circumstances have been identified or presented by the applicant to support the requested variance. The proposed home can be redesigned to comply with the minimum setback requirements.

**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 variance.

**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 variance, staff believes the granting of the same would confer special privileges denied to other properties in the R-1A District by allowing encroachment into the side street 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 can be developed with a single-family home on the site without the need for a variance.

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

The requested variance is not the minimum since a reduction to 15 feet is allowed if approved by traffic engineering. Thus a home may be constructed on the site without the need for a variance.

	<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 requested variance would not be compliant with the Land Development Code and would potentially allow structures that are inconsistent with the trend of neighborhood development.</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 side street setback variance from 25 feet to 7.5 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 apply only to the proposed home as depicted on the attached site plan; and</li> <li>• Any additional condition(s) deemed appropriate by the Board, based on information presented at the public hearing.</li> </ul>

June 8, 2005.

To Board of County Commissioners:

I am hereby requesting an appeal to the request to change the side street setbacks on my residential lot located on Grove St. Due to my absence at the Board meetings and to the fact that the Board of Adjustments had questions regarding the request, my request was denied. Unfortunately, my job requires constant travel outside of the state and I was unable to meet with the Board.

Regarding my request, I would like the BCC to understand the situation with this parcel. Being an Engineer and having designed several Seminole County roads, I understand that the side street setbacks are set in consideration of "site distance" for traffic approaching an intersection. However, the side of the street for which I am requesting a variance; is a "Dead End" street with no potential for future expansion or extension of the road. Also, the plans for my residence have not been finalized, however the home that will be constructed at the site is a custom home of approximately 4000 sf and with a traditional home facade, which will increase the value of neighboring residences, and in no way, deter the

neighborhood.

I will bring additional information and photos of the area, if needed, so that the Board of C.C. may have a better understanding of the conditions of the area and proposed improvement; and grant me my request.

I look forward to meeting with you.

Sincerely  
Rose E. Ross, P.E.

C/L GROVE AVENUE

30'

30'

REC I.P. NO # S 90°00'00"E (BB) 98.02'(M) 98.00'(P)

RECRB LB 6724

REC I.P. I.C. 0.15 N

REC I.P. NO # 1.9 E. & 0.5 S

25'

90°09'40"(M)  
90°09'30"(P)

27'-0"

WALK WAY

LOT 2

N 0°09'40"E 150.85'(M) 151.00'(P)

(METAL FENCE)

0.2

1.2

REC I.P. NO #

PROPOSED BUILDING

LOT 1 (VACANT)

S 0°08'24"W 151.03'(M) 151.00'(P)

25'

30'-0"

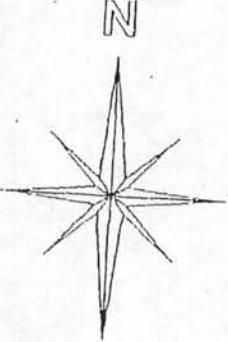
90°01'55"(M)  
90°09'30"(P)

REC CM NO #

N 89°53'31"W 98.08'(M) 98.00'(P)

McNEILS ORANGE VILLA  
P.B. 2, PG. 99

C/L FOREST LAKE DRIVE



CERTIFIED TO:  
ROSY E. RIOS  
CANAAN TITLE INSURANCE AGENCY  
CHICAGO TITLE INSURANCE CO.  
FIDELITY FEDERAL BANK & TRUST

DESCRIPTION: LOT 1; PENDLETON SUBDIVISION, ACCORDING TO PLAT THEREOF, AS RECORDED IN PLAT BOOK 11, PAGE(S) 37, THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

# Aerial



ERIK CT

ACADEMY OAKS PL

FOREST LAKE DR

GROVE AVE

FOREST CIR

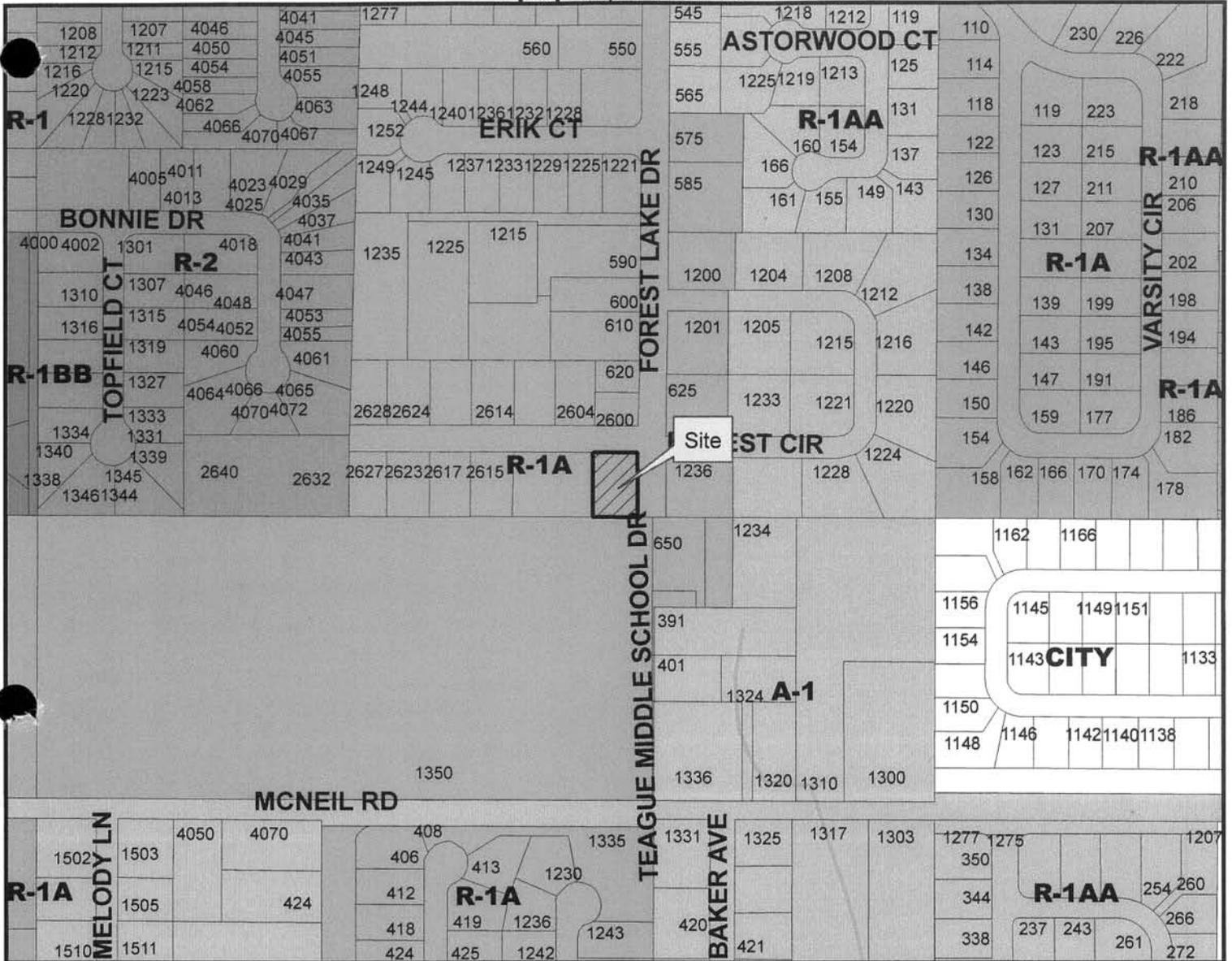
TEAGUE MIDDLE SCHOOL DR

MCNEIL RD

EDEN PARK AVE

BAKER AVE

**Rosy E. Rios  
Lot 1 Grove Avenue  
Apopka, FL 32703**



**Seminole County Board of Adjustment  
May 23, 2005  
Case: BV2005-047  
Parcel No: 17-21-29-516-0000-0010**

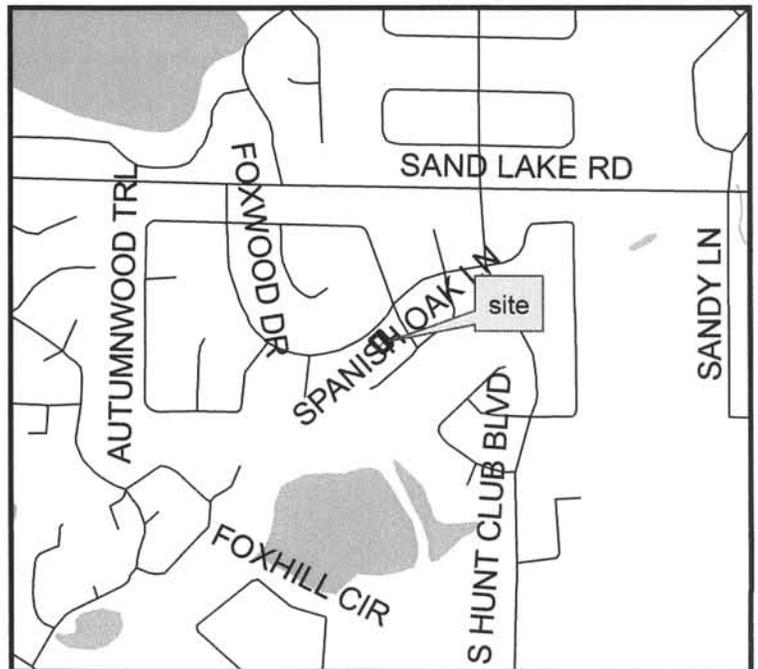
**Zoning**

	A-1 Agricultural-1Ac		BV2005-047
	R-1AA Single Fam-11700		
	R-1A Single Fam-9000		
	R-1 Single Fam-8400		
	R-1BB Single Fam-5000		
	R-2 One and Two-Family-9000		

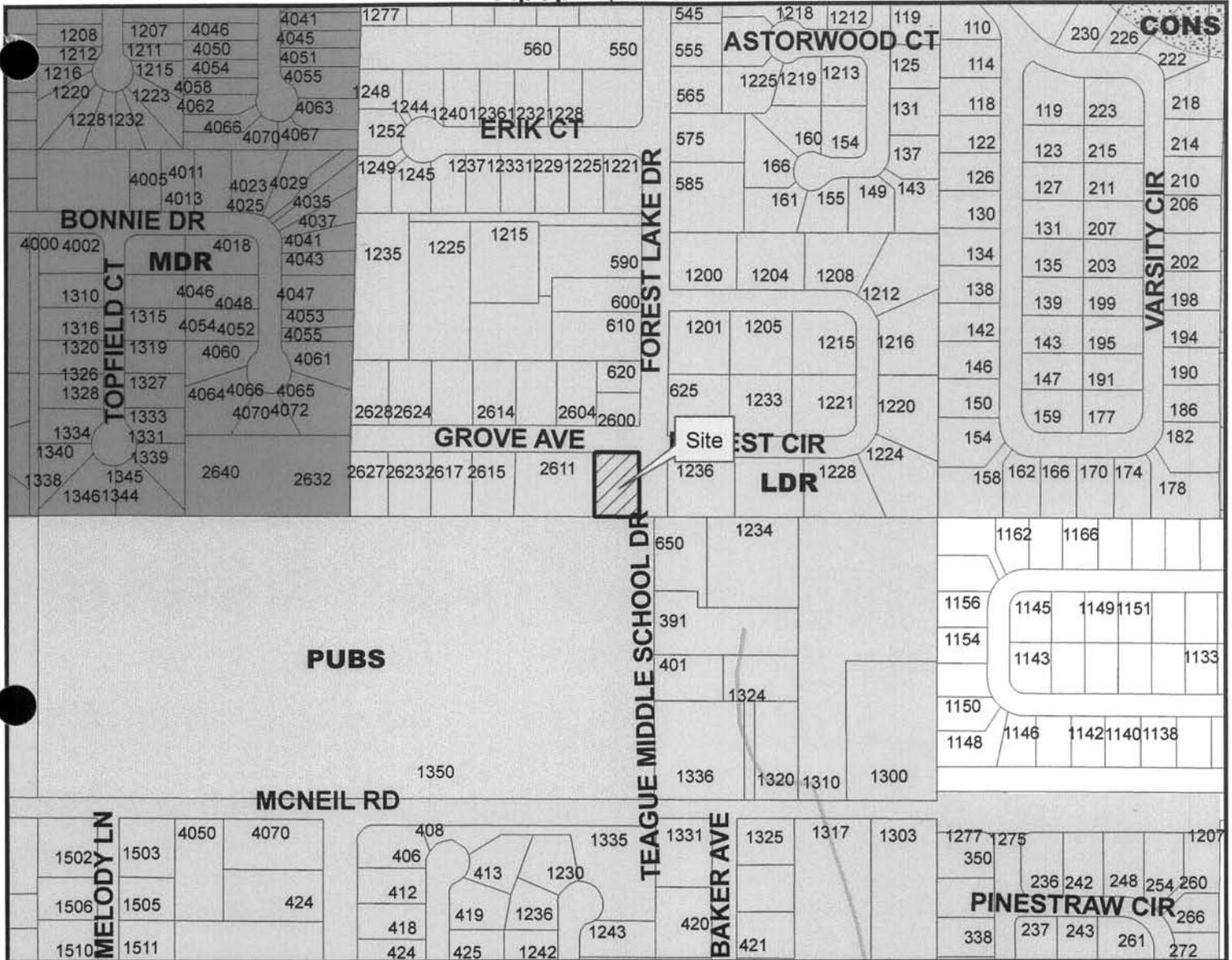
N



0 70 140 280 420 560 Feet



**Rosy E. Rios  
Lot 1 Grove Avenue  
Apopka, FL 32703**



**Seminole County Board of Adjustment  
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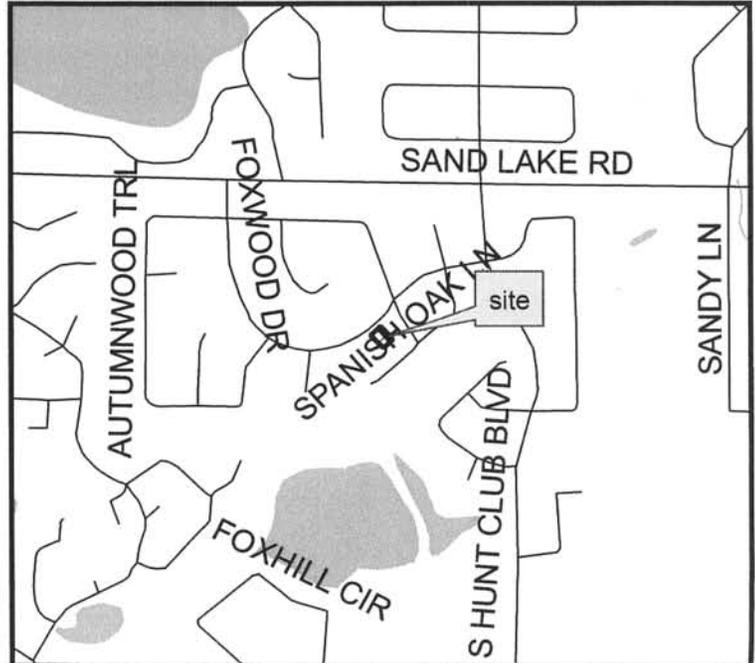
**Future Land Use**

-  CONS, LDR
-  PUBS, NONE
-  LDR, NONE
-  MDR, NONE
-  BV2005-047

N



0 70 140 280 420 560 Feet



**SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER**

On June 27, 2005, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG LOT 1 PENDLETON SUBD PB 11 PG 37

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

**FINDINGS OF FACT**

**Property Owner:** ROSY RIOS  
3621 LEOTA DRIVE  
APOPKA, FL 32703

**Project Name:** GROVE AVENUE (LOT 1)

**Requested Development Approval:**

MINIMUM SIDE STREET SETBACK VARIANCE FROM 25 FEET TO 7.5 FEET FOR A PROPOSED HOME IN THE R-1A (SINGLE-FAMILY DWELLING DISTRICT).

The Development Approval sought would adversely impact neighborhood character and is thereby inconsistent with the Seminole County Comprehensive Plan, applicable land development regulations and other applicable regulations and ordinances. The owners retain a reasonable use of their property.

The requested development approval is hereby denied.

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

**Done and Ordered on the date first written above.**

By: \_\_\_\_\_

Dan Matthys  
Planning & Development Director

**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 executed the foregoing instrument.

**WITNESS** my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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

My Commission Expires:

**Minutes for Item #1 for the Seminole County Board of Adjustment  
June 27, 2005 Meeting**

**VARIANCES:**

**1. GROVE STREET (LOT 1)** - Rosy Rios, applicant; Request for minimum side street setback variance from 25 feet to 7.5 feet for a proposed home in the R-1A (Single-Family Dwelling District); Located on the southwest corner of the intersection of Forest Lake Drive and Grove Street; (BV2005-047).

Earnest McDonald, Principal Coordinator

Earnest McDonald introduced the location of the property 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.

**THE APPLICANT WAS NOT PRESENT.**

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

**Mrs. Chase seconded the motion.**

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