

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Appeal of the Board of Adjustment decision to deny a rear yard setback variance from 30 feet to 8 feet for a proposed shed located at 3114 Neil Road; (Jaime Maisonet, appellant).

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

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

Agenda Date 09/13/05 Regular Consent Work Session Briefing
Public Hearing – 1:30 Public Hearing – 7:00

MOTION/RECOMMENDATION:

1. **UPHOLD** the Board of Adjustment decision to deny a rear yard setback variance from 30 feet to 8 feet for a proposed shed located at 3114 Neil Road; (Jaime Maisonet, applicant); or
2. **REVERSE** the Board of Adjustment decision to deny a rear yard setback variance from 30 feet to 8 feet for a proposed shed located at 3114 Neil Road; (Jaime Maisonet, 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 yard setback variance request from 30 feet to 8 feet for a proposed 20'x25' (500 s.f.) shed with a height of 13 feet. The Board of Adjustment based the denial for rear yard variance on staff's findings.

On July 8, 2005, the applicant, Jaime Maisonet, appealed the Board of Adjustment decision to the Board of County Commissioners.

STAFF RECOMMENDATION:

Uphold the Board of Adjustment decision to deny a rear yard setback variance from 30 feet to 8 feet for a proposed shed, based on staff's 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)

Reviewed by: KJR
Co Atty: _____
DFS: _____
Other: [Signature]
DCM: [Signature]
CM: [Signature]
File No. ph130pdp02

STAFF REPORT

BACKGROUND / REQUEST:

- The applicant proposes to construct a 20' x 25' (500 s.f.) shed that will encroach into the minimum rear yard setback of 30 feet. The aforementioned variance is therefore requested.
- In his appeal letter, Mr. Maisonet suggested changing his variance to 10 feet from the rear property line as depicted in the site plan submitted with his appeal letter. Staff advertised the appeal as originally requested since that was the variance considered by the Board of Adjustment.
- There is no record of prior variances having been granted for this property.

ZONING & FUTURE LAND USE (FLU)

Direction	Existing Zoning	Existing FLU	Use of Property
Site	R-1AA	Low Density Residential	Single-Family (Conventional)
North	R-1AA	Low Density Residential	Single-Family (Conventional)
South	R-1AA	Low Density Residential	Single-Family (Conventional)
East	R-1AA	Low Density Residential	Single-Family (Conventional)
West	R-1AA	Low Density Residential	Single-Family (Conventional)

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.

The R-1AA District establishes a minimum rear yard setback of 30 feet for sheds or accessory structures exceeding 200 s.f. No special circumstances have been identified or presented by the applicant to support the requested variance. The shed can be constructed 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

	<p>requested variance.</p> <p>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.</p> <p>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-1AA District by allowing encroachment into the rear yard without the demonstration of a hardship.</p> <p>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.</p> <p>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 and a shed may be constructed on the site without the need for a variance.</p> <p>e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.</p> <p>The requested variance is not the minimum since reasonable use of the property already exists and a shed may be constructed on the site without the need for a variance.</p> <p>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.</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>STAFF RECOMMENDATION:</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 30 feet to 8 feet. If the Board should decide to reverse the Board of Adjustment decision to deny the variance, staff</p>

recommends the following conditions of approval:

- Any variances granted should apply only to the proposed shed as depicted on the attached site plan; and
- Any additional condition(s) deemed appropriate by the Board, based on information presented at the public hearing.



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

APPL. NO. BV 2005-055 Appeal

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** Minimum rear yard setback variance from 30' to 8' for a proposed shed
- SPECIAL EXCEPTION**
- LIMITED USE**
- SF DWELLING UNDER CONSTRUCTION
- NIGHT WATCHMAN
- YEAR OF MOBILE HOME / RV (EXISTING _____) (PROPOSED _____)
- SIZE OF MOBILE HOME / RV _____
- PLAN TO BUILD YES NO IF SO, WHEN _____
- APPEAL FROM DECISION OF THE PLANNING MANAGER**

RECEIVED
JUL 08 2005

PROPERTY OWNER		AUTHORIZED AGENT *
NAME	Jaime Maisonet	RECEIVED JUL 02 2005
ADDRESS	3114 Neil Rd.	
	Apopka, FL. 32703	
PHONE 1	(407) 523-3905	
PHONE 2	(407) 484-4798	
E-MAIL		

PROJECT NAME: NEIL ROAD (3114)

SITE ADDRESS: The same as above

CURRENT USE OF PROPERTY: Single family home

LEGAL DESCRIPTION: Leg Lot 24 Tract 2 Paradise Point 2nd Sec PB 9 Pg 18

SIZE OF PROPERTY: 16,500 ft² acre(s) PARCEL I.D. 18-21-29-509-0200-0240

UTILITIES: WATER WELL SEWER SEPTIC TANK OTHER _____

KNOWN CODE ENFORCEMENT VIOLATIONS NA

RECEIVED
JUL 08 2005

IS PROPERTY ACCESSIBLE FOR INSPECTION YES NO

This request will be considered at the Board of Adjustment regular meeting on _____ (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.

Jaime Maisonet
 SIGNATURE OF OWNER OR AGENT* 7/8/05
DATE

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

June 8, 2005

Seminole County Planning Dpt.
Board of County Commissioners
1101 E. First Street
Suite 2201
Sanford, FL 32771

Board of County Commissioners:

I Jaime Maisonet resident of Seminole County located at 3114 Neil Road, case number BV2005-055, appeal the decision that the Board of Adjustment made on June 27, 2005.

On this date my petition to build a shed was denied due to a current 30 feet to 8 feet setback. Is on my best interest to follow the rules and regulations administered by the county, but unfortunately this same regulations are preventing my project to be completed.

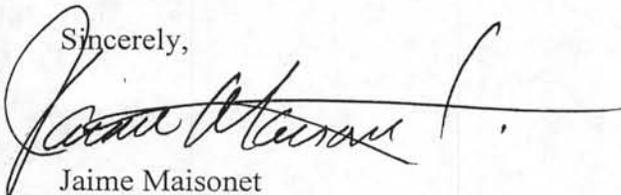
There are many reasons to support my petition:

- The septic tank and drain field is currently located on between the shed and the house. This would prevent me from moving the shed forward.
- There is a Florida Power light post and a drive way to the left side of the yard. This would prevent me from moving the shed to the left side of the yard.
- There is a fresh water well pump to the right side of the yard. This would prevent me from moving the shed to the right side.
- We are also planning to add square footage to our home and a pool. If I move the shed 30 feet forward this would intervene with other valuable projects.

My suggestion is to locate the shed using a 10 feet setback. If I do this the shed would be screened by a fence and neighbors trees; It would not be seen from the front. The shed would not have any electrical power, water or insulation, it would be strictly use for domestic gardening tools, children toys, storage of hurricane supplies, and another household items.

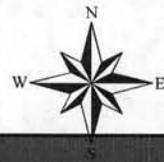
I would be willing to obtain neighbors approval if necessary. I thank you in advance for your help on this matter.

Sincerely,

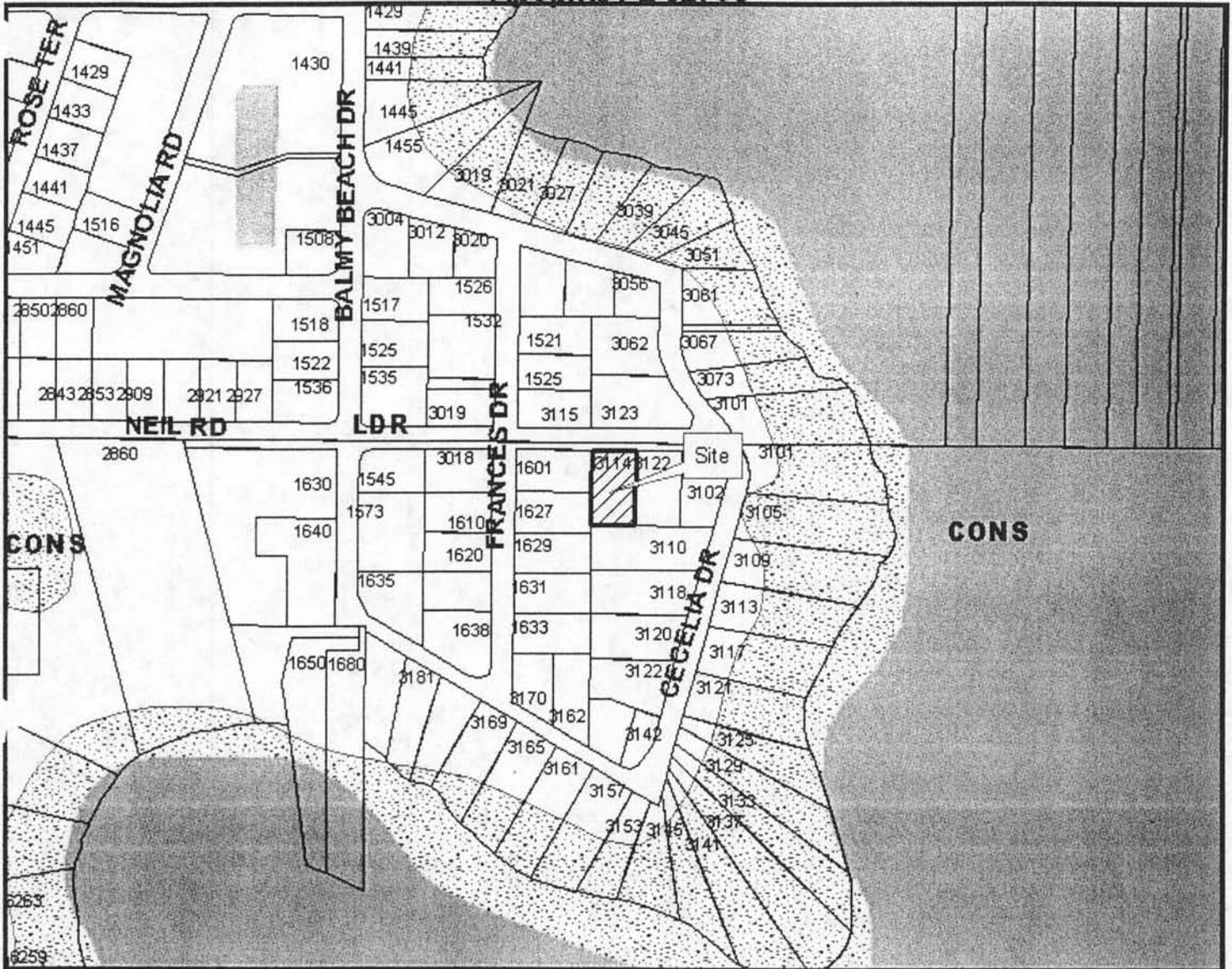
A handwritten signature in black ink, appearing to read 'Jaime Maisonet', with a long horizontal flourish extending to the right.

Jaime Maisonet

Aerial



Jaime Maisonet
 2114 Neil Road
 Apopka, FL 32703

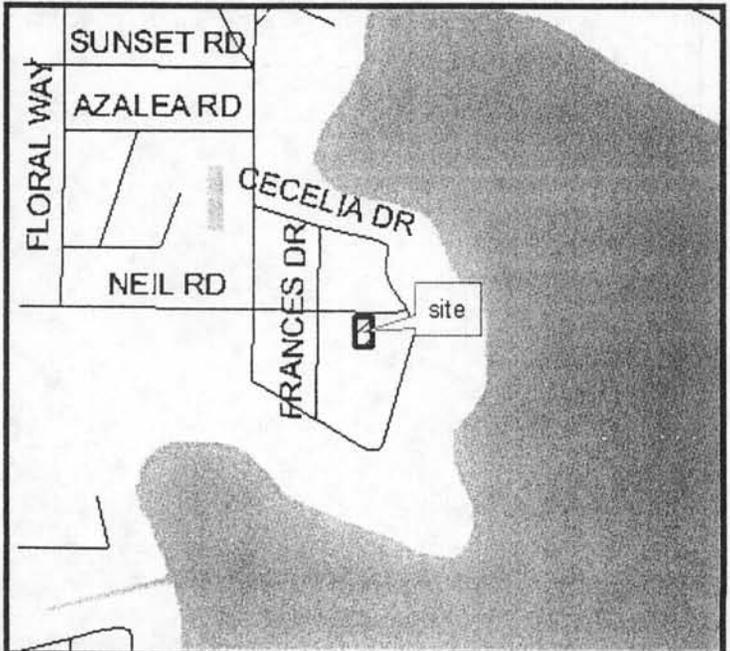


Seminole County Board of Adjustment
 June 27, 2005
 Case: BV2005-055
 Parcel No: 18-21-29-509-0200-0240

Future Land Use

-  CONS, LDR
-  LDR, NONE
-  BV2005-055

0 80 160 320 480 640 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 24 TRACT 2 PARADISE POINT 2ND SEC PB 9 PG 18

FINDINGS OF FACT

Property Owners: JAIME MAISONET
3114 NEIL ROAD
APOPKA, FL 32703

Project Name: NEIL ROAD (3114)

Requested Development Approval:

REAR YARD SETBACK VARIANCE FROM 30 FEET TO 8 FEET FOR A PROPOSED SHED IN THE R-1AA (SINGLE-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

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 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 #21 for the Seminole County Board of Adjustment
June 27, 2005 Meeting**

21.3114 NEIL ROAD - Jaime Maisonet, applicant; Request for rear yard setback variance from 30 feet to 8 feet for a proposed shed in the R-1AA (Single-Family Dwelling District); Located on the south side of Neil Road, approximately 300 feet east of the intersection of Frances Drive and Neil Road; (BV2005-055).

Michael Rumer, Planner

Michael Rumer 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.

Shawn Maisonet stated that he was the son of the applicant, Jaime Maisonet. He further stated that if they moved the shed to the 30 feet setback as required by the County Code it would hit the drain field of the septic tank. He also stated that if they moved it to the other side it would be too close to the well. He lastly stated that the property has a septic tank on the front and back.

Mrs. Chase made a motion to deny the request.

Mr. Rozon seconded the motion.

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