

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**(Continued from November 26, 2002)**

**SUBJECT:** Appeal of the Board of Adjustment's denial of a request for a height variance from 3 feet to 6 feet for a wall within 25 feet of a street, based on attached site plan (Raju Amin – Applicant)

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

**AUTHORIZED BY:** Donald S. Fisher **CONTACT:** Cathleen Consoli **EXT.** 7377

**Agenda Date:** 12/10/02 **Regular**  **Consent**  **Work Session**  **Briefing**   
**Public Hearing – 1:30**  **Public Hearing – 7:00**

**MOTION/RECOMMENDATION:**

1. Uphold the decision of the Board of Adjustment which denied a height variance from 3 feet to 6 feet for a wall within 25 feet of a street, based on attached site plan-based on attached site plan (Raju Amin – Applicant); or
2. Overturn the decision of the Board of Adjustment which denied a height variance from 3 feet to 6 feet for a wall within 25 feet of a street, based on attached site plan (Raju Amin – Applicant); or
3. Continue the appeal to a date certain.

(Commission District 2 – Morris)

(Cathleen Consoli, Planner)

**BACKGROUND:**

This request was continued from the Board of County Commissioners hearing date of November 26, 2002. The continuance was made by the Board to allow more information regarding sight distances and other traffic engineering issues to be obtained from the Traffic Engineering Division.

On September 23, 2002, the Board of Adjustment denied the request for a side street setback from 25 feet to 0 feet for a 6 foot wall by Mr. Raju Amin with a vote of 4 to 1.

The applicant wishes to construct a 6 foot privacy wall on his property, located at the northwest corner of Florida Road and Center Drive. It is zoned R-1A (Single-Family Dwelling District). The subject property is a corner lot and, according to the site plan submitted, the wall rests directly on the property lines and extends the entire length of each side yard along the road frontage. The applicant is currently constructing a home on the

<b>Reviewed by:</b>	<u>REC</u>
<b>Co Atty:</b>	<u>REC</u>
<b>DFS:</b>	_____
<b>Other:</b>	_____
<b>DCM:</b>	<u>SG</u>
<b>CM:</b>	<u>MB</u>
<b>File No.</b>	<u>ph130pd06</u>

lot and the wall is partially built. A permit was issued for a maximum 3 foot high masonry wall on 7/17/02.

In Section 30.1349 of the Land Development Code it is stated that no fence or wall in excess of three feet in height may be erected or maintained within 25 feet of any street or road. Also, Section 250.91(a) of the Seminole County Traffic Ordinance states that no fence or wall or other obstruction which obstructs sight lines at elevations between two and six feet above the roadway shall be placed or permitted to remain on any corner lot within 25 feet of the intersection of the property lines. (Please see attached copy of the e-mail from Mark Bevis, Senior Engineer Seminole County Traffic Engineering and Section 250.91 of the Seminole County Code). The Development Review Division also reviewed the submitted site plan and suggested that, according to a Florida Department of Transportation handbook, a site distance of 163 feet should remain unobstructed. (Please see attached e-mail from Mr. Tracy Phelps, Development Review Division.)

A permit was issued for a wall (see attached documentation) for a three foot privacy wall with three feet as the maximum height of the wall within 25 feet of a street.

During discussion at the public hearing, Mr. Amin suggested the possibility of stepping the height of the wall from a lower height at the intersection to higher elevations away from the corner.

**---STANDARDS FOR GRANTING SPECIAL EXCEPTIONS:**

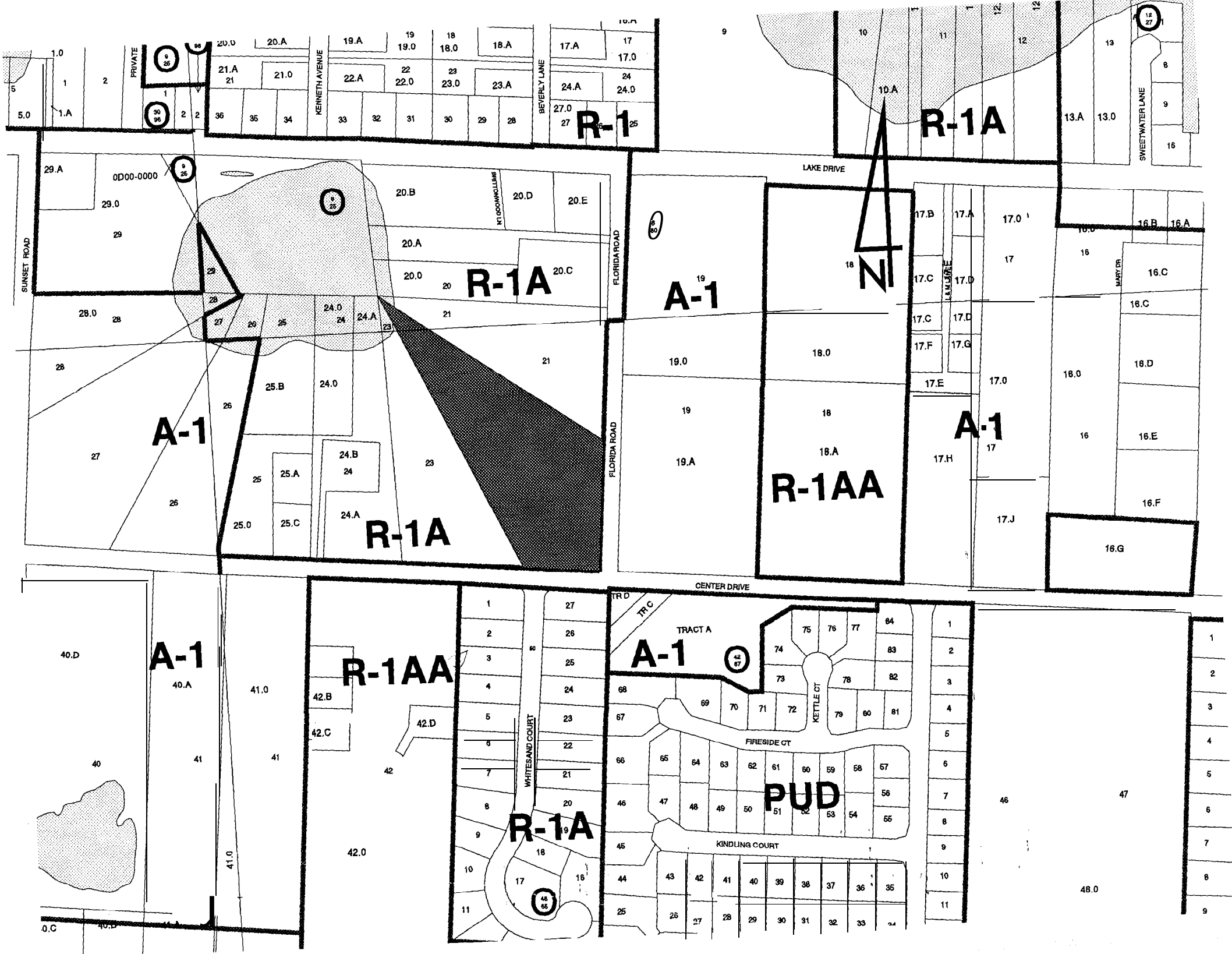
In order to grant a variance, the Land Development Code requires a finding that literal enforcement of applicable regulations will result in an unnecessary and undue hardship upon the applicant. The Board of Adjustment must determine compliance with all of the following criteria:

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 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.

## **STAFF FINDINGS AND RECOMMENDATIONS:**

Staff recommends upholding the decision of the Board of Adjustment to deny the request based on the following findings:

1. The request does not comply with Section 30.43 (b)(3)(a) and (c). All homes within this zoning district are subject to the same setback requirements and no evidence of special circumstances have been demonstrated; and
2. The request does not comply with Section 30.43 (b)(3)(b). The requested variance is a direct result of the wall proposed by the applicant and there are no special circumstances or conditions evident to bring forth this variance; and
3. The request does not comply with Section 30.43(b)(3)(e) for the request is not the minimum variance needed to provide a reasonable use of the property and land; and
4. The request does not comply with Section 30.43(b)(3)(f) for the requested height variance is potentially detrimental to the public welfare and could be injurious to the neighborhood by obstructing sight distance lines at an intersection.

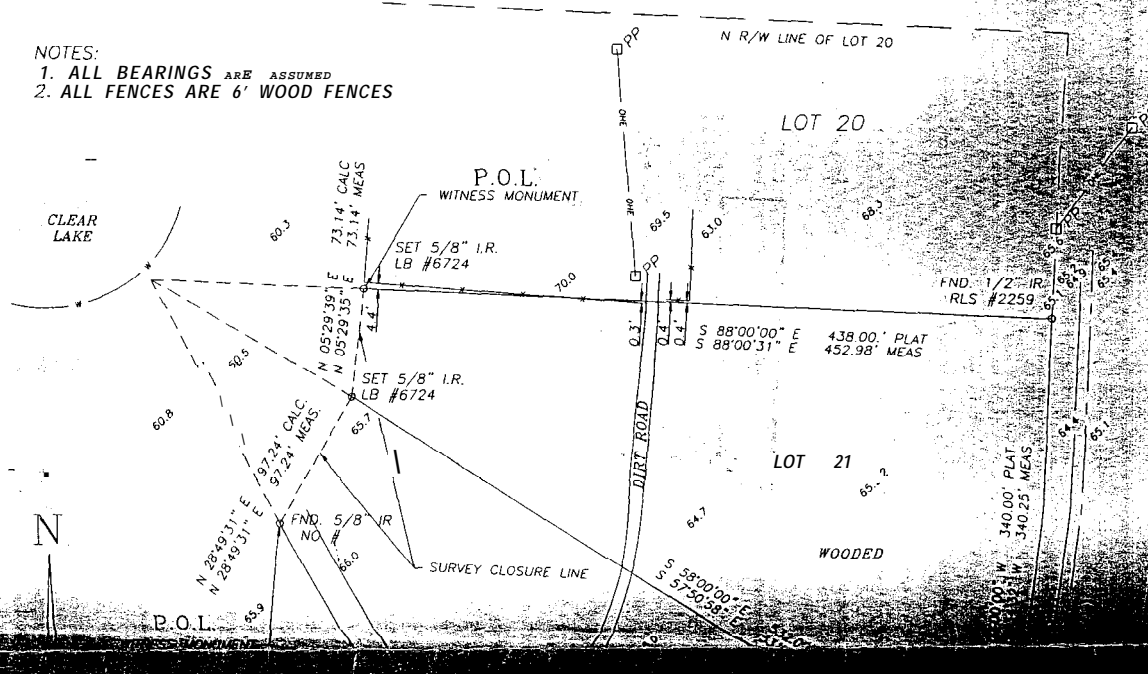


# MAP OF BOUNDARY SURVEY DESCRIPTION

LOT 21 & 22, WATTS' FARM  
AS RECORDED IN PLAT BOOK 6, PAGE 80, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA

**NOTES:**

1. ALL BEARINGS ARE ASSUMED
2. ALL FENCES ARE 6' WOOD FENCES



**SURVEYOR'S NOTES:**

- 1.) FLOOD ZONE DATA SCALED FROM FLOOD INSURANCE RATE MAPS SHOULD BE VERIFIED THROUGH THE NATIONAL FLOOD INSURANCE PROGRAM AT (800) 638-6620 OR YOUR LOCAL COUNTY. DUE TO SCALING AND INCONSISTENCIES IN INDIVIDUAL MAPS, ERRORS MAY OCCUR AND SHOULD BE BROUGHT TO OUR ATTENTION UPON DISCOVERY. WE ASSUME NO LIABILITY FOR DAMAGES ARISING FROM SCALING OR INCONSISTENCIES IN INDIVIDUAL MAPS FROM THESE ERRORS.
- 2.) SUBJECT PROPERTY IS SCALED FROM FLOOD INSURANCE RATE MAP, NO. 120289 0145 E, DATED 4/17/00, SEMINOLE COUNTY, FLORIDA, SCALED IN ZONE AE, A FLOOD ZONE WITH A BASE ELEVATION DETERMINED AT 65'.
- 3.) BUILDING TIES SHOULD NOT BE USED TO RECONSTRUCT PROPERTY LINES.
- 4.) EXCEPT AS SHOWN, HEREON, NO UNDERGROUND FEATURES, UTILITIES OR FOUNDATIONS WERE LOCATED BY THIS SURVEY.
- 5.) BEARING STRUCTURE BASED ON THE N/R/W LINE OF CENTER STREET.
- 6.) VERTICAL DATUM IS BASED ON SEMINOLE COUNTY BENCHMARK #3151601, RR SPIKE IN 20" OAK @ LAKE DRIVE. ELEVATION 62.755', 1929 NGVD

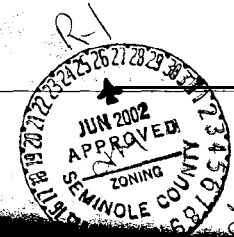
**REVIEWED**  
JUN 27 2002  
PLAT EXAMINER  
SEMINOLE COUNTY

FND. 1/4" IR  
NO #

1350.00' PLAT  
1349.95' MEAS

BM #2  
BOX CUT IN CURB  
ELEVATION = 67.74

CENTER STREET (R/W=50')  
(PAVED)



*Handwritten signature:* Howard Gestel

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

This decision is made by the Board of County Commissioners of Seminole County, Florida, this 10th day of December, 2002, in accordance with Sections 30.43, and 30.26, Land Development Code of Seminole County (LDC), as amended, affirming a decision by the Board of Adjustment to deny a wall height variance from 3 feet to 6 feet within 25 feet of a street.

### **FINDINGS OF FACT**

1. On September 23, 2002, the Board of Adjustment denied a request by Raju Amin for a wall height variance from 3 feet to 6 feet within 25 feet of a street on property described as Lot 22 Watts Farm PB 6 PG 80 (herein referred to as the "subject variances").

2. The subject property is assigned the Low Density Residential future land use designation under the terms and provisions of the Vision 2020 Plan and the R-IA (Single-Family Dwelling District) zoning classification under the terms and provisions of the LDC.

3. On October 2, 2002, Raju Amin filed a letter of appeal with Seminole County, seeking an appeal of this denial 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 subject variance is not in conformance with Sections 30.26(d) and 30.43(b)(3) of the Land Development Code of Seminole County, due to the following:

1. The requested variance does not meet the criteria in Section 30.43 (b)(3), LDC, for granting variances because:
  - a. There are no special conditions or circumstances which are peculiar to the subject property or that are not applicable to other properties in the R-IA; and

- b. Granting the requested variance will confer on the appellant special privileges that are denied by Chapter 30 to other land owners in the same zoning classification as other applicants have been denied similar variances; and
- c. Literal interpretation of the provisions of Chapter 30 would not deprive the appellant of rights commonly enjoyed by other properties in the same zoning classification; and
- d. The requested variance is not the minimum variance needed to make reasonable use of the land or building for the property could be utilized as a different type of business that does not have the same signage needs.

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 November 26, 2002, 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 **UPHELD** and adopted in full.

**DATED** this 10<sup>th</sup> day of December 2002.

Board of County Commissioners  
Seminole County, Florida

---

Daryl G. McLain, Chairman

RECEIVED

OCT 0 3 2002

Raju Amin  
2906 Jeanette Cove  
Oviedo, FL 32765

Date:- Oct. 2<sup>nd</sup> 2002

To Board of County Commissioner,

We wish to appeal the decision of the Board of Adjustment which denied my request for height variance from 3 feet to 6 feet for a wall within 25 feet of a street on property zoned R-1A (Single-Family Dwelling); Leg lot 22 Watts Farm PB 6 PG 80; Located at the northwest corner of Center Drive and Florida Road. I would also like to make an appointment with the all county commissioners and Seminole County planning department, At your convince give me a call at (407) 365-6223

Along with this, I'm sending a check for the Seminole County office.

Sincerely,



Raju Amin





**Kathy Fall**

08/22/2002 08:37 AM

To: Cathleen Consoli/Seminole@Seminole  
cc:  
Subject: Privacy Wall Variance Request

----- Forwarded by Kathy Fall/Seminole on 08/22/2002 08:41 AM -----



**Mark Bevis**

08/21/2002 01:53 PM

To: Kathy Fall/Seminole@Seminole  
cc: Melonie Barrington/Seminole@Seminole  
Subject: Privacy Wall Variance Request

Kathy:

As per your request, I have reviewed the privacy wall variance request submitted by Mr. Raju Amin on parcel # 1 O-21 -30-5BQ-0000-0220 located on the northwest corner of the Center Drive/Florida Road intersection.

This wall has already been substantially completed and is approximately five (5) feet in height above the roadway surface. This structure is currently in violation of Section 250.91 (a) Sight Distance at Intersections of the Seminole County Traffic Ordinance which states:

“No fence, wall, hedge, shrub, planting or other obstruction which obstructs sight lines at elevations between **two (2) and six (6) feet** above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street property line extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.”

This wall currently creates a sight obstruction for southbound vehicles on Florida Road that stop at the stop bar (per Florida Statute 316.123) and look to the right in an attempt to view approaching eastbound traffic on Center Drive. While you are able to pull beyond the stop bar to see around this wall without entering the intersection, this condition is not desirable to vehicular or pedestrian safety. If and when the existing sidewalk on the north side of Center Drive is extended west (it currently ends on the northeast corner of this intersection), this wall could potentially create additional vehicle verses pedestrian conflicts as vehicles will be stopped in the pedestrian crossing.

If you have any questions or need any additional information, please give me a call at (407) 665-5685.

Respectfully,

Mark Bevis, Senior Engineer  
Seminole County Traffic Engineering  
140 Bush Loop  
Sanford, Florida 32773  
Phone: 407-665-5685  
FAX: 407-665-5623  
e-mail: mbevis@co.seminole.fl.us

**Sec. 250.91 Sight distance at intersections.**

(a) No fence, wall, hedge, shrub, planting or other obstruction which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street property lines extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(b) When, in the opinion of the County Traffic Engineer, and after an engineering and traffic investigation, any fence, wall, hedge, planting or other obstruction shall be unlawful as obstructing sight lines described in (a) above, the owner of the corner lot wherein such obstruction to sight lines is located, shall, within ten (10) days of notice thereof, remove or cause to be removed, such obstruction at no cost to the County.

(§ 9.2, Ord. No. 82-39, 10-10-82).



Tracy Phelps

10/29/2002 10:56 AM

To: Cathleen Consoli/Seminole@Seminole

cc:

Subject: Sight distance

The Seminole County Land Development Code states that all roadway design, construction and maintenance shall conform with the "Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Street and Highways" (FDOT Greenbook). This includes sight distance for intersections. The FDOT Greenbook shows the required sight distances for the corresponding speed limits. Since Center Street and Florida Road are local residential roads the speed limit should be set at 25mph. Per the FDOT Greenbook, the sight distance for an intersection on roads with a speed limit of 25mph shall be 163'. The sight distance is measured 8' beyond the stop bar at a eye height of 3.5'. It appears that the wall, if placed where proposed, would restrict sight distance for people traveling on both Center Street and Florida Road at the intersection of these two roads. If the wall is set back 25' as required by the permit, the sight would not be restricted.



11/08/2002 4:11:57 PM

Application number 02 00007127  
 Parcel ID 10-21-30-5BQ-0000-0220  
 Address 1200 FLORIDA

Change Delete Display

Code	Date	Print	Miscellaneous Information
BPMS	7/17/02		lot 22 watts farm two side privacy wall around the property line ref permit 01-10904/sb (3 ft. high privacy wall). 3 ft. maximum height for wall within 25 ft. of front & side street property lines.
BPMS	7/17/02		
BPMS	7/17/02		
ZNMS	7/17/02		
ZNMS	7/17/02	Y	
ZNMS	7/17/02	Y	

OK Exit Cancel Add

11/08/2002

4:12:13 PM

Application number 02 00007127 000 000  
 Application type FENCE/WALL  
 Tenant number, name LOT 22 WATTS FARMS  
 Permit type/seq/VRU BPFN 00 003456662 BUILDING PERMIT FENCE/WALL  
 Property address 1200 FLORIDA RD

Change

Delete

View

Status Date	Inspection Description	Inspector ID	Request Date Time	Results Stat Date
10/11/02	LINTEL	173	10/11/02	AP 10/11/02
7/19/02	FOOTER\SETBACK	178	7/19/02	AP 7/19/02
7/19/02	LINTEL	178	7/19/02	CA 7/19/02

OK

Exit

Cancel

Add inspection

8"x8" CONC LINTEL BEAM  
W/1 #5 CONT

STUCCO WALL FIN (3/4")  
ON 8" CONC MASONRY  
UNIT

REVIEWED

1 #5 VERT @ 4'-0" O.C.  
JUL 17 2002

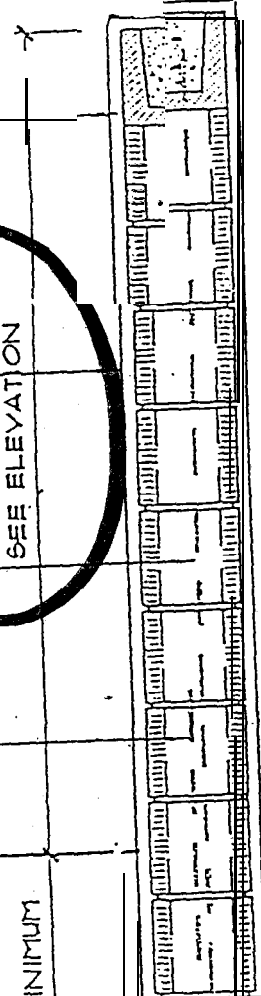
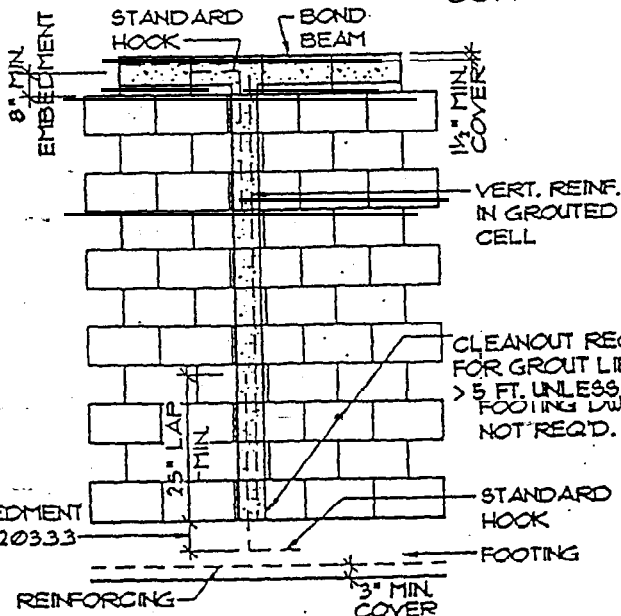
SEMINOLE COUNTY  
PLANS EXAMINER

1 #5 DOWEL @ EACH VERT  
W/ 25" LAP

FIN GRADE

36"x36"x12" CONC. PAD W/4 #5 E.W.  
FOR 16"x16" CONC. COL. W/2 #5  
VERTICAL AT APPROX. 25'

10"x20" CONC FTGW/ 2 #5's  
CONT



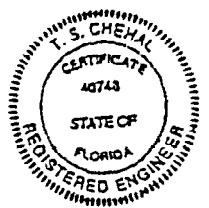
SECTION  
PRIVACY WALL  
scale: 3/4" = 1'-0"

THIS STRUCTURE HAS BEEN DESIGNED  
TO MEET OR EXCEED THE WIND LOAD  
REQUIREMENTS OF SECTION 1606 OF THE  
FLORIDA BUILDING CODE 2001 EDITION.

- 1. BASIC WIND SPEED- 120 MPH
- 2. WIND IMPORTANCE FACTOR- 1.0
- 3. WIND EXPOSURE- CATEGORY B

REF.: AMIN RESIDENCE

3ft.  
Maximum  
height  
7/17/02  
on



T. S. Chehal  
Licensed Professional Engineer  
531 S., S.R. 434  
Altamonte Springs, FL 32714  
(407) 521-5557  
FAX (407) 521-5434  
PE 0040748

*Jm*  
7/16/02

Concrete footings shall have a compressive strength of not less than 2500 PSI @ 28 days.

Reinforce footings with # 5 bars as indicated. All bars shall be deformed, and shall conform to ASTM designation A305, and be clean and free from rust and scale.

**MINUTES FOR THE  
SEMINOLE COUNTY BOARD OF ADJUSTMENT  
SEPTEMBER 23, 2002 6:00 P.M.**

**Variances:**

1. **Amin Raju** – 1200 Florida Road – Height variance from 3 feet to 6 feet for a wall within 25 feet of a street on property zoned R-IA (Single-family dwelling district); Leg Lot 22 Watts Farm, PB 6, Pg 80; Located at the northwest corner of Center Drive and Florida Road. (BV2002-113)  
BCC District 2 – Morris  
Cathleen Consoli – Planner

Cathleen Consoli introduced the request for a variance, and cited traffic concerns for the line of sight of traffic across the corner of the lot. If granted, Ms. Consoli stated that the wall should be placed with the approval of the Traffic Engineering department. Staff recommendation was for denial.

Raju Amin stated that he was unaware of a variance being needed at the start of construction on his new home and wall. The wall had been approved by the permitting office at a 3 foot height. Mr. Amin stated that he wanted a 6 foot high wall. There is a 6 foot high subdivision wall in the area near his property, so the wall would not be out of character with the neighborhood. Mr. Amin stated that he wanted the wall for privacy. There is a 5 foot distance of separation and a curving of the wall at the corner, according to the applicant.

No one spoke from the audience on this request.

Mr. Pennington asked how far down the road vision has to be for the line of sight to be acceptable. He stated that the site plan was inadequate to determine the line of sight.

The Traffic Department documentation of the request states a 25 foot sight distance due to the speed of traffic on the road.

Mr. Amin stated that he had no questions, but he restated that he had left a 5 foot buffer around the corner.

Lila Buchanan moved to deny the request due to the unsafe line of sight at the corner.

Wes Pennington seconded the motion.

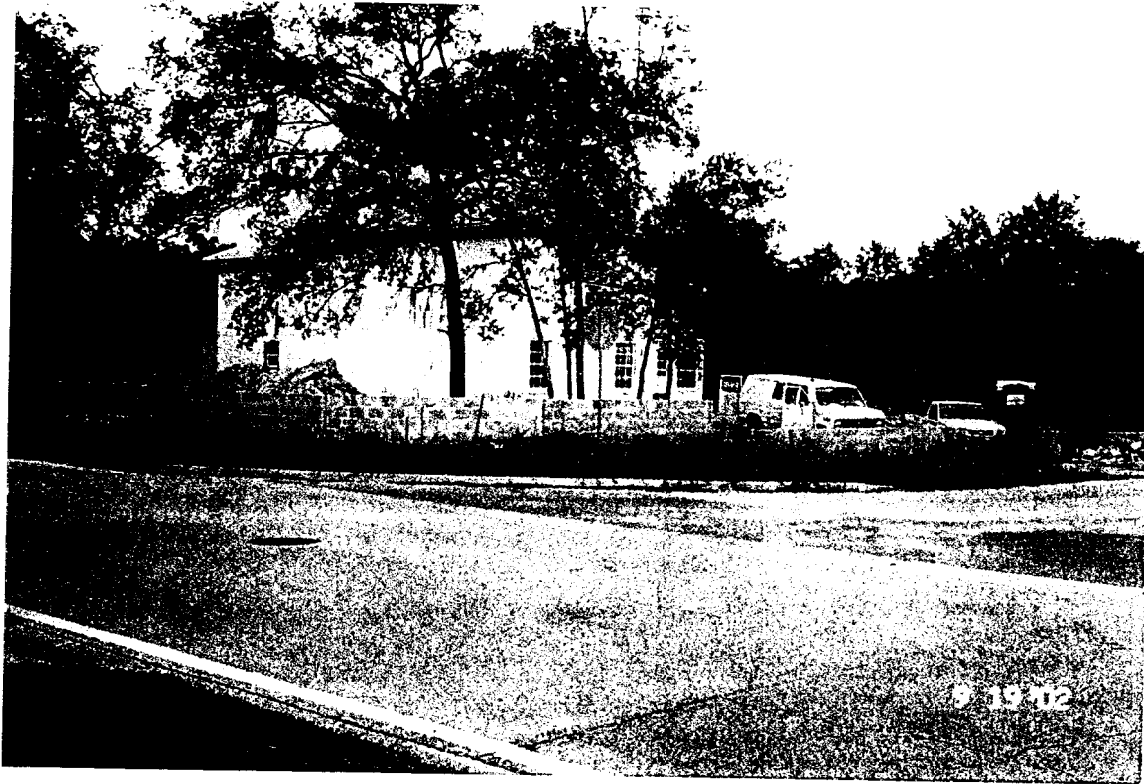
In discussion, Mr. Bushrui asked if this was a motion to deny the entire wall.

Dr. Buchanan said that it was.

The vote was 4 to 1 to deny. Mr. Bushrui voted "no."

The variance was denied.





Photographs

Florida Road and Center Drive



Photographs

Florida Road and Center Drive