

SEMINOLE COUNTY GOVERNMENT  
BOARD OF ADJUSTMENT  
AGENDA MEMORANDUM

SUBJECT: 2391 Pemberton Street – Juan Hernandez, applicant; Request for a side street setback variance from 25 feet to 0 feet for a privacy fence in R-1AA (Single Family Dwelling) district.

DEPARTMENT: Planning & Development DIVISION: Planning

AUTHORIZED BY: Kathy Fall CONTACT: Kathy Fall EXT. 7433

Agenda Date 6/23/08 Regular  Consent  Public Hearing – 6:00

**MOTION/RECOMMENDATION:**

1. **Deny** the request for a side street setback variance from 25 feet to 0 feet for a privacy fence in R-1AA (Single Family Dwelling) district; or
2. **Approve** the request for a side street setback variance from 25 feet to 0 feet for a privacy fence in R-1AA (Single Family Dwelling) district; or
3. **Continue** the request to a time and date certain.

<b>GENERAL INFORMATION</b>	Applicant: Juan Hernandez Location: 2391 Pemberton Street Zoning: R-1AA Subdivision: Kew Gardens
<b>BACKGROUND / REQUEST</b>	<ul style="list-style-type: none"> <li>• The applicant proposes to place a privacy fence on their property line abutting Lake Hayes Road therefore entirely into the 25 foot side street setback.</li> <li>• There are currently no code enforcement or building violations for this property.</li> <li>• There is no record of prior variances for this property.</li> </ul>
<b>STAFF FINDINGS</b>	The applicant has not satisfied the criteria for the grant of a variance. Staff has determined that: <ul style="list-style-type: none"> <li>• No special conditions or circumstances exist, which are peculiar to the land, structure, or building involved and which are not applicable to other lands,</li> </ul>

Reviewed by: KFT  
Co Atty: \_\_\_\_\_  
Pln Mgr: \_\_\_\_\_

	<p>structures or building in the same zoning district.</p> <ul style="list-style-type: none"><li>• Special conditions and circumstances result from the actions of the applicant.</li><li>• The granting of the variance requested would confer on the applicant special privileges that are denied by Chapter 30 to other lands, buildings, or structures in the same zoning district.</li><li>• The literal interpretation of the provisions of Chapter 30 would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification.</li><li>• The variance requested is not the minimum variance that will make possible reasonable use of the land, building or structure.</li><li>• The applicant would still retain reasonable use of the land, building or structure without the granting of the variance.</li><li>• The grant of the variance would not be in harmony with the general intent of Chapter 30.</li></ul>
<p><b>STAFF RECOMMENDATION</b></p>	<p>Based on the stated findings, staff recommends denial of the request, unless the applicants can demonstrate that all six criteria under the Land Development Code for granting a variance have been satisfied. If the Board should decide to grant a variance, staff recommends the following conditions of approval:</p> <ul style="list-style-type: none"><li>• Any variance granted shall apply only to the privacy fence 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>

**INDEX OF ATTACHMENTS**

*Items that are checked are included in the packet*

- Staff Report
- Application
- Applicant statement of request
- Proposed Site Plan
- Location map
- Property Appraiser data sheet
- PUD Commitment Card, *if applicable*

**Support information:**

- Proposed elevation drawings, renderings, floor plans, etc
- Aerials, *if warranted*
- Plat, *if warranted*
- Code Enforcement information
- Building Permit information
- Correspondence
- Authorization letter
- Applicant Authorization Form
- Supporting documentation
- Letters of support
- HOA approval letter
- Pictures provided by applicant
- Other miscellaneous documents
  
- Proposed Development Order

Fee: \$150.00 plus \$50.00 for each additional variance

Application # BV2006-49  
Meeting Date 6-23-06

**COPY**



**VARIANCE APPLICATION**  
**SEMINOLE COUNTY PLANNING DIVISION**  
1101 East First Street Sanford FL 32771 (407) 665-7444

PROPERTY OWNER / APPLICANT (If you are not the owner please provide a letter of authorization from the owner)

Name: JUAN HERNANDEZ  
Address: 2391 Pemberton St. City: Oviedo Zip code: 32765  
Project Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip code: \_\_\_\_\_  
Contact number(s): (321) 217-0239  
Email address: \_\_\_\_\_

Is the property available for inspection without an appointment?  Yes  No

What type of structure is this request for?	
<input type="checkbox"/> Shed	Please describe:
<input type="checkbox"/> Pool	Please describe:
<input type="checkbox"/> Pool screen enclosure	Please describe:
<input type="checkbox"/> Addition	Please describe:
<input type="checkbox"/> New Single Family Home	Please describe:
<input checked="" type="checkbox"/> Other	Please describe: <u>fence 6x8 privacy fence</u>
<input type="checkbox"/> This request is for a structure that has already been built.	

6 ft.  
Permit # 06-4290

What type of variance is this request?			
<input type="checkbox"/> Minimum lot size	Required lot size:		Actual lot size:
<input type="checkbox"/> Width at the building line	Required lot width:		Actual lot width:
<input type="checkbox"/> Front yard setback	Required setback:		Proposed setback:
<input type="checkbox"/> Rear yard setback	Required setback:		Proposed setback:
<input type="checkbox"/> Side yard setback	Required setback:		Proposed setback:
<input checked="" type="checkbox"/> Side street setback	Required setback:	<u>25 ft.</u>	Proposed setback: <u>0 ft.</u>
<input type="checkbox"/> Fence height	Required height:		Proposed height:
<input type="checkbox"/> Building height	Required height:		Proposed height:
Use below for additional yard setback variance requests:			
<input type="checkbox"/> _____ yard setback	Required setback:		Proposed setback:
<input type="checkbox"/> _____ yard setback	Required setback:		Proposed setback:

Total number of variances requested 1

NO APPLICATION WILL BE ACCEPTED AND/OR SCHEDULED UNLESS ALL OF THE INFORMATION IN THE VARIANCE APPLICATION AND SUBMITTAL CHECKLIST ARE PROVIDED TO THE PLANNING DIVISION.

Signed: [Signature]

**FOR OFFICE USE ONLY**

Date Submitted: 4-23-08 Reviewed By: P. Johnson

Tax parcel number: 27-21-31-501-0000-1890 Zoning/FLU R-1AA/LOR

- Legally created parcel (1971 tax roll, 5-acre dev, lot split)
- Platted Lot (check easements as shown on lots, in notes or in dedication)
- Lot size \_\_\_\_\_  Meets minimum size and width
- Application and checklist complete

Notes: \_\_\_\_\_

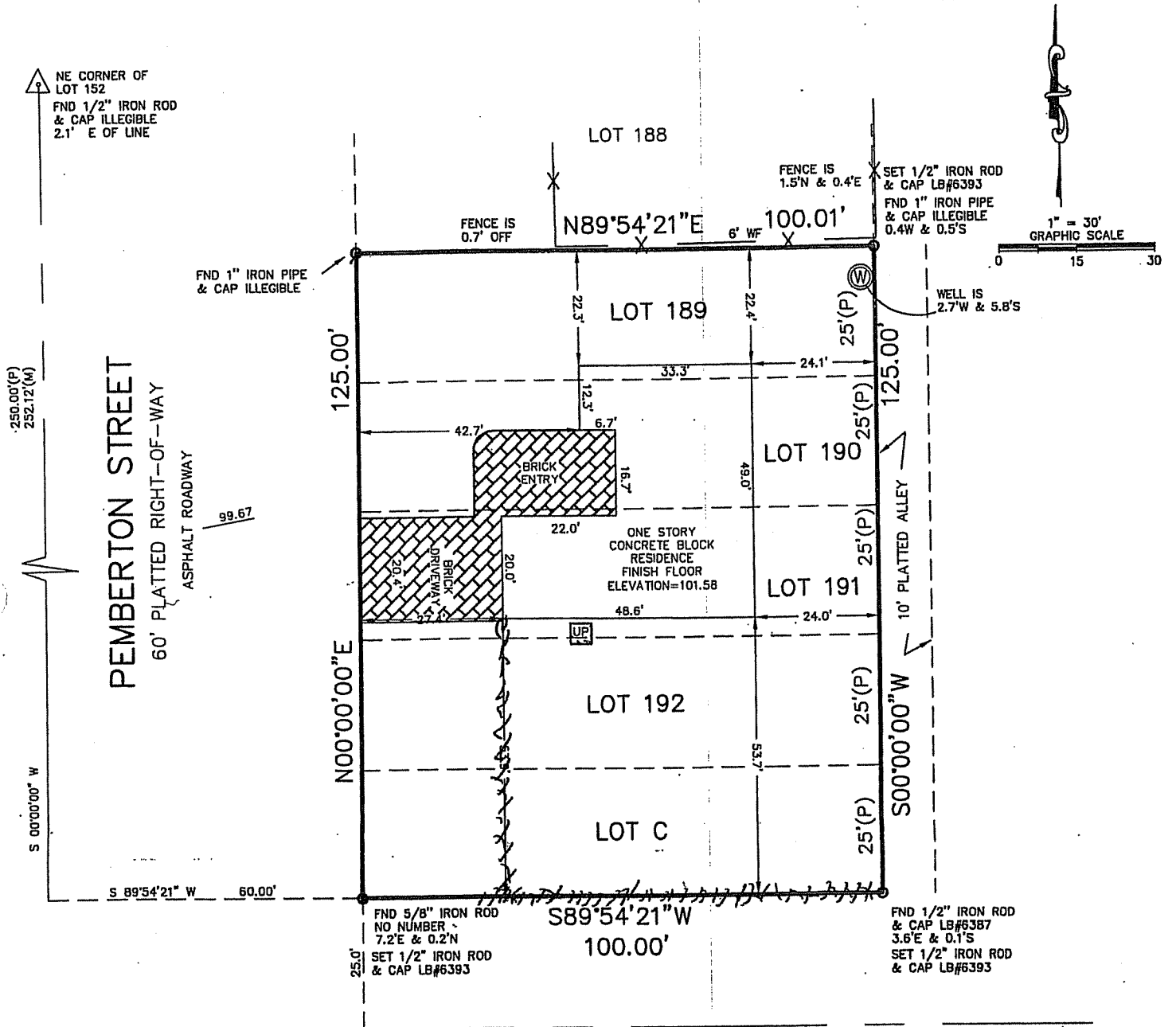
\_\_\_\_\_

\_\_\_\_\_

# PLAT OF SURVEY

DESCRIPTION: (AS FURNISHED)  
LOT C, AND LOTS 189-192, KEW GARDENS,

AS RECORDED IN PLAT BOOK 4, PAGE 51, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA



FOR THE BENEFIT AND EXCLUSIVE USE OF:

JUAN D. HERNANDEZ AND VERONICA HERNANDEZ  
FIRST COMMERCIAL BANK  
CHASE HOME FINANCE  
COBBLESTONE TITLE  
THE TALON GROUP

PLATTED AS: **PEMBROKE AVENUE**  
KNOWN AS: **LAKES HAYES ROAD**  
RIGHT-OF-WAY VARIES  
ASPHALT ROADWAY

PROPERTY ADDRESS:  
PEMBERTON STREET  
ORLANDO, FLORIDA 32824

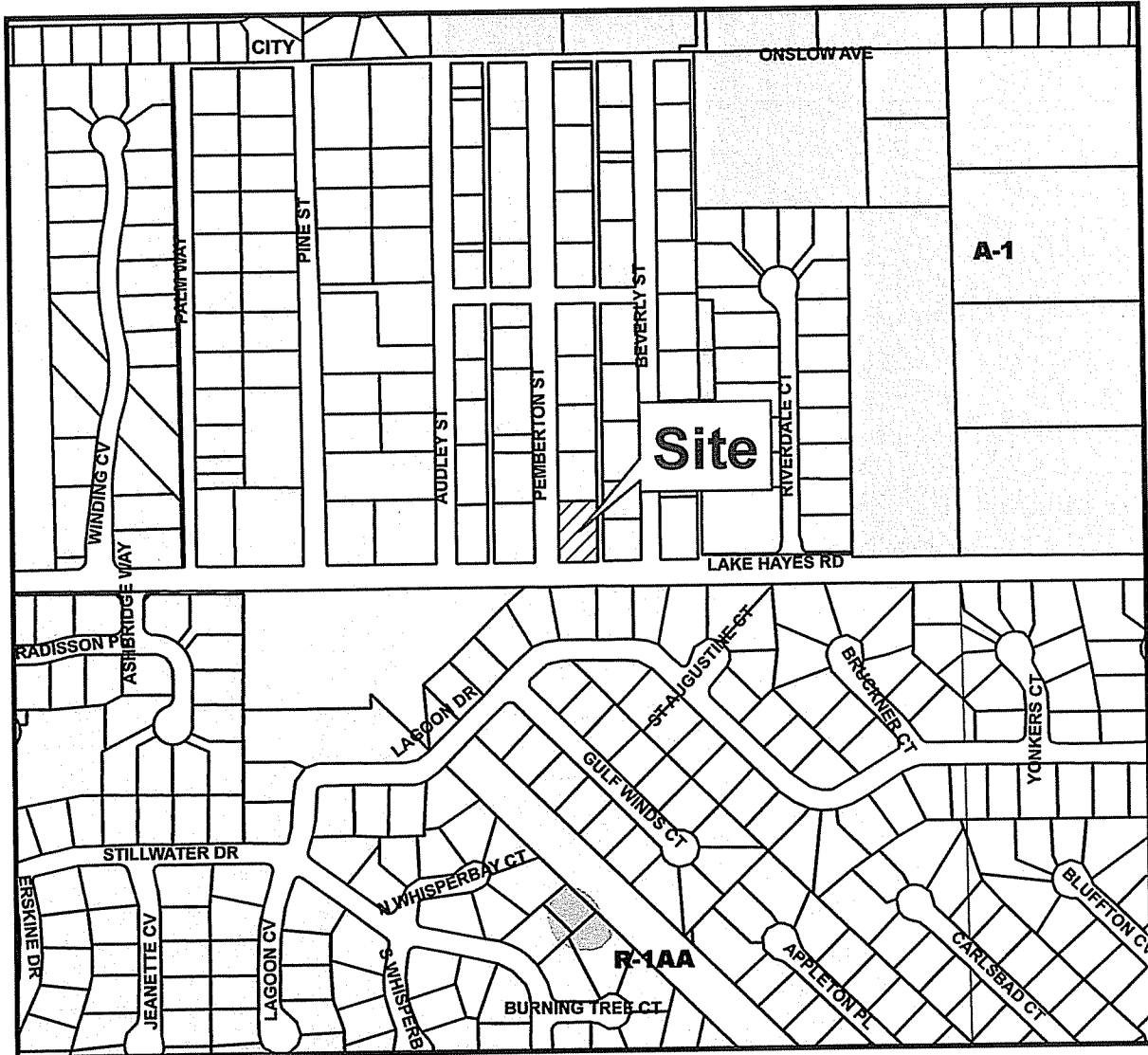
## NOTE:

1. ALL DIRECTIONS AND DISTANCES HAVE BEEN FIELD VERIFIED AND ANY INCONSISTENCIES HAVE BEEN NOTED ON THE SURVEY, IF ANY.

2. PROPERTY CORNERS SHOWN HEREON WERE SET/FOUND ON 11/14/07, UNLESS OTHERWISE SHOWN.




3. THE SURVEYOR HAS NOT ABSTRACTED THE LAND SHOWN HEREON FOR EASEMENTS, RIGHT OF WAY, RESTRICTIONS OF RECORD WHICH MAY


Juan Hernandez  
 2391 Pemberton Street  
 Oviedo, Florida 32765

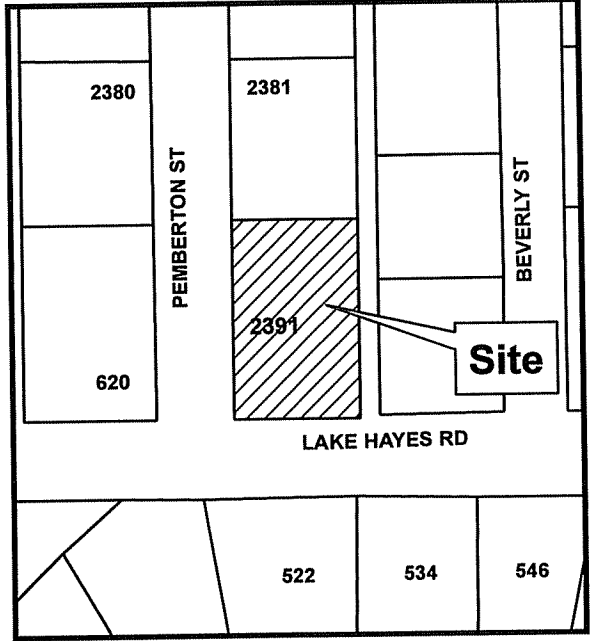


**Seminole County Board of Adjustment**  
 June 23, 2008  
 Case: BV2008-49 (Map 3213, Grid B4)  
 Parcel No: 27-21-31-501-0000-1890

**Zoning**

-  BV2008-49
-  A-1
-  R-1AA

N  




SEMINOLE COUNTY  
APPLICATION & AFFIDAVIT

Ownership Disclosure Form

Please provide the information as requested below in accordance with Ordinance No. 07- \_\_\_\_\_:

1. List all natural persons who have an ownership interest in the property, which is the subject matter of this petition, by name and address.

Name: Jan O. Kessinger  
Address: 2381 Hempstead St  
Phone #: 321-217-0239

Name: Veronica Kessinger  
Address: 2381 Hempstead St  
Phone #: 321-217-0239

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_

(Use additional sheets for more space.)

2. For each corporate owner, list the name, address, and title of each officer of the corporation, the name and address of each director of the corporation, and the name and address of each shareholder who owns 2% or more of the stock of the corporation. Shareholders need not be disclosed as to corporations whose shares of stock are traded publicly on any national or regional stock exchange.

Name of Corporation: \_\_\_\_\_  
Officers: \_\_\_\_\_  
Address: \_\_\_\_\_  
Directors: \_\_\_\_\_  
Address: \_\_\_\_\_  
Shareholders: \_\_\_\_\_  
Address: \_\_\_\_\_

Name of Corporation: \_\_\_\_\_  
Officers: \_\_\_\_\_  
Address: \_\_\_\_\_  
Directors: \_\_\_\_\_  
Address: \_\_\_\_\_  
Shareholders: \_\_\_\_\_  
Address: \_\_\_\_\_

(Use additional sheets for more space.)

3. In the case of a trust, list the name and address of each trustee and the name and address of the beneficiaries of the trust.

Name of Trust: \_\_\_\_\_  
Trustees: \_\_\_\_\_  
Address: \_\_\_\_\_

Beneficiaries: \_\_\_\_\_  
Address: \_\_\_\_\_

(Use additional sheets for more space.)



**SEMINOLE COUNTY  
APPLICATION AND AFFIDAVIT**

For partnerships, including limited partnerships, list the name and address of each principal in the partnership, including general or limited partners.

Name of Partnership: Juan O. Hernandez  
Principal: \_\_\_\_\_  
Address: \_\_\_\_\_

Name of Partnership: Vikram Hernandez  
Principal: \_\_\_\_\_  
Address: \_\_\_\_\_

(Use additional sheets for more space.)

5. In the circumstances of a contract for purchase, list the name of each contract vendee, with their names and addresses, the same as required for corporations, trust, or partnerships. In addition, the date of the contract for purchase shall be specified along with any contingency clause relating to the outcome of the consideration of this petition.

Contract Vendee:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Contract Vendee:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

(Use additional sheets for more space.)

6. As to any type of owner referred to above, a change of ownership occurring subsequent to this application, shall be disclosed in writing to the Planning and Development Director prior to the date of the public hearing on the application.

7. I affirm that the above representations are true and are based upon my personal knowledge and belief after all reasonable inquiry. I understand that any failure to make mandated disclosures is grounds for the subject rezone, future land use amendment, special exception, or variance involved with this Application to become void. I certify that I am legally authorized to execute this Application and Affidavit and to bind the Applicant to the disclosures herein.

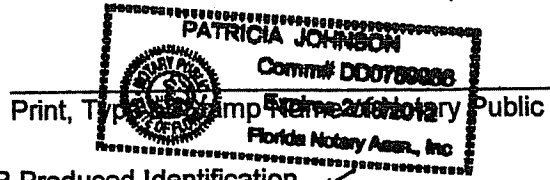
4-23-08  
Date

Juan O. Hernandez  
Owner, Agent, Applicant Signature

STATE OF FLORIDA  
COUNTY OF Seminole

Sworn to (or affirmed) and subscribed before me this 23<sup>rd</sup> day of April, 2008 by \_\_\_\_\_

Juan Hernandez  
Patricia Johnson  
Signature of Notary Public



Personally Known \_\_\_\_\_ OR Produced Identification   
Type of Identification Produced H 655-434-68-000-0

<b>For Use by Planning &amp; Development Staff</b>	
Date: _____	Application Number: _____

<p><b>PARCEL DETAIL</b></p> <p>DAVID JOHNSON, CFA, ASA</p> <p><b>PROPERTY APPRAISER</b></p> <p>SEMINOLE COUNTY FL.</p> <p>1101 E. FIRST ST SANFORD, FL 32771-1468 407-665-7505</p>																													
<p><b>GENERAL</b></p> <p>Parcel Id: 27-21-31-501-0000-1890</p> <p>Owner: HERNANDEZ JUAN O &amp; VERONICA</p> <p>Mailing Address: 2391 PEMBERTON ST</p> <p>City,State,ZipCode: OVIEDO FL 32765</p> <p>Property Address: 2391 PEMBERTON ST OVIEDO 32765</p> <p>Subdivision Name: KEW GARDENS</p> <p>Tax District: 01-COUNTY-TX DIST 1</p> <p>Exemptions:</p> <p>Dor: 01-SINGLE FAMILY</p>	<p><b>2008 WORKING VALUE SUMMARY</b></p> <p>Amendment 1 impact not reflected.</p> <p>Value Method: Market</p> <p>Number of Buildings: 1</p> <p>Depreciated Bldg Value: \$129,064</p> <p>Depreciated EXFT Value: \$0</p> <p>Land Value (Market): \$42,500</p> <p>Land Value Ag: \$0</p> <p>Just/Market Value: \$171,564</p> <p>Assessed Value (SOH): \$171,564</p> <p>Exempt Value: \$0</p> <p>Taxable Value: \$171,564</p> <p>Tax Estimator</p> <p>Portability Calculator</p>																												
<p><b>SALES</b></p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Deed</th> <th>Date</th> <th>Book</th> <th>Page</th> <th>Amount</th> <th>Vac/Imp</th> <th>Qualified</th> </tr> </thead> <tbody> <tr> <td>WARRANTY DEED</td> <td>01/2008</td> <td>06910</td> <td>0178</td> <td>\$240,000</td> <td>Improved</td> <td>Yes</td> </tr> <tr> <td>WARRANTY DEED</td> <td>03/2007</td> <td>06651</td> <td>1678</td> <td>\$74,000</td> <td>Vacant</td> <td>Yes</td> </tr> <tr> <td>WARRANTY DEED</td> <td>09/1987</td> <td>01898</td> <td>1891</td> <td>\$12,000</td> <td>Vacant</td> <td>Yes</td> </tr> </tbody> </table> <p>Find Comparable Sales within this Subdivision</p>	Deed	Date	Book	Page	Amount	Vac/Imp	Qualified	WARRANTY DEED	01/2008	06910	0178	\$240,000	Improved	Yes	WARRANTY DEED	03/2007	06651	1678	\$74,000	Vacant	Yes	WARRANTY DEED	09/1987	01898	1891	\$12,000	Vacant	Yes	<p><b>2007 VALUE SUMMARY</b></p> <p>2007 Tax Bill Amount: \$650</p> <p>2007 Taxable Value: \$44,000</p> <p>DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS</p>
Deed	Date	Book	Page	Amount	Vac/Imp	Qualified																							
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BV2008-49

Orlando Hernandez  
2391 Pemberton St  
Oviedo FL 32765

June 12, 2008

Street Address  
Apartment Number  
City, State Postal Code

Dear Neighbor I would like to inform you that I have pull out permits for my fence and my shed . I am making a petition to the families that do agree.  
Thank you.

Name

Address

John Nelson 2381 Pemberton St

Jamie Kirker 2375 Pemberton St.

Scott E DeLuca 2371 Pemberton St.

James Gibson 2365 Pemberton ST

Donna 2361 Pemberton St

\_\_\_\_\_  
\_\_\_\_\_

**SEMINOLE COUNTY APPROVAL DEVELOPMENT ORDER**

On June 23, 2008, Seminole County issued this Development Order relating to and touching and concerning the following described property:

Leg Lots 189 to 192 Lot C Kew Gardens PB 4 PG 51

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

**FINDINGS OF FACT**

**Property Owner:** Juan Hernandez  
2391 Pemberton Street  
Oviedo, FL 32765

**Project Name:** Pemberton (2391)

**Requested Development Approval:**

Request for a side street setback variance from 25 feet to 0 feet for a privacy fence along Lake Hayes Road in R-1AA (Single Family Dwelling) district.

All six criteria for granting a variance under the Land Development Code have been satisfied.

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: Kathy Fall, Principal Planner  
1101 East First Street  
Sanford, Florida 32771

**Order**

**NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

(1) The aforementioned application for development approval is **GRANTED**.

(2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.

(3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:

- a. The variance granted will apply only to the privacy fence as depicted on the attached site plan.

(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

Done and Ordered on the date first written above.

By: \_\_\_\_\_  
Alison C. Stettner  
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 \_\_\_\_\_, 2008.

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

My Commission Expires:

## SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER

On June 23,2008, Seminole County issued this Development Order relating to and touching and concerning the following described property:

Leg Lots 189 to 192 Lot C Kew Gardens PB 4 PG 51

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

### FINDINGS OF FACT

**Property Owner:** Juan Hernandez  
2391 Pemberton Street  
Oviedo, FL 32765

**Project Name:** Pemberton (2391)

**Requested Development Approval:**

Request for a side street setback variance from 25 feet to 0 feet for a privacy fence along Lake Hayes Road in R-1AA (Single Family Dwelling) district.

The Development Approval was sought to construct a 6 foot privacy fence within the side street setback. One or more of the six criteria under the Land Development Code for granting a variance have not been satisfied. The applicant still retains reasonable use of the property without the granting of the requested variance.

The requested development approval is hereby denied.

Prepared by: Kathy Fall, Principal Planner  
1101 East First Street  
Sanford, Florida 32771

Done and Ordered on the date first written above.

By: \_\_\_\_\_  
Alison C. Stettner  
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 \_\_\_\_\_, 2008.

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

My Commission Expires: