

**SEMINOLE COUNTY GOVERNMENT
BOARD OF ADJUSTMENT
AGENDA MEMORANDUM**

SUBJECT: 5650 Orange Boulevard – John Booker, applicant; Request for a front yard setback variance from 50 feet to 10 feet of an aquarium/fountain display in A-1 (Agriculture) zoning.

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

AUTHORIZED BY: Kathy Fall **CONTACT:** Kathy Fall **EXT.** 7389

Agenda Date 1/26/09 **Regular** **Consent** **Public Hearing – 6:00**

MOTION/RECOMMENDATION:

1. **Deny** the request for a front yard setback variance from 50 feet to 10 feet of an aquarium/fountain display in A-1 (Agriculture) zoning; or
1. **Approve** the request for a front yard setback variance from 50 feet to 10 feet of an aquarium/fountain display in A-1 (Agriculture) zoning; or
2. **Continue** the request to a time and date certain.

<p>GENERAL INFORMATION</p>	<p>Applicant: John Booker Owner: Noah DeFalco Location: 5650 Orange Boulevard Zoning: A-1</p>
<p>BACKGROUND / REQUEST</p>	<ul style="list-style-type: none"> • The applicant has constructed an aquarium/fountain display that encroaches 40 feet into the 50 foot front yard setback. • The site was permitted retail sales by special exception in 1985. The site currently operates a nursery with retail sales of planting and landscaping materials. • There are currently no code enforcement or building violations for this property.
<p>STAFF FINDINGS</p>	<p>The applicant has not satisfied the criteria for the grant of a variance. Staff has determined that:</p> <ul style="list-style-type: none"> • No special conditions or circumstances exist, which are peculiar to the land, structure, or building involved

Reviewed by:
Co Atty: _____
Pln Mgr: _____

	<p>and which are not applicable to other lands, structures or building in the same zoning district.</p> <ul style="list-style-type: none">• Special conditions and circumstances result from the actions of the applicant.• 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.• 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.• The variance requested is not the minimum variance that will make possible reasonable use of the land, building or structure.• The applicant would still retain reasonable use of the land, building or structure without the granting of the variance.• The grant of the variance would not be in harmony with the general intent of Chapter 30.
<p>STAFF RECOMMENDATION</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">• Any variance granted shall apply only to the aquarium/fountain display 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.

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

RECEIVED DEC 09 2008

COPY

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

Application # BV 2008-120
Meeting Date 1-26-09



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: Sohn Booker - Leuschold - Fairfield Farms Landscape Design Co. LLC
Address: 5650 Orange Blvd City: Sanford Zip code: 32771
Project Address: 5650 Orange Blvd City: Sanford Zip code: 32771
Tax Parcel number: 25-19-29-300-0020-0000
Contact number(s): 352 217-5518 407 322 9966 wk (407) 402-7918 cell
Email address: fairfieldfarmsla@bellsouth.net

Is the property available for inspection without an appointment?
 Yes No If gated please provide a gate code to staff.

What type of structure is this request for?	
<input type="checkbox"/> Shed	Please describe:
<input type="checkbox"/> Fence	Please describe:
<input type="checkbox"/> Pool	Please describe:
<input type="checkbox"/> Pool screen enclosure	Please describe:
<input type="checkbox"/> Covered screen room	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>Aquarium/Fountain Display</u>
<input checked="" type="checkbox"/> This request is for a structure that has already been built.	

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 checked="" type="checkbox"/> Front yard setback	Required setback:	Proposed setback:	<u>10'</u>
<input type="checkbox"/> Rear yard setback	Required setback:	Proposed setback:	
<input type="checkbox"/> Side yard setback	Required setback:	Proposed setback:	
<input type="checkbox"/> Side street setback	Required setback:	Proposed setback:	
<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:	
<input type="checkbox"/> Total number of variances requested <u>1</u>			

Signed: [Signature] Date: 12/2/08

C:\Documents and Settings\pjohnson02\Local Settings\Temporary Internet Files\Content.Outlook\WYD0RE4\Application Variance 2006.doc Revised 10/2008

FOR OFFICE USE ONLY

Date Submitted: 12-3-08 Reviewed By: P. Johnson
 Zoning/FLU A-1 / SE
 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: _____

VARIANCE SUBMITTAL CHECKLIST

Please return this checklist with your application!

NO APPLICATION WILL BE ACCEPTED AND/OR SCHEDULED unless all of the information in the Variance application and submittal checklist is provided to the Planning division.

After the application is reviewed by staff for completeness, any items required that were not provided at the time of the application will be check marked below. These must be provided prior to scheduling of the Board of Adjustment hearing.	
✓	1. Completed application.
✓	2. Ownership Disclosure Form (Seminole County Application & Affidavit).
✓	3. Owner's authorization letter (if needed). This form can be obtained at http://www.seminolecountyfl.gov/pd/planning/forms.asp
✓	4. Provide a legible 8 ½ x 11 inch site plan with the following information NOTE: Please use your property survey for your site plan, if available. See the attached site plan as an example of the information needed; please draw to scale and note the scale used on the plan.
	o Please start with a clean survey (ex: white out old approval stamps)
✓	o Size and dimension of the parcel
✓	o Location and name of all abutting streets
✓	o Location of driveways
✓	o Location, size and type of any septic systems, drain field and wells
NA	o Location of all easements
✓	o Existing or proposed house or addition (Label existing, label proposed, and include square footage and dimensions of each)
✓	o Existing and/or proposed buildings, structures and improvements (Label existing, label proposed, and include square footage and dimension of each)
✓	o Building height
✓	o Setbacks from each building to the property lines
NA	o Location of proposed fence(s)
NA	o Identification of available utilities (ex: water, sewer, well or septic)
ND	5. Attach additional information and supporting documents such as letters of support from adjacent property owners or Home Owners Association DRB approvals, as desired.

BLACKWATER CREEK Koi Farms Inc.



Joy Williams
Seminole County Planning Division

Hi Joy.

Thank you for taking the time to review our application for variance. We are excited about expanding our agricultural business selling Japanese Koi Fish to Seminole county. At Fairfield Farms Landscape Design CO, we have installed a fountain /aquarium display that will offer beauty and style to our location. This fountain will incorporate live fish and flowing water. It is covered with stone and fits in very well with the existing landscaping and the general areas around Sanford /Lake Mary.

This corner of the structure is located approximately 12 feet from the property line. This location is inside of the existing property lines in both locations. We are at a location where SR46 has already been expanded to four lanes. This is the corner of SR 46 and Orange ave. This is within the current lines of the existing buildings in both directions. I have indicated this on a separate site plan. This fountain will be surrounded by current landscaping and other decorative outdoor items displayed for sale in the plant area.

We are very excited about this project. It should be complete and running in 5-10 days. Prior to finishing construction, I spoke with Paul Watson who had said that we we ok with our Agricultural zoning, and that the structure built solid and to go ahead and finish itbut also to get with you to check on a variance or the setbacks needed. We were half way through the project when we spoke. I have attached a few pictures of the structure at half completion. I will also get you some great shots of the completion with landscaping and fish.

Should you have questions, please don't hesitate to call me at 352 217 5518

All The Best

Joe Pawlak
President
Blackwater Creek Koi Farms Inc.
Aquatic Nutrition Inc.



Blackwater Creek Koi Farms, Inc
30540 SR 44
Gainesville, Florida 32736

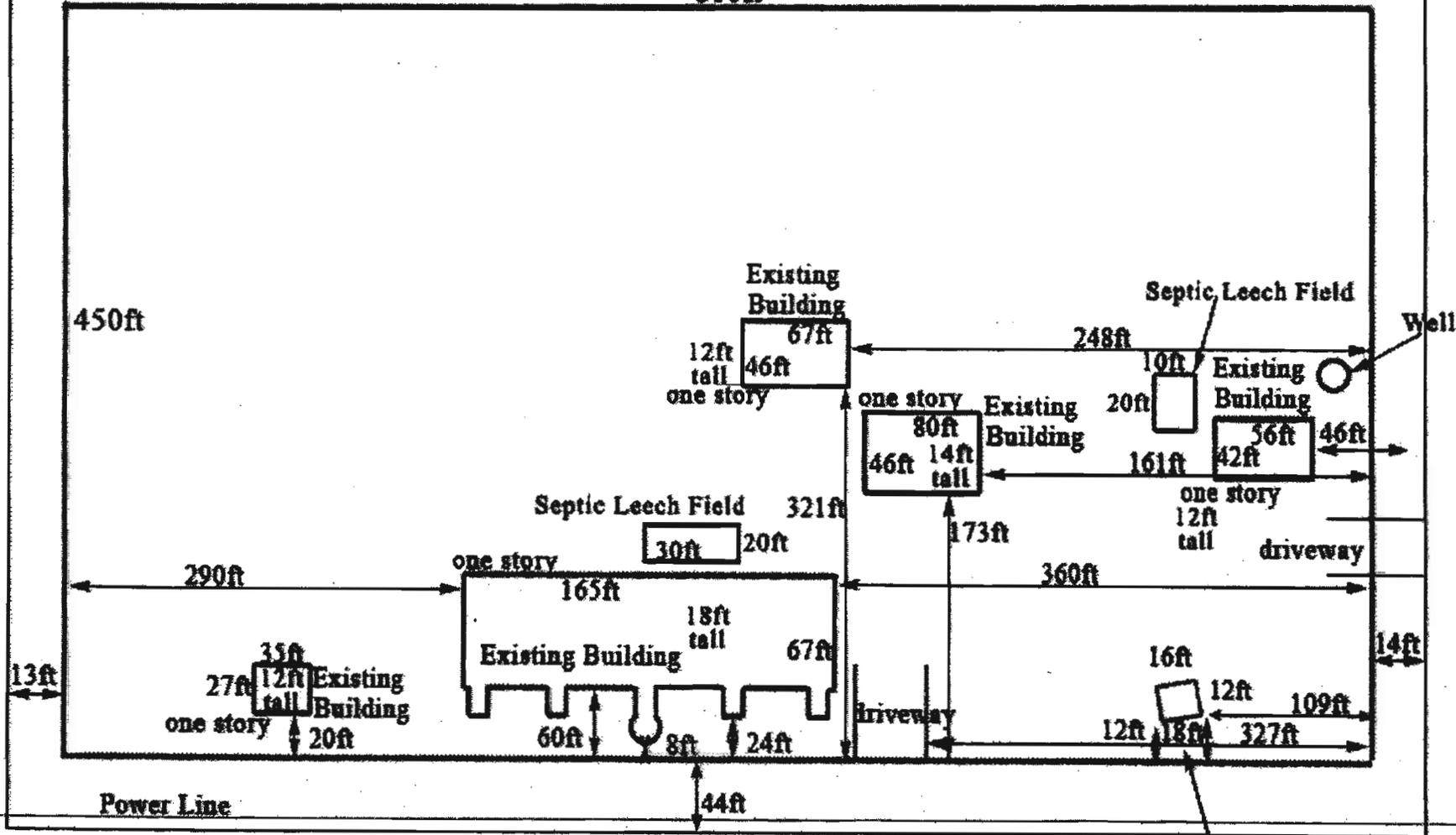
352/357-4563 fax 419/715-8697
Email greatkoi@aol.com
Website www.koisale.com

Building is on well and septic.

810ft

North Center Rd.

Orange Blvd.



SR 46

Proposed Waterfall Fountain 16'x11' 9"H
Variance

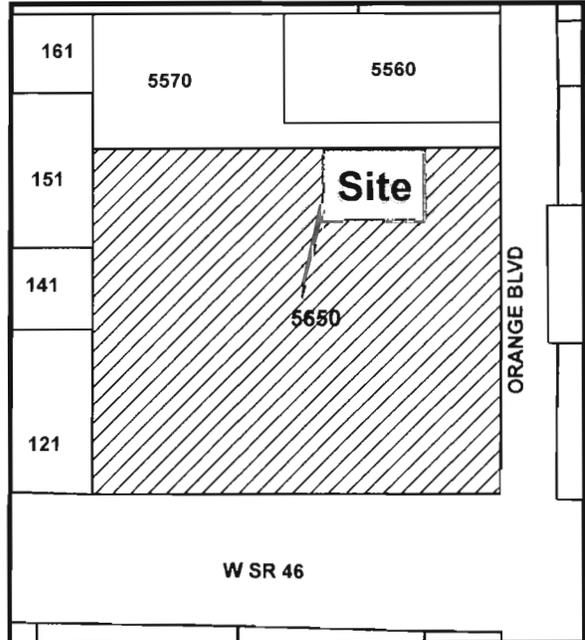
John Booker
 5650 Orange Blvd
 Sanford, Florida 32771



Seminole County Board of Adjustment
 January 26, 2009
 Case: BV2008-120 (Map 3051 Grid B3)
 Parcel No: 25-19-29-300-0020-0000

Zoning

	BV2008-120		CN
	A-1		C-1
	R-1AA		PUD
	R-1A		PCD
	OP		

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: John Booker
Address: 5650 Orange Blvd
Phone #: 407 402 7918

Name: Kim Booker
Address: 5650 Orange Blvd
Phone #: Sanford 32771

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: _____ Name of Partnership: _____
Principal: _____ Principal: _____
Address: _____ 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: _____ Contract Vendee: _____
Name: _____ Name: _____
Address: _____ 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.

Date

Owner, Agent, Applicant Signature

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 200__ by _____

Signature of Notary Public

Print, Type or Stamp Name of Notary Public

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

For Use by Planning & Development Staff	
Date: _____	Application Number: _____

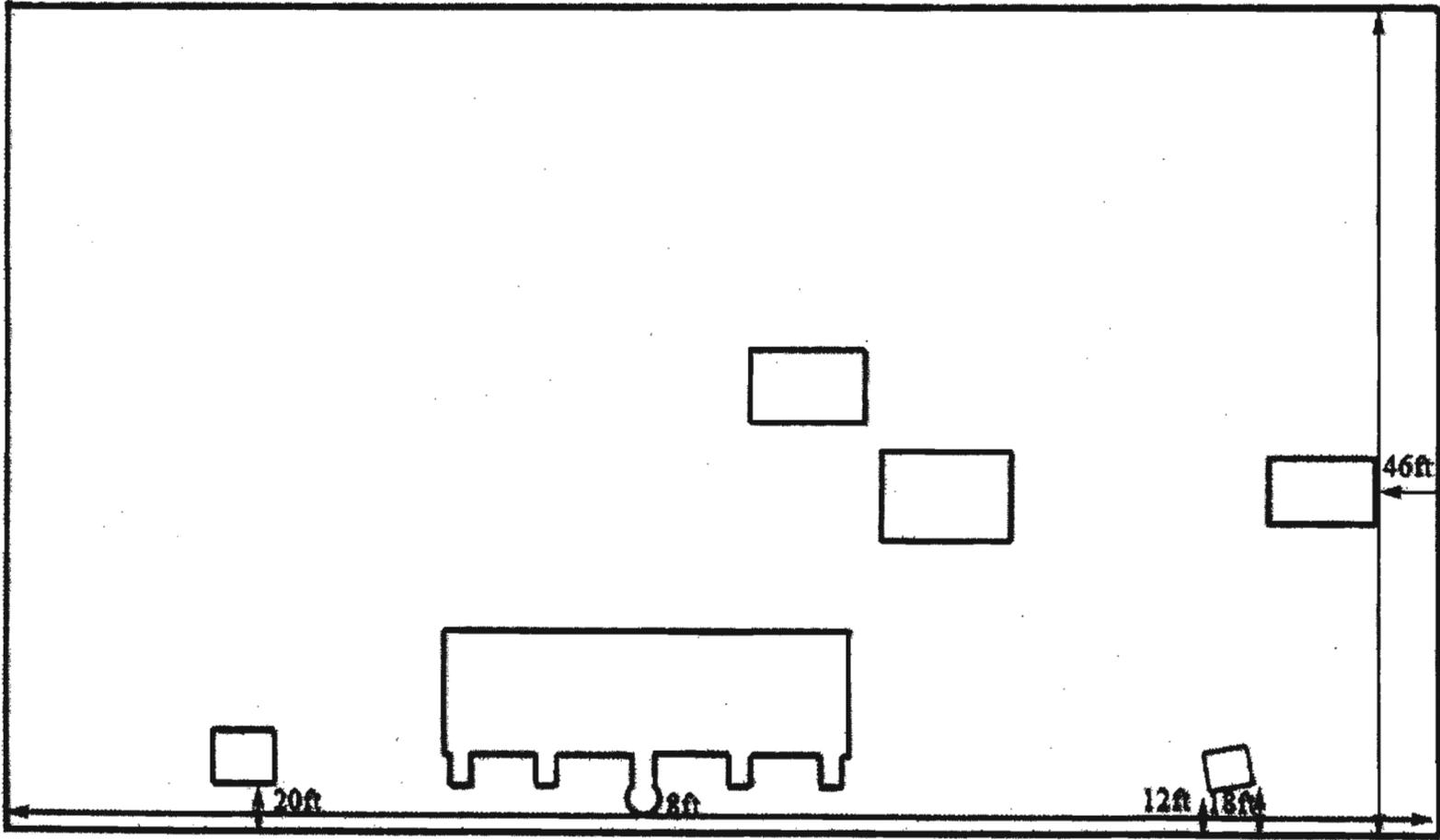
Personal Property Please Select Account

<p>PARCEL DETAIL</p> <p>DAVID JOHNSON, CFA, ASA PROPERTY APPRAISER SEMINOLE COUNTY FL. 1101 E. FIRST ST SANFORD, FL 32771-1468 407-563-7505</p>																																			
<p style="text-align: center;">GENERAL</p> <p>Parcel Id: 25-19-29-300-0020-0000 Owner: DE FALCO NOAH Mailing Address: 2832 CR 466 City,State,ZipCode: OXFORD FL 34484 Property Address: 5650 ORANGE BLVD SANFORD 32771 Facility Name: Tax District: G1-AGRICULTURAL Exemptions: Dor: 69-ORNAMENTALS</p>		<p style="text-align: center;">VALUE SUMMARY</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">VALUES</th> <th style="text-align: center;">2009 Working</th> <th style="text-align: center;">2008 Certified</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Value Method</td> <td style="text-align: center;">Cost/Market</td> <td style="text-align: center;">Cost/Market</td> </tr> <tr> <td style="text-align: center;">Number of Buildings</td> <td style="text-align: center;">6</td> <td style="text-align: center;">6</td> </tr> <tr> <td style="text-align: center;">Depreciated Bldg Value</td> <td style="text-align: right;">\$279,941</td> <td style="text-align: right;">\$289,886</td> </tr> <tr> <td style="text-align: center;">Depreciated EXFT Value</td> <td style="text-align: right;">\$7,480</td> <td style="text-align: right;">\$7,599</td> </tr> <tr> <td style="text-align: center;">Land Value (Market)</td> <td style="text-align: right;">\$552,341</td> <td style="text-align: right;">\$552,341</td> </tr> <tr> <td style="text-align: center;">Land Value Ag</td> <td style="text-align: right;">\$103,587</td> <td style="text-align: right;">\$103,587</td> </tr> <tr> <td style="text-align: center;"><u>Just/Market Value</u></td> <td style="text-align: right;">\$839,762</td> <td style="text-align: right;">\$849,826</td> </tr> <tr> <td style="text-align: center;">Portability Adj</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td style="text-align: center;">Save Our Homes Adj</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td style="text-align: center;">Assessed Value (SOH)</td> <td style="text-align: right;">\$391,008</td> <td style="text-align: right;">\$401,072</td> </tr> </tbody> </table> <p style="text-align: center;">Tax Estimator</p>	VALUES	2009 Working	2008 Certified	Value Method	Cost/Market	Cost/Market	Number of Buildings	6	6	Depreciated Bldg Value	\$279,941	\$289,886	Depreciated EXFT Value	\$7,480	\$7,599	Land Value (Market)	\$552,341	\$552,341	Land Value Ag	\$103,587	\$103,587	<u>Just/Market Value</u>	\$839,762	\$849,826	Portability Adj	\$0	\$0	Save Our Homes Adj	\$0	\$0	Assessed Value (SOH)	\$391,008	\$401,072
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BUILDING INFORMATION																																			
Bld Num	Bld Class	Year Blt	Fixtures	Gross SF	Stories	Ext Wall	Bld Value	Est. Cost New																											
2	WOOD BEAM/COL	1954	2	960	1	WOOD SIDING WITH WOOD OR METAL STUDS	\$20,838	\$57,883																											
		Subsection / Sqft		OPEN PORCH UNFINISHED / 2216																															
3	WOOD BEAM/COL	1997	0	7,920	1	WOOD SIDING WITH WOOD OR METAL STUDS	\$126,909	\$165,894																											
		Subsection / Sqft		OPEN PORCH UNFINISHED / 2717																															
4	WOOD BEAM/COL	1997	0	1,200	1	WOOD SIDING WITH WOOD OR METAL STUDS	\$38,805	\$50,726																											
		Subsection / Sqft		OPEN PORCH UNFINISHED / 1040																															
5	WOOD BEAM/COL	1997	2	522	1	WOOD SIDING WITH WOOD OR METAL STUDS	\$21,576	\$28,203																											
		Subsection / Sqft		OPEN PORCH UNFINISHED / 250																															
Permits																																			
BUILDING INFORMATION																																			

	Bld Num	Bld Type	Year Blt	Fixtures	Base SF	Gross SF	Living SF	Ext Wall	Bld Value	Est. Cost New
<u>Building Sketch</u>	1	SINGLE FAMILY	1946	3	988	1,700	1,220	SIDING AVG	\$56,118	\$79,040
	Appendage / Sqft		BASE SEMI FINISHED / 232							
	Appendage / Sqft		CARPORT FINISHED / 480							
NOTE: Appendage Codes included in Living Area: Base, Upper Story Base, Upper Story Finished, Apartment, Enclosed Porch Finished, Base Semi Finished										
<u>Building Sketch</u>	6	SINGLE FAMILY	1954	3	432	432	432	SIDING AVG	\$15,695	\$24,620
NOTE: Appendage Codes included in Living Area: Base, Upper Story Base, Upper Story Finished, Apartment, Enclosed Porch Finished, Base Semi Finished										
Permits										
EXTRA FEATURE										
	Description		Year Blt	Units	EXFT	Value	Est. Cost New			
	WOOD UTILITY BLDG		1954	120		\$288	\$720			
	WALKS CONC COMM		1997	1,440		\$3,336	\$4,766			
	POLE LIGHT STEEL 1 ARM		1997	4		\$3,856	\$3,856			
NOTE: Assessed values shown are NOT certified values and therefore are subject to change before being finalized for ad valorem tax purposes.										
*** If you recently purchased a homesteaded property your next year's property tax will be based on Just/Market value.										

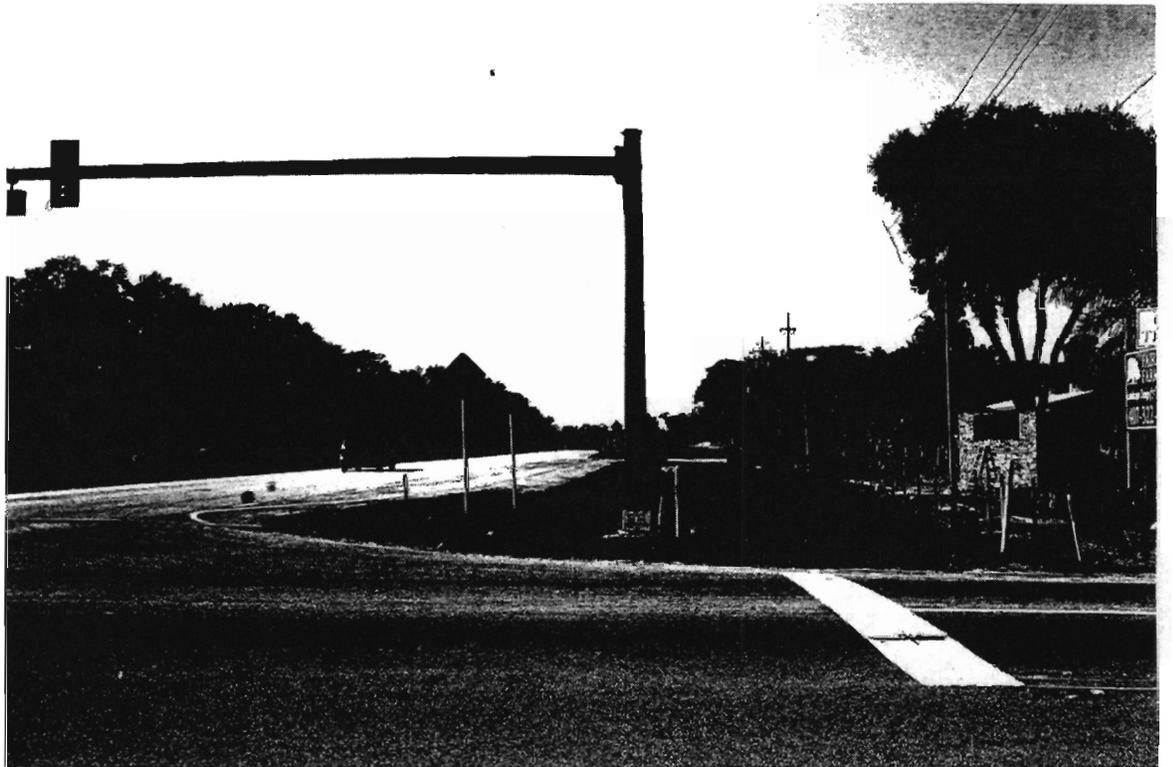
North Center Rd.

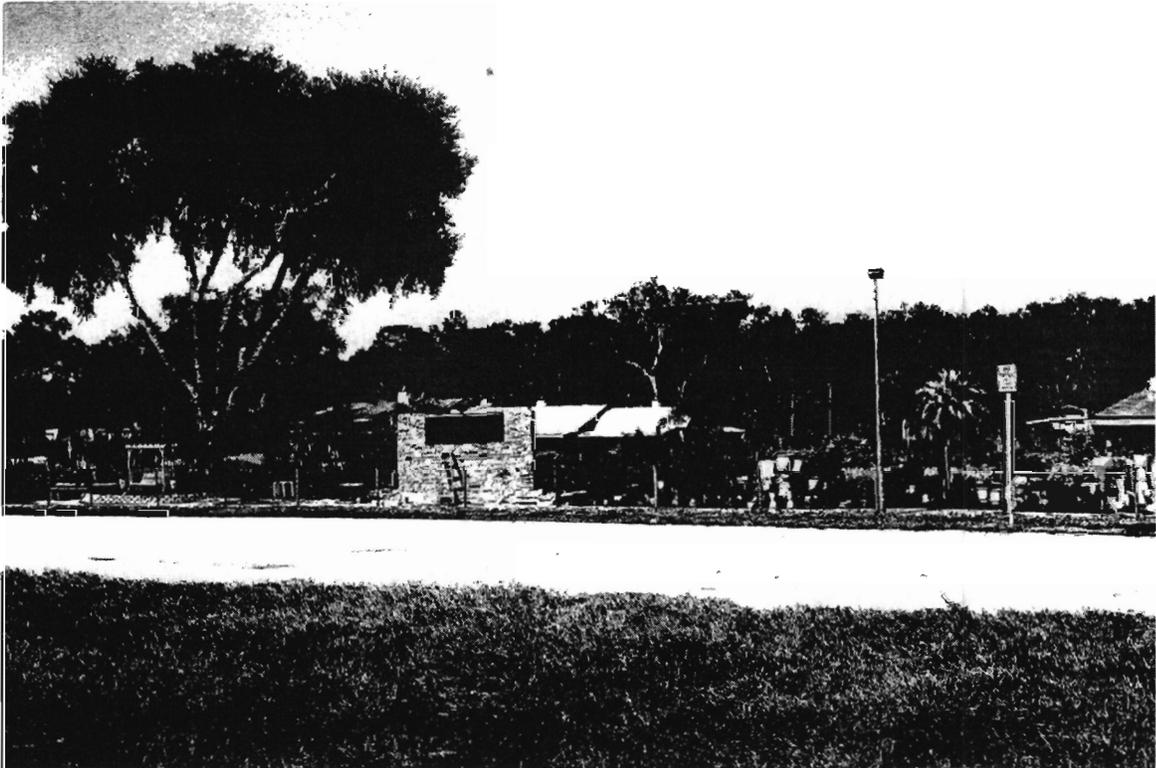
Orange Blvd



Fountain is located inside of property lines.

SR 46





SEMINOLE COUNTY APPROVAL DEVELOPMENT ORDER

On January 26, 2009, Seminole County issued this Development Order relating to and touching and concerning the following described property:

Sec 25 Twp 19A Rge 29E S 712 FT of N 1157 FT of Govt Lot 1 Lying No of ST RD 46
(Less E 25 feet for Rd and W 300 FT)

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

FINDINGS OF FACT

Property Owner: Noah De Falco
2832 CR 466
Oxford, Fl. 34484

Project Name: Orange Boulevard (5650)

Variance Approval:

Front yard setback variance from 50 feet to 10 feet of an aquarium/fountain display in A-1 (Agriculture) zoning

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 aquarium/fountain 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 _____, 2009.

Notary Public, in and for the County and State
Aforementioned

My Commission Expires:

SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER

On January 26, 2009, Seminole County issued this Development Order relating to and touching and concerning the following described property:

Sec 25 Twp 19A Rge 29E S 712 FT of N 1157 FT of Govt Lot 1 Lying No of ST RD 46
(Less E 25 feet for Rd and W 300 FT)

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

FINDINGS OF FACT

Property Owner: Noah De Falco
2832 CR 466
Oxford, Fl. 34484

Project Name: Orange Boulevard (5650)

Requested Variance

Front yard setback variance from 50 feet to 10 feet of an aquarium/fountain display in A-1 (Agriculture) zoning

Approval was sought to bring into compliance the construction of an existing aquarium/fountain in the front yard 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

FILE NO.:

DEVELOPMENT ORDER #

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 _____, 2009.

Notary Public, in and for the County and State
Aforementioned

My Commission Expires: