

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

SUBJECT: 2907 N. Whisperbay Court – Tara Stewart, applicant; Request for a front yard (northeast side) setback variance from 25 feet to 17 feet for a proposed 6 foot wood fence in R-1AA (Single Family Dwelling) district.

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

AUTHORIZED BY: Kathy Fall **CONTACT:** Denny Gibbs **EXT.** 7387

Agenda Date 6/22/09 **Regular** **Consent** **Public Hearing – 6:00**

MOTION/RECOMMENDATION:

1. **Deny** the request a front yard (northeast side) setback variance from 25 feet to 17 feet for a proposed 6 foot wood fence in R-1AA (Single Family Dwelling) district; or
2. **Approve** the request a front yard (northeast side) setback variance from 25 feet to 17 feet for a proposed 6 foot wood fence in R-1AA (Single Family Dwelling) district; or
3. **Continue** the request to a time and date certain.

GENERAL INFORMATION	Applicant: Tara Stewart Location: 2907 N. Whisperbay Court Zoning: R-1AA (Single Family Dwelling) district Subdivision: Stillwater
BACKGROUND / REQUEST	<ul style="list-style-type: none"> • The applicant proposes to construct a fence along the northeast side of the home that will encroach 8 feet into the 25-foot front setback. • There are currently no code enforcement or building violations for this property. • There is no record of prior variances for this property.
STAFF FINDINGS	The applicant has not satisfied the criteria for the grant of a variance. Staff has determined that: <ul style="list-style-type: none"> • No special conditions or circumstances exist, which are peculiar to the land, structure, or building involved

Reviewed by: MC
 Co Atty: AS
 Pln Mgr: AS

	<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 fence 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

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

Application # BU 2009-29
Meeting Date 6-22-09

COPY

VARIANCE APPLICATION



SEMINOLE COUNTY PLANNING DIVISION ROOM 2201
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: Tara Stewart
Address: 2907 N Whisperbay Ct City: Oviedo Zip code: 32725
Project Address: _____ City: _____ Zip code: _____
Tax Parcel number: 27-21-31-509-0000-1280
Contact number(s): Tara 407-376-9400 Steve 407-376-029
Email address: stewart10204@yahoo.com

RECEIVED

APR 20 2009

SEMINOLE COUNTY PLANNING

APR 20 2009

RECEIVED

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 checked="" type="checkbox"/> Fence	Please describe: <u>6 ft wood fence</u>
<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 type="checkbox"/> Other	Please describe:
<input 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:	<u>25</u>	Proposed setback: <u>17</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: Jara E Stewart

Date: 4-20-09

FOR OFFICE USE ONLY

Date Submitted: 4-20-09 Reviewed By: P. Johnson
 Zoning/FLU R-1AA1 WOR
 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.

<p><i>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.</i></p>	
	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 1/2 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.
	<input type="checkbox"/> Please start with a clean survey (ex: white out old approval stamps)
	<input type="checkbox"/> Size and dimension of the parcel
	<input type="checkbox"/> Location and name of all abutting streets
	<input type="checkbox"/> Location of driveways
	<input type="checkbox"/> Location, size and type of any septic systems, drain field and wells
	<input type="checkbox"/> Location of all easements
	<input type="checkbox"/> Existing or proposed house or addition (Label existing, label proposed, and include square footage and dimensions of each)
	<input type="checkbox"/> Existing and/or proposed buildings, structures and improvements (Label existing, label proposed, and include square footage and dimension of each)
	<input type="checkbox"/> Building height
	<input type="checkbox"/> Setbacks from each building to the property lines
	<input type="checkbox"/> Location of proposed fence(s)
	<input type="checkbox"/> Identification of available utilities (ex: water, sewer, well or septic)
	5. Attach additional information and supporting documents such as letters of support from adjacent property owners or Home Owners Association DRB approvals, as desired.

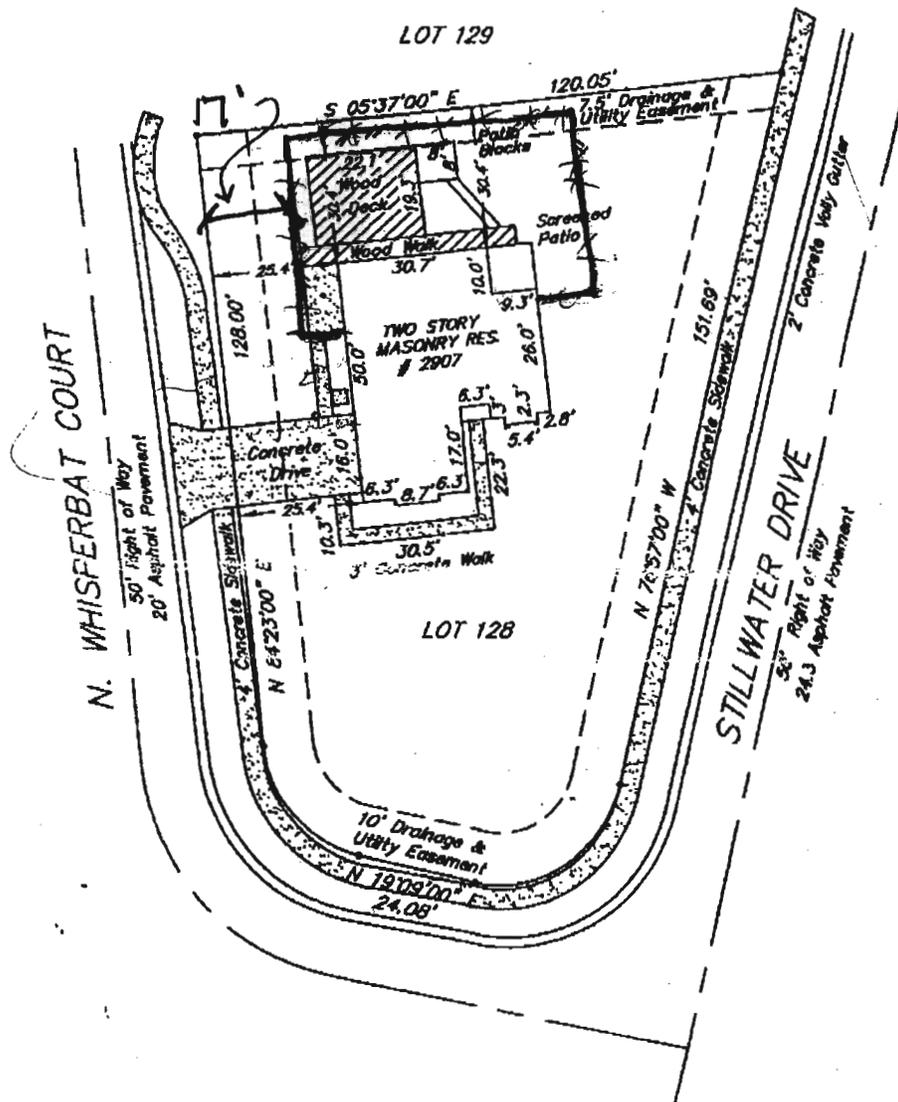
MAP OF BOUNDARY SURVEY

LEGAL DESCRIPTION:

Lot 128, STILLWATER, PHASE 2, according to the map or Plat thereof as recorded in Plat Book 36, Pages 93 through 99, of the Public Records of Seminole County, Florida.

BEARING BASIS: The Easterly line of Lot 128 Bearing N.05° 37'00" W., according to the above referenced Plat.

Scale: 1"=30'



Prepared For: TARA SOMMELLA; LAKELAND REGIONAL MORTGAGE CORPORATION; CHICAGO TITLE INSURANCE COMPANY; EXCEPTIONAL TITLE INSURANCE AGENCY, INC.;

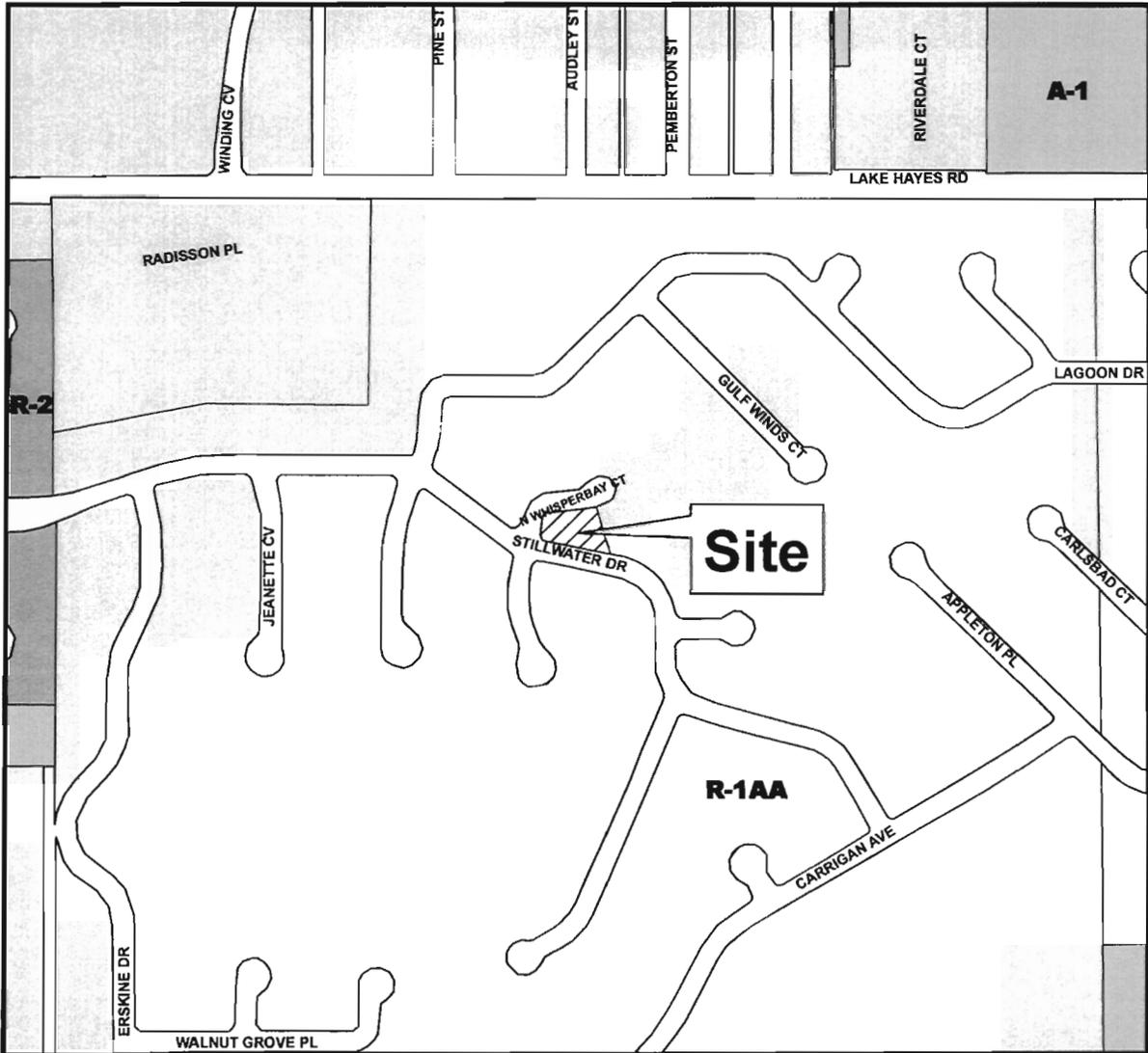
This Survey was prepared without the benefit of abstract of title commitment, therefore no guarantee, pertaining to rights of way, easements, agreements or similar matters have been made.
 This certifies that a survey of the herein described property was made under my direct supervision and meets minimum technical standards set forth by the Florida Board of Professional Land Surveyors in chapter 61G178, Florida administrative code, pursuant to section 472.027 of the Florida Statutes.
 Unless it bears the signature and the original raised seal of a Florida licensed Surveyor and Map- per this drawing, sketch, plat, or map is for information purposes only and is not valid.

Ronald H. Page
 RONALD H. PAGE, P.S.M. #4650

PAGE & ASSOCIATES
 SURVEYING & MAPPING, INC.
 P.S.M. #4680
 3732 BRANDY STREET
 ORLANDO, FLORIDA 32812
 Ph. (407) 228-9748
 Fax (407) 228-9648

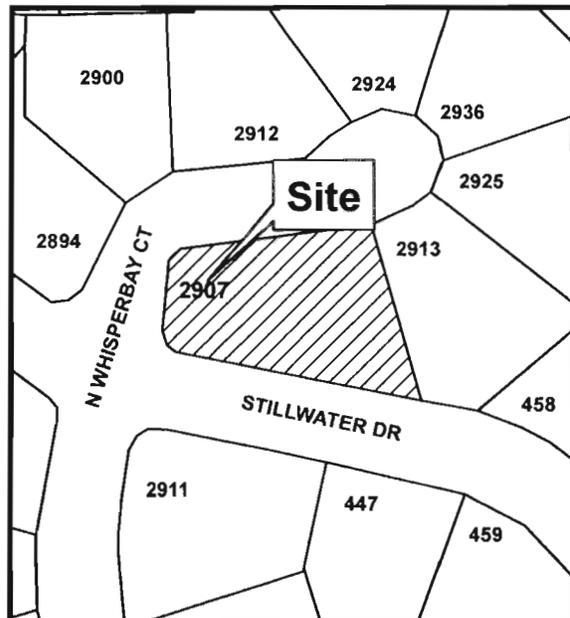
Survey Date: 07/26/04	Drawn Date: 07/29/04	Job No.: 07040314
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Tara Stewart
2907 N. Whisperbay Court
Oviedo, Florida 32765



Seminole County Board of Adjustment
June 22, 2009
Case: BV2009-29 (Map 3213 Grid B4)
Parcel No: 27-21-31-509-0000-1280

- Zoning
-  BV2009-29
 -  A-1
 -  R-1AA
 -  R-2



<p>PARCEL DETAIL</p> <p>DAVID JOHNSON, CFA, ASA PROPERTY APPRAISER SEMINOLE COUNTY FL 1101 E. FIRST ST SANFORD, FL 32771-1468 407-663-7505</p>																																																														
<p style="text-align: center;">GENERAL</p> <p>Parcel Id: 27-21-31-509-0000-1280 Owner: STEWART TARA & STEVE Mailing Address: 2907 WHISPERBAY CT N City,State,ZipCode: OVIEDO FL 32765 Property Address: 2907 WHISPERBAY CT N OVIEDO 32765 Subdivision Name: STILLWATER PH 2 Tax District: 01-COUNTY-TX DIST 1 Exemptions: 00-HOMESTEAD (2006) Dor: 01-SINGLE FAMILY</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;">1</td> <td style="text-align: center;">1</td> </tr> <tr> <td style="text-align: center;">Depreciated Bldg Value</td> <td style="text-align: right;">\$136,740</td> <td style="text-align: right;">\$158,421</td> </tr> <tr> <td style="text-align: center;">Depreciated EXFT Value</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td style="text-align: center;">Land Value (Market)</td> <td style="text-align: right;">\$34,000</td> <td style="text-align: right;">\$40,000</td> </tr> <tr> <td style="text-align: center;">Land Value Ag</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td style="text-align: center;">Just/Market Value</td> <td style="text-align: right;">\$170,740</td> <td style="text-align: right;">\$198,421</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;">\$170,740</td> <td style="text-align: right;">\$198,421</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	1	1	Depreciated Bldg Value	\$136,740	\$158,421	Depreciated EXFT Value	\$0	\$0	Land Value (Market)	\$34,000	\$40,000	Land Value Ag	\$0	\$0	Just/Market Value	\$170,740	\$198,421	Portability Adj	\$0	\$0	Save Our Homes Adj	\$0	\$0	Assessed Value (SOH)	\$170,740	\$198,421																											
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**SEMINOLE COUNTY
APPLICATION & AFFIDAVIT**

Ownership Disclosure Form

The owner of the real property associated with this application is a (check one)

- Individual Corporation Land Trust
- Limited Liability Company Partnership
- Other (describe): _____

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	ADDRESS	PHONE NUMBER
Tara + Steve Stewart	2907 N Whisperbay Ct	407-346-1076

(Use additional sheets for more space.)

2. For each **corporation**, list the name, address, and title of each officer; the name and address of each director of the corporation; and the name and address of each shareholder who owns two percent 2% or more of the stock of the corporation. Shareholders need not be disclosed if a corporation's stock are not traded publicly on any national stock exchange.

NAME	TITLE OR OFFICE	ADDRESS	% OF INTEREST

(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 and the percentage of interest of each beneficiary. If any trustee or beneficiary of a trust is a corporation, please provide the information required in paragraph 2 above.

Trust Name: _____

NAME	TRUSTEE OR BENEFICIARY	ADDRESS	% OF INTEREST

(Use additional sheets for more space.)

**SEMINOLE COUNTY
APPLICATION & AFFIDAVIT**

4. For **partnerships**, including limited partnerships, list the name and address of each principal in the partnership, including general or limited partners. If any partner is a corporation, please provide the information required in paragraph 2 above.

NAME	ADDRESS	% OF INTEREST

(Use additional sheets for more space.)

5. In the circumstances of a **contract for purchase**, list the name and address of each contract purchaser. If the purchaser is a corporation, trust, or partnership, provide the information required for those entities in paragraphs 2, 3, and/or 4 above.

Name of Purchaser: _____

NAME	ADDRESS	% OF INTEREST

Date of Contract: _____

Please specify any contingency clause related to the outcome of the consideration of the application.

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.

4-20-09

Date

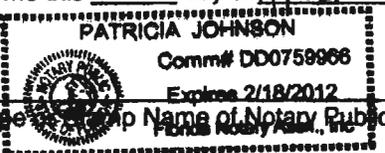
Tara E Stewart

Owner, Agent, Applicant Signature

STATE OF FLORIDA
COUNTY OF Seminole

Sworn to (or affirmed) and subscribed before me this 20th day of April, 2009 by TARA STEWART

Patricia Johnson
Signature of Notary Public



 PATRICIA JOHNSON
 Comm# DD0759868
 Expires 2/18/2012
 Print, Type Name of Notary Public

Personally Known _____ OR Produced Identification

Type of Identification Produced S3103-805-71-753-0 Fla. Driver License

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

SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER

On June 22, 2009, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG LOT 128 STILLWATER PH 2 PB 36 PGS 93 TO 99

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

FINDINGS OF FACT

Property Owner: Tara & Steve Stewart
2907 Whisperbay Ct N
Oviedo FL 32765

Project Name: Whisperbay Court N (2907)

Requested Variance:

Front yard (northeast side) setback variance from 25 feet to 17 feet for a proposed 6 foot wood fence in R-1AA (Single Family Dwelling) district.

Approval was sought to construct a fence within the front 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: Denny Gibbs, Senior 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 _____, 2009.

Notary Public, in and for the County and State
Aforementioned

My Commission Expires:

SEMINOLE COUNTY APPROVAL DEVELOPMENT ORDER

On June 22, 2009, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG LOT 128 STILLWATER PH 2 PB 36 PGS 93 TO 99

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

FINDINGS OF FACT

Property Owner: Tara & Steve Stewart
2907 Whisperbay Ct N
Oviedo FL 32765

Project Name: Whisperbay Court N (2907)

Variance Approval:

Front yard (northeast side) setback variance from 25 feet to 17 feet for a proposed 6 foot wood fence 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: Denny Gibbs, Senior 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 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 _____, 2009.

Notary Public, in and for the County and State
Aforementioned

My Commission Expires:

Fence setback
at 17'

