

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

SUBJECT: Wellington Terrace (Lot 25) – Robert Micalizio, applicant; Request for a front yard setback variance from 25 feet to 0 feet for an existing privacy fence in R-1AA (Single Family Dwelling) district.

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

AUTHORIZED BY: Kathy Fall **CONTACT:** Joy Williams **EXT.** 7399

Agenda Date 9/28/09 **Regular** **Consent** **Public Hearing – 6:00**

MOTION/RECOMMENDATION:

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

GENERAL INFORMATION	<p>Applicant: Robert Micalizio Owner: Wellington Terrace HOA Location: Wellington Terrace (Lot 25) Zoning: R-1AA (Single Family Dwelling) district Subdivision: Wellington</p>
BACKGROUND / REQUEST	<ul style="list-style-type: none"> • The applicant proposes to replace an existing 6-foot privacy fence that encroaches 25 feet into the required 25-foot front yard setback along the west property line. • The lot is owned by the Home Owners Association; it is vacant with the exception of a boat dock and boat ramp. • The fence has been in place since 1981. • There are currently no code enforcement or building violations for this property. • There is no record of prior variances for this property.

Reviewed by: KPT
Co Atty: _____
Pln Mgr: AS

STAFF FINDINGS	<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 and which are not applicable to other lands, structures or building in the same zoning district.• 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.
STAFF RECOMMENDATION	<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 front yard setback for the 6-foot privacy fence along the west property line 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

RECEIVED AUG 07 2009

Application #

BV 2009-83
Meeting Date Sept. 28, 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: WELINGTON TERRACE HOA
Address: c/o Robert Micalizio, 1221 Wellington Terr City: MASTLAND Zip code: 32751
Project Address: Lot 25, Wellington City: MASTLAND Zip code: 32751
Tax Parcel number: 19-21-30-525-0000-0250
Contact number(s): 407-256-2170 (Cell) 407-629-1620 (Office)
Email address: R.MICALIZIO@AOL.COM

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>REPLACEMENT OF EXISTING 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:

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>0</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:	

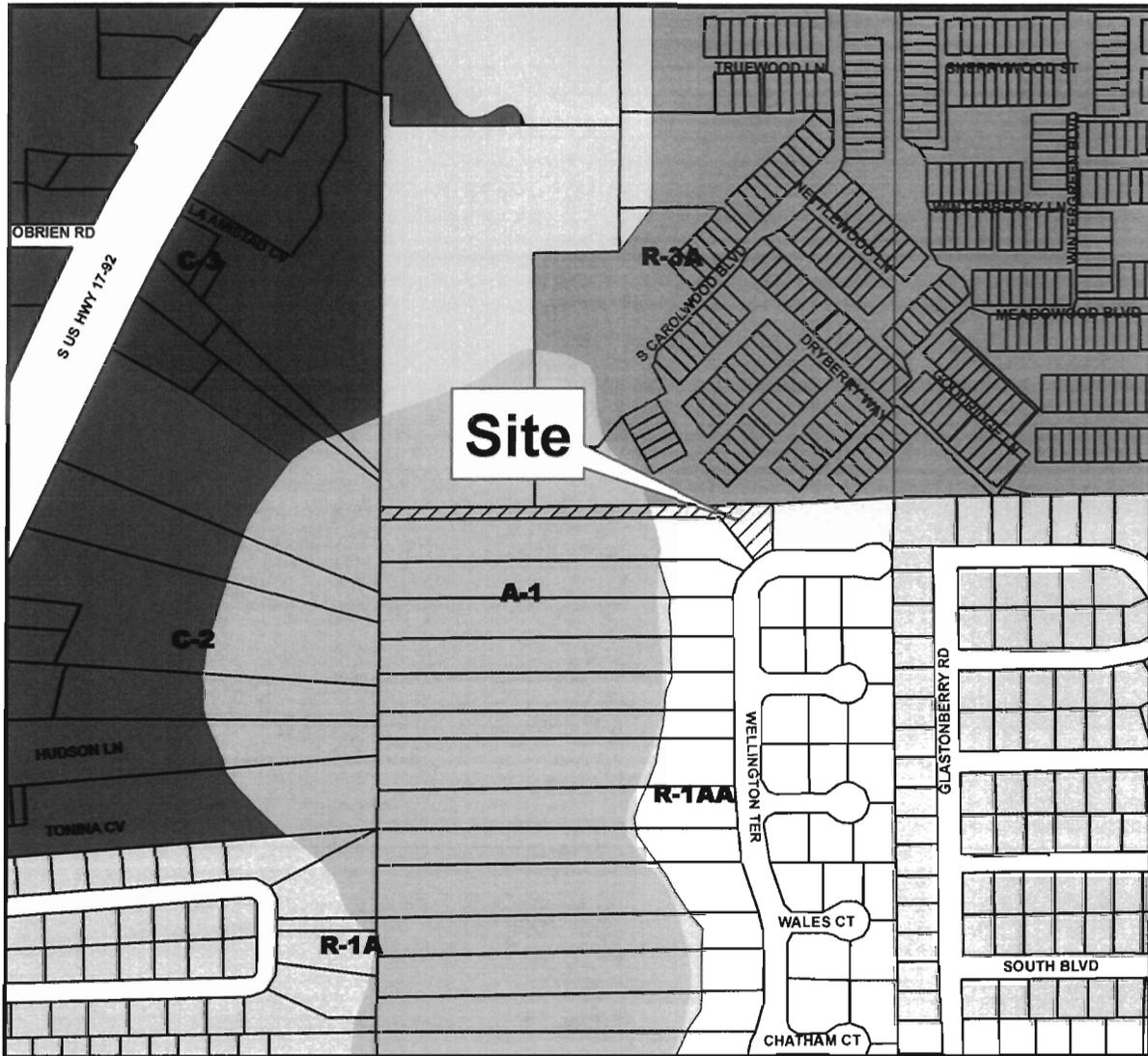
Use below for additional yard setback variance requests:

WATER FRONT yard setback Required setback: 20 Proposed setback: 0
 _____ yard setback Required setback: _____ Proposed setback: _____

Total number of variances requested 2

Signed: [Signature] Date: 8/5/09
WELINGTON TERRACE HOA.

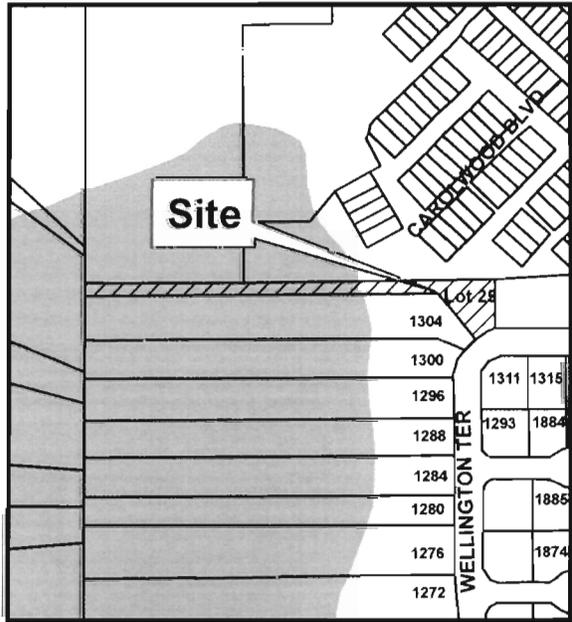
Wellington Terrace HOA
 Lot 25 Wellington Terrace
 Maitland, FL 32751

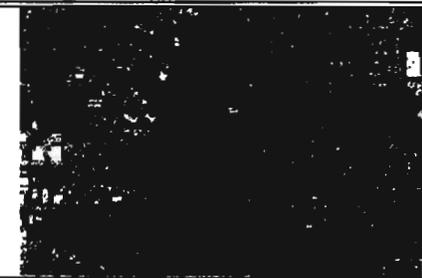


Seminole County Board of Adjustment
 September 28, 2009
 Case: BV2009-83 (Map 3209 Grid D2)
 Parcel No: 19-21-30-525-0000-0250

Zoning

-  BV2009-83
-  A-1
-  R-1AA
-  R-1A
-  R-3A
-  C-2
-  C-3

<p>PARCEL DETAIL</p> <p>DAVID JOHNSON, CFA, ASA PROPERTY APPRAISER SEMINOLE COUNTY FL. 1101 E. FIRST ST GAINESVILLE, FL 32601-1400 352-369-7505</p>																																			
<p style="text-align: center;">GENERAL</p> <p>Parcel Id: 19-21-30-525-0000-0250 Owner: WELLINGTON TERRACE HOMEOWNERS Mailing Address: ASSN INC City,State,ZipCode: Property Address: WELLINGTON TERR Facility Name: Tax District: 01-COUNTY-TX DIST 1 Exemptions: Dor: N.-INFORMATION/REFERENC</p>	<p>VALUE SUMMARY</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">VALUES</th> <th style="text-align: center;">2009 Working</th> <th style="text-align: center;">2008 Certified</th> </tr> <tr> <th style="text-align: left;">Value Method</th> <th style="text-align: center;">Cost/Market</th> <th style="text-align: center;">Cost/Market</th> </tr> </thead> <tbody> <tr> <td>Number of Buildings</td> <td style="text-align: center;">0</td> <td style="text-align: center;">0</td> </tr> <tr> <td>Depreciated Bldg Value</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td>Depreciated EXFT Value</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td>Land Value (Market)</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td>Land Value Ag</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td>Just/Market Value</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td>Portability Adj</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td>Save Our Homes Adj</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</td> </tr> <tr> <td>Assessed Value (SOH)</td> <td style="text-align: center;">\$0</td> <td style="text-align: center;">\$0</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	0	0	Depreciated Bldg Value	\$0	\$0	Depreciated EXFT Value	\$0	\$0	Land Value (Market)	\$0	\$0	Land Value Ag	\$0	\$0	Just/Market Value	\$0	\$0	Portability Adj	\$0	\$0	Save Our Homes Adj	\$0	\$0	Assessed Value (SOH)	\$0	\$0
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<p style="text-align: center;">SALES</p> <p>Deed Date Book Page Amount Vac/Imp Qualified Find Sales within this DOR Code</p>	<p style="text-align: center;">2008 VALUE SUMMARY</p> <p style="text-align: right;">2008 Tax Bill Amount: \$0</p> <p style="text-align: center;">2008 Certified Taxable Value and Taxes</p> <p style="text-align: center;">DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS</p>																																		
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<p><small>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.</small></p>																																			

August 5, 2009

Seminole County Board of Adjustment
County Services Building
1101 East First Street
Sanford, FL 32771

Reference: Application for Fence Variance
Parcel #19-21-30-525-0000-0250

To Whom It May Concern,

This letter serves as our request for a fence variance on the parcel described above. We are proposing to replace the existing 307 feet of 'Stockade' style 6ft high fence with 307 feet of a 'Board on Board' style 6ft high fence with requested setbacks as follows:

- 1) Front yard setback of 0 ft instead of the required setback of 25 ft; and
- 2) Water front yard setback of 0 ft instead of the required setback of 30 ft.

The existing fence has been in place since the community was established in 1981 and its disrepair warrants its replacement.

Sincerely,



Robert Micalizio
Director
Wellington Terrace Home Owners Association
1221 Wellington Terrace
Maitland, FL 32751

**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): Homeowners Association

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

(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
ROBERT MICALIZIO	DIRECTOR	1221 WELLSWOOD TERRACE MAYLAND, FL 32751	

(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.

Date 7/16/09

Robert Micalizio
Owner, Agent, Applicant Signature
WILMINGTON TERRACE HOA

STATE OF FLORIDA
COUNTY OF SEMINOLE

Sworn to (or affirmed) and subscribed before me this 16 day of JULY, 2009 by ROBERT MICALIZIO

Miriam A. Russell
Signature of Notary Public



Print Name of Notary Public

Personally Known OR Produced Identification _____

Type of Identification Produced _____

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



860 North S.R. 434, Suite 1009
Altamonte Springs FL 32714
(407) 862-2250 Ext. 2536

July 15, 2009

Seminole County Permitting Department
Sanford, Florida 32771

Re: Wellington Terrace Homeowners Association
Community Association Fence Replacement/Installation

This is to confirm that Robert Micalizio is a member of the Board of Directors for the Wellington Terrace Homeowners Association. In his capacity as a Director he is handling the details required for the removal and replacement of the fence at the association lake lot. He has the authorization of the Board to proceed with handling all details necessary to complete this project, including pulling the permit.

Please refer to the attached minutes of the two most recent meetings with highlighted paragraphs under "Unfinished Business," wherein his progress has been brought before the entire Board.

Please let us know if additional verification is necessary before the application for the permit is issued.

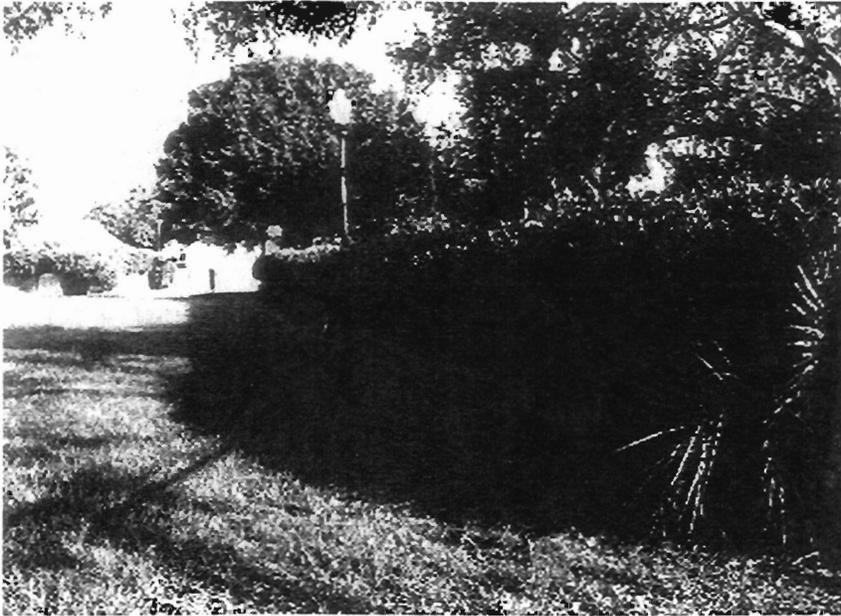
Sincerely,

A handwritten signature in cursive script that reads "Miriam Russell".

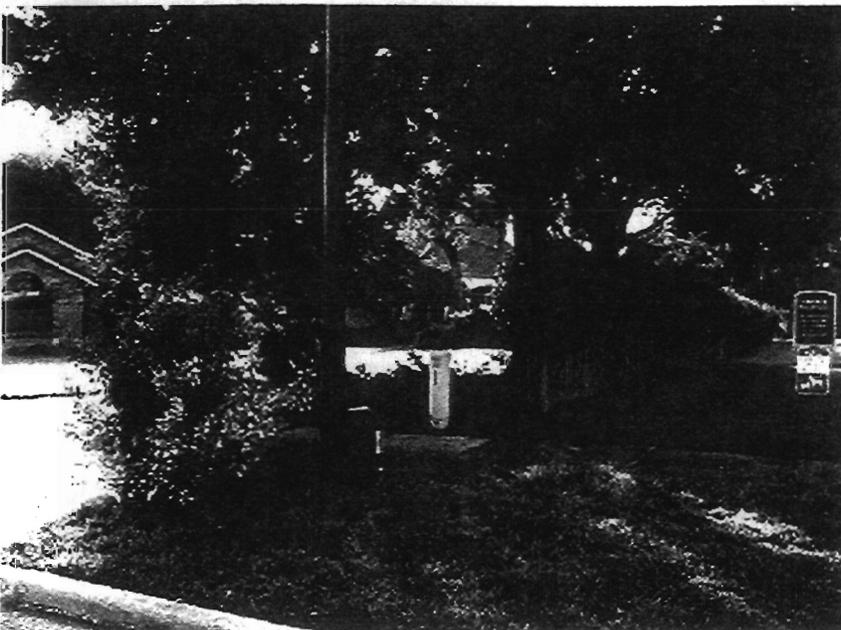
Miriam Russell, LCAM
Community Association Manager
Central Property Management

Wellington Terrace Homeowners Association
Parcel ID 19-21-30-525-0000-0250

View from lake lot looking Southeast to Wellington Terrace

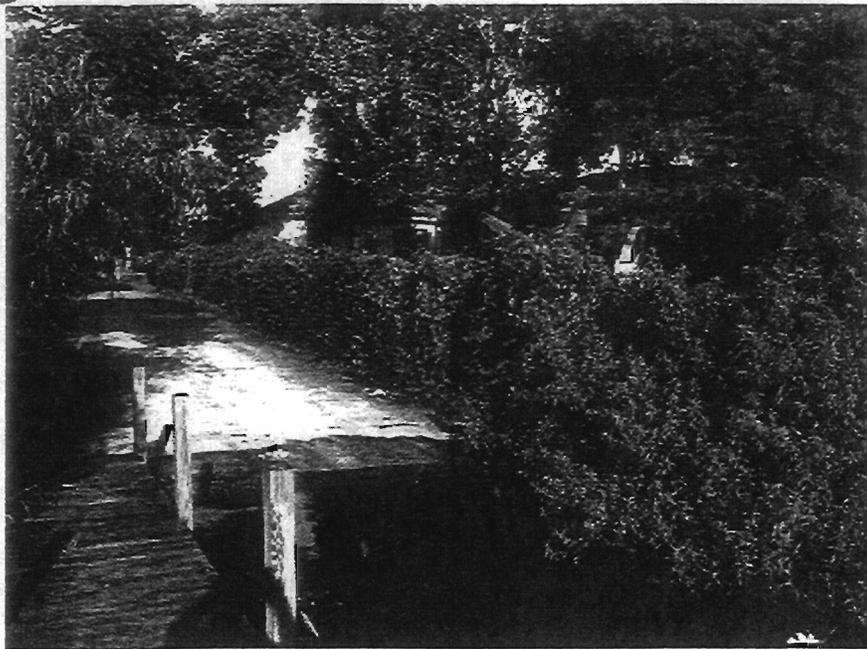


**View from Wellington Terrace looking Northwest to lake lot .
Lot 25 is on the right, and lot 24 is left of the stockade fence.**



Wellington Terrace Homeowners Association
Parcel ID 19-21-30-525-0000-0250

View from lake looking East

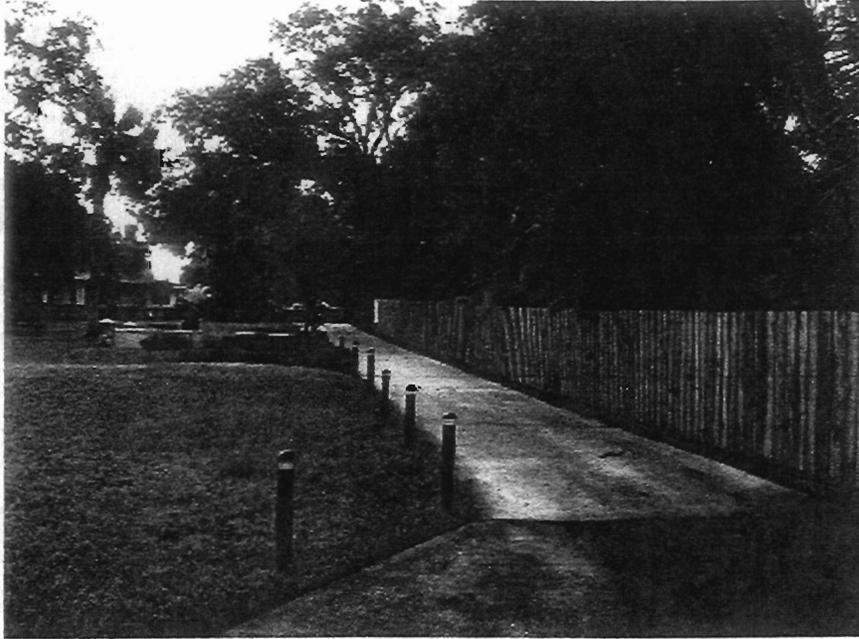


View from boat ramp looking West



Wellington Terrace Homeowners Association

Example of a similar lake lot boat ramp with removed vegetation and new fence.



August 5, 2009

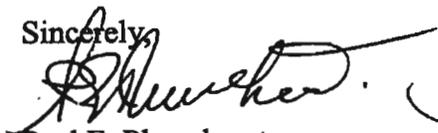
Seminole County Board of Adjustment
County Services Building
1101 East First Street
Sanford, FL 32771

Reference: Application for Fence Variance
Parcel #19-21-30-525-0000-0250

To Whom It May Concern,

This letter serves as our support for the Wellington Terrace Home Owners Association to replace their existing lake lot wood fence on the parcel described above that is adjacent to our property described as Lot 24 of Wellington (Parcel #19-21-30-525-0000-0240). The existing fence is in disrepair and needs to be replaced. We support their variance request for a front yard setback of 0 ft instead of the required setback of 25 ft; and we also support their request for a water front yard setback of 0 ft instead of the required setback of 30 ft.

Sincerely,



Paul E. Plasschaert
1304 Wellington Terrace
Maitland, FL 32751



Ann Plasschaert

SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER

On September 28, 2009, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LOT 25
WELLINGTON PB 25 PG 7 TO 9

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

FINDINGS OF FACT

Property Owner: Wellington Terrace Home Owners Association Inc.
860 N S.R 434, Suite 1009
Altamonte Springs, FL 32714

Project Name: Wellington Terrace (Lot 25)

Requested Variance:

Request for a front yard setback variance from 25 feet to 0 feet to replace an existing 6-foot privacy fence along the west property line in R-1AA (Single Family Dwelling) district.

Approval was sought to allow a privacy fence to encroach within 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: Joy Williams, 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 September 28, 2009, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LOT 25
WELLINGTON PB 25 PG 7 TO 9

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

FINDINGS OF FACT

Property Owner: Wellington Terrace Home Owners Association Inc.
860 N S.R 434, Suite 1009
Altamonte Springs, FL 32714

Project Name: Wellington Terrace (Lot 25)

Variance Approval:

Front yard setback variance from 25 feet to 0 feet to replace a 6-foot privacy fence along the west property line 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: Joy Williams, 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 front yard setback for a 6-foot privacy fence along the west property line 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.

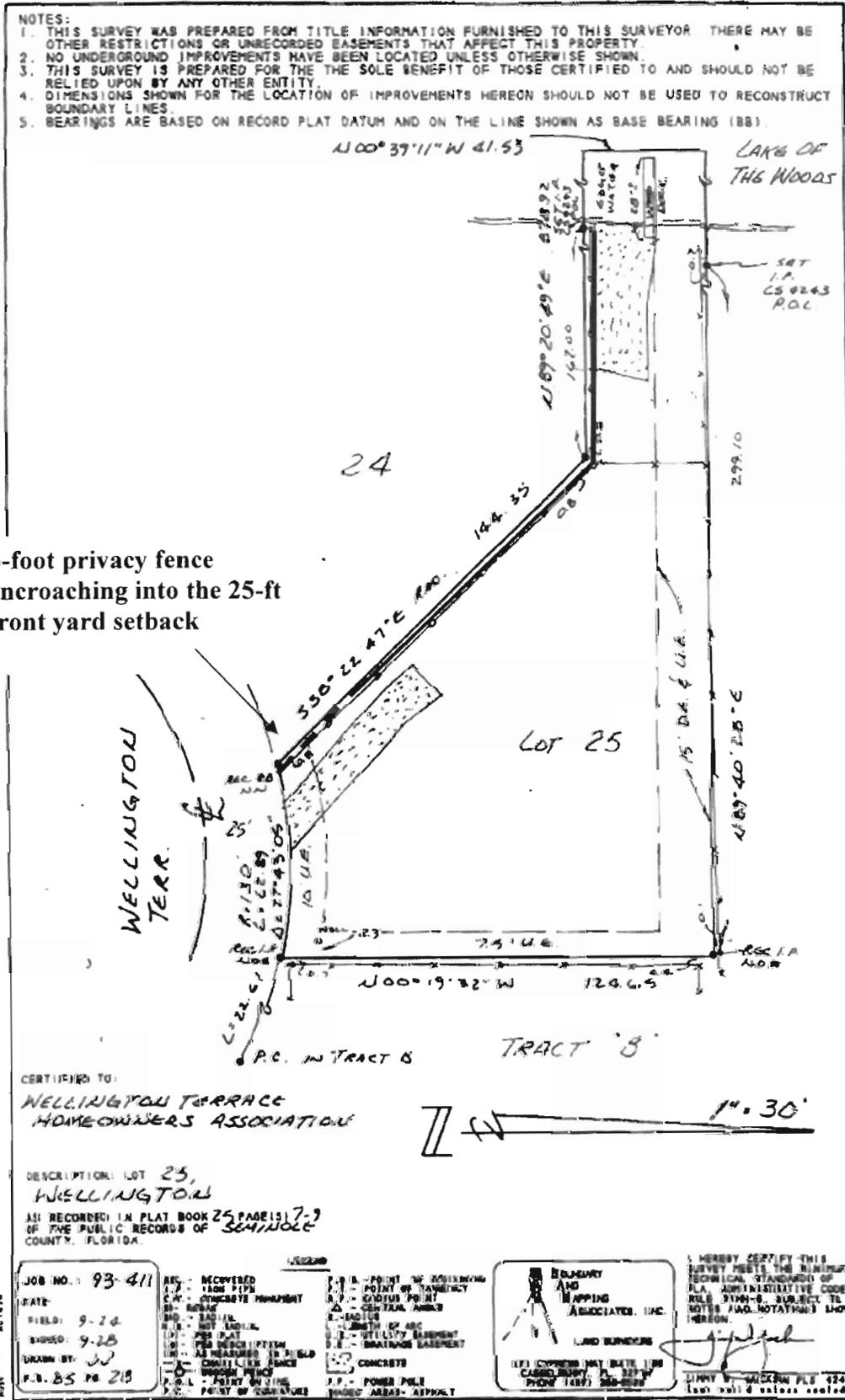
Notary Public, in and for the County and State
Aforementioned

My Commission Expires:

NOTES:

1. THIS SURVEY WAS PREPARED FROM TITLE INFORMATION FURNISHED TO THIS SURVEYOR. THERE MAY BE OTHER RESTRICTIONS OR UNRECORDED EASEMENTS THAT AFFECT THIS PROPERTY.
2. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
3. THIS SURVEY IS PREPARED FOR THE SOLE BENEFIT OF THOSE CERTIFIED TO AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY.
4. DIMENSIONS SHOWN FOR THE LOCATION OF IMPROVEMENTS HEREON SHOULD NOT BE USED TO RECONSTRUCT BOUNDARY LINES.
5. BEARINGS ARE BASED ON RECORD PLAT DATUM AND ON THE LINE SHOWN AS BASE BEARING (BB).

6-foot privacy fence encroaching into the 25-ft front yard setback



CERTIFIED TO:

WELLINGTON TERRACE HOMEOWNERS ASSOCIATION

DESCRIPTION: LOT 25, WELLINGTON

AS RECORDED IN PLAT BOOK 25, PAGE(S) 7-9 OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

JOB NO.: 93-411
 DATE:
 FIELD: 9-24
 SIGNED: 9-25
 DRAWN BY: J
 P.B. 85 pg 218

REC - RECOVERED
 I.P. - IRON PIPE
 C.M. - CONCRETE MOUND
 S. - SURVEY
 R.D. - RADIAL
 R.L. - RAIL LINE
 L.P. - L.P. PLAT
 P.S. - PERMITS
 A.S. - AS MEASURED IN FIELD
 C.F. - CHAIN LINK FENCE
 C.P. - CORNER PIN
 P.C. - POINT OF COMMENCEMENT
 P.P. - POINT OF INTERSECTION

P.O.B. - POINT OF BEGINNING
 P.O.N. - POINT OF NARRING
 S.P. - SIGHT POINT
 C.A. - CENTER ANGLE
 R. - RADIUS
 L. - LENGTH OF ARC
 S.E. - SETBACK EASEMENT
 S.E. - SETBACK EASEMENT
 C. - CONCRETE
 P.P. - POWER POLE
 S.H. - SHED AREA - APPROX

BOUNDARY AND MAPPING ASSOCIATES, INC.
 LAND SURVEYORS
 1071 COUNTRY WAY SUITE 100
 CASSELBERRY, FL 32714
 PHONE (407) 260-0000

I HEREBY CERTIFY THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS OF FLA. ADMINISTRATIVE CODE RULE 61M-8. SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.

[Signature]
 JIMMY W. SACKER, PLS 4243
 (not valid unless sealed)