

1 **MINUTES OF THE CITY OF LAKE MARY, FLORIDA, BOARD OF ADJUSTMENT**
2 **MEETING HELD ON NOVEMBER 2, 2005, 7:00 P.M., CITY HALL, 100 N. COUNTRY**
3 **CLUB ROAD**

4
5 **TAPE 1, SIDE A**

6 I. Call to Order

7 The meeting was called to order at 7:01 p.m.

8 II. Moment of Silence

9 III. Pledge of Allegiance

10 IV. Roll Call - Determination of a Quorum

11
12 The following members were present:

13
14 Chairman Jim Lormann
15 Vice Chairman Eileen Hoppen
16 Member Frank Martin
17 Member Nancy Vallianatos
18 George Ludwig (Alternate)

19
20 Member Shawn O'Brien was absent.

21
22 City staff present were Juan (John) A. Omana, Jr., Community Development
23 Director; Gary Schindler, City Planner; Dagmarie Segarra, Planner; and Diana T.
24 Adams, Administrative Secretary.

25 V. Approval of Minutes - October 19, 2005

26 **MOTION:**

27 **Vice Chairman Hoppen moved to approve the Minutes of the October 19,**
28 **2005, Board of Adjustment meeting, as presented. Member Vallianatos**
29 **seconded the motion. Member O'Brien was absent. The motion carried**
30 **unanimously.**

31 VI. Old Business

32 None

1 VII. New Business

2 A. 2005-VA-10: Request for a variance from § 154.23 (A) (1), City of Lake Mary
3 Code of Ordinances, to allow a six-foot high non-decorative wooden privacy
4 fence within the front yard setback on property located at 520 Webster Street,
5 Lake Mary, Florida; Applicant: Richard S. Price
6

7 Juan (John) A. Omana, Jr., Community Development Director, introduced
8 Dagmarie Segarra, Planner, to the Board. He stated Ms. Segarra is the new
9 planner in the Community Development Department replacing Matt Dorsten.
10

11 Chairman Lormann welcomed Ms. Segarra to the City of Lake Mary.
12

13 Dagmarie Segarra, Planner, presented the request and the related Staff Report.
14 The Location Map was on the overhead projector. She said the property is
15 located at the corner of Main Road and Webster Street. She stated that the
16 fence is an existing fence around an existing swimming pool, and the Applicant
17 wishes to replace the fence due to hurricane damage from last year's hurricane.
18

19 Ms. Segarra placed a copy of the survey of the subject property, that is attached
20 to the Staff Report, on the overhead. She explained that the pool has no screen
21 enclosure.
22

23 Ms. Segarra discussed Findings of Fact #7 listed on page 4 of the Staff Report.
24 She said that none of the six variance criteria have been met to grant the
25 requested variance. She stated that staff could not find a hardship even though
26 the pool is within the front setback and is right on the corner. She said that
27 allowing the approval of this fence would open the door for similar scenarios that
28 staff has previously denied.
29

30 Ms. Segarra proceeded to discuss similar variances listed on pages 4 and 5 of
31 the Staff Report.
32

33 Ms. Segarra stated that staff recommends denial of the requested variance
34 based on staff's findings. She put/explained eight colored photographs on the
35 overhead, that were submitted by the Applicant, depicting the subject fence.
36

37 Ms. Segarra concluded, saying that the Applicant can meet the intent of the Code
38 by placing a decorative fence and using shrub as opacity.
39

40 Mr. Omana added to Ms. Segarra's presentation that the property in question has
41 two frontages; specifically on Main Road and Webster Street, and as a result of

1 this configuration, the Code requires that the front yard setback apply to both
2 sides.

3
4 Vice Chairman Hoppen asked how much of a variance the Applicant is
5 requesting.

6
7 Ms. Segarra answered, six feet.

8
9 Chairman Lormann questioned what the dotted line on the survey was.

10
11 Gary Schindler, City Planner, replied that that is the location of the existing fence.

12
13 Mr. Omana put the survey back on the overhead and zoomed in on it indicating
14 the existing fence. He also indicated that the solid line below that represents the
15 25' setback.

16
17 Member Martin commented that the pool itself doesn't even meet the 25'
18 setback.

19
20 Vice Chairman Hoppen commented that it doesn't have to.

21
22 Mr. Omana explained that the pool is subject to separate setbacks. He said that,
23 technically, pools would not be permitted in the front yard to begin with, so what
24 we have here is a nonconforming component of use, which can continue to exist.
25 He stated the fact that the Applicant wishes to replace the other nonconforming
26 component of use, which happens to be the fence, then triggers the requirement
27 and that is why we are here this evening.

28
29 Ms. Segarra informed the Board that the Applicant can also have a fence with 50
30 percent opacity, which the first three feet can be opaque and the other three feet
31 can be see through.

32
33 Chairman Lormann asked Ms. Segarra if she has received any written or verbal
34 opposition to the requested variance.

35
36 Ms. Segarra answered negatively.

37
38 Chairman Lormann questioned if the subject site was posted.

39
40 Ms. Segarra answered affirmatively. She added that she did not mail out notices
41 to the neighbors though (see page 5 where Mr. Omana clarifies this).

42
43 Mr. Omana added that this request was also advertised in the newspaper.

1 Alternate Ludwig asked Ms. Segarra if she has received any positive comments
2 from the neighbors regarding this proposed requested variance.

3
4 Ms. Segarra answered negatively; no comments at all.

5
6 Member Martin questioned Ms. Segarra if the existing fence predates the current
7 setback requirements.

8
9 Ms. Segarra responded that she could not find any permitting records concerning
10 the fence, but apparently the building department records only go so far back,
11 which are about five years. She stated that it could be possible that the fence
12 was installed before then and it would have met the requirements.

13
14 Mr. Omana said that according to the records that staff was able to obtain, it
15 appears that the pool was constructed in 1980 with some other improvements to
16 the home in 1979. So it is possible that the fence structure itself may have even
17 predated the City's Land Development Regulations.

18
19 Chairman Lormann requested the Applicant to come forward and address the
20 Board.

21
22 Richard S. Price, 520 Webster Street, Lake Mary, Florida 32746, addressed the
23 Board in favor of granting the requested variance. He stated that, in his opinion,
24 with regard to the first variance criteria, the fact that it's a pool lends itself to a
25 special circumstance in that they would like privacy around their pool; there is a
26 privacy issue here. He said the fact that the pool is located in the front yard is
27 obviously an anomaly. He just wants to replace his existing fence around the
28 pool with a like fence, six-foot high non-decorative wooden privacy fence. He
29 was worried about the decorative fence as far as safety because he was afraid
30 somebody might be able to climb over it.

31
32 Chairman Lormann explained to Mr. Price that the variance criteria requires that
33 something be unique to this situation and would not create a future precedent.
34 He asked Mr. Price if he was saying that his hardship is the fact that this is a
35 fence for a pool and the pool requires safety factors and the decorative type
36 fence would potentially create a safety issue.

37
38 Mr. Price replied, a safety issue from both physical safety and then just a privacy
39 issue.

40
41 Member Martin questioned how much space is there from the edge of the pool
42 deck to the existing fence, the closest point.

1 Mr. Price answered, about eight inches.

2
3 Member Martin commented that he assumed that the Price's are not the original
4 owners of the property.

5
6 Mr. Price responded that he has been residing on the property six years, but he
7 said he was sure that the current fence is at least 15 years old and is in pretty
8 bad shape.

9
10 Chairman Lormann pondered if Mr. Price couldn't plant shrubs or bushes
11 between the pool and a decorative fence, which code requires.

12
13 Mr. Price replied that some shrubs/bushes already exist. He was afraid that as a
14 decorative fence he would have to use an aluminum rail fence that are around
15 most apartment complex pools and he wasn't comfortable with that type of a
16 commercial grade, non-privacy fence surrounding his pool, especially since it is
17 located in the front yard. He wanted to keep the privacy around the pool. He
18 emphasized the fact that the pool is located in the front yard is out of the norm of
19 any other situation/any other sort of typical variance that might have been
20 requested.

21
22 Chairman Lormann opened the hearing to public comment. Hearing none, he
23 closed that portion and entertained board discussion and/or a motion.

24
25 Mr. Omana interjected, informing the Board that staff did prepare a property
26 owners' list and notified the surrounding property owners via U.S. Mail of this
27 hearing tonight.

28 **MOTION:**

29 **Member Martin moved to approve the request by Richard S. Price for a**
30 **variance from § 154.23 (A) (1), City of Lake Mary Code of Ordinances, to**
31 **allow a six-foot high non-decorative wooden privacy fence within the front**
32 **yard setback on property located at 520 Webster Street, Lake Mary, Florida,**
33 **inconsistent with staff's Findings of Fact #7 listed in the Staff Report and**
34 **based on this being a unique situation whereby this property now has a**
35 **house in the front yard setback; that it is an existing pool with an existing**
36 **privacy fence around it. "Hopefully the City would not be approving future**
37 **pools in front yard setbacks".**

38 **The motion failed for lack of a second.**

1 Mr. Schindler clarified that the only portion of the pool that is in the front yard
2 setback is the bump out. The rest of it is within the building envelope and,
3 therefore, it is not in the front yard.

4 **Alternate Ludwig moved to deny the request by Richard S. Price for a**
5 **variance from § 154.23 (A) (1), City of Lake Mary Code of Ordinances, to**
6 **allow a six-foot high non-decorative wooden privacy fence within the front**
7 **yard setback on property located at 520 Webster Street, Lake Mary, Florida,**
8 **consistent with staff's Findings of Fact #7 listed in the Staff Report. Vice**
9 **Chairman Hoppen seconded the motion.**

10
11 **Chairman Lormann requested a roll-call vote on the motion, and was taken as**
12 **follows:**

13
14 **Member Vallianatos - Yes**

15 **Member Martin - No**

16 **Vice Chairman Hoppen -Yes**

17 **Alternate Ludwig - Yes**

18 **Chairman Lormann - Yes**

19
20 **Member O'Brien was absent. The motion carried 4-1.**

21
22 Chairman Lormann explained the appeal process to the Applicant; that anybody
23 may appeal this decision of the Board of Adjustment to the City Commission
24 within 30 days, or to the Courts.

25
26 VIII. Other Business

27 Chairman Lormann requested staff to prepare more detailed Location Maps with
28 the Staff Reports.

29 Juan (John) A. Omana, Jr., Community Development Director, said that staff can
30 certainly do that in the future.

31 IX. Reports of Other Members

32 None

33 X. Adjournment

34 The meeting was adjourned at 7:37 p.m.
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Jim Lormann, Chairman

Diana T. Adams, Administrative
Secretary

**NOVEMBER 2, 2005-7
BOARD OF ADJUSTMENT**