

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: Ingrid Allen, Planner II

SUBJECT: Quasi Judicial Hearing: Variance, V 2-1-06 O'Connor, 2273 SW 132 Way, Generally located on the west side of SW 132 Way, approximately 900 feet south of SW 21st Place.

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: V 2-1-06 O'Connor, 2273 SW 132 Way (A-1)

REPORT IN BRIEF: The petitioner is requesting to reduce the required side setback of the A-1, Agricultural District, by 4.8' in order to allow the construction of a 2,722 sq. ft. addition on the southwest corner of the existing single-family residence. Section 12-287 (B) of the Land Development Code requires a minimum 30' side setback from the property line in the A-1, Agricultural District.

The petitioner is requesting to reduce the side setback from 30' to 25.2'. The justification by the petitioner for this variance is that the existing home was built with a 25.2' side setback and therefore the proposed addition should be constructed in line with the existing home. Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations had a twenty-five (25) foot side setback.

According to §12-287 (A) and (B) of the Land Development Code, the A-1 zoning district requires the following minimums: lot area of 35,000 square feet, 140' lot frontage, 40'-50' front setback, 30' side setbacks, 35' rear setback, 35' maximum height and 25% maximum building coverage.

PREVIOUS ACTIONS: At the May 17, 2006 Town Council meeting, V 2-1-06 O'Connor was tabled to June 7, 2006 (Motion carried 5-0).

At the June 7, 2006 Town Council meeting, V 2-1-06 O'Connor was tabled to July 19, 2006 (Motion carried 5-0).

At the July 19, 2006 Town Council meeting, V 2-1-06 O'Connor was tabled to September 20, 2006 (Motion carried 5-0).

CONCURRENCES: At the April 26, 2006 Planning and Zoning Board meeting, Vice-Chair McLaughlin made a motion, seconded by Mr. Stevens, to table V 2-1-06/ O'Connor to May 10, 2006. (Motion carried 4-0).

At the May 10, 2006 Planning and Zoning Board meeting, Vice-Chair McLaughlin made a motion, seconded by Mr. Stevens, to table to June 14, 2006 (Motion carried 4-0).

At the June 14, 2006 Planning and Zoning Board meeting, Vice-Chair McLaughlin made a motion, seconded by Ms. Turin, to table to August 23, 2006. (Motion carried 4-0 as Mr. Stevens was out of the room).

At the August 23, 2006 Planning and Zoning Board meeting, Vice-Chair McLaughlin made a motion, seconded by Mr. Stevens, to approve based upon the applicant providing a drainage plan to the Town Engineering Department to make sure the addition meets Code showing pervious and non-pervious areas, that there was not too much lot coverage, showing how the lot was to drain, keeping 100% retention on the lot, and to provide a landscape plan for the addition showing how to "hide" the 183-foot wall subject to approval by the Site Plan Committee. (Motion carried 4-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to the Town Council for further consideration.

Attachment(s): Planning Report, Justification letter, HOA letter, Survey, Site Plan, Future Land Use Plan Map, Zoning and Aerial Map

Application: V 2-1-06 O'Connor

Revisions: 8/28/06, 8/3/06,
7/5/06, 6/9/06, 5/4/06

Exhibit "A"

Original Report Date: 3/31/06

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division
Staff Report and Recommendation

Applicant Information

Owner:

Name: Chris O'Connor

Address: 2273 SW 132 Way

City: Davie, FL 33325

Phone: (954) 474-4547

Petitioner:

Name: Hollingsbrook & Mather, Inc.
Wes Curran, Agent

Address: 10693 Wiles Road # 208

City: Coral Springs, FL 33076

Phone: (954) 323-8913

Background Information

Date of Notification: April 19, 2006 **Number of Notifications:** 63

Application History: None

Application Request: Variance **FROM:** Section 12-287(B) of the Land Development Code, which requires a minimum 30' side setback from the property line in the A-1, Agricultural District; **TO:** reduce the south side setback to 25.2' so that an addition may be constructed on the southwest corner of the residence in line with the 25.2' side setback of the existing home.

Address/Location: 2273 SW 132 Way/Generally located on the west side of SW 132 Way, approximately 900 feet south of SW 21st Place.

Future Land Use

Plan Map Designation: Residential (1 DU/AC)

Zoning: A-1, Agricultural District

Existing Use: Single-family residential dwelling unit

Parcel Size: approximately 35,100 square feet

Surrounding Uses:
North: Single family dwelling
South: Single family dwelling
East: Single family dwelling
West: Van Kirk Groves

**Surrounding
Future Land
Use Plan Map
Designations:**
Residential (1 DU/AC)
Residential (1 DU/AC)
Residential (1 DU/AC)
Residential (1 DU/AC)

Surrounding Zoning:

North: A-1, Agricultural District
South: A-1, Agricultural District
East: A-1, Agricultural District
West: RS, Recreation/Open Space District

Zoning History

Plat: The subdivision plat, Emerald Springs Homes of Davie, was approved by Town Council on March 21, 1990 and was later recorded by the County in Book 149 of plats at page 48 of the public records of Broward County, Florida.

Site Plan: The site plan, SP 9-2-93 Emerald Springs Homes of Davie, was approved by Town Council on October 20, 1993.

Related Variance Requests: The Variance, V 8-1-96 Emerald Springs Homes of Davie, Inc., from: Section 12-81(A) of the Land Development Code that was applicable at the time of the site plan approval for Emerald Springs Homes of Davie which requires a side yard setback of 25' in the A-1 district; to: reduce the required side yard setback to 23.69' along the east side of Lot 63; and from Section 12-81 (A) which requires a side yard setback of 25' in the A-1 district; to: reduce the required side yard setback to 23' along the west side of Lot 63, was approved by Town Council on September 20, 1996.

The Variance, V 1-3-02 Glantz, from Section 12-81A of the Land Development Code that was applicable at the time which required a 25' minimum side yard setback; to reduce the minimum to 13.79' in order to allow the addition of a recreation room on the southwest corner of the residence, was approved by Town Council on May 15, 2002.

Application Details

The petitioner has requested a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum 30' side setbacks in the A-1, Agricultural District; to reduce the south side setback of the property to 25.2' so that an addition may be constructed in line with the side setback of the existing home. At the time of site plan approval the side setback in the A-1, Agricultural District was 25'. The adoption of the Rural Lifestyle Initiative changed the minimum side setback in the A-1, Agricultural District to 30'.

Applicable Codes and Ordinances

§12-24 (I)(1) Agricultural (A-1) District: The A-1 district is intended to implement the Agricultural and Residential one (1) unit per acre classifications of the Town of Davie Comprehensive Plan and to maintain, protect and encourage the continuance of a productive agricultural community in Davie by ensuring that developments are buffered from existing agricultural uses.

Article IX. Rural Lifestyle Regulations, Ordinance No. 2002-35, adopted on October 16, 2002.

DIVISION 3. RURAL LIFESTYLE DEVELOPMENT REGULATIONS

§12-287 (A) and (B) of the Land Development Code, for the A-1 zoning district, indicates that the minimum lot area shall be 35,000 square feet, the minimum lot frontage is 140', and maximum building coverage is 25%. The building setbacks shall be as follows for the A-1 zoning district: front 40'-50', side 30', rear 35', and 35' maximum height.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 113.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3:* Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Staff Analysis

The petitioner's request is to reduce the required side setback of the A-1, Agricultural District by 4.8' on the south side of the property in order to allow the construction of a 26'8" X 102' (2,722 sq. ft.) addition that would maintain the side setback of the existing 4,844 sq. ft. home. The addition contains a wine cellar, media room, exercise room, home office, one (1) bedroom, and two (2) bathrooms which will make the home a total of 7,566 sq. ft. The maximum building coverage permitted in the A-1 zoning district is 25 % which would allow for a maximum of 8,775 sq. ft of building on this site.

The petitioner has obtained an approval letter (see Exhibit 2) from the Emerald Springs Homes of Davie Home Owner's Association. The justification by the petitioner for this variance is that the existing home has been built with a 25.2' side setback. In review of the survey, staff concludes that while it may seem logical to build an addition in line with an existing structure, the parcel and existing home can accommodate an addition with a 30' side setback.

Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations in the Emerald Springs subdivision currently have a 25' side setback. In the A-1, Agricultural District, the RLI provides for 30' side setbacks creating a 60' separation between all new structures. Granting a variance to allow a 25.2' side setback for the addition would result in maintaining the existing 50.2' separation between structures.

Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

- (a) There are no special circumstances or conditions applying to the land or building for which the variance is sought;

The 35,100 sq. ft. parcel and existing home can support an addition that does not require a variance. While the design of the addition logically aligns with the existing side setback of 25.2', a plan that includes all of the desired amenities can be designed with a 30' side setback.

which circumstances or conditions are not peculiar to such land or building and do apply generally to land or buildings in the same district;

The required 30' side setback applies equally to properties within this development and within the A-1, Agricultural zoning district.

and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought;

The parcel is being reasonably used now without a variance, and an addition can be constructed within the required 30' side setback.

and that alleged hardship is self-created by any person having an interest in the property.

The need for a variance is created by the owner's desire for an addition in line with the existing home.

- (b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

This parcel is being reasonably be used now; however the request is the minimum needed to allow an addition that is in line with the existing home.

- (c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the side setback to be reduced from 30' to 25.2' to construct the proposed addition may not be detrimental to the adjacent property to the south as the next closest structure would be approximately fifty (50) feet from the proposed addition.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the April 26, 2006 Planning and Zoning Board meeting, Vice-Chair McLaughlin made a motion, seconded by Mr. Stevens, to table V 2-1-06 to May 10, 2006. (Motion carried 4-0).

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Town Council Action

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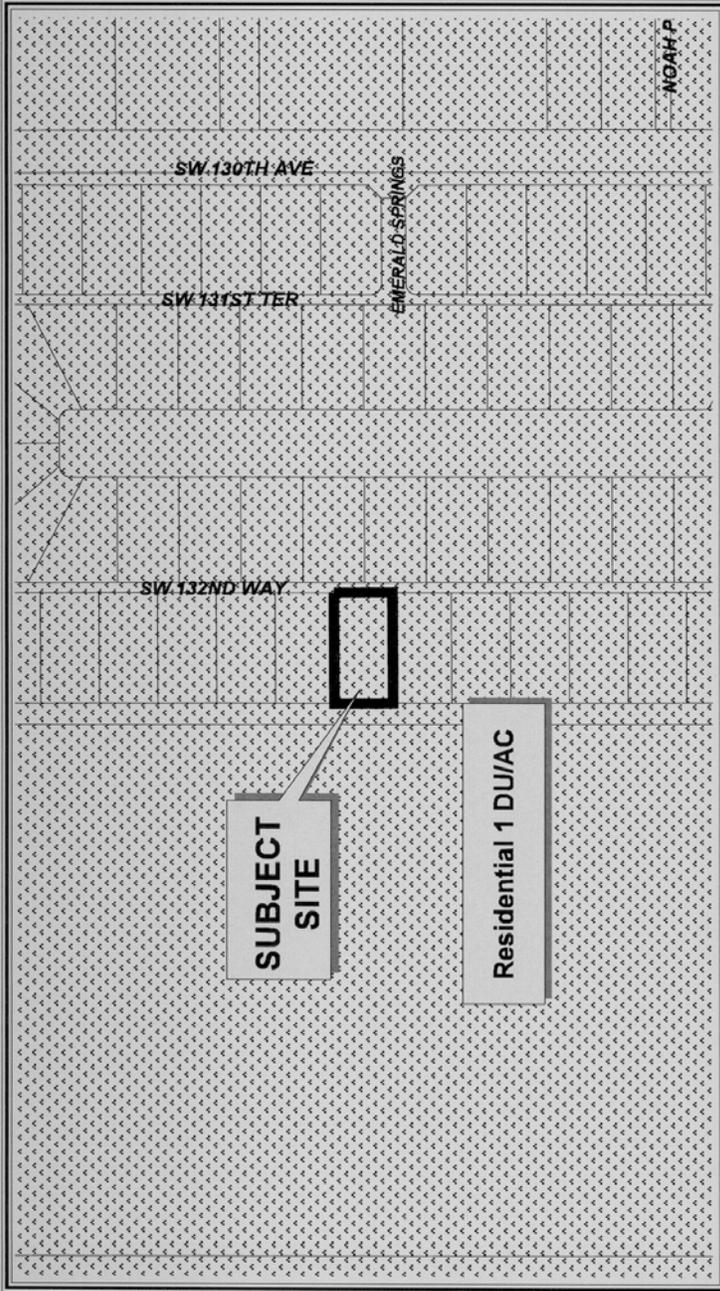
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Exhibits

1. Justification
2. HOA Letter
3. Survey
4. Site Plan
5. Future Land Use Plan Map
6. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____



**VARIANCE
V 2-1-06
Future Land Use Map**

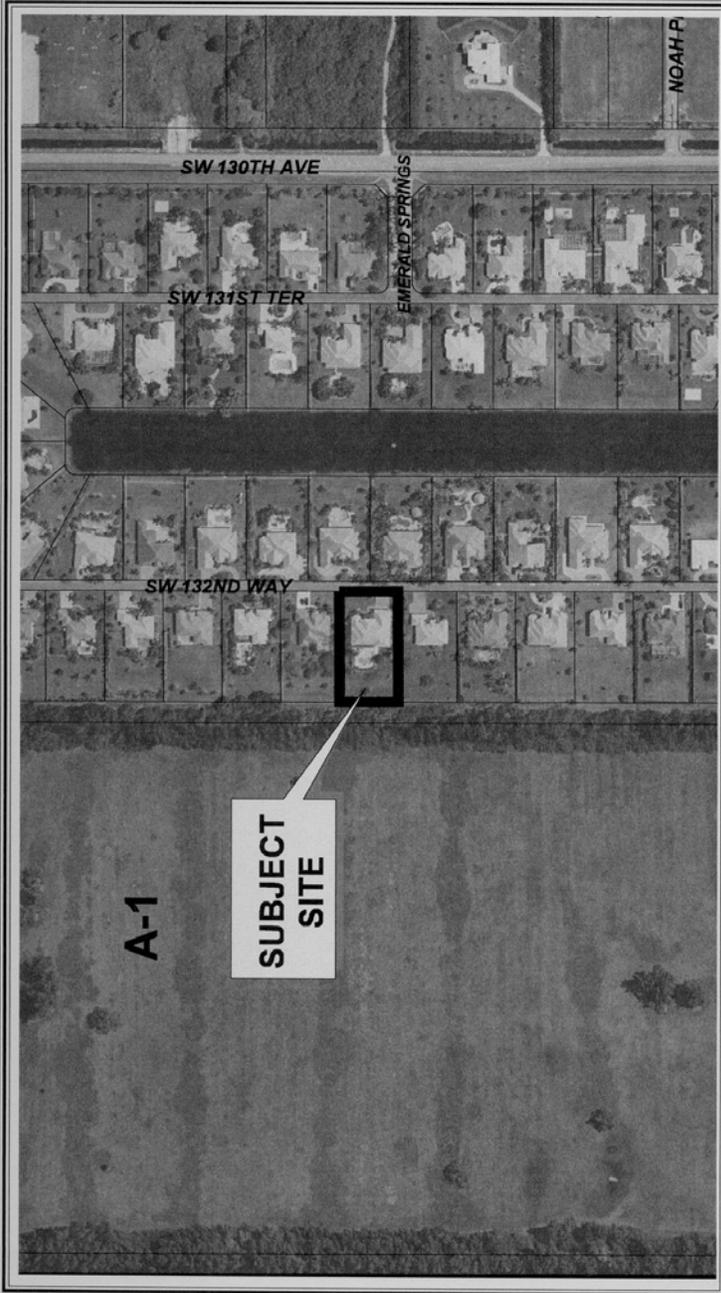
Prepared By: ID
Date Prepared: 3/20/06



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Prepared by the Town of Davie GIS Division



VARIANCE
V 2-1-06
Zoning and Aerial Map

Prepared By: ID
 Date Prepared: 3/20/06



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Prepared by the Town of Davie GIS Division

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