

**Minutes for the Seminole County Board of Adjustment
October 25, 2004
6:00 P.M.**

Members Present: Mike Hattaway, Chairman, Lila Buchanan, Alan Rozon, Dan Bushrui and Wes Pennington

Staff Present: Earnest McDonald, Principal Coordinator; Tony Walter, Assistant Planning Manager; Kathy Fall, Senior Planner; Francisco Torregrosa, Planner; Jason Showe, Planner; Arnold Schneider, County Attorney; Patty Johnson, Sr. Staff Assistant

Mike Hattaway, Chairman, called the meeting to order at 6:00 P.M. Mr. Hattaway then explained the method by which the meeting would be conducted, rules for the voting and appealing decisions.

The Chairman stated that Item 2 was moved from the Consent Agenda to the Public Hearing Agenda.

The Chairman also stated the Item 9 was moved to the Consent Agenda by staff.

The Chairman further stated that Items 11 & 13 requested a continuance.

Mr. Pennington made a motion to continue Items 11 & 13 to the November 15, 2004 Board of Adjustment Meeting.

Mr. Rozon seconded the motion.

The motion passed by unanimous consent (5-0).

CONSENT ITEMS

MOBILE HOME SPECIAL EXCEPTIONS:

- 1. 1860 ORANGE STREET** - Black Hammock Tree Farm, applicant; Request for special exception for the permanent placement of a mobile home in the A-5 (Rural Zoning Classification District); Located at the southwest corner of the intersection of Howard Avenue and Orange Street; (BM2004-022).
Kathy Fall, Senior Planner

VARIANCES:

- 3. 1136 TUSKAWILLA POINT** - Todd Hartley, applicant; Request for fence height variance from 6.5 feet to 8 feet for a proposed privacy fence in the R-1AA (Single Family Dwelling District); Located on the north side of East Tuskawilla Point,

approximately 200 feet east of the intersection of Black Walnut Court and Tuskawilla; (BV2004-146).

Jason Showe, Planner

4. **109 E. ORANGE STREET** - Exclusive Homes Inc., G. Douglas Laman, applicants; Request for (1) minimum width at the building line variance from 90 feet to 81.28 feet; and (2) minimum lot size variance from 11,700 square feet to 11,567 square feet for a proposed home in the R-1AA (Single Family Dwelling District); Located on the north side of East Orange Street, approximately 0.1 mile west of the intersection of Raymond Avenue and East Orange Street; (BV2004-147).

Jason Showe, Planner

9. **3260 ELLWOOD COURT** - Charles & Lynette Mickler, applicants; Request for rear yard setback variance from 30 feet to 13 feet for a proposed room addition in the R-1A (Single-Family Dwelling District); Located on the south side of Ellwood Court, approximately 220 feet west of the intersection of Bonanza Avenue and Ellwood Court; (BV2004-150).

Francisco Torregrosa, Planner

Mrs. Buchanan made a motion to approve Consent Agenda Items 1, 3, 4, and 9. Item 2 was moved to the Public Hearing Agenda.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

CONTINUED ITEMS

MOBILE HOME SPECIAL EXCEPTIONS:

5. **3400 EAST OSCEOLA ROAD** - Tracy Hill, applicant; Request for special exception for the permanent placement of a mobile home in the A-5 (Rural Zoning Classification District); Located on the west side of East Osceola Road, approximately 1 mile north of the intersection of East Osceola Road and St. John's Avenue; (BM2004-017).

Earnest McDonald, Principal Coordinator

Earnest McDonald introduced the location of the application and stated that the existing mobile home received a five year special exception from the Board of Adjustment on March 22, 1999, which since expired. He also stated that the special exceptions within any zoning district are generally granted for permanent uses, however with respect to mobile homes, Section 30.123 of the Land Development Code provides the ability for the Board of Adjustment in its sound discretion to place reasonable conditions and limitations, which are necessary to protect the character of an area and are in furtherance of the public interest. He

further stated that staff would not object to the Board's approval of the request with the imposition of the recommended conditions:

- Only one (1) Single-Family Mobile Home shall occupy the site, as shown on the proposed site plan; the existing mobile home shall be removed, prior to the issuance of a permit for the proposed mobile home.
- The proposed mobile home shall have safe and convenient vehicular access.
- The existing mobile home shall otherwise conform to applicable building codes, including standards for anchoring, utility accessibility and skirting.

Tracy Hill stated that the existing mobile home is no longer standing, because Hurricane Charlie took it. She also stated that she has no home. She further stated that she is going to build, but now she needs a place to live.

Edward Kapp stated that in light of what Tracy has gone through he bought a used mobile home for her. He also stated that she has paid for the land, and she is paying taxes on the land.

R. James Reichard stated that he has lived next to Tracy Hill for 5 1/2 years and he has issues with her. He also stated that this is the third mobile home on the property. He further stated that she has pulled no permits on her property. He lastly stated that Tracy Hill put up a gate on his property.

Glenda Stanley stated that she has been Tracy neighbor for 10 years, and she has had a very rough time.

Mr. Pennington made a motion to approve a 1988 or newer mobile home for a period of 10 years.

Mr. Rozon seconded the motion.

The motion passed by unanimous consent (5-0).

VARIANCES:

- 6. 4911 WAYSIDE DRIVE** - Todd Vogel, applicant; Request for maximum sign height variance from 15 feet to 27.5 feet for a proposed point of sale ground sign in the C-2 (Retail Commercial District); Located at the southwest corner of the intersection of West State Road 46 and Interstate 4; BV2004-131.

Francisco Torregrosa, Planner
Earnest McDonald, Principal Coordinator

Francisco Torregrosa introduced the location of the application and stated that the applicant has failed to satisfy the criteria for granting a variance. He further stated that staff recommended denial of the request. He lastly stated that staff received a letter of opposition.

James Bergman, Controller at Courtesy Ford stated that the main issues are, the Expressway is elevated from the target audience and because the target audience is on the expressway the sign height would need to be suitable for their vision. He also stated that they would like the target audience to know that the Courtesy Ford dealership is there, which is why they are requesting a brand sign. He further stated that Bill Heard, Outback and McDonald's have been approved for sign height variances and he feels there request is reasonable.

Todd Vogel, General Manager at Courtesy Ford stated that they are owned by two (2) companies, Auto Nations and Ford. He stated that they brand Courtesy, which is why they wanted the sign to brand Courtesy. He also stated that it would be a beautiful sign and they paid a lot of money for the sign. He lastly stated that you can not see their building and they wanted people to know there location.

Mr. Pennington made a motion to approve the request.

Mrs. Buchanan seconded the motion.

The motion passed by (4-1) consent. Mr. Bushrui was in opposition.

PUBLIC HEARING ITEMS

- 2. 331 BEACH AVENUE** - Bonnie & Jaime Giroux, applicants; Request for special exception for the one year placement of a mobile home / construction trailer while a single family home is under construction in the A-1 (Agriculture District); Located on the east side of Beach Avenue and immediately east of the intersection of Beach Avenue and Barton Street; (BM2004-021).

Jason Showe introduced the location of the application and stated that staff recommended approval of the request. He also stated that the applicant stated that the proposed mobile home would be modified to include kitchen and bathing facilities consistent with that of a single family dwelling. He further stated that staff received one letter of opposition.

Bonnie Giroux stated that she would be more than happy to answer any questions the Board had.

Mr. Rozon stated that the letter of opposition listed that you presently own a single-family residence, are you currently occupying that residence?

Bonnie stated that the house is presently up for sale, and she does live in it.

Marilyn Joy stated that she lives next door to the property that Bonnie is proposing to put a mobile home on. She also stated that there has been two sheds on the property for over a year, which is illegal. She also stated that she is concerned about the length of time the mobile home would be on the property, because she

didn't believe she is building a home. She further stated that the value of their properties would decrease. She lastly stated that a petition would be presented to the Board by one of her neighbors.

Laurance Linguay stated that he was an adjacent neighbor. He also stated that he had a petition signed by 11 neighbors in and around the neighborhood. He further stated that his objection was because he was not consulted by Bonnie as to what was going to happen on the property.

Chris Culberson stated that he lived around the corner from the property and he was on the petition as well. He also stated that he was concerned that the 1 year request would turn into 3 or 5 years. He further stated that he didn't want this to set a precedent in the neighborhood.

Randy Moorehead stated that his concern was that the property values of their homes would be affected. He also stated that he personally objected to the mobile home being put on the property.

Bonnie Giroux stated that the construction trailer would be converted into a living facility. She also stated that she is on a tight budget building a new home, so she wanted to spend less money as possible on the trailer. She further stated that the people she bought the property from had a dump business and it took her several months to clean up the property. She also stated that her brother bought a piece of property out where she is proposing to build her home and it took her a year to build his house. She further stated that they have improved the value of the homes in the neighborhood. She lastly stated that the trailer would not be seen from the road and the only time it would be seen is when they bring it on the property.

Mr. Rozon made a motion to deny the request.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

7. **103 PINE LAKE DRIVE** - Scott M. Kelley, applicant; Request for (1) front yard setback variance from 25 feet to 16 feet for a proposed front porch addition; and (2) front yard setback variance from 25 feet to 21.5 feet for a proposed garage in the R-1A and R-1AA (Single Family Dwelling District); Located on the east side of Pine Lake Drive, approximately 100 feet south of the intersection of West Crystal Drive and Pine Lake Drive; (BV2004-140).

Jason Showe, Planner

Jason Showe introduced the location of the application and stated that the applicant has failed to satisfy the criteria for granting a variance. He further stated that staff recommended denial of the request.

Scott Kelley stated that he has lived in his home for 8 years and would like to improve the property by removing the carport and building a garage. He also stated he would like to remove the front porch and extend it out with concrete, changing the elevation of the home bringing it up to date. He further stated that he didn't have any neighbors in front or in the rear of him. He lastly stated that the changes would increase the value of the property and modernize the home.

Mrs. Buchanan made a motion to approve the request.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

- 8. 100 DAHLIA DRIVE** - Ober Merino, applicant; Request for minimum lot size variance from 9,000 square feet to 8,190 square feet for a proposed home in the R-1A (Single-Family Dwelling District); Located on the northeast corner of the intersection of Dahlia Drive and Alhambra Avenue; (BV2004-148).
Francisco Torregrosa, Planner

Francisco Torregrosa introduced the location of the application and stated that the applicant has failed to satisfy the criteria for granting a variance. He also stated that staff recommended denial of the request.

The applicant was not present.

Mrs. Buchanan made a motion to approve the request.

Mr. Hattaway seconded the motion.

The motion passed by unanimous consent (5-0).

SPECIAL EXCEPTIONS:

- 10. 3875 LAKE EMMA ROAD** – Dina Ehlers, applicant; Request for special exception to establish an alcoholic beverage establishment in the C-2 (Retail Commercial District); Located on the east side of Lake Emma Road, approximately 500 feet south of the intersection of Lake Mary Boulevard and Lake Emma Road; (BS2004-026).
Francisco Torregrosa, Planner

Francisco Torregrosa introduced the location of the application and stated that the site has operated as a restaurant and bar since 1989. He also stated that staff recommended approval of the request with the following conditions:

- The package sale of alcoholic beverages shall be prohibited.
- Any additional conditions deemed appropriate by the Board of Adjustment.

Dina Ehlers stated that she has owned and operated the existing business since 1990. She also stated that the reason for the change is to comply with the recent changes to smoking laws as pertaining to bars with less than 10 percent food sales. She further stated that if she is allowed to separate the business which she currently lease two locations 3871 & 3875, she would have a very nice restaurant and a neighborhood bar. She lastly stated that it would be more beneficiary, giving the customers the choice of eating or drinking.

Mrs. Buchanan made a motion to approve the request per staff recommendation.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

- 11. 5555 WAYSIDE DRIVE** - Guy Rizzo, applicant; Request for special exception to establish a theological studies college in the A-1 (Agriculture District); Located on the south side of Wayside Drive, approximately 0.2 mile east of the intersection of Orange Boulevard and Wayside Drive; (BS2004-027).
Francisco Torregrosa, Planner

This item was continued until the November 15, 2004 meeting.

- 12. 1051 VAN ARSDALE STREET** - Gary & Elizabeth A. Lashinsky, applicants; Request for (1) special exception to establish a 197 foot tall monopole communication tower in the A-5 (Rural Zoning Classification District); and (2) associated variances from 591 feet to 60 feet, 591 feet to 230 feet, 591 feet to 270 feet, 591 feet to 450 feet and 591 feet to 535 feet to reduce the minimum distance separation from the proposed tower to the nearest properties with single-family dwellings; Located on the east side of Van Arsdale Street, approximately 192 feet north of the intersection of Van Arsdale Street and North County Road 426; (BS2004-029) (BV2004-149).
Kathy Fall, Senior Planner
Earnest McDonald, Principal Coordinator

Kathy Fall introduced the location of the application and stated that the subject property abuts a total of five (5) properties where there are existing single-family residences with the separation radius. She also stated that based on the submitted propagation maps and supporting documentation, the applicants have demonstrated a need to expand Sprint's wireless service area by establishing a communication tower in the general vicinity of the subject property. She further

stated that staff recommended approval of the special exception request with the following conditions:

- The proposed tower shall not exceed 194 feet.
- Any improvements and/or additions to the proposed tower shall be submitted for approval to the County.
- A listed species survey shall be provided prior to Final Engineering approval.
- Prior to the final Development Order approval, an application for full concurrency management shall be provided.

Jay Shirah stated that he was speaking on behalf of Sprint PCS. He also stated that they are responsible for the zoning portion of the site and the site acquisition. He also stated that it is always the intent of Sprint PSP to collocate when ever possible. He further stated that at this site it was not possible because doing so would create over lap. He also stated that they felt this area was compatible for a communication tower, there is commercial use, office, and warehouses which is a mixed use. He further stated that the 194 feet monopole type structure is the least intrusive. He lastly stated that the ground equipment would be surrounded with a wooden fence to hide the base equipment.

Gore Hamrick stated that he lives in the property adjacent to the proposed site, and he has lived there for over 17 years. He also stated that he own a tree service and has a horse barn on his property and is concerned about the tower falling over. He further stated that he was concerned about the tower effecting his cell phone service and if he would have to change his current service. He lastly stated that he didn't want the tower in his neighborhood for safety reasons.

Carl Bowman stated that he has had several experiences with radiation and the micro waves from him being a Safety Engineer with Pan American World Airways. He also stated that he didn't like the idea of the tower being that close to his home. He further stated that for health reasons he was against the tower.

Laurian Rauen stated that she own the 11 acre property directly across the street from the proposed site. She also stated that she was one of the three (3) original people that Sprint talked to about the proposed tower. She further stated that she was surprised when they choose that location due to the fact that it is so close to many residents and the church.

Jay Shirah stated that the tower would be built to the standards set forth by the State of Florida. He also stated he was not aware of any towers coming down from the hurricanes that came through Florida. He further stated that in this area it is impossible to meet the 591 foot setback required for distance separation from a tower, but they have chosen the most compatible area.

Richard Shirah stated that he did contact some of the adjacent neighbors to inform them of the proposed communication tower. He also stated that he had a letter of support from one of the adjacent neighbors. He further stated that they turn in three

(3) candidates when a site is chosen. He lastly stated that the health issue is a non issue because it can't be considered as far as the tower is concerned.

Learie Hercules stated that he was an RF Engineer representing Sprint interest. He also stated that he has documentation from the Federal Communication Commission that addresses some of the concerns about radiation and health issues. He also stated the exposure limits adopted by the FCC in 1996 expressed in terms and magnetic field strength and power density for transmitters operating at frequencies from 300 khz to 100 ghz. He further stated that the most restrictive limits on exposure are in the frequency range of 30-300 MHz where the human body absorbs RF energy. He also stated that when a call is made a mobile phone can only transmit 0.6 watts and the communication tower has to transmit back the same 0.6 watts. He lastly stated that the FCC policies with respect to environmental RF fields are designed to ensure that FCC regulated transmitters don not expose the public or workers to levels of RF radiation that are considered by expert organizations to be potentially harmful.

Mr. Bushrui made a motion to approve the request per staff recommendations.

Mrs. Buchanan seconded the motion.

The motion passed by (3-2) consent. Mr. Hattaway and Mr. Rozon were in opposition.

REGULAR ITEMS

APPEALS FROM ADMINISTRATIVE DECISIONS:

13. 1675 DIXON ROAD - Viacom Outdoor / Glenn N. Smith, applicants; Appeal of the Planning Manager's decision to deny a permit for the replacement and/or repair of a nonconforming billboard damaged beyond 50 percent of its replacement value in the A-1 (Agriculture District); Located at the southwest corner of West Interstate-4 and Dixon Road; (BA2004-002).

Matt West, Planning Manager

This item was continued until the November 15, 2004 meeting.

APPROVAL OF OCTOBER 2004 SPECIAL MEETING MINUTES

Mrs. Buchanan made a motion to approve the amended October 4, 2004 minutes.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

Mr. Bushrui made a motion to have the Board of Adjustment meeting November 15, 2004 instead of December 13, 2004.

Mr. Pennington seconded the motion.

The motion passed by unanimous consent (5-0).

ADJOURNMENT

Time of adjournment was 9:15 p.m.