

**MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT  
JANUARY 24, 2005 MEETING  
6:00 P.M.**

**Members Present:** Dan Bushrui, Chairman, Alan Rozon, Wes Pennington, Tom O'Daniel and Melanie Chase

**Staff Present:** Earnest McDonald, Principal Coordinator; Kathy Fall, Senior Planner; Francisco Torregrosa, Planner; Michael Rumer, Staff Planner; Arnold Schnieder, County Attorney; Patty Johnson, Senior Staff Assistant

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

Earnest McDonald stated that staff requested Item 16 be moved to the front of the Agenda, because staff wanted to hear from Tom Radzai, Senior Engineer from the Development Review Department and due to family obligation he could not stay for the entire meeting. He also stated that the Board may have questions for Tom.

Mr. Rozon made a motion to hear from the expert, so that he could leave, but hear the item at the end.

Mr. Pennington seconded the motion.

Tom Radzai, Senior Engineer, Development Review Department stated that he understood that in the past there had been some concern about Snow Hill Road and Willingham Road intersection flooding. He also stated that what he wanted to mention to the Board was that the Public Works Division currently have Engineer Plans and Permits in place to correct those deficiencies. He further stated that this department has funds budgeted to do the actual improvement construction for this fiscal year.

## **CONSENT ITEMS**

### **VARIANCES:**

- 1. BANANA LAKE ROAD (Lot 1)** - Tyrone Wilson, applicant; Request for (1) minimum lot size variance from 43,560 square feet to 40,000 square feet for a proposed home; and (2) minimum lot width at the building line variance from 150 feet to 100 feet for a proposed home in the A-1 (Agriculture District); Located on the west side of Banana Lake Road, approximately 0.4 mile south of the intersection of C.R. 46A and Banana Lake Road; (BV2004-182).

Francisco Torregrosa, Planner

2. **210 MISSION ROAD** - Gloria Marimon, applicant; Request for (1) minimum lot size variance from 43,560 square feet to 22,050 square feet for a proposed home; and (2) minimum width at the building line from 150 feet to 105 feet for a proposed home in the A-1 (Agriculture District); Located on the east side of Mission Road, approximately 200 feet south of the intersection of Pecan Street and Mission Road; (BV2004-181).

Kathy Fall, Senior Planner

**Mr. Pennington made a motion to approve Consent Agenda Items 1 and 2.**

**Mr. Rozon seconded the motion.**

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

## **PUBLIC HEARING ITEMS**

### **MOBILE HOME SPECIAL EXCEPTIONS:**

3. **2361 WACCASSA STREET** - Dale Stewart, applicant; Request for special exception for the one year placement of a mobile home in the A-5 (Rural Zoning Classification), while a single family home is under construction; Located on the west side of Waccassa Street, approximately 0.5 mile north of the intersection of Canvasback Trail and Waccassa Street; (BM2004-030).

Michael Rumer, Planner

Michael Rumer introduced the location of the application and stated that staff recommended approval of the request conditioned upon the items outlined in the Development Order.

Dale Stewart stated that as of this moment his plans for his house are in the Building Department for review.

**Mr. Rozon made a motion to approve the request.**

**Mr. Pennington seconded the motion.**

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

4. **1645 LAKE HARNEY ROAD** - Gerald & Sharon Driskell, applicants; Request for special exception for the one year placement of a recreational vehicle in the A-5 (Rural Zoning Classification) while a single-family dwelling is under construction;

Located on the south side of Lake Harney Road, approximately 0.1 mile west of the intersection of Lake Harney Road and Jungle Road; (BM2005-003).

Earnest McDonald, Principal Coordinator

Earnest McDonald introduced the location of the application and stated that staff recommended approval of the request.

Gerald Driskell stated that the recreational vehicle would be parked in front of the barn to receive power. He also stated that the recreational vehicle has a portable tank septic system.

**Mr. Pennington made a motion to approve the request.**

**Mr. O'Daniel seconded the motion.**

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

- 5. 1201 MILLS STREET** - Ethel Sparks, applicant; Request for special exception for the permanent placement of a mobile home in the A-1 (Agriculture District); Located on the southwest corner of the intersection of Mills Street and Nolan Road; (BM2004-029).

Earnest McDonald, Principal Coordinator

Earnest McDonald introduced the location of the application and stated that due to the recent storm events the existing mobile home was damaged beyond repair. He also stated that staff has reviewed the minutes of the last approval and determined the Board of Adjustment motion applied specifically to the previous damaged mobile home. He further stated that the proposed mobile home would be a newer model than the existing home and conditions could be imposed to make the proposed mobile home more consistent in its architectural appearance with surrounding conventional home. He lastly stated that for this reason, staff recommended the Board consider their position of historically granting mobile home special exceptions and renewals on the subject property prior to making its decision.

Ethel Sparks stated that she is unable to rebuild on the property, because of the cost. She also stated that she was close to paying off the property. She further stated that she was in her mid fifties and didn't want to be in her seventies trying to pay a mortgage. She also stated that she is in the process of finding a mobile home, but after the storms there are not very many used mobile homes. She lastly stated that her previous mobile home was kept up as will the new one.

Earnest McDonald also submitted a letter of opposition.

**Mr. Rozon made a motion to approve the request for the life of the mobile home.**

**Mrs. Chase seconded the motion.**

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

**VARIANCES:**

- 6. 2802 NORTH HORIZON PLACE** - Otto Phanstiel, applicant; Request for minimum side street setback variance from 25 feet to 16 feet for a proposed replacement fence in the R-2 (One and Two-Family Dwelling District); Located on the west side of North Horizon Place, approximately 420 feet north of the intersection of North Horizon Place and Stillwater Drive; (BV2004-174).

Michael Rumer, Planner

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

Otto Phanstiel stated that the fence was demolished by the storm and he asked that the Board move the setback to 16 feet for his replacement fence. He also stated that there would be no visual impairment. He further stated that he received approval from his Home Owner's Architectural Board and ten (10) neighbors.

**Mr. Pennington made a motion to approve the request.**

**Mrs. Chase seconded the motion.**

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

- 7. 2849 NORTH MORNINGSIDE COURT** - Juan Carlo Coronado, applicant; Request for (1) minimum rear yard setback variance from 10 feet to 1.4 feet (16 inches) for a proposed shed; and (2) minimum side yard setback variance from 10 feet to 1.10 feet (22 inches) for a proposed shed in the R-2 (One and Two-Family Dwelling District); Located on the east side of North Morningside Court, approximately 440 feet north of the intersection of Stillwater Drive and North Morningside Court; (BV2004-175).

Michael Rumer, Planner

Michael Rumer introduced the location of the application and stated that the existing shed encroaches almost 4 feet into an existing 7.5 foot drainage easement which contains a swale. He also stated that the Engineering Staff does not support the shed encroachment into the drainage swale, as it appears to be an impediment to stormwater flow to an inlet south of the property. He further stated that the applicant had failed to satisfy the criteria for granting a variance. He also stated

that staff recommended denial of the request. He lastly stated that the application didn't speak English clearly, therefore he had some one to speak on his behalf.

Pedro Ramos stated that the applicant, Juan Carlo Coronado, didn't know about the existing swale and he was willing to listen to any of the Board's recommendations. He also stated the Juan was willing to paint the shed. He further stated that the shed was used for storage.

Stacy Schmidt stated that she was the neighbor to the rear of the property. She also stated her three (3) primary concerns.

- Drainage issue in the rear of the yard.
- Long term maintenance and care of the shed that is close to her fence.
- Size of the shed.

She further stated that they called the Building Department to inquire about the shed. She also stated that in her opinion the shed could have been built within the setbacks and it would probably be less expensive to move it within the setbacks.

Francisco Torregrosa stated that the application, Juan Carlo Coronado stated that it would be difficult to move the shed. He also stated that he didn't realize he needed a permit and he put the shed where he saw the other sheds in the neighborhood.

**Mr. O'Daniel made a motion to deny the request.**

**Mrs. Chase seconded the motion.**

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

- 8. 916 MILLSHORE DRIVE** - Mike A. Skees, applicant; Request for (1) rear yard setback variance from 30 feet to 26 feet for a proposed pool abutting a water body; and (2) rear yard setback variance from 25 feet to 22 feet for a proposed pool screen enclosure abutting a water body in the R-1A (Single Family Dwelling District); Located on the east side of Millshore Drive, approximately 90 feet south of the intersection of Magnolia Drive and Millshore Drive; (BV2004-183).

Michael Rumer, Planner

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

Mike Skees stated that the existing structure was there when he bought the house. He also stated that the existing structure had a Jacuzzi which was much closer than his proposed pool. He further stated that they have made the pool fairly

narrow and close to the house. He also stated that he is tearing down the existing structure. He lastly stated that his neighbor to the left of him doesn't have a problem with his request, they have an existing structure that is 10 feet from the abutting water body.

**Mr. Pennington made a motion to approve the request.**

**Mr. O'Daniel seconded the motion.**

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

9. **TIMOTHY STREET (3209)** - Raymond Lomberk, applicant; Request for (1) rear yard setback variance from 30 feet to 3 feet for an existing shed; and (2) side yard setback variance from 7.5 feet to 3 feet for an existing shed in the R-1A (Single-Family Dwelling District); Located on the north side of Timothy Street, approximately 170 feet east of the intersection of Martex Drive and Timothy Street; (BV2004-176).

Francisco Torregrosa, Planner

Francisco Torregrosa introduced the location of the application and stated that the applicant had 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 from the adjacent property owner to the north.

Raymond Lomberk stated that when he bought the ten years ago, there was a shed in the same location of his new shed. He also stated that the old shed rusted and he replaced it with a new and larger shed. He further stated that in order to use his garage for his two cars and clean out his attic he had to get a larger shed. He lastly stated that he wasn't aware of the code when he put in the shed.

Ghaby Jachan stated that when the shed was being installed he called the Building Department to ask if the shed was applicable to the code. He also showed four (4) pictures of the shed stating that it is the highest building in the area. He lastly stated that the shed is annoying and decreasing the value of his property.

Raymond Lomberk stated that the shed is a lot better than the rusty shed even though it blocks Ghaby Jachan view. He further stated that the hardship would be getting a crane to have the shed moved.

**Mr. Pennington made a motion to deny the request.**

**Mr. Rozon seconded the motion.**

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

**10. ASTORWOOD COURT (1219)** - Michael & Heddy Bernstein, applicants; Request for rear yard setback variance from 30 feet to 24 feet for a proposed home addition in the R-1AA (Single-Family Dwelling District); Located on the south side of Astorwood Court, approximately 100 feet west of the intersection of Academy Oaks Place and Astorwood Court; (BV2004-179).

Francisco Torregrosa, Planner

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

Mark Ledbetter with Crosstone Construction stated that he was representing the applicants. He also stated that he visited the neighbors to the east and west of the property and obtained approval from both. He further stated that there is an existing pool slab and the addition would be extended 4 feet. He also stated that the screen enclosure was demolished by a tree. He also stated that the addition would blend with the house and bring up the property value. He lastly stated that a tree fell on the roof and a new roof cap will be installed to the home.

**Mr. Pennington made a motion to approve the request.**

**Mr. O'Daniel seconded the motion.**

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

**11. 123 RAYMOND OAKS COURT** - Haysam & Maison Georgi, applicants; Request for minimum rear yard setback variance from 30 feet to 15 feet for a proposed addition in the R-1AA (Single Family Dwelling District); Located on the north side of Raymond Oaks Court, approximately 0.15 mile northwest of the intersection of Raymond Avenue and Raymond Oaks Court; (BV2004-178).

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the application and stated that staff could not recommend approval of the request because it did not meet the six (6) criteria for granting a variance. She further stated that staff recommended denial of the request.

Dan Bushrui stated that he would like the record to reflect that he knows Mr. Georgi very well, but it has nothing to do with this case. He further stated that he would remain on the Board.

Mr. Maison Georgi stated that he is proposing to enclose the existing slab and screen room for the addition. He also stated that his wife was diagnosed with breast cancer and has had four (4) surgeries and radiation treatments which had affected her body physically. He further stated that at least 3 to 4 times a year his wife mother and sisters come to help out with his wife and kids. He stated that they usually move the kids around to accommodate her family. He lastly stated that the addition would accommodate the family and add value to the property.

Dominique Robinson stated that she was in opposition of the request. She also stated that she own the lot next to Mr. Georgi and he has been a terrible neighbor. She lastly stated that he littered her lot.

Mr. Maison Georgi stated that he had never littered her lot. He also stated that he opened his door one day and she was out side yelling at him about putting something on her lot. He lastly stated that he had never met her before in his life.

**Mr. Pennington made a motion to approve the request.**

**Mr. O'Daniel seconded the motion.**

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

**12.408 PINWOOD COURT** - Flora & Raymond Ortiz, applicants; Request for minimum rear yard setback variance from 30 feet to 20 feet for a proposed addition in the R-1A (Single Family Dwelling District); Located on the south side of Pinwood Court, approximately 280 feet east of the intersection of Lake Road and Pinwood Court; (BV2004-177).

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the application and stated that staff could not recommend approval of the request because it did not meet the six (6) criteria for granting a variance. She further stated that staff recommended denial of the request.

Raymond Ortiz stated that he was proposing an addition to the back of his mother's house, which would be two (2) bedrooms and one (1) bath. He also stated that his mother has alzheimer's and his family would like to be close to her and take care of her.

Steve Shard, Certified Building Designer stated he was hired by Mr. Ortiz. He showed a site plan showing the proposed addition. He also stated that there is a patio and sliding glass door that will be replaced with a window. He further stated that there is a severe hardship with the safety of Mr. Ortiz mother. He also stated



that the addition would positively impact the neighborhood. He lastly stated that Mr. Ortiz neighbors were in agreement with the project.

**Mr. Rozon made a motion to approve the request.**

**Mr. O'Daniel seconded the motion.**

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

**13. 2410 WESTWOOD DRIVE** – Michael Scott Leete, applicant; Request for minimum front yard setback from 25 feet to 10 feet for a proposed garage addition in the R-1AA (Single Family Dwelling District); Located on the north side of Westwood Drive, approximately 230 feet west of the intersection of Clay Court and Westwood Drive; (BV2004-184).

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the application and stated that staff could not recommend approval of the request because it did not meet the six (6) criteria for granting a variance. She further stated that staff recommended denial of the request. She lastly stated that staff did not find any safety issues with the request.

Michael Scott Leete stated that the reason for the request is that his wife is pregnant, due May 5, 2005 and they wanted to remodel existing garage for office and playroom and add new garage in front. He also stated he has a signed petition of support from his neighbors. He also showed the Board other garage additions located in the front of some houses in his neighborhood. He further stated factors to consider for the proposed addition:

- Improve the value of the property
- No visibility or safety issues for the road
- Unlikely that the road would ever be widened
- Still have 32 feet, 6 inches setback from the road
- No objection from neighbors

**Mr. Rozon made a motion to approve the request.**

**Mr. Pennington seconded the motion.**

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

**14. 1070 DRUID DRIVE** – J. David Arnold, applicant; Request for minimum rear yard setback variance from 30 feet to 25 feet for a proposed addition in the R-1AA (Single Family Dwelling District); Located on the east side of Druid Drive,

approximately 240 feet north of the intersection of Kathy Lane and Druid Drive; (BV2004-185).

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the application and stated that the existing home was build in 1968, the R-1A zoning regulations rear yard setback was 20 feet, the zoning changed in 1991 to 30 feet for the rear yard setback. She also stated for that reason the house is rendered as being legally non-conforming. She further stated that staff could not recommend approval of the request because it did not meet the six (6) criteria for granting a variance. She lastly stated that staff recommended denial of the request.

David Arnold stated that he was the Project Designer for the applicants, Marshall and Sharon Gibbs. He also stated that Mr. Gibbs is a minister in the Catholic Church and the addition would be an office. He further stated that he received letters of approval from all of the neighbors. He lastly stated he and his clients feel this is a worthwhile and honorable request.

**Mr. Pennington made a motion to approve the request.**

**Mr. O'Daniel seconded the motion.**

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

**SPECIAL EXCEPTIONS:**

**15.1819 WEST STATE ROAD 434** - Rich Scanlan, applicant; Request for special exception to permit a restaurant in the C-1 (Retail Commercial District) to serve beer and wine within 1,000 feet of a church; Located on the north side of West State Road 434, approximately 0.2 miles east of the intersection of Interstate 4 and State Road 434. (BS2004-034).

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the application and stated that across the street from this site is a church which is 715 feet from the restaurant. She further stated that staff recommended approval of the request based upon the following conditions outlined in the Development Order:

- The establishment on this property shall be a bona fide restaurant as defined by the Seminole County Land Development Code, where a majority of sales and profit is from the serving of meals and not from serving of alcoholic beverages as determined by the Planning Manager.
- The package sale of alcoholic beverages shall be prohibited, and the sale of alcohol beverages shall be prohibited when food service is not available.

Rich Scanlan stated that he represented Carmela's the owners of the restaurant. He also stated that the restaurant is under construction and they hope to open in mid February. He further stated that there are three (3) restaurants in the area that are currently serving alcoholic beverages. He also stated that they are a full service restaurant expecting less that 7% of their volume to be alcoholic beverages. He lastly stated that it will be an Italian style pizzeria with no delivery.

**Mr. Rozon made a motion to approve the request.**

**Mrs. Chase seconded the motion.**

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

**16.275 WILLINGHAM ROAD** - Cornerstone Church of Orlando, applicant; Request for special exception to establish a church and attendant facilities on property zoned A-5 (Rural Zoning Classification); Located on the northeast corner of the intersection of Willingham Road and Old Chuluota Road; (BS2004-033).  
Earnest McDonald, Principal Coordinator

Earnest McDonald introduced the location of the application and stated that the past Board action included the following:

- On February 25, 2002 the Board of Adjustment denied a request for special exception to establish a church on the subject property.
- The size of the proposed church was subsequently reduced from 12,000 square feet to 7,800 square feet and again denied a special exception by the Board of Adjustment on May 19, 2003.
- On July 22, 2003 the Board of County Commissioners reversed the Board of Adjustment's decision and granted a special exception for a church and attendant facilities in accordance with the attached site plan and several conditions. The current proposal is identical to the plan approved by the Board of County Commissioners.

He further stated that failure of the applicants to secure a development permit within a year thereafter annulled that approval and necessitated the request before the Board of Adjustment. He lastly stated that staff recommended approval of the request, based on the findings presented in the staff report and subject to the enumerated conditions of the same.

David Downs stated that he was the founding pastor of Cornerstone Baptist Church which currently meets inside the Oviedo YMCA on Red Bug Lake Road. He also thanked the Board for the opportunity to present his request to be able to build a small county church. He further stated that the reason they didn't begin to build when they were granted the zoning last year is that the building committee chairman moved out of state and in the transition and transfer of position there was unfortunate miscommunication as to the correct deadline date of the expiration. He

also stated that not to be allowed to build on the land would cause further hardship for the church, hindering attendance, spiritual growth and financial giving. He further stated that for the past thirteen years they have moved from location to location and would like an opportunity to have a settled, visible, accessible and convenient location. He lastly stated that in respect to the Board God-given governing authority we ask that you allow these humble followers of Jesus Christ to build on the land for the Glory of God and the advancement pf his kingdom.

Mr. Bushrui stated that the Board of Adjustment was there to deal with the land use and compatibility in the neighbor and not religious freedom.

Jimmy Dogtree stated that he was a consultant working with the church. He also stated that they were going to stay with community appearance. He further stated that he didn't see any safety or traffic issues and they were going to move forward with what was already approved.

**Mr. Pennington made a motion to approve the request.**

**Mr. Rozon seconded the motion.**

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

## **APPROVAL OF DECEMBER 2004 MEETING MINUTES**

**Mr. Pennington made a motion approve the December 13, 2004 minutes.**

**Mr. Rozon seconded the motion.**

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

## **ADOPTION OF 2005 BOA SCHEDULE**

**Mr. Rozon made a motion to approve the Board of Adjustment 2005 schedule.**

**Mr. Pennington seconded the motion.**

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

## **ADJOURNMENT**

**Time of adjournment was 8:50 P.M.**