

**MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT  
JULY 25, 2005  
6:00 P.M.**

**Members Present:** Mike Hattaway, Chairman; Dan Bushrui, Wes Pennington, Alan Rozon, and Mike Bass

**Staff Present:** Kathy Fall, Senior Planner; Michael Rumer, Planner; Arnold Schneider, County Attorney; Chris McMiller, Senior Technician; Patty Johnson, Senior Staff Assistant

Mr. 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 voting and appealing decisions.

**CONSENT ITEMS**

**VARIANCES:**

1. **McCARTHY AVENUE (LOT 18)** - Tyrone R. Pinder, applicant; Request for minimum lot size variance from 8,400 square feet to 5,100 square feet for a proposed home in the R-1 (Single Family Dwelling District); Located on the west side of McCarthy Avenue, approximately 250 feet south of the intersection of West 20th Street and McCarthy Avenue; (BV2005-004).  
Kathy Fall, Senior Planner
  
2. **2026 McCARTHY AVE** - Anita Torres, applicant; Request for minimum lot size variance from 8,400 square feet to 5,100 square feet for a proposed home in the R-1 (Single Family Dwelling District); Located on the west side of McCarthy Avenue, approximately 300 feet south of the intersection of West 20th Street and McCarthy Avenue; (BV2005-003).  
Kathy Fall, Senior Planner
  
3. **SNOW QUEEN DRIVE (LOT 1)** – Drew Kusterman, applicant; Request for minimum lot size variance from 43,560 square feet to 40,000 square feet for a proposed single-family home in the A-1 (Agriculture District); Located on the northeast corner of the intersection of Snow Hill Road and Snow Queen Drive; (BV2005-081).  
Michael Rumer, Planner

**Mr. Rozon made a motion to approve Consent Agenda Items 1, 2, and 3.**

**Mr. Pennington seconded the motion.**

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

## **PUBLIC HEARING ITEMS**

### **CONTINUED ITEMS:**

4. **2909 LAGOON COVE** - Deborah Sentell-Johnson, applicant; Request for minimum side street setback variance from 25 feet to 10 feet for a proposed fence in the R-1AA (Single-Family Dwelling District); Located on the southeast corner of the intersection of Stillwater Drive and Lagoon Cove; (BV2005-054).  
Kathy Fall, Senior Planner

The applicant requested that this item be continued until the August 22, 2005 meeting.

**Mr. Pennington made a motion to continue this item until the August 22, 2005 meeting.**

**Mr. Bushrui seconded the motion.**

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

5. **3612 MCNEIL ROAD, APOPKA** – Dave & Jennifer Kruse, applicant; Request to amend an existing special exception to increase preschool enrollment of an existing day care center from 129 students to 195 students and allow two additional buildings in the A-1 (Agriculture District); Located on the south side of McNeil Road, approximately 320 feet east of the intersection of Bear Lake Road and McNeil Road; (BS2005-004).  
Michael Rumer, Planner

Michael Rumer introduced the location of the property and stated that this item was continued from the June 27, 2005 meeting in order for the applicant to meet with the home owners of Emerald Estates subdivision, and to give the applicant time to look at their access and child pick up and drop off area. He further stated that the applicant revised the site plan to include landscaping per the meeting with the residents and an access lane and landscape island to turn around.

Jennifer Kruse owner of Happy Faces Pre-School stated that the child care facility had been in the community for 25 years and they owned it for 4 years of that time. She further stated that the school received the Quality Florida Gold Seal Accredited Status and scored 100% on the Seminole County Readiness Coalition Evaluation. She also stated that the school service pre-school up to school age students. She

stated that the request would include two (2) additional Pre K Class Rooms, an all purpose room and some additional parking. She further stated that after doing a traffic evaluation they would have a long loop come in from the road with permanent guide post to direct the traffic. She also showed pictures of the traffic flow at the front of the building in five (5) minutes intervals. She further stated that she believed that the redesigned traffic flow would be able to handle the traffic volume. She lastly stated that the community meeting went well and they decided to plant a hedge row as a sound buffer and visual buffer as suggested from some of the homeowners that attended the meeting.

Mr. Bushrui asked how many children were approved by the Department of Children and Families?

Mrs. Kruse stated 99 students. She also stated that they never went to the Department of Children and Families Licensing Office to increase the number of students.

Mr. Rozon asked our Attorney, Arnold Schneider were they to consider 99 or 129?

Mr. Schneider stated that the request which was before the Board is from 129 to 186.

Mr. Bushrui asked if the Board could approve the Special Exception against what the Department of Children and Families would allow?

Mr. Schneider stated that the Board could approve a land use special exception, but it was up to the Department of Children and Families to approve the number of children. He also stated that the Board approval would not give Mrs. Kruse a license to put the kids in the facility.

Mr. Hattaway asked Mrs. Kruse what would make her clients take the route from her new traffic flow design?

Stephanie Hasel of Associated Design and Construction stated that there would be a permanent flex pole every 15 feet of the route to keep the cars going in the right direction.

Karen Hartman stated that she was the Director of Happy Faces, in charge of the daily operations of the facility for the past 3 years. She further stated that the addition would include a multi purpose room with a library and a computer area, new kitchen and play ground for the older children. She also stated that it would allow the facility to make smaller groups of children in and outside of the facility. She also stated that Seminole County is known for having great schools and Happy Faces would like to keep up with the growing community. She stated that every day they have to turn people down. She lastly stated that the number one

suggestion from the parents is to have more room for the kids and they would love to provide that to the kids and better serve the community.

Becky Boucher stated that she moved into the area 4 months ago and she has a 4 and 7 year old. She stated that her 4 year old attends Happy Faces and they provide a great benefit to the children. She further stated that the expansion would make a positive impact to the community. She also stated that she had never experience any traffic problems. She lastly stated that as far as the capacity issue let the Department of Children and Families determine what is best for the children.

Julie Alexander stated that she was a resident of Emerald Estates for 4 years. She further stated that she was in of support Happy Faces, she also stated that both of her kids attend the facility. She lastly stated that she encourage the Board to approve the expansion.

Diane Greene stated that she was formally a Program Director for the Department of Children and Families. She further stated that she had been on an 8 month waiting list for Happy Faces. She also stated that she looked at 30 other day cares before choosing Happy Faces. She stated that Happy Faces were concerned about what they could do better and how they compared to the other day cares. She lastly stated that she was extremely pleased with the care her child receives from Happy Faces.

Kim Ornberg stated that she was a long time resident of Seminole County and it is difficult to find quality child care. She further stated that she had two small kids that attend Happy Faces. She also stated that Happy Faces provides an excellent day care and pre-school curriculum. She lastly stated that she had never seen any back up on McNeil Road.

Dan Ongie stated that he had 2 young kids that attend Happy Faces. He stated that he was in support of the expansion and he appreciated the change in the traffic pattern. He further stated that he had never seen a back up on McNeal Road. He lastly stated that he has recommended Happy Faces to his family and friends and he would appreciate the Board support.

Christine Pozo-Coyle stated that she lived in Emerald Estates and her daughter attends Happy Faces. She further stated that the pick up and drop off system works very well. She continued by explaining the process to the Board, she stated that you bring your child in the center and some one from the facility takes the child to their classroom and immediately when you come to pick up your child some one from the facility with a walkie talkie let's staff know that you are there and they clean your child up and bring them to you. She lastly stated that there is no waiting or traffic back ups.

Jeffery Heath stated that he had lived in the Bear Lake area since 1954 and he has seen Happy Faces grow. He further stated that he couldn't leave his house

between 3:55 P.M. and 4:30 P.M. during school weeks. He also stated that he was not sure if Happy Faces were contributing to that traffic. He stated that most of the parents from Teague Middle School drive their children to school. He further stated that he did have a problem with the increased amount of traffic that the addition to Happy Faces would bring. He lastly stated that he is not against Happy Faces but he thought it should be a little bit more controlled.

Carl Carothers stated that his property backs up to Happy Faces. He further stated that the community met with Mr. and Mrs. Kruse a couple of weeks ago and he wanted to thank them. He also stated that he was firmly against the expansion because of traffic issues and his property value. He continued by showing the Board pictures of the view of the day care from his home. He showed the brick wall that separates his property from the facility and stated that the distance was 10 feet. He further stated that it would be hard to isolate any impact from the expansion.

David Rhinehart stated that he was concerned with the noise level with the increase enrollment and traffic problems on McNeil Road. He further stated that he was concerned with security.

Mrs. Kruse stated that the time the gentleman across the street stated that he can't get out of his property is the time that Teague Middle School closes for the day. She further stated that Happy Faces is a business and her goal is to provide quality day care. She also stated that they tried to resolve some of the noise issues in the community. She lastly stated that if she had more capacity she would have more revenue and that she was proud of her staff and parents.

Mr. Hattaway wanted to know the number of employees the facility would have.

Mrs. Kruse answer was 20 maximum.

**Mr. Pennington made a motion to approve the request with the applicant's added conditions.**

**Mr. Bass seconded the motion.**

**Mr. Hattaway, Mr. Bushrui and Mr. Rozon were in opposition.**

**The motion failed.**

Mr. Hattaway stated that he thought the expansion was too aggressive for the site. He further stated that for the number of parking spaces and the number of activities that would be on the site the request was too intense. He lastly stated that he didn't think the expansion would give the students any room.

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

**Mr. Rozon seconded the motion.**

**The motion passed (3-2) consent. Mr. Pennington and Mr. Bass were in opposition.**

**VARIANCES:**

6. **4308 ROCKY RIDGE PLACE** - Daniel R. Ellery, applicant; Request for (1) minimum rear yard setback variance from 10 feet to 3 feet for an existing shed; and (2) minimum 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 south side of Rocky Ridge Place, approximately 100 feet east of the intersection of Shades Crest Lane and Rocky Ridge Place; (BV2005-079).

Chris McMiller, Planning Technician

Chris McMiller introduced the location of the application and stated that the applicant received a code violation from Code Enforcement. He further stated that the applicant had the opportunity to place the structure within the setbacks, therefore staff can not recommend approval.

Daniel Ellery stated that he hired a contractor to put an additional on his house and to put the shed in the back yard. He further stated that the shed has been there for 2 years and he never had any complaints from his neighbor. He lastly stated that he couldn't put the shed any where else.

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

**Mr. Pennington seconded the motion.**

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

7. **293 GENEVA HEIGHTS ROAD** - Bradley & Dawn Weatherholtz, applicants; Request for minimum side street setback from 50 feet to 12 feet for a proposed garage in the A-1 (Agriculture District); Located on the south side of Geneva Heights Road, approximately 155 feet east of the intersection of Old Geneva Road and Geneva Heights Road; (BV2005-083).

Chris McMiller, Planning Technician

Chris McMiller introduced the location of the application and stated that the applicant had the opportunity to place the structure within the setbacks, therefore staff could not recommend approval of the request.

Bradley Weatherholtz stated that the building is in poor condition from storm damage and he wanted to increase the size of the building to put his lawn

equipment in. He further stated that if he put it within the setbacks it would be in the center of his backyard. He lastly stated that he would like to keep it where it is.

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

**Mr. Pennington seconded the motion.**

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

8. **116 SWEETBRIAR BRANCH** – Robert Wilson, applicant; Request for minimum rear yard setback variance from 30 feet to 6 feet for a proposed shed in the R-1AA (Single-Family Dwelling District); Located on the north side of Sweetbriar Branch, approximately .10 mile northeast from the intersection of Foxridge Run and Sweetbriar Branch; (BV2005-051).

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. He also stated that there was no record of prior variances having been granted for the property. He lastly stated that the applicant submitted letter in support of the requested variance from the neighbors on each side of the property.

Robert Wilson stated that there was another shed put there in 1974 and because it got old he took it down and would like to put a smaller shed in the same place. He further stated that he was applying for a permit for the shed. He lastly stated the house behind him was vacant and he received letters from the neighbor on both sides of his home.

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

**Mr. Bass seconded the motion.**

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

9. **3411 DAWN COURT** – Steven Nelson, applicant; Request for minimum side yard setback variance from 10 feet to 6 feet for a proposed shed in the R-1AA (Single-Family Dwelling District); Located on the south side of Dawn Court, approximately 1.1 miles north of the intersection of Markham Woods Road and Lake Mary Blvd; (BV2005-076).

Michael Rumer, Planner

Michael Rumer introduced the location of the property 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 there was no record of prior variances granted for this property.

Steve Nelson stated that he was asking for a two (2) feet variance to put in a shed for storage of garden equipment.

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

**Mr. Bushrui seconded the motion.**

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

10. **1698 KINGSTON ROAD** – Kathleen Prossen, applicant; Request for minimum side street setback variance from 35 feet to 27.66 feet for a proposed home addition in the RC-1 (Country Homes District); Located on the southeast corner of the intersection of Kingston Road and South Pressview Avenue; (BV2005-077).  
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. He also stated that there was no record of prior variances granted for this property. He lastly stated that he would like to point out for the Board's consideration that the right-of-way for Pressview is 66 feet wide with a 41 foot half on the applicants side, so the distance from the property line to the edge of pavement is wider than on the other side of the road.

Kathleen Prossen stated that they were planning a study library addition. She also showed pictures to the Board of what the addition would like. She further stated that they had a much larger easement than their neighbors which was why they were asking for the variance.

Tink Bayton stated that she was a Realtor for Coldwell Banker and that the 600 square foot addition would not only enhance the value of the Prossen's home but would also increase the market value of the surrounding properties. She further stated that because she believed the request didn't create a problem for anyone she hoped the request would be granted.

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

**Mr. Bass seconded the motion.**

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

11. **499 NORTHUMBRIA** – Dennis Perez, applicant; Request for (1) minimum rear yard setback variance from 7.5 feet to 0 feet for a proposed pool screen enclosure; and (2) minimum rear yard setback variance from 7.5 feet to 2 feet for a proposed pool in the PUD (Planned Unit Development District); Located on the southwest



side of Northumbria Drive, approximately .10 mile south of the intersection of Northumbria Drive and Hedgesparrows Lane; (BV2005-080).

Michael Rumer, Planner

Mike Rumer introduced the location of the property and stated that the home was currently under construction and the builder positioned the home to the rear of the lot leaving 20 feet to the rear property line. He further stated that the applicant failed to satisfy the criteria for granting a variance. He lastly stated that staff recommended denial of the request.

Edmond St. Pierre stated that his intent when purchasing the property was to install a pool. He further stated that the builder begun construction of the home when they were on vacation and when they returned the construction was too far along to make any changes. He also stated that he didn't think they would be violating the rights of the neighbors because of the retention pond. He lastly stated that they were requesting the opportunity to enjoy a pool after the house is built.

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

**Mr. Pennington seconded the motion.**

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

12. **MARKER STREET (LOT 9)** – Charlie & Melissa Banks, applicant; Request for minimum side street setback variance from 7.5 feet to 5 feet for a proposed home in the R-1 (Single-Family Dwelling District); Located north of Hayman Street .10 miles west of the intersection of Hayman Street and Ronald Reagan Blvd; (BV2005-082).

Michael Rumer, Planner

Michael Rumer introduced the location of the property and stated that Lot 9 and 10 are under the same ownership. He further stated that Seminole County policy is that the lots be combined if the zoning cannot be met. He also stated that in this instance the lot meets zoning but the applicants are proposing a home that doesn't fit within the setbacks. He lastly stated that staff recommended denial of the request.

Charlie Banks stated that in April they sold their house in one day, and are now leaving with his parents until their house is built. He further stated that the Architect that drew up the plans had the house off by 2 feet from fitting within the setbacks which is why they were requesting the variance.

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

**Mr. Bushrui seconded the motion.**

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

**MOBILE HOME SPECIAL EXCEPTIONS:**

13. **1211 COCHRAN ROAD** - Emma Smith, applicant; Request for special exception for the permanent placement of a mobile home in the A-5 (Rural Zoning Classification District); Located on the southwest corner of the intersection of Saunders Trail and Cochran Road; (BM2005-014).

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the property and stated that the site received a code violation for an expired mobile home special exception that received approval for two years in 1998. She further stated that the approval was granted by the Board of County Commissioner under the appeal of the applicant. She also stated that the applicant appealed the Board of Adjustment decision for one year placement. She further stated that the Cochran Road area had several mobile homes granted permanent placement in the past five years therefore staff recommended approval of the request.

Emma Smith stated that she was requesting permanent placement of 1973 Hillcrest not a 1963.

Mr. Rozon asked was she the occupant?

Emma Smith stated no, she was not.

Mr. Rozon asked was this a rental property.

Emma Smith stated yes.

Mary Isaacs stated that she lives on Saunders Trail and the trend of development in the area is conventional homes. She showed the Board pictures from the Property Appraisal Office showing the homes and mobile homes in the area and stating that about 20 years ago the trend was for mobile homes. She further stated that the mobile homes that are out there you can not see them from the street. She also stated that she objected to the permanent placement of Emma Smith mobile home and stated that it had been approved four (4) different times.

Sherry Eisele stated that she and her husband lived in the house next door to the applicant. She further stated that currently her home is a manufacture home and they were currently in the process of building a new home. She also stated that the community is still cleaning up from the hurricane damage but no effort has been put forth on the applicant property. She further stated that the condition of the property is an eyesore, with weeds overgrowing out to the road.

Chris Wilson stated that he recently purchased the property across from the applicant. He further stated that he plan to develop the property in the next year building eight (8) one acre homes.

Michael Hollenbeck stated that his concern is that there has been an outstanding code violation since 1998 with no improvements made. He further stated the information states that her son is living there and the applicant stated that he doesn't. He also stated that there was no effort from the owner of the property to renew the mobile home special exception.

Emma Smith stated that it was true she had been before the Board in the past. She further stated that her son had lived on the property, but he was harassed so much that she had to move him off of the property. She also stated that the barns were damaged by the storms and they are in need of repair. She further stated that the whole place is clean and the tenants are to keep the yard mowed and cleaned. She lastly stated that she has owned the property for 20 years and plan to build one day.

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

**Mr. Pennington seconded the motion.**

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

14. **2295 CANAL STREET** - Edward Hauser, applicant; Request for special exception for the permanent placement of a mobile home in the A-10 (Rural Zoning Classification District); Located on the east side of Canal Street, approximately 0.25 mile north of the intersection of Canal Street and Howard Avenue; (BM2005-016).

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the property and stated that the applicant received a 10 year placement of a single family mobile home in 1984. She further stated since that time the applicant placed another single wide mobile home on the property without a permit of special exception. She also stated that the applicant removed the kitchen facilities on one of the mobile homes and has connected the units together with a screen room these modifications allow the mobile homes to be defined as a single residential unit. She continued to state that the trend of development surrounding the property is a mixture of permanently approved mobile homes and conventional built homes therefore staff recommended approval of the request.

Edward Hauser stated that he went from a three (3) bedroom two (2) bath and fire place to a four (4) bedroom four (4) bath with no fireplace. He further stated that he did put the second unit on without a permit, but now everything is permitted. He lastly stated that the buildings were build to commercial standards.

Mr. Bass asked how many people live on the property.

Edward Hauser stated that he, his daughter, son-in-law and his granddaughter.

Mr. Bass asked was he renting any of the property out.

Mr. Hauser stated no, not this property.

Mr. Bushrui asked did the 1988 mobile home have a kitchen.

Al Clairaco stated that he lived in the Black Hammond subdivision and he wanted the Board to take into consideration not to grant the mobile home permanent placement, but place a time limit on the request. He further stated he wanted to increase property values and not decrease them.

**Mr. Bass made a motion to approve the request for 5 years.**

**Mr. Rozon seconded the motion.**

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

15. **2331 WACCASSA STREET** - Michael & Dawn Paul, applicants; Request for limited use for the two year occupancy of a mobile home while a single-family dwelling is under construction in the A-5 (Rural Zoning Classification District); Located on the west side of Waccassa Street, approximately 0.22 miles north of the intersection of Waccassa Street and Canvasback Trail; (BM2005-017).  
Kathy Fall, Senior Planner

Kathy Fall introduced the location of the property and stated that the A-5 Zoning District only allows the one year placement of a mobile home with the ability to renew for an additional year while a conventional single family home is under construction. She further stated that staff recommended approval of the one year placement of the mobile home per the condition in the Development Order.

Michael Paul stated that he intended to start construction of his home in January 2006. He further stated that the house would be owner built and he would probably be back to the Board asking for another year.

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

**Mr. Bushrui seconded the motion.**

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

**SPECIAL EXCEPTIONS:**

16. **200 AVENUE C** – Richard De Candido, applicant; Request for special exception to allow the sale of beer and wine as an accessory use to an existing restaurant in the C-2 (Retail Commercial District); Located on the northeast corner of the intersection of Avenue C and Hart Road; (BS2005-007).

Michael Rumer, Planner

Michael Rumer introduced the location of the property and stated that staff recommended approval of the special exception request subject to the following conditions:

- 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 the serving of alcoholic beverages
- The package sale of alcoholic beverages shall be prohibited, and the sale of alcoholic beverages shall be prohibited when food service is not available

Richard De Candido stated that he planned to open a small Italian Pizza Restaurant primary take-out with the sale of beer and wine as a convenience to his customers.

Mike Bass asked how many seats will be in the restaurant.

Richard De Candido stated it would be about 20.

Patricia Lindsey stated she was a resident of Chuluota and a member of the Church of Christ across the street from the restaurant. She further stated that she was opposed to having alcohol being sold so close to the church. She also stated that she was concerned with there only being four parking spacing with one handicap parking. She also stated that they already have a problem with beer bottles in front of the church. She lastly stated that she would like to request that the Board respect the Code and not allow alcohol next to the church.

Virginia Green stated that she agreed with what Patricia said.

Ken Sherman stated that the members of the church are against the special exception request. He further stated the church already has a problem with picking up empty cans on the church grounds.

William Bowman stated that they were in favor of denying the request to sale alcohol.

Randy Deavers stated that a store next door to the restaurant already sales alcohol. He further stated his concerns were with a bus stop and Geneva Elementary School being near the property.

William Dishman stated that he was at the meeting for personal reasons. He further stated that he catches the bus from the bus stop that is close to the restaurant. He also stated that he and his friends walk down 2<sup>nd</sup> Street and he thought that if you added people who had been drinking it would be a danger to the community.

Vernon Weinhart stated that he was also in opposition of the request. He further stated that he didn't think it would be a good idea to have a place serving alcohol.

Richard Rhinehart stated that he was also in opposition of the request and that he supported the church. He further stated that when the restaurant was opened before the overflow traffic down 2<sup>nd</sup> Street made it difficult to get in and out of the neighborhood.

Mr. Hattaway asked was the request to serve alcohol as an incidental use under the code are you allowed to come in and get the food and alcohol and take it out.

Kathy Fall stated the alcohol would have to be on premise consumption.

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

**Mr. Bushrui seconded the request.**

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

17. **LAKE MARKHAM ROAD** - John Webb & Associates, applicant; Request for special exception to establish an equestrian center in the A-1 (Agriculture District); Located on the southeast corner of the intersection of Lake Markham Road and South Sylvan Lake Drive; (BS2005-006).

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the property and stated that staff recommended approval of the special exception request with the following conditions:

- Maximum number of clients shall be no more than twelve clients (12), including parents and students per a two (2) hour period
- Riding lessons shall occur between 8:00 a.m. to 8 p.m.
- The entrance on Lake Sylvan Road shall be gated
- The arena and parking area lighting shall be limited to no more than 0.5 foot-candles adjacent to existing single family residential homes
- Amplification of sound shall be limited to the arena area during riding lessons and shall not exceed the maximum decibels allowed

John Webb stated that he was a civil engineer hired by the Barros'. He further stated that they received a letter of support from the adjoining neighbor.

Bob and Lynn Holly stated that they were in favor of the request. Bob stated that they lived across the street from the request. He further stated that the area was in the Wekival River protection area and that the sound would not be an issue because there is a soccer field in the area.

Lynn Holly stated that the request would maintain the rural feeling of the area. She further stated that it would allow children and families in the area to appreciate it as well.

Wayne Gager stated that he lived directly across the street and he had no problem with the horses. He further stated that his concern was with the noise. He also stated that they didn't need anymore noise or things going on at night in the area.

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

**Mr. Bass seconded the motion.**

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

18. **140 FERNWOOD BOULEVARD** - Raymond Khoshnou, applicant; Request for special exception to establish an alcoholic beverage establishment in the C-2 (Retail Commercial District); Located on the south side of Fernwood Boulevard, approximately 0.13 miles east of the intersection of Fernwood Boulevard and U.S. 17-92; (BS2005-012).

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the property and stated that this site had received several special exception approvals for alcoholic establishments. She further stated that the applicant would be required to submit a small site plan in which the property would be required to comply with the Land Development Code requirements for lighting, parking, and limited landscaping. She also stated that staff recommended approval of the request, subject to the following condition:

- The package sales of alcohol beverages shall be prohibited.

Raymond Khoshnou stated that the site has been a lounge or nightclub for almost 20 years. He further stated that this site could not be used for any other use. He lastly stated that his tenants are veterans and are proposing a private club.

Alfred Wilson stated that the site would be a private club and they only have 50 members. He further stated that the club doors would be locked.

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

**Mr. Bass seconded the motion.**

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

19. **RED BUG ROAD (LOT 2)** - John Kelly, Dyer, Riddle, Mills & Precourt, applicants; Request for special exception to establish an alcoholic beverage establishment (package store) in the PUD (Planned Unit Development District); Located on the northwest corner of the intersection Red Bug Lake Road and Oviedo Crossing Terrace; (BS2005-008).

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the property and stated that the proposed 9,200 square foot packaged liquor store will be on a 1.25 acre parcel located in the Oviedo Marketplace Planned Unit Development. She further stated that the Planned Unit Development Master Plan allows for the permitted uses in the C-1 Zoning Classification. She also stated that conditional uses, such as Alcoholic Beverage Establishments are allowed if approved by the Board of Adjustment. She lastly stated that staff recommended approval of the request, subject to the following condition:

- The on-premise consumption of alcoholic beverages shall be prohibited.

John Bennett stated that he was making the presentation on John Kelly behalf. He referred to the packet he had given to the Board members showing the proposed site with interior photos and other ABC stores in the general vicinity. He continued by stating the criteria for granting a variance.

- Is not detrimental to the character of the area or neighborhood or inconsistent with trends of development in the area
- Does not had an unduly adverse effect on existing traffic patterns, movements and volumes
- Is consistent with the County's Vision 2020 Comprehensive Plan
- Meets any additional requirements specified in the code section authorizing the use in a particular zoning district or classification
- Will not adversely affect the public interest.

He furthered stated that based on the criteria he thought the request should be granted. He also referred to the letter signed by Gerald Seeber, City Manage for the City of Oviedo. He stated that the City did not object to ABC Liquors, but expressed a preference for a hotel site should the same be in the works. He further stated that no such proposal is in the works, is not contemplated and has in fact, not even been discussed with his client.

Greg Pryor stated that he was the Chairman of the Red Bug Residential Coalition which has over 2,500 members. He further stated that they were a Pro Development Organization who believe consistency and compatibility is very important to the area. He also stated that the area is a Plan Development with a lot of input from the community. He further stated that there had not been any special exception granted in that area. He continued to state that if the Board granted the special exception tonight what is to stop Hess from requesting a special exception. He further stated to issue this use it requires special circumstances and they didn't



see any special circumstances. He lastly stated that he asked the Board not to grant the request.

Mr. Bennett stated that the Board did not have absolute discretion, which is why you have the criteria set forth in the code. He further stated that Mr. Pryor didn't suggest that any of the criteria was not met, with that in mind I think it is appropriate to grant the special exception.

Mr. Rozon stated that the Board of Adjustment approved two (2) special exceptions in that area.

Mr. Bushrui stated that he lives in the area and the area caters to families. He further stated that this request would be too much for the area with the youth that are in the area.

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

**Mr. Bushrui seconded the motion.**

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

## **APPROVAL OF JUNE 2005 MEETING MINUTES**

**Mr. Pennington made a motion to approve the June 27, 2005 Amended Minutes.**

**Mr. Rozon seconded the motion.**

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

## **ADJOURNMENT**

**Time of Adjournment was 10:45 P.M.**