

**MINUTES FOR THE SEMINOLE COUNTY
BOARD OF ADJUSTMENT
JULY 23, 2007 MEETING
6:00 P.M.**

Members Present: Mike Hattaway, Chairman; Dan Bushrui, Alan Rozon, Tom O' Daniel and Mike Bass

Staff Present: Kathy Fall, Principal Planner; Denny Gibbs, Senior Planner; Joy Williams, Planner; Kimberly Romano, Assistant County Attorney and Patty Johnson, Staff Assistant

Mr. 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.

Mr. Hattaway also stated that Item # 11 would not be heard, because the applicant did not post the placard.

CONSENT

1. **Shady Palm Circle (Lot 142B)** – Bryan & Robin S. Schulman, applicants; Request for 1) a minimum lot size variance from 43,560 square feet to 42,600 square feet and 2) width at building line from 150 feet to 142 feet for a proposed single family residence in A-1 (Agricultural District); Located on the north side of Shady Palm Circle approximately 1/6 mile west of Elm Street; (BV2007-68).
Kathy Fall, Principal Planner

2. **Richard Allen Street (Lot 228)** – Linda Hersey, applicant; Request for a 1) lot size variance from 8,400 square feet to 6,400 square feet; a 2) variance to the minimum width at the building line from 70 feet to 64 feet; a 3) front yard setback variance from 25 feet to 20 feet, and; a 4) side street setback variance from 25 feet to 10.5 feet for a proposed single family residence in R-1 (Single Family Dwelling District); Located at the corner of Richard Allen Street and Halsey Avenue; (BV2007-63).
Joy Williams, Planner

Mr. Bushrui made a motion to approve Consent Agenda Items #1 and 2.

Mr. Bass seconded the motion.

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

CONTINUED ITEMS

3. **3240 Lake Harney Circle** – William Shaffer, applicant; Request for a side yard (west) setback variance from 10 feet to 3 feet for a proposed garage in A-5 (Rural District); Located on the north side of Lake Harney Circle approximately ½ mile west of Rest Haven Road; (BV2007-56).
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct an approximately 1350 square foot garage that would encroach 7 feet into the required 10 feet side yard setback. She further stated that at the June 25, 2007 meeting the Board of Adjustment passed a motion to continue the item in order to allow the applicant and opposing neighbors time to work out any issues regarding a 15 foot private easement along the west side of the applicant's property.

William Shaffer stated that at the last meeting he was looking for a 3 feet variance to build a garage and an easement issue came up. He further stated that Mr. Griffin came to the last meeting and opposed the request, but since then Mr. Griffin located the access easement to the lake, but by way of another piece of property. He then stated that Mr. Griffin was there to support the request.

Calvin Griffin stated that they were opposed at the last meeting, but they had no objection now.

Lucy Griffin stated that the reason they opposed the request was because they didn't know where the easement was.

Mr. Rozon made a motion to approve the request.

Mr. Bushrui seconded the motion.

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

PUBLIC HEARING

4. **200 Avenue C** – Susan Hanson, applicant; Request for a front yard setback variance from 25 feet to 0 feet for an existing fence in R-2 (One and Two Family Dwelling District); Located on the west side of Avenue C approximately 500 feet east of Jacobs Trail; (BV2007-57).
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant constructed a privacy fence on the south side of their front yard within the required 25 feet front yard setback. She further stated that the fence ran along approximately 40 feet of the 150 feet frontage on Avenue

C. She then stated that there was currently a code enforcement violation for un-permitted construction of the fence. She also stated that there was no record of prior variances granted for the property. She lastly stated that the applicant had submitted support letters from the immediate neighbors.

Randall Hanson stated that they were asking for a fence variance. He further stated that the majority of the fence was located in the back portion of the property. He then showed the Board of Adjustment pictures of the location of the fence. He further stated that the purpose of the fence was for safety and privacy for their two daughters. He lastly stated that it was not unusual to see a fence configured in that manner in Chuluota.

Mr. Bushrui made a motion to approve the request.

Mr. Bass seconded the motion.

The motion passed by (4-1) vote. Mr. Hattaway was in opposition.

5. **705 Citrus Tree Drive** – John Foster, applicant; Request for a rear yard setback variance from 30 feet to 25 feet for a proposed single family residence in R-1 (Single Family Dwelling District); Located on the east side of Citrus Tree Drive approximately 300 feet north of Spring Street; (BV2007-61).

Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct a new single family residence that would encroach 5 feet into the required 30 feet rear yard setback. She further stated that there were currently no code enforcement or building violations for the property. She lastly stated that there was no record of prior variances granted for the property.

John Foster stated his name.

Mr. Hattaway asked the applicant if he wanted to add anything to staff's comments.

John Foster stated no.

Mr. O' Daniel made a motion to approve the request.

Mr. Rozon seconded the motion.

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

6. **910 River Edge Court** – Lucindo & Martha Fidalgo, applicants; Request for a side street setback variance from 50 feet to 28.1 feet for a proposed

garage addition in A-1 (Agriculture District); Located on the south side of Ibis Road approximately $\frac{3}{4}$ mile west of Markham Woods Road; (BV2007-62).

Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct an approximately 960 square feet garage on the north side of the existing house. She further stated that the proposed garage would encroach 21.9 feet into the required 50 feet side street setback. She then stated that there was no code enforcement or building violations for the property. She lastly stated that there was no record of prior variances granted for the property.

Lucindo Fidalgo stated that he provided a signed petition of support from all of his neighbors.

Mr. Bushrui made a motion to approve the request.

Mr. O' Daniel seconded the motion.

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

7. **234 Nob Hill Circle** – Steven and Janet Risner, applicants; Request for a side yard (east) setback variance from 10 feet to 6.5 feet for a proposed garage addition in R-1AA (Single Family Dwelling District); Located on the south side of Nob Hill Circle approximately $\frac{1}{10}$ mile east of W SR 434; (BV2007-66).

Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct a garage and bath addition that would encroach 3.5 feet into the required 10 feet side yard setback. She further stated that the existing house was constructed in 1959, when the side setbacks were 7.5 feet. She then stated that the garage would continue along the same setback as the existing house. She also stated that there was currently no code enforcement or building violations for the property. She lastly stated that in 2001 a rear yard setback variance from 30 feet to 22 feet was granted for the property.

Brett Hiltbrand stated that he was the building contractor for the applicants.

Mr. Hattaway asked if he wanted to add anything else to staff's comments.

Brett Hiltbrand stated no.

Mr. Bushrui made a motion to approve the request.

Mr. Bass seconded the motion.

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

8. **Charlotte Street (Lots 24-26)** – Request for a side yard (north) setback variance from 10 feet to 5 feet for a proposed pool screen enclosure in R-1AA (Single Family Dwelling District); Located on the northwest corner of Charlotte Street and Fairview Avenue; (BV2007-69).
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant request was for an existing pool screen enclosure that encroached 5 feet into the required 10 feet side yard setback. She further stated that the contractor constructed the structure prior to the issuance of the permit. She then stated that there was currently no code enforcement or building violations for the property. She lastly stated that there was no record of prior variances for the property.

Ryan Gentile stated that he was requesting to change the setback from 10 feet to 5 feet for the existing pool screen enclosure.

Mr. Bass made a motion to approve the request.

Mr. Bushrui seconded the motion.

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

9. **1232 Orange Avenue** – Ronald Qualls, applicant; Request for 1) a width at building line variance from 75 feet to 42 feet and 2) a side yard (west) setback variance from 7.5 feet to 5 feet for a proposed garage addition in R-1A (Single Family Dwelling District); Located on the north side of Orange Avenue, and adjacent to Lake Jessup, and approximately 1/5 mile west of Tuskawilla Road; (BV2007-70).
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct an attached garage that would encroach 2.5 feet into the required 7.5 feet side yard setback. She further stated that the applicant was also requesting a variance from 75 feet to 45 feet for the width at the building line in order to re-establish the front building line at the wall of the new garage. She then stated that on June 2, 1997 a side yard setback from 10 feet to 5 feet was granted on each side for a new residence that was not constructed. She lastly stated that there was no code enforcement or building violations for the property.

Ronald Qualls stated that he was requesting a side yard setback and a width variance for the proposed garage. He further stated that his lot was

only 70 feet wide. He then stated that there would be a breezeway between the house and the proposed garage.

Mr. Rozon made a motion to approve the request.

Mr. O' Daniel seconded the motion.

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

10. **503 Pressview Avenue** – Justin King, applicant; Request for a side street setback variance from 25 feet to 15 feet for a proposed fence in R-1AA (Single Family Dwelling District); Located on the northeast corner of North Street & Pressview Avenue; (BV2007-71).
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct a stockade fence along North Street that would encroach 10 feet into the required 25 feet side street setback requirement. She further stated that since the house was nearing completion, the applicant had provided photographs that showed the location of the proposed fence and was asking the Board of Adjustment to reconsider the variance based on new information. She then stated that Traffic Engineering had reviewed the request and found no issue with traffic safety. She also stated that there was currently no code enforcement or building violations for the property. She lastly stated that there was no record of prior variances granted for the property.

Justin King stated that the first time he applied for the fence variance the house was not up and there was some opposition from a neighbor that was located several lots away. He further stated that some issues about the lot not being legally split also came up, but the lot split is legal. He then stated that he submitted letters of support from his direct neighbors. He also stated that when he last appeared before the Board of Adjustment there was a small concern about a tunnel effect, which is why he provided the pictures showing the fence from several different angles from North Street. He further stated that the fence would be 60 feet off of Pressview and from his property line 15 feet off of North Street and due to the elevation of the property you could barely see the top of the fence. He then stated that he had a small child and he wanted to secure the property.

Ann Stevens stated that her property was located one street over from the subject property. She further stated that she was at the meeting on behalf of herself and that she did not know the applicant. She then stated that she lived in the neighborhood for 25 years and she knew the Sanlando area very well. She further stated that she had a problem with the fact that people in her neighborhood were being harassed over a fence. She then stated that on the North Street side there was a wall built no less than

12 feet along two owners properties and if you went down to the other end of north street there was a brick wall that goes about three blocks around Victoria Park that had been crashed into about 3 times, because North Street is a dangerous street. She also stated that she didn't understand why the applicant would not be allowed to put his fence on the 15 foot line instead of the 25 feet.

Doug Thompson stated that he owned the property that abutted the applicant's property. He further stated that he favored the fence because it would offer more protection from the street noise on North Street. He lastly stated that he had no objections.

Joseph Williams stated that he lived directly across the street from the subject property. He further stated that he had been a residence in the community for 28 years and he had a strong desire to keep the community looking well. He then stated that he was not opposed to wooden fences, but he was opposed to fences that were not taken care of. He also stated that he would hate to drive in his driveway and see something that was decayed, rotten or discolored. He lastly stated that he would like the Board of Adjustment to consider his position.

Damon Chase stated that he was speaking on behalf of the Sanlando Country Club Estates Voluntary Homeowners Association. He then showed the Board of Adjustment the Sanlando area on a map. He further stated that the applicant stated that he didn't want people looking into his house. He then asked staff to show one of the pictures of the property from the street and stated that from standing down in the street you can see directly in the window, therefore the fence would not accomplish what the applicant wanted as far as privacy. He also stated that the applicant stated that he didn't want people walking up into his property and by putting up a chain link fence or any other type other than what the applicant was requesting would accomplish that. He further referred to the code, Section 30.43 that deals with variances and stated that you must satisfy all the criteria for granting a variance and the applicant did not satisfy one of them. He then stated that the courts in the State of Florida, including the 5th District Court of Appeal, which has jurisdiction over this area as well as the Florida Supreme Court has said that you have to have a hardship: he quoted "an applicant which seeks a variance must demonstrate a unique hardship in order to qualify for a variance, a hardship may not be found unless no reasonable use can be made in the property without the variance or stated other wise, the hardship must be such that it renders it impossible to use the land for the purposes for which it is zoned," that is the law of the land. He also stated that the applicant certainly could use the property for the purpose for which it was zoned.

Justin King stated that he didn't think that any of the other approved variances met all the criteria for granting a variance. He further stated that his neighbor directly across the street, that had a problem with the wood

fence, had wood around the entire front of his house, which has the same potential for rot as any other wood. He lastly stated that all he was trying to do was to secure the property.

Mr. Bass made a motion to approve the request.

Mr. Rozon seconded the motion.

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

A placard was not posted for the below item (#11) therefore it must be continued to another public hearing.

11. **1420 Oberlin Terrace** – Albert Ford, applicant; Request for a rear yard setback variance from 10 feet to 5 feet for a proposed pool in PUD (Planned Unit Development District); Located on the north side of Oberlin Terrace approximately 400 feet east of S Country Club Road; (BV2007-44).

Joy Williams, Planner

12. **206 Citrus Drive** – Cory Caslow, applicant; Request for 1) a rear yard setback variance from 30 feet to 20 feet for a proposed room addition; a 2) side yard (east) setback variance from 7.5 feet to 6 feet for a pool screen enclosure; and a 3) a side yard (west) setback variance from 7.5 feet to 4 feet and a rear yard setback variance from 10 feet to 5 feet for a shed in R-1A (Single Family Dwelling District); Located on the north side of Citrus Drive approximately 350 feet east of Vihlen Road; (BV2007-64).

Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct a room addition that would encroach 10 feet into the required 30 feet rear yard setback and a pool screen enclosure that would encroach 1.5 feet into the required 7.5 feet side yard setback. She further stated that the applicant was also requesting a side and rear yard setback variance for an existing shed that encroached 3.5 feet into the required 7.5 feet side yard (west) setback and 5 feet into the required 10 feet rear yard setback. She then stated that there was no code enforcement or building violations for the property. She lastly stated that there was no record of prior variances granted for the property.

Cory Caslow stated that they were requesting two rear and two side yard variances. He further stated that he provided eight letters of approval from his neighbors. He lastly stated that he put his shed where some of his other neighbors had there sheds.

Mr. Rozon made a motion to approve the request.

Mr. Bushrui seconded the motion.

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

13. **6167 Hedgesparrows Lane** – Michael & Maria Kutz, applicants; Request for a 1) rear yard setback variance from 7.5 feet to 2.5 feet for a pool screen enclosure; and a 2) rear yard setback variance from 7.5 feet to 6.5 feet for a pool in PUD (Planned Unit Development District); Located on the south side of Hedgesparrows Lane approximately ¼ mile northeasterly of Markham Road; (BV2007-72).
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct a pool that would encroach 1 foot into the required 7.5 feet rear yard setback and a pool screen enclosure that would encroach 5 feet into the required 7.5 feet rear yard setback. She further stated that there was no code enforcement or building violations on the property. She lastly stated that there was no record of prior variances granted for the property.

Rosaria Wills stated that she was Maria Kutz, the applicant's mother. She further stated that they wanted the variance for safety reasons. She then stated that her daughter had a 4 year old daughter and they wanted walking space between the home and the pool. She also stated that there were no neighbors behind the house and the request would not affect any of the neighbors or the neighborhood.

Mr. Bass made a motion to approve the request.

Mr. O' Daniel seconded the motion.

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

14. **5714 Bassett Place** – Southern Pool Designs, applicant; Request for a side yard setback variance from 10 feet to 7 feet for a proposed pool screen enclosure in R-1AAA (Single Family Dwelling District); Located on the north side of Bassett Place approximately 130 feet south of Wilson Road; (BV2007-73).
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct a pool screen enclosure that would encroach 3 feet into the required 10 feet side yard (north) setback. She further stated that there was no code enforcement or building violations for the property. She lastly stated that there was no record of prior variances granted for the property.

Mark Neujahr of Southern Pool Designs stated that he represented the applicants Mr. and Mrs. Fyles. He further stated that he hoped the Board of Adjustment would approve the variance.

Mr. Rozon made a motion to approve the request.

Mr. O' Daniel seconded the motion.

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

15. **645 Brookfield Loop** – Robert Dowell, applicant; Request for a rear yard setback variance from 5 feet to 3 feet for a proposed pool screen enclosure in PUD (Planned Unit Development District); Located on the north side of Brookfield Loop approximately ½ mile south of Lake Way Road; (BV2007-74).

Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct a pool screen enclosure that would encroach 2 feet into the required 5 feet rear yard setback. She further stated that the applicant was aware that there was a 5 foot utility easement along the rear property line that must be vacated prior to any construction being permitted. She then stated that there was no code enforcement or building violations on the property. She lastly stated that there was no record of prior variances granted for the property.

Charles Slater stated that he would speak on behalf of his son-in-law, Robert Dowell, the applicant; he could not be at the meeting. He then asked that the Board of Adjustment approve the request.

Mr. Bushrui made a motion to approve the request.

Mr. Rozon seconded the motion.

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

MOBILE HOME SPECIAL EXCEPTIONS

16. **1723 Kimmie Kay Drive** – Harvey Brooks, applicant; Request for a special exception for the temporary placement of an existing mobile home in A-5 (Rural District); Located on the east side of Kimmie Kay Drive approximately ¼ mile north of SR 46; (BM2007-06).

Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant requested the permanent placement of a 1976 mobile home, where mobile homes are allowed only by special exception. She further stated that a special exception for the temporary placement of a mobile

home was granted in 1992 for 10 years. She then stated that available records indicated that the majority of the surrounding parcels in the immediate vicinity had mobile homes that the Board of Adjustment approved for permanent placement, and that the mobile homes that received permanent placement were new double wide mobile homes that had conventional home design standards. She lastly stated that staff could not recommend the permanent placement of the 1976 mobile home, but would support the temporary placement.

Lamar Brooks stated that when he bought the property over two years ago he was told the mobile home had permanent placement, but obviously that was not correct. He further stated that he was requesting a 3 to 5 year temporary placement of his existing mobile home because he planned to build a home on the property. He then stated that he put vinyl siding on the outside of the mobile home and new floors and dry wall on the inside.

Mr. Rozon made a motion to approve the existing mobile home for 5 years.

Mr. Bass seconded the motion.

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

17. **1320 Arapaho Trail** – Helen Miller, applicant; Request for a special exception for the permanent placement of an existing mobile home in A-5 (Rural District); Located on the west side of Arapaho Trail approximately $\frac{3}{4}$ mile north of Osceola Road; (BM2007-07).
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant requested the permanent placement of a 1999 double wide mobile home, where mobile homes are allowed only by special exception. She further stated that a special exception for the temporary placement of a mobile home was granted in 1996 for 10 years, and a second mobile home was approved on the property for a medical hardship in 1996, but the medical hardship no longer exists. She then stated that the applicant had removed one of the mobile homes and had brought a 1999 double wide onto the property without a permit. She further stated that available records indicated that the majority of the surrounding parcels in the immediate vicinity had mobile homes that the Board of Adjustment approved for temporary and permanent placement and the mobile homes that received permanent placement were new double wide mobile homes that had conventional home design standards.

Helen Miller stated that she had pictures of the new mobile home that she wanted to show, after showing the pictures to the Board of Adjustment, she stated that she had 4 children and that the home they were living in

was too small. She further stated that she wanted approval to live in the 1999 double wide mobile home.

Mr. Bushrui made a motion to approve the 10 year placement of the 1999 mobile home with 90 days to remove the other mobile home.

Mr. Bass seconded the motion.

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

SPECIAL EXCEPTIONS

18. 5485 Lake Howell Road – David Thomas/CO South Winter Park LLC., applicant; Request for a special exception to establish an alcoholic beverage establishment in C-2 (Commercial District); Located on the southwest corner of Howell Branch Road and Lake Howell Road; (BS2007-09).

Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant requested a special exception for a sports bar (Outside Corner Sports Club) in which the sale of alcoholic beverages are not incidental to other products. She further that the proposed sports bar would be located in an existing shopping plaza known as Lake Howell Plaza, they would be remodeling 4,500 square feet of an end unit of the plaza facing Howell Branch Road. She then stated that C-2 zoning allows for a restaurant with incidental sales of beverages but require a special exception when the sales of alcoholic beverages exceed the sales of food, and that within these commercial areas the sale of alcoholic beverages for on-premise or off-premise consumption is consistent with commercial and retail uses. She also stated that staff received 2 letters of opposition from the neighborhood located south of the shopping plaza. She lastly stated that staff recommended approval of the special exception with the following conditions:

- The proposed sports bar will not increase the square footage of the existing shopping center
- Any outdoor seating will meet the fire code minimum standards for pedestrian sidewalk access
- Amplified sound from outdoor televisions or speakers shall not encroach into residential areas

Dave Thomas stated that he was the applicant and he had Joe Robinson, who would be one of the operators of the proposed sports bar with him. He then showed the Board of Adjustment from a site plan where the proposed sports bar would be located and the existing parking areas. He also stated that the entrance would be on Howell Branch Road. He further stated that they were working with another tenant which would be located

in the 12,000 square feet area in front of the proposed sports bar, and that the tenant was fine with the proposed sports bar.

Gary Summers stated that he was a member of the South Seminole Church of Christ. He further stated that he understood that a point was made that there was not a church within 1,000 feet from the proposed sports bar, but he believed their church was within the 1,000 feet. He then asked if anyone did any research to see if a church building was located within the 1,000 feet.

Kathy Fall stated that the applicant provide an affidavit stating that there was not a church within 1,000 feet.

Gary Summers stated that the church driveway exit was on Lake Howell Road and that just across the street from the church was an entrance to the entire Plaza and that he thought it was within 1,000 feet walking, driving or flying.

Kathy Fall stated that if the applicant is incorrect about the distance they would have to apply for a separation variance.

Gary Summers stated that the area was highly residential and that it was not the type of area for the proposed establishment. He further stated that Lake Howell and Howell Branch are major intersections and that with their church having evening meetings he would consider it some what of a hazard for their members to have to drive thru that intersection with a sports bar being there. He then stated that he was offering his objection.

Dave Thomas stated that they had an Engineering firm calculate the distance in accordance with Seminole County requirements and they certified to them that they were over the 1,000 feet distance. He further stated that if they were incorrect they would apply for a separation variance.

Mr. Rozon made a motion to approve the special exception request.

Mr. Bass seconded the motion.

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

19. **Country Club Road** – Lake Mary Congregation of Jehovah’s Witness, applicant; Request for a Special Exception to establish a church in R-1A (Single Family Residential District); Located on the east side of Country Club Road approximately 1 mile south of CR 46A; (BS2007-10).
Denny Gibbs, Senior Planner

After a very lengthy discussion this item was continued until the August 27, 2007 Board of Adjustment meeting.

APPROVAL JUNE 25, 2007 MEETING MINUTES

Mr. Bushrui made a motion to approve the June 25, 2007 minutes.

Mr. Rozon seconded the motion.

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

ADJOURNMENT

Time of Adjournment was 9:10 P.M.