MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT OCTOBER 22, 2007 MEETING 6:00 P.M.

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

Staff Present: Kathy Fall, Principal Planner; Denny Gibbs, Senior Planner; Joy Williams, Planner; Kim 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.

CONSENT

Peach Avenue (Lot 3) – Lorenzo Polk, applicant; Request for a 1) lot size variance from 8,400 square feet to 4,100 square feet, 2) width at building line variance from 70 feet to 41 feet, 3) front yard setback variance from 25 feet to 20 feet and 4) rear yard setback variance from 30 feet to 22 feet for a proposed single family home in R-1 (Single Family Dwelling District); Located on the east side of Peach Avenue approximately ¼ mile east of Southwest Road; (BV2007-124).

Denny Gibbs, Senior Planner

Mr. Pennington made a motion to approve Consent Agenda Item #1.

Mr. Bushrui seconded the motion.

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

CONTINUED ITEM

 Country Club Road – Lake Mary Congregation of Jehovah's Witnesses, 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

Denny Gibbs introduced the location of the property and stated that this item was continued from the August 27, 2007 meeting and was a request for a special exception to establish a church. She further stated that the applicant proposed to establish a single story meeting hall, approximately 4,425 square feet on a 3.25

acre parcel that was currently vacant. She then stated that the applicant was also proposing a parsonage building, approximately 1,628 square feet and a shed. She also stated that on May 22, 1995, the church was granted a special exception to establish the use on the property but the special exception had expired. She further stated that the Lake Mary Congregation of Jehovah's Witnesses had a current congregation of approximately 140 members and the facility would have fixed seating for 173. She then stated that staff believed the proposed use would be compatible with the trend of development in the area for the following reasons:

- The property is located on Country Club Road, which is a collector roadway
- In 1995 a substantially similar meeting hall was approved on the site
- Small churches are customary in residential neighborhoods She lastly stated that staff recommended approval of the special exception subject to the following conditions:
 - The assembly hall be single story not to exceed 5,000 square feet for the principle part of the structure
 - The parsonage building shall not exceed 2,000 square feet and shall have no active components on the south side
 - Active buffer per Seminole County Land Development Code Part 64 Chapter 30, section 30.1232 will be provided at the north, south and east edges
 - A waiver to the Active Buffer requirement for the placement of the driveway in the buffer area will be required at site plan review
 - The north side of the meeting hall shall be a passive edge with no active components as provided in Seminole County Land Development Code Part 64 Chapter 30, section 30.1232
 - Provide canopy trees every 40 feet and understory trees and landscaping along Country Club Road and at the property entrance. Where feasible the existing canopy along Country Club Road shall remain and plantings provided to meet the above condition. To be determined at site plan review
 - On the east edge the natural buffer will remain and where the existing trees do not meet section 30.1232 standards the applicant will provide additional landscaping. To be determined at site plan review
 - No daycare facilities
 - Prior to the issuance of development permits, a site plan that meets the requirements of Chapter 40 of the Land Development Code shall be reviewed and approved by the Development Review Committee

Louis Celenza thanked the Board of Adjustment for allowing the continuance, giving them time to become better prepared to show how the site was feasible for the proposed church. He further stated that they had improved the area traffic flow and that they were proposing a center turn lane. He then stated that after researching they found that there was suitable water for fire prevention for the

area. He also stated that their Engineer, Glenda Morris was present and that she would be speaking on behalf of the proposed church.

Glenda Morris stated that she was with Morris Engineering, and after looking at the parcel and reviewing some of the uses that did not require coming before the Board of Adjustment, such as community residential homes, private elementary schools or home offices, which are uses that would be more intense than the church use in her opinion. She then referred to the site plan stating that the property itself was rectangle in shape, and had a flag lot with lake frontage behind it. She further stated that the proposed site did not have lake frontage. She also stated that an agreement with the neighbors to have a joint driveway was not agreed upon, so they moved the driveway to the south as far as possible to make the traffic flow as well as possible. She then stated that they proposed a turn lane to turn into the site that would make it easier for people that would be turning into the church to get out of the way of the traffic that would be coming over the little rise in the road. She further stated that the storm water pond was located in front of the site based on a topographical survey which showed a depressurization area located close to the front south west portion of the site. She then stated that the lowest depression was in the front of the site where the pond was designed to hold a 100 year storm. She also stated that the pond was designed with a 6 to 1 slope, which was what the code required. She further stated that if someone were to run off the road the gentle slope would give the driver a chance to recover before they could get into any deep portion of the pond. She then stated that there was no sewer service for the site and that there would be a septic tank for the kingdom hall and another one for the parsonage building that would be located to the rear of the site. She stated that all parking would be paved and the run off would go into the storm water pond. She also stated that there would be landscaping buffers surrounding the parking area. She lastly stated that a water main owned by the City of Lake Mary would provide fire protection for the building.

Maxwell Wright stated that he was the legal representative of the church of Jehovah's Witnesses in the Central Florida area. He further stated that his purpose was to support what had already been presented and to reassure from a legal stand point that the church wanted to do ever thing possible to comply. He then stated that the church was an organization that focused on trying to look after the best interest of people. He also stated that this organization didn't have large churches or large memberships, they preferred to maintain small churches. He lastly stated that with the small amount of people that would attend the proposed site they would not affect the traffic flow.

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

Mr. Rozon seconded the motion.

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

PUBLIC HEARING

 2415 Mount Royal Place – Daniel & Nanci Lebrecht, applicants; Request for a 1) rear yard setback variance from 50 feet to 12 feet for an existing horse barn and 2) a rear yard setback variance from 30 feet to 12 feet for an existing pole barn in A-1 (Agriculture District); Located on the north side of Mount Royal Place approximately 1/10th mile east of Fort Christmas Road; (BV2007-113). Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant requested a variance for a 15 foot by 30 foot horse barn that encroached 38 feet into the required 50 feet rear yard setback, and a 16 foot by 29 foot pole barn that encroached 18 feet into the required 30 feet rear yard setback. She further stated that there was no record of a permit for either structures, and that on November 14, 2006, a notice of violation was issued for the un-permitted construction of the two pole barns. She then stated that the applicant received approval from the Pickett Downs Homeowner's Association. She lastly stated that there was no record of prior variances granted for the property.

Nanci Lebrecht stated that both structures were open pole barns. She further stated that they received approval from the Homeowner's Association and one neighbor. She then stated that if they had to move the pole barns it would put them close to their neighbor's pool. She also stated that under Florida Statute 604.50 they did not need a permit for an agricultural use. She further stated that the pole barns could not be seen at the current location, and that they only had two horses. She then stated that they were trying to comply with the County requirements.

Mr. Pennington made a motion to approve the request.

Mr. Bushrui seconded the motion.

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

 1367 Hampstead Terrace – Leonard Wilson, applicant; Request for a rear yard setback variance from 20 feet to 15 feet for a proposed room addition in PUD (Planned Unit Development District); Located on the south side of Hampstead Terrace approximately 1/10th mile south of Lockwood Blvd; (BV2007-117). Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct an approximately 660 square feet two story addition that would encroach 5 feet into the required 20 feet rear yard setback. She then stated that there were currently no code enforcement or building violations for the property. She also stated that there was no record of prior variances granted for the property. She lastly stated that the applicant had received approval from the Carillon Homeowner's Association.

Leonard Wilson stated that he and his wife lived at the property with their twin granddaughters, which are 16 years old. He further stated that Rachel was injured when she was 15 months old and was disabled. He then stated that services for Rachel were provided by (APD) Aides for Persons with Disabilities. He also stated that they were requesting a variance for an addition for a handicapped bathroom. He lastly stated that they had received approval from the Architectural Review Board and four (4) signatures of support from their neighbors.

Mr. Rozon made a motion to approve the request.

Mr. O' Daniel seconded the motion.

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

 3613 Leota Drive – Edward & Elizabeth Batcheller, applicants; Request for a rear yard setback variance from 30 feet to 25 feet-8-inches for a proposed addition in R-1AA (Single Family Dwelling District); Located on the north side of Leota Drive approximately 300 feet east of Bear Lake Road; (BV2007-118). Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct an approximately 966 square feet addition that would provide a garage and additional living space for the existing home. She further stated that the proposed addition would encroach 4 feet 4 inches into the required 30 feet rear yard setback. She then 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.

Edward Batcheller stated that they were requesting a one story addition. He further stated that they currently had a three bedroom one bath and one car garage home and wanted to extend to a three bedroom two bath and a two car garage.

Mr. Pennington made a motion to approve the request.

Mr. O' Daniel seconded the motion.

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

 3787 Biscayne Drive – Elmer Lemesh & Patricia O'Bailey, applicants; Request for a rear yard setback variance from 15 feet to 10 feet for a screen room in PUD (Planned Unit Development District); Located on the north side of Biscayne Drive approximately 1/5th mile east of Dodd Road; (BV2007-125). Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct an approximately 198 square feet screen room that would

encroach 5 feet into the required 15 feet rear yard setback. She then stated that the applicant received two letters of support from surrounding neighbors. She also 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.

Patricia O' Bailey stated that they were in a very unique situation because when you stand in their backyard you could not see any houses. She further stated that she received approval from her Homeowner's Association and both neighbors signed a letter of support. She then stated that they just wanted to be able to have a little more room.

Mr. Rozon made a motion to approve the request.

Mr. Bushrui seconded the motion.

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

585 West State Road 46 – R.V & Diana Rogers, applicants; Request for a rear yard setback variance from 30 feet to 12 feet for a screen room addition in A-5 (Rural District); Located on the south side of W SR 46 approximately ¼ mile south of Cochran Road; (BV2007-126). Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct an approximately 264 square feet screen room on an existing patio that would encroach 18 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 then stated that there was no record of prior variances granted for the property.

Diana Rogers stated that they had the slab down for 19 years, waiting on the screen porch.

Mr. Bushrui made a motion to approve the request.

Mr. Rozon seconded the motion.

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

781 Minerva Lane – Chris E. Pierce, applicant; Request for 1) a rear yard setback variance from 10 feet to 7.5 feet and 2) a side yard setback variance from 10 feet to 5 feet for a proposed above ground pool in PUD (Planned Unit Development District); Located on the south side of Minerva Lane approximately 300 feet south of Queensbridge Drive; (BV2007-114). Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct an above ground pool that would encroach 2.5 feet into the required 10 feet rear yard setback and encroach 5 feet into the required 10 feet side yard setback. She further stated that the applicant received approval from the Wynngate Homeowner's Association and two letters of support from both adjacent neighbors. She then stated that there was currently no code enforcement or building violation for the property. She also stated that a building permit was under review in the Building Department. She lastly stated that there was no record of prior variances granted for the property.

Chris Pierce stated that he would like to put a small above ground pool on the back patio. He further stated that because of the zoning requirements the pool would encroach within the setback. He then stated that he needed the pool for exercise.

Mr. Bushrui made a motion to approve the request.

Mr. Pennington seconded the motion.

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

 1751 Missouri Avenue – Gerhard J.W. & Karen Munster, applicant; Request for 1) a rear yard setback variance from 30 feet to 18 feet for a proposed pool and 2) a rear yard setback variance from 25 feet to 14 feet for a proposed pool screen enclosure in R-1AA (Single Family Dwelling District); Located on the east side of Missouri Avenue approximately ³/₄ miles north of Orange Blvd.; (BV2007-115). Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct a pool that would encroach 12 feet into the required 30 feet waterfront rear yard setback. She further stated that the applicant also proposed to construct a pool screen enclosure that would encroach 11 feet into the required 25 feet waterfront rear yard setback. She then stated that in 2001 a lot size and width at the building line variance was granted. She lastly stated that there was currently no code enforcement or building violations for the property.

Gerhard Munster stated that he was asking for a variance for a pool and screen enclosure. He further stated that the reason they were asking for the screen enclosure was because they really couldn't enjoy the house on the water because of the mosquitoes and other bugs. He then stated that he appreciated the Board of Adjustment consideration.

Mr. Pennington made a motion to approve the request.

Mr. Rozon seconded the motion.

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

10.440 Ridge Drive – Elizabeth DiBartolo, applicant; Request for a side yard (west) setback variance from 10 feet to 5 feet for a proposed covered patio in R-1A (Single Family Dwelling District); Located on the west side of Ridge Drive approximately 460 feet south of Lake Mary Blvd; (BV2007-121). Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct an approximately 576 square feet covered patio across the back of the existing home. She further stated that the addition would encroach 5 feet into the required 10 feet side yard setback. She then stated that in 1997 a 5 feet side yard setback variance was granted for the garage. She also stated that there was currently no code enforcement or building violation on the property.

Elizabeth DiBartolo stated that she had a patio at the back of her house and she really would love to have a roof on it. She further stated that she would like the patio roof to extend along the back of the house all the way to the end of the garage. She then stated that it would be an extension of the existing roof line.

Mr. Bushrui made a motion to approve the request.

Mr. Pennington seconded the motion.

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

11. **2651 Crater Court** – Mary Shafer, applicant; Request for 1) a side yard (east) setback variance from 10 feet to 5 feet and 2) a side yard (north) setback variance from 10 feet to 5 feet for a proposed pool with spa in PUD (Planned Unit Development District); Located on the east side of Crater Court approximately 600 feet south of Casa Verde Blvd; (BV2007-122). Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct a pool on a corner lot that would encroach 5 feet into the required 10 feet side yard setback on the east and north sides of the property. She further stated that the Chase Groves Homeowner's Association had approved the pool installation subject to the variance and the applicant submitted a petition of support from the neighbor adjacent to the pool's proposed location. 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 granted for the property.

Mary Shafer stated that she and her husband lived in their home for 7 years. She further stated that her husband had been very sick and the pool would be a tremendous help for his therapy. She then stated that they were on a corner lot and was very limited to what they could do.

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

Mr. Rozon seconded the motion.

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

12.838 Brightview Drive – Hiram Correa Jr., applicant; Request for a rear yard setback variance from 10 feet to 5 feet for a proposed pool in PUD (Planned Unit Development); Located on the west side of Brightview Drive approximately ¼ mile west of Old Lake Mary Road; (BV2007-127). Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct a pool that would encroach 5 feet into the required 10 feet rear yard setback. She further stated that the applicant submitted an approval letter from the Chase Groves Homeowner's Association and a petition of support from neighbors. 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 granted for the property.

Hiram Correa stated they lived in their home for 11 years and that they were committed to the area. He further stated that they wanted to improve their surroundings by adding a pool. He then stated that they needed an extra 5 feet and were requesting approval from the Board of Adjustment for the variance. He lastly stated that the pool would be an asset for his wife and child who were currently in need of physical activity because of medical conditions.

Mr. Rozon made a motion to approve the request.

Mr. Pennington seconded the motion.

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

SPECIAL EXCEPTIONS

13. Orange Boulevard (Lot 15b) – Seminole County Environmental Services Department/Hugh Sipes, applicant; Request for a special exception for a reclaim water facility and a minimum building height variance from 35 feet to 47.16 feet for a reclaim water storage tank in A-1 (Agriculture District); Located on the south east corner of the intersection of Orange Boulevard and 1st Street; (BS2007-16 & BV2007-116).

Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the proposed facility was needed to serve the future demands on the reclaimed water system. She further stated that the County had identified an immediate need to address planning and expansion of the existing reclaim utility infrastructure to accommodate growing demands. She then stated that it would be an unmanned

facility which would be remotely operated 24 hours a day. She also stated that there would be a maintenance check on the facility no more than three (3) times a week. She further stated that staff recommended approval of the special exception and variance subject to the following conditions:

- The general layout of the proposed uses as depicted on the conceptual site plan shall not change
- No building shall be increased more than 10% in square feet without Board of Adjustment approval
- The facility shall be un-manned and there will be no more than three trips generated a week to the site in a light utility truck
- Existing vegetation along the east and the south property lines shall remain to minimize visual impacts to the adjacent residential area and trail
- No odor and minimal sound shall be generated from the proposed use
- Lighting of the facility will be only for night time access and emergency purposes only
- Prior to the issuance of development permits, a site plan that meets the requirements of all other applicable code requirements including Chapter 40 of the Land Development Code shall be reviewed and approved by the Development Review Committee

Hugh Sipes with Seminole County Environmental Services Department stated that they were proposing a reclaim storage and re-pump facility to be constructed on the County owned property just south of the County's existing Markham Water Treatment Plant. He further stated that the property was approximately 3.5 acres in size. He then showed the Board the proposed site plan and stated that there was an existing tree line on the west side of the property between the proposed retention pond and Orange Boulevard, and a natural tree line on the south and east sides that they would leave in place. He also stated that on the west side of the property was a few houses along First Street and on the south side was the Seminole Wekiva Trail and a wetland area, and south of that was a multi-family development, and on the east side of the site are some single family homes.

Mark Worsham with Reiss Environmental stated that he was the Project Manager and Engineer of record for the proposed facility. He further stated that Kathy Fall had given the Board a description of the unmanned facility. He then stated that the proposed facility would be located in the center of the lot to try and maintain the natural buffer and maintain as much distance to the potential single family homes to the east. He also stated that the stormwater management pond to the west would provide a very good buffer from Orange Boulevard. He further stated that there would be no visual impact from the Wekiva Trail because of the trees. He then stated that there would be no odors generated from the re-claim facility and minimal noise was expected. He also stated that there would be minimal lighting and the lights would be controlled remotely by a control system. He lastly stated that there would be a small electrical building on site.

Hugh Sipes stated that there would not be a lot of traffic in and out of the site. He further stated that the only traffic would be a maintenance check on the facility about 2 or 3 times a week.

Mr. Bushrui made a motion to approve the request.

Mr. Pennington seconded the motion.

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

14. 1750 Sunshadow Drive – Winn-Dixie, applicant; Request for a special exception for an alcohol beverage establishment (liquor store) in PUD (Planned Unit Development District); Located on the south west intersection of State Road 434 and Sunshadow Drive; (BS2007-18). Kathy Fall, Principal Planner.

Kathy Fall introduced the location of the property and stated that the existing Winn-Dixie store was proposing to expand its selection of beverages to include liquor. She further stated that the grocery store currently sold beer and wine, but the sell of liquor required, by State law, to have a separate entrance therefore creating a separate liquor store. She then stated that the liquor store would be placed within the existing square footage of the grocery store footprint. She also stated that the proposed use would be consistent with the other retail uses in the area. She further stated that the use would not be detrimental to the character of the area and that staff recommended approval of the special exception with the following conditions:

- The general layout of the proposed uses as depicted on the conceptual site plan shall not change
- No building shall be increased more than 10% in square feet without Board of Adjustment approval
- The sale of alcoholic beverage will be for only off-premise consumption
- The liquor store will only consist of 5.6% of the total square footage of the existing grocery store
- Prior to the issuance of development permits, a site plan that meets the requirements of all other applicable code requirements including Chapter 40 of the Land Development Code shall be reviewed and approved by the Development Review Committee

Heather Ramos, Attorney at Gray Robinson stated that she was there on behalf of Winn-Dixie, the applicant and they had no opposition to any of the conditions that Staff placed on the Special Exception.

Mr. Rozon made a motion to approve the request.

Mr. O' Daniel seconded the motion.

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

15.2401 West State Road 434 (Suite #141) – William and Leslie McGinn, applicants; Request for a special exception for an alcoholic beverage establishment (wine shop & bar) and a variance from 1,000 feet to 796.6 feet for

the on-premise consumption of alcoholic beverages within 1,000 feet of a church in C-1 (Retail Commercial); Located on the north side of State Road 434, 1/10th of a mile west Wekiva Springs Road; (BS2007-19). Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant requested a special exception for a retail wine shop and wine bar in which the sale of alcoholic beverages are not incidental to other products. She further stated that the proposed wine shop and wine bar would be located in an existing shopping plaza known as Springs Plaza. She then stated that the applicant would remodel the existing interior, consisting of 2,160 square feet, fronting State Road 434. She also stated that C-1 zoning did allow for a restaurant with incidental sales of alcoholic beverages but required a special exception when the sales of alcoholic beverages exceed the sales of food. She further stated that within these commercial areas and within the existing shopping center the sale of alcoholic beverages for on-premise or off-premise consumption is consistent with commercial and retail uses. She then stated that the applicant had submitted a variance from the separation requirement from a church 1,000 feet to 796.6 feet from the proposed retail wine shop and wine bar. She lastly stated that staff recommended approval of a special exception for an alcoholic beverage establishment and the associated variance per the following conditions:

- The proposed retail wine shop and wine bar will not increase the square footage of the existing shopping center
- There will be no liquor sales and/or consumption on premise
- Prior to the issuance of development permits, a site plan that meets the requirements of all other applicable code requirements including Chapter 40 of the Land Development Code shall be reviewed and approved by the Development Review Committee

After a discussion from the Board of Adjustment members.

Leslie McGinn stated that Kathy Fall did a fine job outlining what they were asking for. She then asked the Board of Adjustment if they had any questions.

Mr. Rozon asked if she was required to verify the age of her customers.

Leslie McGinn stated yes, it's the law.

Mr. Rozon asked was she the owner and operator.

Leslie McGinn stated that she and her husband would be owners and operators.

Mr. Pennington made a motion to deny the request.

Mr. O' Daniel seconded the motion.

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

APPROVAL SEPTEMBER 24, 2007 MEETING MINUTES

Mr. O' Daniel made a motion to approve the September 24, 2007 Minutes.

Mr. Bushrui seconded the motion.

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

ADJOURNMENT

Time of Adjournment was 8:16 P.M.