

**MINUTES FOR THE SEMINOLE COUNTY
BOARD OF ADJUSTMENT
DECEMBER 3, 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; Alison Stettner, Planning Manager; 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

1. **Shady Palm Cove (Lot 142)** – Ernest & Stacey Bednar, applicants; Request for a 1) minimum lot size variance from 43,560 square feet to 41,588 square feet and a 2) minimum width at the building line from 150 feet to 148 feet for a proposed home in the A-1 (Agriculture District); Located on the north side of Shady Palm Cove approximately 650 feet west of Elm Street; (BV2007-136). (District 2)
Kathy Fall, Principal 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).

PUBLIC HEARING

2. **1751 Missouri Avenue** – Gerhard J.W. & Karen Munster, applicant; Request for 1) a rear yard setback variance from 18 feet to 14 feet for a proposed pool and 2) a rear yard setback variance from 14 feet to 11 feet for a proposed pool screen enclosure in R-1AA (Single Family Dwelling District); Located on the east side of Missouri Avenue approximately ¾ miles north of Orange Blvd.; (BV2007-151).
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that on October 22, 2007 rear yard variances were granted for the pool and screen enclosure. She then stated that because of errors in the application the requested variances were not sufficient for the proposed project. She further stated that the applicant

proposed to construct a pool that would encroach 4 feet into the granted 18 feet waterfront rear yard setback and that the pool screen enclosure would encroach 3 feet into the granted 14 feet waterfront rear yard setback. She lastly stated that there was currently no code enforcement of building violations for the property.

Mr. Hattaway asked the applicant if he wanted to add anything to what staff had stated.

Mike Futrell, owner of Futrell Aquatic Systems Inc; said that staff stated what the request was.

Mr. Rozon made a motion to approve the request.

Mr. Pennington seconded the motion.

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

3. **118 Leon Court** – Robert Lillie, applicant; Request for a side yard (east) setback variance from 7.5 feet to 2.23 feet for an existing covered porch addition in R-1A (Single Family Dwelling District); Located on the southeast corner of Leon Court and Graham Road; (BV2007-130). (District 4)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that in 2005, Code Enforcement issued a Notice of Violation for the un-permitted construction of a covered porch. She then stated that the porch encroached 5.27 feet into the required 7.5 feet side yard setback and that it also encroached into a 7 foot utility easement. She further stated that a building permit was under review for the addition but prior to completing the building permit process the utility easement must be vacated. She lastly stated that there was no record of prior variances granted for the property.

Robert Lillie stated that he went to all the Utility Companies and they didn't have any problems vacating the easement. He further stated that the porch would not be enclosed. He then stated that he was asking the Board of Adjustment for approval of the variance request.

Mr. Pennington made a motion to approve the request.

Mr. Bushrui seconded the motion.

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

The placard for the following item (#4) was not posted therefore the item can not be heard.

4. **1001 Broadway Street** – Omar Rodriguez, applicant; Request for a side street (south) setback variance from 25 feet to 0 feet for an existing fence in R-1 (Single

Family Dwelling District); Located on the northeast corner of Broadway Street and Ohio Street; (BV2007-131). (District 3)
Denny Gibbs, Senior Planner

5. **1725 Blackmon Court** – Susan Behel, applicant; Request for a side yard (north) setback variance from 7.5 feet to 5 feet for a screen enclosure in R-1A (Single Family Dwelling District); Located on the east side of Blackmon Court approximately 550 feet south of West Lake Brantley Road; (BV2007-135) (District 3).
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that on September 24, 2007, several variances was granted for the screen enclosure but the applicant proposed to extend the screen enclosure further on the north side which would encroach 2.5 feet into the required 7.5 feet side yard setback. She further stated that a building permit was under review and there was also a notice of violation for the un-permitted construction.

Susan Behel stated that she was the property owner and that behind her was a wholesale nursery that planted live oak trees that were now about 30 to 40 feet tall and because of the leaves and acorns she wanted to extend the screened area. She further stated that with the extension of the screen enclosure she would have less yard maintenance.

Mr. Rozon made a motion to approve the request.

Mr. O' Daniel seconded the motion.

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

6. **1034 Manchester Circle** – Jimmie and Pamela Jones, applicant; Request for a front yard (double frontage) setback variance from 25 feet to 22 feet for a proposed single story family room addition in R-1A (Single Family Dwelling District); Located on the north side of Manchester Circle approximately ¼ mile west of Grand Road; (BV2007-137). (District 1)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct an approximately 480 square feet family room addition that would encroach 3 feet into the required front yard setback for a double frontage lot. She further stated that the addition would replace an existing screen room. 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.

Mr. Hattaway asked if the applicant wanted to add to what staff had said.

Jimmie Jones said no sir, staff took care of it.

Mr. Pennington made a motion to approve the request.

Mr. Rozon seconded the motion.

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

7. **5400 Cub Lake Drive** – Bryan Kelly, applicant; Request for 1) a front yard setback from 50 feet to 45 feet and 2) a side yard (west) setback variance from 10 feet to 7.5 feet for a proposed single story addition in A-1 (Agricultural District); Located on the north side of Cub Lake Drive approximately 600 feet east of Bear Lake Road; (BV2007-138). (District 3)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct an addition that would encroach 2.5 feet into the required 10 feet side yard setback. She further stated that the addition would also have a front porch that would encroach 5 feet into the required 50 feet front 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.

Bryan Kelly stated that his grandfather built the house in 1939 and they wanted to improve the house and bring it up to code. He further stated that the front of the house would have a covered porch which would encroach on the front yard setback. He then stated that the side of the house that the addition would be on is close to the property line and to get the square footage that they wanted he had to apply for an additional variance. He lastly stated that the lot is very deep.

Mr. Bushrui made a motion to approve the request.

Mr. Pennington seconded the motion.

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

8. **255 West 6th Street** – Thomas & Josephine Silvey, applicant; Request for 1) a front yard setback variance from 20 feet to 15 feet and 2) a rear yard setback variance from 15 feet to 7.5 feet for a proposed single story home in R-1 (Single Family Dwelling District); Located on the south side of 6th Street approximately 300 feet west of Langford Drive; (BV2007-139) (District 1)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct a new single family home to replace an existing single family home. She further stated that in 1983, variances were granted for front yard to 15 feet and rear yard to 15 feet setbacks. She then stated that the new home would encroach 5 feet into the required 15 feet front yard setback and 7.5 feet into the required 15 feet rear yard setback. She also stated that the

applicant submitted letters of support from several neighbors. She lastly stated the there were currently no code enforcement or building violations for the property.

Dave Tollman stated that he was the building contractor for the project. He further stated that he was there to answer any questions the Board might have.

Mr. Pennington made a motion to approve the request.

Mr. Bushrui seconded the motion.

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

9. **902 Spring Valley Road** – David & Rebecca Scott, applicant; Request for a side yard setback variance from 10 feet to 6 feet for a replacement screen enclosure in R-1AAA (Single Family Dwelling District); Located on the northwest corner of Spring Valley Road and Satsuma Drive; (BV2007-142). (District 3)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to replace their screen enclosure that was damaged. She further stated that the existing screen enclosure was constructed in 1969 and it encroaches into the required side yard setback. She then stated that the new screen enclosure would encroach 6 feet into the required 10 feet setback. She also stated that a building permit for the screen enclosure was under review. 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.

David Scott stated that they were asking for permission to replace the screen enclosure that was damaged by a tree that fell on it. He further stated that they would bring the screen enclosure into current code.

Mr. Rozon made a motion to approve the request.

Mr. Bushrui seconded the motion.

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

10. **9208 Longfellow Place** – Steve & Teresa Zurkuhlen, applicant; Request for a fence height variance from 6.5 feet to 10 feet for a proposed fence in R-1A (Single Family Dwelling District); Located on the north side of Longfellow Place approximately 600 feet south of Jessica Drive; (BV2007-146). (District 3)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant requested a fence height variance from 6.5 feet to 10 feet in order to reduce visual and noise impacts of an adjacent industrial park. She further stated that

the applicant submitted support letters from two adjacent neighbors. 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.

Steve & Teresa Zurkuhlen stated that they wanted to put up the fence to hide the Industrial Park and it would also cut down on the noise. They further stated that if they could put up a solid structure it would benefit them and make life much better because the Industrial Park was very unsightly. They also stated that the wood fence was required by the Homeowner's Association. They lastly stated that their home was the only home that backed up to the Industrial Park.

Mr. Bushrui made a motion to approve the request.

Mr. Pennington seconded the motion.

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

11. **582 Whittingham Place** – Charles Waugh, applicant; Request for a 1) rear yard setback variance from 5 feet to 2 feet and a 2) side setback variance from 5 feet to 2 feet for a shed in PUD (Planned Unit Development); Located on the west side of Whittingham Place approximately 1/10th mile north of Green Way Blvd; (BV2007-132). (District 4)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to install a storage shed that would encroach 3 feet into the required 5 feet rear yard and side yard setbacks. 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.

Brian Waugh stated that he was the owner of the property and that he had a letter of support from three (3) of his neighbors. He further stated that what he wanted to do was to clear out his garage so that he could park his car in it again. He then stated that all the lawn supplies would go into the shed.

Mr. Pennington made a motion to approve the request.

Mr. O' Daniel seconded the motion.

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

The following item (#12) was administratively approved therefore did not need to be heard.

12. **1227 Merritt Street** – Betty Humphries, applicant; Request for a side street setback variance from 25 feet to 15 feet for an attached metal carport in R-1

(Single Family Dwelling District); Located on the south side of Merritt Street approximately 1/10th mile west of Anchor Road; (BV2007-134). (District 4)
Joy Williams, Planner

13. **4330 Prevatt Road** – Dean Matteson, applicant; Request for a front yard setback variance from 100 feet to 10 feet for a proposed detached garage in A-5 (Rural District); Located on the north side of Prevatt Road approximately ¼ mile north of East SR 46; (BV2007-140). (District 2)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct an approximately 2,000 square feet garage that would be used for car and boat storage. She further stated that the A-5 zoning regulations required a 100 foot front yard setback for any structure projecting in front of the established building line. She then stated that the proposed structure would encroach 90 feet into the required front yard setback. She also stated that a large portion of the property's rear yard was consumed with wetlands, including Lake Harney. 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 for the property, but the Board of Adjustment had approved two variances for the same request.

Dean Matteson stated that his variance request was in no way contrary to the public interest. He further stated that the particular natural conditions of the property required the variance, as was granted by the Board for two of his seven neighbors. He also stated that Prevatt Road was a private road servicing eight residents and that there was no county or city services provided and maintenance of the road was the responsibility of the home owners, all of which supported his request. He then referred to his petition of support. He further stated that the need to locate a safe structure with no impact to natural property away from the high water and located near Prevatt Road would be the highest evacuation route.

David Myers stated that he was one of the homeowners that received a variance. He further stated that he was in support of Dean Matteson's request.

Mr. Bushrui made a motion to approve the request.

Mr. Pennington seconded the request.

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

14. **3466 South St. Lucie Drive** – Elizabeth Weber, applicant; Request for a side street setback variance from 20 feet to 15 feet for a wood fence in PUD (Planned Unit Development); Located on the north side of South St. Lucie Drive approximately ½ mile west of Dodd Road; (BV2007-143). (District 1)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant requested a variance for an existing wood privacy fence that encroached 5 feet into the required 20 feet side street setback. She further stated that the applicant applied for a permit in August of 2005; however the permit had since expired. She then stated that a notice of code violation was issued on October 5, 2007 for the un-permitted construction of the fence. She lastly stated that there was no record of prior variances for the property.

Elizabeth Weber stated that the fence that they replaced was blown down by the hurricanes and they put it back in the same place that it had been in for the past 20 plus years.

Mr. Pennington made a motion to approve the request.

Mr. Bushrui seconded the motion.

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

15. **212 Spartan Drive** – Joseph Smirti, applicant; Request for a side street setback variance from 25 feet to 12 feet for a wood privacy fence in R-1A (Single Family Dwelling District); Located on the south side of Spartan Drive approximately 1/10th mile east of US HWY 17-92; (BV2007-145).

(District 4)

Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant requested a side street setback variance for an existing wood privacy fence that encroached 21.5 feet into the required 25 feet side street setback. She further stated that on September 13, 2007 the applicant received a notice of violation for the un-permitted construction of the fence. She then stated that there was no record of prior variances granted for the property.

Joseph Smirti stated that he had a 50 foot oak tree come down on their chain linked fence, which was exactly where the existing wood privacy fence is located. He further stated that there was still a stump that prevented them from putting the fence at the required setback. He then stated that they put up the fence not realizing they needed a permit. He lastly stated that because the code allows a chain link fence to be that close, but not a privacy fence he was hoping they could keep the fence at its current location.

Leslie Fedde stated that her property was directly behind the applicant's property. She further stated that the fence was done about two months ago and that her main concern was the site lines. She then stated that the fence causes her not to see the applicant's driveway and she had to hit her brakes really hard a few times because someone was pulling out of the applicant's driveway. She also stated that the fence encroached about a foot into her property. She showed the Board of Adjustment pictures of the property when the chain link

fence was up and a picture of the current privacy fence. She lastly stated that the applicant did not have a hardship and the fence should not be allowed.

Joseph Smirti stated that as far as the visibility of traffic he talked to several County employees that agreed that the fence did not obstruct any traffic. He further stated that he lived on the property since 1995 and the driveway in question had never been used. He then stated that as far as pulling out of his driveway he can see better with the privacy fence there and he has a full car length to back out. He lastly stated that with three young boys who play in the back yard he feels a lot safer for them with the privacy fence.

Mr. Pennington made a motion to approve a side street setback variance from 25 feet to 9.5 feet for the existing wood fence.

Mr. Rozon seconded the motion.

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

16. **282 W 10th Street** – Bertie Tomberlin, applicant; Request for a rear yard setback variance from 30 feet to 17.5 feet for a proposed detached garage in R-1 (Single Family Dwelling District); Located on the north side of W 10th Street approximately 1/10th mile west of CR 419; (BV2007-147). (District 1)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to construct a detached garage that would encroach 12.5 feet into the required 30 feet rear yard setback. She further stated that the proposed garage would be constructed 7.5 feet south of the rear lot line and there was a 20 foot alley that abutted the rear yard; per section 30.1346, ½ of the alley width may be considered as a portion of the required rear yard. She then stated that the property was currently vacant and the applicant had submitted for a building permit for the construction of the single-family home. She lastly stated that staff received an E-Mail of opposition from the homeowner to the rear of the property.

Bertie Tomberlin stated that they really didn't have any neighbors directly in front or behind them, so she wasn't sure who would be opposing the request. She further stated that their biggest problem was that they owned six lots but only one and a quarter of the property was uplands the rest was wetlands, which really didn't give them a lot of building room. She then stated that the code required you be 30 feet off the wetland line for the garage.

Mr. Rozon made a motion to approve the request.

Mr. Pennington seconded the motion.

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

17. **1600 Rutledge Road** – Scott Lincoln, applicant; Request for a front yard setback variance from 50 feet to 26 feet for a proposed porte-cochere in A-1 (Agriculture District); Located on the north east corner of the intersection of Sunshine Tree Boulevard and Rutledge Road; (BV2007-141). (District 5)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant proposed to construct a porte-cochere (covered entry) onto the front of the existing home. She further stated that the open structure would encroach 24 feet into the required 50 feet front 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.

Scott Lincoln stated that he received a letter of support from his adjoining neighbor, who looked at the plans for the porte-cochere. He further stated that he had a circular drive and wanted to replace it with the proposed drive thru carport. He then showed the Board of Adjustment his plans and pictures from some of his neighbors in near by neighborhoods that had some similar drive thru carports.

David Robinson stated that he was the property owner adjacent to the applicant's property. He further stated that he looked over the plans and from what he saw the proposed porte-cochere would be an improvement to the neighborhood. He then stated that there would be no site problems and he had no objection to the request.

Mr. Pennington made a motion to approve the request.

Mr. Bushrui seconded the motion.

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

MOBILE HOME

18. **655 Old Geneva Road** – David Doudney, applicant; Request for the temporary placement (5 years) of a mobile home for a medical hardship in A-5 (Rural Zoning District); Located on the east side of Old Geneva Road approximately 300 feet east of Tangerine Lane; (BM2007-10). (District 2)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant requested the five (5) year placement of a 2008 double wide mobile home for a medical hardship. She further stated that the temporary placement of a mobile home for a medical hardship where an existing single family home on the property required approval from the Board of Adjustment. She then stated that the subject property exceeds 13 acres. She further stated that the trend of nearby and adjacent development included low density single family uses on large parcels. She then stated that the permanent placement of a mobile home

would not be consistent with the surrounding area but the temporary placement of a mobile home for a medical hardship would not adversely affect the public interest. She also stated that staff recommended the two (2) year placement of a 2008 double wide mobile home for a medical hardship based on the following conditions:

- Only one (1) single-family mobile home unit shall occupy the site, as shown on the proposed site plan
- The mobile home shall otherwise conform to applicable building codes, including standards for anchoring, utility accessibility and skirting
- The mobile home shall have shingled roof, vinyl siding, skirting and other “conventional home” design conditional deemed appropriate by the Board of Adjustment

Kathy Fall stated that staff received several letters of support and opposition of the mobile home. She lastly stated that the letters of approval were either from residents of the Geneva area that were not in close proximity of the property or people who personally knew the applicants.

David Doudney thanked Chairman Hattaway and the Board Members for their time and community service. He then stated that he represented Stan and Belinda Poloski, the property owners. He further stated that the Poloski's were residents of Seminole County since 1957 and the owners of Seminole Flower Shop since 1984. He also stated that just this year, the Sanford Airport Authority exercised its power of eminent domain and condemned the Poloski's home and their seven acres on Cameron Avenue along with the home George and Pat Warner, Stan's Aunt and Uncle were living in. He then stated the medical hardship was for George and Pat Warner who were currently living with Stan and Belinda. He further stated that the Poloski's keep the Cameron Avenue property immaculate and had made tremendous strides in cleaning up the 13 acres and fixing up the old house in Geneva in just the one month that they had lived there. He then stated that Stan as a man and landowner was trying to take the best care possible of his family. He then stated that he sincerely hoped that the Board of Adjustment would send a message that in Seminole County we care about our veterans, we care about our seniors and we care about property rights and allow the Poloski's to take care of their family. He lastly had all of the people who were in support of the request stand.

Robert Hunn asked how much time did he have and if he needed to read the letter he sent regarding the request.

Mr. Hattaway stated that they did receive the letter and that it was not necessary for him to read it.

Robert Hunn then stated that some questions came up as he was sitting at the meeting. He then asked that should the special exception be permitted and the property was split in six months and the applicant's came back before the Board of Adjustment was there a possibility the double wide mobile home be granted permanent placement.

Mr. Hattaway stated that the applicant's could apply but there was no way anyone could say what the vote of three members would be, but that yes there was a possibility.

Robert Hunn further stated with several of the homes in the area approaching the million dollar range, adding another mobile home to an upper scale area of Geneva is not what the neighbors want. He then stated that the existing home which everyone is calling a home is really an older mobile home with additions. He also stated that the applicant's did clean up the property and it did look a lot nicer. He lastly stated that they really wanted to be good neighbors and they knew the applicants were good people.

Rex Roach stated that his property was east of the applicant's property and he knew the airport took over their land, but they did get money for it. He further stated that instead of spending 80,000 on a mobile home, why don't they build a house. He then stated that they didn't want any more mobile homes in the area, because it would depreciate the value of their homes. He lastly stated that he was completely against it, but he didn't have anything against the applicant's.

George Knauer stated that he lived directly behind the applicant's property and he was sure they were great neighbors because they had already cleaned up the place. He further stated that another mobile home on the same property was really not necessary. He then stated that he did not feel it was in the best interest of Seminole County and his neighborhood.

Kristi Moore stated that they felt the applicant's would be great neighbors and that there had been improvements on the property. She further stated that putting another mobile home on the property would bring down their property value.

Donald Doudney stated that it seemed the majority of the complaints were about the existing mobile home, which as Kathy mentioned it really didn't look like a mobile home with all the additions and improvements that were made. He further stated that right now they were fighting with the airport and they had a court date coming up in early 2008, which was what they were concentrating on. He then stated that the Poloski's planned to eventually build a new one story single family home on the property and then do away with the existing mobile home.

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

Mr. Pennington seconded the motion.

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

SPECIAL EXCEPTIONS

19. **620 Palm Springs Drive** – Palm Springs Drive Church of Christ, applicant; Request for a Special Exception to expand an existing church in R-1AA (Single Family Dwelling District); Located on the west side of Palm Springs Road approximately $\frac{3}{4}$ miles north of SR 436; (BS2007-22). (District 4)
Denny Gibbs, Senior Planner

Kathy Fall introduced the location of the property and stated that in 1969, the Church of Christ was granted a special exception to establish the church. She further stated that the current special exception request was for the expansion of the church facility and the membership. She then stated that they proposed to add a 6,900 square foot classroom building to the existing 6,000 square foot assembly building. She also stated that they also proposed a membership of 200 with regular attendance at the Sunday worship of about 225 and 50 parking spaces will to be provided on site. She further stated that the church faces Palm Springs Drive which is a collector roadway, moving the access off Orange Street, which is a residential road, and orienting it to Palm Springs Drive would make the use more consistent and compatible with the trend of development along Palm Springs Drive. She then stated that an additional benefit of reconfiguring this site is the opportunity to apply buffer standards. She also said the rear and side of the new building would act as a passive buffer for the residents on Orange Street and the required landscape elements for an active and passive buffer would serve to further separate the church use from the residential area. She further stated that an additional to the church adding 50 parking spaces on site they would also provide an agreement for shared parking with the adjacent office property to accommodate overflow parking. She lastly stated that staff believed the proposed use would be compatible with the trend of development in the area and staff recommended approval with the following conditions:

- Prior to the recording of the Development Order, the applicant would provide an agreement for shared parking with an adjacent commercial/office property to accommodate overflow parking
- Occupancy of the church shall be limited to 225 people
- Access to Orange Street or Center Street is prohibited
- There shall be no parking on Orange or Center Street
- No day care facilities are proposed
- No kitchen facilities are proposed
- Existing lighting shall be upgraded to meet today's lighting standards Seminole County Land Development Code Section 31.1234
- Active buffer per Seminole County Land Development Code Part 64 Chapter 30 Section 30.1232 will be provided at the south and west of the new parking area
- The north and west side of the classroom building 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 1 canopy tree every 40 feet and 3 understory trees along Orange Street, Palm Springs Drive, and Center Street. To be determined at site plan review
- 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

James Mc Clenny stated that he was one of the Officers of the church and that he was there to answer any questions.

Mr. Hattaway asked if he agreed with staff recommendations.

James Mc Clenny stated yes.

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

Mr. O' Daniel seconded the motion.

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

20. **2041 West SR 426** – Lutheran Haven, applicant; Request for a Special Exception to operate a home health care agency in R-3A (Multi-Family Dwelling District); Located on the east side of SR 426 approximately 1/5 mile north of Chapman Road; (BS2007-24). (District 1)
Denny Gibbs, Senior Planner

Kathy Fall introduced the location of the property and stated that Lutheran Haven proposed to add a home health care agency that would primarily serve the Lutheran Haven Campus, which consisted of independent living facilities, a nursing home facility, and an assisted living facility. She further stated that the health care agency would be imbedded into the existing office administration building and would require no additional infrastructure so no improvements would be required to establish the use. She then stated that there would be no office visits by the clients. She also stated that staff believed the proposed use would be compatible with the trend of development in the area and that a home health care use would be a small addition to health care services provided to the Lutheran Haven community. She lastly stated that staff recommended approval of the special exception with the following conditions:

- Home health care agency to primarily serve the Lutheran Haven campus
- The home health care office facility shall be located in the Administration Building located at 2041 West State Road 426
- The special exception shall be for the home health care services only, office visits are prohibited
- 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

Donald Kovac, Executive Director of Lutheran Haven stated that he was there to answer any questions.

Mr. Rozon asked how was the services previously provided.

Donald Kovac stated by other home care agencies coming to the campus.

Mr. Rozon asked how many residents are on the property.

Donald Kovac stated in the Independence Living Facility 265 residents, in the Assisted Living Facility 28 and the Nursing Home 42.

Mr. Rozon made a motion to approve the request.

Mr. Bushrui seconded the motion.

The motion passed by (4-0) vote. Mr. O' Daniel did not vote.

21. **1701 Mikler Road** – Christian Frazier/Cornerstone Missionary Baptist Church, applicant; Request for a Special Exception to establish a church in R-1A (Single Family Dwelling District); Located on the east side of Mikler Road approximately 1/10th mile south of Red bug Lake Road; (BS2007-23). (District 1)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to convert an existing single family home into a short term building with future plans to construct an 18,000 square feet sanctuary. She further stated that the short term church building would be 2,900 square feet the sanctuary would have a seating capacity of 100 people. She then stated that the future church building would be 18,258 square feet with a sanctuary seating capacity of approximately 600 people. She also stated that the hours of operations would be on Sundays from 8:00 a.m. until 1:00 p.m. with an occasional 4:00 p.m. Sunday service; and on Wednesday evenings from 7:00 p.m. until 9:00 p.m. She further stated the applicant had stated that the church would not operate during the week as a daycare facility and that the church would not be rented out for events other than weddings and funerals. She then stated that the church was proposed on a 5 acre site that fronted Mikler Road approximately 1/10th mile south of Red Bug Lake Road. She also stated that the surrounding area was a mixed use of residential and commercial, the site would be required to meet active/passive buffer setback requirements in accordance with the Land Development Code section 30.1232 to eliminate or minimize adverse impacts on adjacent residential uses. She lastly stated that staff recommended approval of the special exception based on the following conditions:

- The short term church building shall not exceed 3,000 square feet. The proposed future church building shall not exceed 18,300 square feet of air conditioned area and a 650 square feet porte cochere

- The church will not be utilized as a child care facility independent of customary church activities
- 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

Christian Frazier stated that the current property had been abandoned for a while and there was an old house and barn on the property. He further stated that the structure did not match the neighborhood of newly constructed homes in the area. He then stated that after meeting with the surrounding Homeowner's Association they showed support of the approval of the proposed church. He also stated that some of the concerns that surrounding neighbors expressed was traffic concerns. He further stated that they agreed with the County to move the entrance to the north end of the property, before the subdivisions to reduce traffic concerns. He then stated that they did a study of the area in Oviedo and other churches that were five to six times the size of the proposed church would be in the next five to seven years and they noticed that there wasn't any traffic jams on Sunday mornings. He also stated that they did not intend to operate a daycare or kitchen facility in the current structure, so their operations would be on Sunday mornings and one day during the week where there is minimal traffic on the road already. He further stated that they had assured the residents that they currently had only between 40 to 50 in attendance on Sunday morning and as the church grew and they started building the new facility they would monitor the growth as well. He lastly stated that when they reached 75% capacity in the new facility they would start looking for other property that would meet their needs.

Steven Rosenstock stated that he lived right across from Mikler Road and he didn't necessarily oppose the church, but he had some concerns with traffic and parking. He further stated that he didn't have a lot of concern with the small church but when they build the 18,000 square foot facility that close to the residential area with the potential of 600 people then he would be very concerned.

Len Suminski stated that he thought the traffic on Mickler Road and the Red Bug Road intersection would be a hazard even with a police officer. He then stated that all you have to do is look at the intersection during rush hour when people are going to work in the mornings. He further stated that the other problem he had was that the church may cause cut thru traffic when people are in line they are going to look for another way out and they may cut thru his subdivision.

Ardeshir Koochi stated that he has lived in his single family home for six or seven years and when they moved in there were no subdivisions. He further stated that the church would be right across from his home and he was concerned with traffic on Mikler Road. He then stated that it would impact their living and privacy and also the value of their property would probably depreciate. He lastly stated that in the future when he wanted to sale his property it may be a problem.

Christian Frazier stated that he lived in the Oviedo area for about ten years and he had seen the subdivisions developments when they were coming in and there was opposition at that time but once they were completed they really made a nice addition to the area. He further stated that the proposed church property had been on the market for over two years and if they get approval they will continue to work with the neighborhood to be good neighbors. He then stated that he was a Realtor and the last thing he wanted to do was to lower any property values.

Joy Williams stated the applicant was willing to cut the size of the future building and the members in half.

Mr. Pennington made a motion to approve the special exception request with the following amended conditions:

- **The proposed future church building shall not exceed 9,150 square feet of air conditioned area and the sanctuary seating capacity shall not exceed 300 seats**
- **The church will provide assistance with directing traffic after services until a traffic light is installed at the intersection of Red Bug Lake Road and Mikler Road**

Mr. Rozon seconded the motion.

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

22. **3861 Wekiva Springs Road** – Saumil Patel, applicant; Request a special exception for a alcohol beverage establishment (package liquor store) in PUD (Planned Unit Development); Located at the intersection of Wekiva Springs Rd & N Hunt Club Blvd; (BS2007-25). (District 3)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to convert an existing 1400 square feet commercial unit located in an existing shopping plaza known as The Shoppes of Sweetwater into an alcoholic beverage establishment (package liquor store) for off-premise consumption. She further stated that the store would consist of beer, wine, and liquor package sales. She then stated that the applicant hours of operations would be Monday – Friday from 9:00 a.m. – 10:00 p.m., Saturday from 10:00 a.m. – 11:00 p.m. and Sundays from 12:00 p.m. -10:00 p.m. She also stated that due to the sale of alcoholic beverages being strictly limited to off-premises consumption only, the Land Development Code did not require the applicant to maintain separation from churches, schools, residential properties, or other like establishments. She lastly stated that staff recommended approval based on the following conditions:

- The size of the proposed package liquor store being described as bay #14 of The Shoppes of Sweetwater, further known as Unit #3861 Wekiva Springs Road, shall not exceed 1400 square feet
- The use will be for the sale of alcoholic beverages for off-premises consumption only

- The hours of operation will be as follows: Monday – Friday from 9:00 a.m. – 10:00 p.m.; Saturday from 10:00 a.m. – 11:00 p.m.; and Sunday from 12:00 p.m. – 10:00 p.m.

Lee Karina Lima stated that she represented Saumil Patel the applicant for the special exception request. She further stated that the establishment would be for off premise consumption only. She then stated that they reviewed the staff report and they agreed with the conditions.

Mr. Rozon made a motion to approve the special exception request with the hours of operations on Sunday from 12:00 p.m. – 6:00p.m.

Mr. Pennington seconded the motion.

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

23. **1680 McCulloch Road** – TBCOM Properties, applicant; Request for a special exception for a 130 foot communication tower in PUD (Planned Unit Development); Located on the north side of McCulloch Road approximately 330 feet east of Lockwood Boulevard; (BS2007-20). (District 1)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant proposed to construct a 130 feet communication tower that would be flagpole in design. She further stated the subject property was located in the Carillon Planned Unit Development it is parcel 202, which permits C-1 (Retail Commercial) district uses. She then stated that the property was previously used as a Winn-Dixie grocery store, however the store is closed and the building is vacant. She also stated that the area proposed for the communication tower was located on the southeast side of parcel 202, adjacent to a large conservation area. She further stated that the request was reviewed by Seminole County's Business Innovation and Technology Services Department Operation's Division and their analysis of the proposed communication tower found that the proposed proximity to Seminole County Fire Station 65, output power, lack of IM studies and proposed radio spectrum that would be used to propagate radio signals from the communication tower appears it would severely affect First Responder radio communications for Seminole County Government and recommendation for erection of this tower should not be granted. She lastly stated that based upon the stated findings, staff recommended the Board of Adjustment deny the request for a 130 feet communication tower.

Mary Solik stated that she was Counsel for TBCOM Properties. She then stated that three of the Board of Adjustment members were present in August when they were there with a slightly different application, which was for a 120 feet camouflage tower. She further stated that the proposed property was zoned a Planned Unit Development, which permitted C-1 uses. She then stated that under C-1 zoning the use of a camouflage tower may be permitted administratively by the Planning Manager. She also stated that the Acting

Planning Manager, Tina Williamson denied their request for a 120 feet camouflage tower and then they came before the Board of Adjustment who overturned the Planning Manager's decision by a vote of (4-1). She further stated that the decision was appealed to the Board of County Commissioners and they heard the application on September 25, 2007 and they overturned the Board of Adjustment decision by a (3-2) vote, so here we are tonight on a special exception application for a 130 foot communication tower. She then walked the Board of Adjustment through the neighborhood by showing them pictures of the Chevron sign in an outparcel in the area; picture of the Winn-Dixie signage, a view of the Orange – Seminole County Fire Station; the new UCF Stadium, view of the UCF Police Training Facility and the Carillon Methodist Church. She also stated that the area was a mixed use area with commercial, religious institutions, educational and residential uses and they felt the camouflage tower flagpole would be consistent with the development trend in the area. She stated to further demonstrate the compatibility with the flagpole to the neighborhood they did a photo simulation of the flag pole showing the over all area they flew a balloon at 130 feet taking pictures so the Board could see what the flagpole would look like from different views. She further stated that staff had determined that the site would severely affect the First Responder radio communications for Seminole County Fire Station 65, but it was their legal and technical position that the FCC maintained control over the radio spectrum and the Board of Adjustment could not approve or deny the request based on radio frequency issues. She then stated that her second legal technical argument was that the state law also prevented the Board of Adjustment from approving or denying the application on that basis and finally there is nothing in the code that required a review of the radio frequency. She also stated that TBCOM is a tower builder they don't transmit or receive signals they are a vertical real estate company. She further stated that she had been doing towers since 1997 and this was the first time she had ever had an intermodulation problem. She then stated that TBCOM lease space on the tower to wireless carriers. She then referred to the memo from Tommy Oliveras; reading from the third paragraph stating:

- Based on the information supplied within the Special Exception Application Package and the proposed close proximity to Seminole County Government Fire Station 65, output power, lack of IM studies and proposed radio spectrum that will be used to propagate radio signals from this communication tower it appears that this site will severely affect First Responder radio communications for Seminole County an recommendation for erection of this communication tower should not be granted.

She then stated that they did not submit anything for Mr. Oliveras to review. She also referred to the letter from Televate and stated that she studied the letter and it does not state that the proposed tower would severely interfere with the Seminole County First Responder Radio Communication. She further stated that they wanted to walk out of the meeting with approval and they found a firm called Sitesafe, Inc and Tony Demattia would speak to the Board.

Tony Demattia stated that he worked for a company called Sitesafe and that he was provided information Thursday night from the carriers on what they were

putting on the tower and that the proposed tower would be approximately 300 feet away from the Fire Station antenna. He further stated that he did not receive any information from Seminole County until today (Monday) at 5:30, therefore he would go back and verify that there will not be any issues with the Seminole County radio system and the proposed tower. He then stated that intermodulation products are systems that are co-located together at the same facility causing mixing of frequencies. He also stated that it was highly unlikely that this would happen with the systems being 300 feet apart. He lastly stated that he would recommend to TBCOM that when a carrier put up their system that they notify the Fire Department to run a test to check all the channels to prove that there would be no interference.

Mary Solik stated that she had Radio Frequency Engineers from three of the carriers that would be going on the tower. She further stated that they were all willing to submit to intermodulation testing as they go on the tower. She then stated that there was a clause in the TBCOM lease stating that the carriers would not cause interference with anybody on the pole or with anybody else.

Dan Babilla stated that he was a Radio Frequency Engineer for T-Mobile in the Orlando area. He stated that they would be willing to do an intermodular study.

Pete Nanson stated that he was a Radio Frequency Design Engineer for Verizon and that they had an application on TBCOM site to co-locate. He further stated that they currently had several towers on fire stations and they all had intermodular studies done. He lastly stated that they were willing to do the same for the TBCOM tower.

Craig O'Neal with PC Metro stated that they were willing to agree with any intermodulation study or test that needed to be performed in accordance with the site. He further stated that they had not had any issues with similar sites in Florida and they didn't see any type of problem with the proposed facility site.

Mary Solik stated that in wrapping up their presentation, they tried very hard in a short period of time to resolve the issue of the intermodular study, but just didn't get enough information from the County in a timely manner. She further stated that they got 75% of the way and were asking that the Board of Adjustment approve the special exception with the condition that each carrier do a intermodular study when they submit for their building permit to co-locate and that they notify the Fire Department when the facility is on the air to make sure there is no interference.

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

Mr. Rozon seconded the motion.

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

APPROVAL OCTOBER 22, 2007 MEETING MINUTES

Mr. Rozon made a motion to approve the October 22, 2007 minutes.

Mr. Pennington seconded the motion.

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

APPROVAL OF THE 2008 MEETING SCHEDULE

Mr. Hattaway made a motion to approve the 2008 meeting schedule.

Mr. Pennington seconded the motion.

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

ADJOURNMENT

Time of adjournment was 10:40 P.M.