

# MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT MARCH 24, 2008 MEETING 6:00 P.M.

**Members Present:** Mike Hattaway, Chairman; Dan Bushrui, Bob O'Malley, Tom O'Daniel and Stephen Coover

**Staff Present:** Kathy Fall, Principal Planner; Denny Gibbs, Senior Planner; Joy Williams, Planner; Darlene McGuire, Technician; and Tina Williamson, Assistant Planning Manager

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 further stated that he wanted to recognize two past Board of Adjustment Members. He then stated that Mr. Wes Pennington served from 1996 to 2008 and Mr. Al Rozon served from 1991 to 2008 and that both retired from the United States Military. He thanked then both for their service with the Board of Adjustment and stated that they both conducted themselves with the highest of integrity on the Board. He honored both Mr. Pennington and Mr. Rozon and presented them with plaques.

## PUBLIC HEARING ITEMS

1. **3431 Australian Circle** – Kenneth & Georgette Guthrie, applicants; Request for a front yard setback variance from 25 feet to 18 feet for an attached carport in R-1A (Single-Family Dwelling District); Located on the north side of Australian Circle approximately ½ mile west of Eastbrook Boulevard; (BV2008-13). (District 1)

Darlene McGuire, Technician

Darlene McGuire introduced the location of the property and stated that the applicant proposed to construct an attached carport to the front of the existing home which was built in 1962. She further stated the proposed garage would encroach 7 feet into the required 25 feet front 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 there was a building permit under review for the proposed carport.

Kenneth Guthrie stated his name.

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

Kenneth Guthrie stated no.

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

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

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

2. **122 Bayberry Road** – Fielding W. Featherston, applicant; Request for 1) a side street (east) setback variance from 25 feet to 13 feet for a proposed carport addition, 2) a side street (east) setback variance from 25 feet to 0 feet for a proposed fence, 3) a fence height variance from 6.5 feet to 7 feet and 4) a side yard (west) setback variance from 10 feet to 8 feet for an existing shed in the R-1AA (Single Family Dwelling) district; Located on the southwest corner of Bayberry Road and Douglas Avenue; (BV2008-19). (District 3)

Tina Williamson, Asst. Planning Manager

Tina Williamson introduced the location of the property and stated that the applicant proposed to replace the existing fence around the property with a 7 foot fence and build an approximately 340 square foot carport. She further stated that Section 35.71 of the Seminole County Land Development Code provides for the installation of fences on lot lines which border collector or arterial roads during the subdivision process and that Douglas Avenue was classified as a collector road and the original fence was installed when the property was subdivided; therefore, the fence is permitted in its current location. She then stated Section 30.1349 of the Seminole County Land Development Code limits the height of fences to 6.5 feet, unless otherwise approved by the Board of Adjustment. She also stated the proposed carport would encroach 12 feet into the required 25 foot side street setback. She further stated that the applicant was also seeking a side yard setback variance from 10 feet to 8 feet for an existing shed. 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.

Fielding Featherston stated that he was the Architect for the homeowner. He further stated that the existing shed was in place prior to the applicant's purchasing the home in 1995 and the applicant was not aware that the shed was in violation of setbacks. He then stated that the proposed carport would have similar construction as the existing home and provide shelter on the east side of the property. He also stated that the proposed 7 foot fence would assist in providing more privacy both visually and with respect to light intrusion in the evenings.

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

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

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

3. **2373 Oxe Court** – Iris Villafranca; request for a 1) rear yard setback variance from 30 feet to 10 feet, and a 2) side yard setback variance from 10 feet to 7.5 feet for an existing 240 square foot shed in R-1AA (Single Family Dwelling)

District); Located on the south side of Oxer Court approximately 1/10<sup>th</sup> mile north of W McCulloch Road; (BV2008-16). (District 1)  
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant requested a rear and side yard setback variance for an existing 240 square foot wood shed. She further stated the shed currently encroached 20 feet into the required 30 feet rear yard setback and 2.5 feet into the required 7.5 feet side yard setback. She then stated in December of 2007, the applicant received a notice of code violation for the un-permitted construction of the shed. She lastly stated that there was no record of prior variances granted for the property.

Gladys Valez stated that she was speaking for Iris Villafranca the homeowner. She further stated the applicant's husband built the shed because they needed it for storage. She then provided a letter from the Homeowner's Association stating the request was approved.

Antonio Rodriguez stated that the first time he built the shed he was too close to the fence and the inspector told him he had to move it 10 feet away from the fence. He further stated that the garage was full and the shed would be used for storage.

Bob Barker stated he was one of the neighbors, and if the shed was 6 or 7 feet tall there would not be any opposition but this shed is almost 14 feet tall. He further stated that a shed that size in a residential area is out of character for the neighborhood. He then stated that there was no permit pulled for the shed and at least 70 percent of the shed had been built before code enforcement came out and stopped the applicant. He lastly stated he didn't believe the request was approved by the Homeowner's Association, because two days ago he talked to a Homeowner's Association Board Member who stated he didn't know anything about the shed.

Gladys Valez stated she spoke to the Fox Chase organization on the phone and the gentleman she spoke to stated as long as the shed was not in front of the house and could not be seen from the front it was approved.

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

**Mr. O'Malley seconded the motion for discussion.**

Mr. O'Malley asked what measures are taken to make sure that the actual construction when completed complies with the drawings they received.

Joy Williams stated that the applicant received a notice of code violation and the applicant would have to apply for a building permit and the shed would be inspected according to the building permit.

**The motion passed by a (3-2) vote. Mr. Bushrui and Mr. O'Daniel were in opposition.**

4. **125 Spring Cove Trail** – Jeff & Jennifer Prechter, applicants; request for a 1) front yard setback variance from 25 feet to 7 feet for a wood privacy fence, and a 2) height variance from 6.5 feet to 8 feet for a wood privacy fence in R-1AA (Single Family Dwelling District); Located on the south side of Spring Cove Trail approximately 1/10<sup>th</sup> mile west of Rollingwood Trail; (BV2008-17). (District 3 )  
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that the applicant proposed to replace an existing wood privacy fence with a new vinyl fence that would encroach 18 feet into the required 25 feet front yard setback. She further stated that the applicant also requested a height variance from 6.5 feet to 8 feet for the privacy fence. She then stated that the residence was located on a corner lot and the privacy fence was located at the perimeter of the back yard in order to provide privacy around the existing pool area. She also stated that there were currently no code enforcement or building violations for the property. She lastly stated the applicant received a letter of approval from the Homeowner's Association, as well as a letter of support from the adjacent neighbor.

Jeff Prechter stated that they bought the house five years ago and they were trying to replace an existing structure. He further stated that the existing fence was at 8 feet and some places 10 feet, but they wanted to keep it at 8 feet. He then stated their neighbors appreciated the fact that they wanted to upgrade the fence. He lastly stated he hoped the Board of Adjustment would approve the request.

Jennifer Prechter stated that the pool and the pool deck along with the fence were there when they bought the house. She then stated it appeared a permit was pulled for the pool but the previous owners did not pull a permit for the fence or the pool deck. She further stated if they were to put the fence within the required setbacks it would be on the pool deck and almost in the pool. She lastly stated they received approval from the homeowner they shared the fence with.

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

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

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

5. **3633 Osceola Road** – Roy Fluharty, applicant; Request for a front yard setback variance from 50 feet to 43 feet for a proposed porte-cochere in A-5 (Agricultural District); Located on the north side of Osceola Road approximately 2 ¼ miles north of the intersection of Osceola Fish Camp Road; (BV2008-11). (District 5)  
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct a porte-cochere that would encroach 7 feet into the required 50 feet front yard setback. She further stated 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. She lastly stated that a petition of support had been provided from five adjacent neighbors.

Roy Fluharty stated he was the homeowner and he was asking for the porte-cochere which would be attached to his home and encroach into the setback. He further stated it would be a true driveway that would give his wife rain coverage that she had wanted for a long time. He then stated that since they were re-roofing the home it made sense to add the porte-cochere at the same time.

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

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

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

6. **East Lake Mary Blvd and Laura Avenue (vacant)** – Jim Williams, The Lake Doctors, Inc, applicant; Request for a side street setback variance from 50 feet to 10 feet for a proposed industrial warehouse/office M-1 (Industrial); Located on the NE corner of East Lake Mary Blvd and Laura Avenue; (BV2008-14). (District 5)  
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that on January 22, 2008 the property was rezoned from A-1 to M-1. She further stated that the applicant proposed to construct a 12,500 square foot warehouse and a 5,000 square foot office for The Lake Doctors, Inc. She then stated that the building would encroach 40 feet into the required 50 feet side street setback of Laura Avenue. She also stated that the property was approximately 160 feet wide with a canal/ditch on the east side and Laura Avenue on the west side. She further stated there were several residential structures remaining adjacent to the subject parcel but the surrounding Future Land Use was Industrial. She then stated that there were currently no code enforcement or building violations for the property. She lastly stated that there were no prior variances granted for the property.

Greg Crawford stated he was with EDG of Florida representing the owners of the property. He further stated the overall project was located within an Industrial Land Use. He then stated that what they were trying to do by moving the building over was to block out visibility and noise from the neighbors in the existing residents that would be there for a while until the entire area transitioned into a full Industrial area.

Mr. Hattaway asked if they could move the dumpster pad away from the residents.

Greg Crawford stated that they could move it over to the side where the canal was to get more distance for the residents.

Mr. Hattaway asked what type of building would be there.

Greg Crawford stated a pre-engineered metal building with landscaping between the road and the back of the building.

Mr. Hattaway asked if they would provide landscaping along the Laura Avenue side.

Greg Crawford stated yes they would.

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

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

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

7. **200 Echo Hollow Way** – Frank Tibbitts, applicant; Request for a side yard (east) setback variance from 20 feet to 7.5' feet for an existing carport in RC-1 (Country Homes District); Located on the north side of Echo Hollow Way on the northeast corner of Echo Hollow and Milinda Lane; (BV2008-15). (District 1)  
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant constructed a two-car carport at the rear of the property that encroached 17.5 feet into the required 20 feet side yard setback. She further stated the applicant received a notice of violation for the un-permitted construction of the carport. She then stated a Building Permit was under review for the carport but required a variance prior to issuance. She also stated that there was no record of prior variances granted for the property. She lastly stated staff received an E-Mail comment from the adjacent property owner not opposing the request but with some questions which staff addressed.

Frank Tibbetts stated he had three letters of support for the variance, one being from the neighbor immediately to his north where the shed and carport abutted up against.

**Mr. O'Malley made a motion to approve the request.**

**Mr. Coover seconded the motion.**

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

8. **363 Deer Point Circle** – Mahamad Kazma, applicant; Request for a rear yard setback variance from 15 feet to 5 feet for a proposed two story family room addition in PUD (Planned Unit Development District); Located on the east side of Deer Point Circle approximately 300 feet northwest of S. Eagle Circle; (BV2008-18). (District 1)  
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a two story addition approximately 360 square feet that would encroach 10 feet into the required 15 feet rear yard setback. She further stated that there was also a 10 foot utility easement at the rear of the property that the addition would encroach into by 5 feet. She then stated the easement would require vacating prior to permitting the addition, which the applicant was aware of. She also stated that there were currently no code enforcement or building violations for the property. She further stated the applicant had submitted letters of support from both adjacent neighbors and approval from the Deer Pointe Homeowner's Association. She then stated there was no record of prior variances granted for the property. She lastly stated the applicant did submit letters from some of the utility companies stating no objection to the vacating of the easement.

Sammy Kazma stated he wanted to put a two story addition on his house. He further stated he had not done any architectural drawing yet because he wanted to get the variance first.

**Mr. Bushrui made a motion to approve the request with no windows on the west side of the addition.**

**Mr. Coover seconded the motion.**

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

9. **5286 Pineview Way** – Luis Linares, applicant; Request for a rear yard setback variance from 30 feet to 20 feet for a detached garage in R-1A (Single Family Dwelling District); Located on the south side of Pineview Way approximately 150 feet west of Don Mar Street; (BV2008-07). (District 3)  
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant proposed to construct an approximately 602 square feet detached garage that would encroach 10 feet into the required 30 feet rear yard setback. She further stated there were currently no code enforcement or building violations for the property. She then stated there was no record of prior variances granted for the property. She lastly stated staff had not received any letters of opposition or support for the request.

Luis Linares stated that he could not turn a car into a garage with the required 30 feet setback or a 25 feet setback, which is why he was requesting a variance. He further stated the garage would be used to park cars that he restores as a hobby. He then stated that the house had a single car garage that the previous owner turned into a TV room. He also stated that putting the proposed garage in the back made more sense. He lastly stated he went around to his neighbors and they signed a petition of support.

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

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

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

10. **3123 Foxwood Drive** – William Gribben, applicant; Request for a rear yard setback variance from 30 feet to 15 feet for an addition in PUD (Planned Unit Development District); Located on the east side of Foxwood Drive approximately 100 feet south of Autumnwood Trail; (BV2008-08). (District 3)  
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant proposed to construct a one story addition that would consist of two bedrooms and a bathroom that would encroach 15 feet into the required 30 feet rear yard setback. She further stated there were currently no code enforcement or building violations for the property. She then stated there was no record of prior variances granted for the property.

William Gribben stated the house currently was 1250 square feet with two bedrooms, probably the smallest house in Apopka. He further stated technically the architect said he could get three bedrooms if he made them small enough. He then stated he was requesting the variance from 30 feet to 15 feet. He also stated he had approval from the President of the Homeowner's Association and nine letters of support from neighbors.

Carl Spala stated he lived in the house next to the applicant. He further stated the applicant was trying to sell his house about 3 or 4 months ago and he asked him not to because he was a good neighbor. He then stated he did the same addition three years ago without any problems, so he asked the applicant to apply for the variance. He lastly stated he hoped the applicant didn't get denied otherwise the applicant would have to sell his house.

Leon Dunning stated he was the property directly behind the applicant's property and they lived there for five years. He further stated he had some photographs taken as you come directly out of his house facing west and some taken looking left of Mr. Spala home. After showing the pictures to the Board of Adjustment, he stated that the pictures gave an idea of how close the applicant's house would be to the fence line. He then stated that when he comes out of his house he would see a large over bearing property.

William Gribben stated that his house would look like the house in the photographs, but he didn't want a two story house.

After a brief discussion the Board of Adjustment asked Mr. Leon Dunning to come back up to the podium and Mr. Hattaway asked if he would be in opposition of the request if it were 20 feet, which is the same distance as Mr. Spala addition.

Leon Dunning stated yes sir I would still be in opposition. He further stated Mr. Spala property was off to the left it was not directly behind him, therefore he



didn't mind it. He then stated that when he would come out the back of his house the applicant's proposed addition would be directly in his face.

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

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

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

11. **962 Canary Lake Court** – Eulalee Bryan-Henry, applicant; Request for a rear yard setback variance from 30 feet to 21.92 feet for a screen room in R-1A (Single Family Dwelling District); Located on the end of Canary Lake Court approximately .10 mile west of Bedford Road; (BV2008-09). (District 5)  
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant proposed to construct a screen room on top of an existing concrete slab that encroached 8.08 feet into the required 30 feet rear yard setback. She further stated there were currently no code enforcement or building violations for the property. She then stated there was no record of prior variances granted for the property.

Eulalee Bryan-Henry stated she had a question. She asked if the language screen room included a solid wall at the bottom.

Kathy Fall stated the room could not be fully enclosed. Kathy then asked the applicant would she have a 3 foot wall.

Eulalee Bryan-Henry stated yes.

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

**Mr. Coover seconded the motion.**

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

12. **4947 Cains Wren Trail** – Valerie & James Lettieri, applicants; Request for a (1) rear yard setback variance from 10 feet to 2 feet for a proposed pool and (2) rear yard setback variance from 5 feet to 0 feet for a pool screen enclosure in PUD (Planned Unit Development District); Located on the east side of Cains Wren Trail approximately 50 feet south of Shallowtail Lane; (BV2008-20). (District 5)  
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the applicant proposed to construct a pool and associated screen enclosure that would encroach into the rear yard setback. She further stated that the applicant's rear property line abutted an open space tract which was dedicated to the Homeowner's Association of the Preserve at Astor Farms. She then stated there

were currently no code enforcement or building violations for the property. She lastly stated there was no record of prior variances granted for the property.

James Lettieri stated that the property behind his house was owned by the Homeowner's Association and they didn't have a problem with the request. He further stated that he received a letter of approval from the Homeowner's Association. He then showed that Board of Adjustment pictures of what the proposed pool and screen enclosure would look like when it was finished.

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

**Mr. Bushrui seconded the motion.**

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

## **APPROVAL FEBRUARY 25, 2008 MEETING MINUTES**

**Mr. O'Malley made a motion to approve the Amended February 25, 2008 Minutes.**

**Mr. Coover seconded the motion.**

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

## **ADJOURNMENT**

**Time of Adjournment was 7:45 P.M.**